

Helesteului Str. 15-17, District 1
Bucharest - 011986
Phone: +40 (0)31 809 2739
+40 (0)74 520 2739
Fax: +40 (0)31 805 7739
E-mail: office@apex-team.ro

Contents:

- Amendments of filling instructions for form D394
- The procedure of re-registration, upon request, under the scope of VAT
- Ex-officio amendment of VAT fiscal status ("vector fiscal")
- New reporting requirements for financial institutions
- Changes in the procedure for publishing the list of debtors to the State Budget
- Payment of taxes by bank cards
- Granting exceptions to the ceiling of cash receipts
- Individual's residency in Romania
- News about registration and tracking of vehicles and automatic exchange of information between public institutions
- Other legislative news
- Closing exchange rates of August 2016
- Agenda of September 2016
- Social indicators

ORDER 2264 dated 26 July 2016 to amend ANAF Presidential Order 3.769/2015 to declare supply of goods/provision of services and acquisitions made within national territory by taxpayers registered under the scope of VAT and to approve template and content of informative declaration regarding domestic supply/provision of services and domestic acquisition made by taxpayers registered under the scope of VAT (Official Gazette 578/2016)

The Order amends filing instructions for form 394, where completion of certain sections of the new form by legal entities is postponed until October 2016. Justification for postponement was in the form of complaints received by ANAF from the business community, complaints about the impressive volume of information required to complete the new template for form 394 and the difficulty to automatically obtain the required information from digital systems/accounting software. Basically, a postponement of application of new requirements was sought, but instead of maintaining use of the previous template, the preferred solution was partial application of the new template for the period of 1 July 2016 to 30 September 2016. Only sections similar to the old template were completed. More specifically, for the period of 1 July 2016 to 30 September 2016, only operations carried out by taxable entities registered under the scope of VAT in Romania will be reported, by providing information required in sections A to C. Starting the 1st of October 2016, the form will be completed in its entirety for all operations carried out within the national territory. Details on the new requirements were presented in previous editions of the APEX Team newsletter.

Other amendments to form 394 by the present Order:

Invoices declared in another reporting period:

If subsequent to submission of form 394, several omissions/errors in the reported data are discovered, a new form correctly completed with transactions requiring change and/or transactions that were not declared should be submitted, this form replacing the previously submission.

An interesting provision is that invoices received by a taxable entity in a reporting period different from the issuance date by the suppliers, does NOT lead to re-submission of the form.

Range of invoice numbers

Clarification regarding the range of invoice numbers was also addressed. Therefore, from the range of assigned invoice numbers, invoice numbers **for a billed** intra-community goods and services, import/export of goods or non-taxable transaction in Romania are excluded from the range of assigned invoices.

In this regard, the following example was used: Taxable entity A has assigned at the beginning of the year a range of invoices from Series A, no. 1 to Series A no. 100, which will be registered at point 2.1 **of form 394**. For the first reporting period, invoices from Series A no. 1 to Series A no. 25 were issued, and they will be registered at point 2.2. For the following reporting periods, the range of invoices assigned from Series A no. 1 to Series A no. 100 will be registered at point 2.1. until they are all used.

For 2016, an exception regarding the range of invoice numbers is introduced. Therefore, taxpayers will only declare, at point 2.1, the range of assigned invoices unused at the beginning of the year through an internal decision. For example on the 1st of Octo-

ber 2016 taxpayer B has two ranges of unused invoices, which will be declared at point 2.1, namely from Series A no. 80 to Series A no. 100 and from Series X no. 78 to Series X no. 90.

Other simplifications of the form

- removal of requirement to complete special regime operations by taxpayers applying VAT cash accounting scheme;
- removal of requirement to complete VAT related to supply of goods/provision of services for which reverse taxation is applied. This requirement is only maintained in the case of acquisitions;
- removal of obligation to distinctly highlight supply/acquisition of mobile phones, microprocessors, game consoles, PC tablets and laptops if the value of an invoice, excluding VAT, is lower than RON 22,500.

ORDER 2328 dated 5 August 2016 to amend ANAF Presidential Order 3.769/2015 to declare supply of goods/provision of services and acquisitions made within the national territory by taxpayers registered under the scope of VAT and to approve template and content of informative declaration regarding domestic supply/provision of services and domestic acquisitions made by taxpayers registered under the scope of VAT (Official Gazette 601/2016).

The Order amends the deadline to submit the form for supply of goods/provision of services and acquisitions carried out within the national territory by taxpayers registered under the scope of VAT (form 394).

Thus, the form will be submitted by the 30th of the month following the reporting period. If the reporting period is the calendar month, the deadline to submit the form for January will be the 28th or 29th of February, as the case may be.

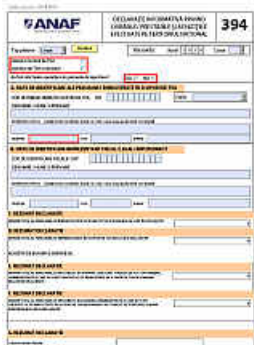
ORDER 2011 dated 5 July 2016 to approve Procedure to register, upon request, under the scope of VAT, according to provisions of art. 316 para. (12) of Law no.227/2015 on the Fiscal Code and also to approve template and content of certain forms (Official Gazette 589/2016)

The Order approves Procedure to register, upon request, under the scope of VAT, applicable to taxable entities which had their registration under the scope of VAT cancelled under the following situations:

- not submitting VAT returns for a period of 6 consecutive months or 2 consecutive quarters for entities having the quarter as VAT fiscal period;
- not carrying out acquisitions or sales within the VAT sphere for a period of 6 months;
- registration of temporary inactivity at the Trade Register;
- declaration of fiscal inactivity due to other legal reasons such as expired headquarters lease, according to provisions of the Fiscal Procedure Code;
- registration on the fiscal record of managers, shareholders or company of certain illegal deeds provided by fiscal record legislation.

In order to re-register, form 099, Application to register under the scope of VAT, is submitted. This form is also regulated by the present order. The same form was previously submitted according to Order 18/2015 which approved the former procedure which has been repealed in order to align with provisions of the new Fiscal Code (Law 227/2015). Attention! The Fiscal Code also provides other situations under which the VAT code may be cancelled, situations for which this procedure does not apply. These are the following:

- the company was not obliged nor entitled to apply for registration
- the company requires cancellation of VAT code in order to apply special exemption regime
- the company does not prove the intention and capacity to carry out economic activities (based on form 088).



The new deadline for submission the form D394 is the 30th of the following month (except February 28/29)



ORDER 2012 dated 5 July 2016 to approve Procedure to amend ex officio the fiscal status (“vector fiscal”) regarding VAT and also to approve template and content of certain forms (Official Gazette 592/2016)

Procedure to amend ex officio the fiscal status regarding VAT applies to the following situations:

- ☑ ex officio registration under the scope of VAT of taxable entities which are obliged to register under the scope of VAT and which do not apply for registration;
- ☑ cancellation of registration under the scope of VAT of taxable entities declared as inactive;
- ☑ cancellation of registration under the scope of VAT of taxable entities which are in temporary inactivity, registered at the Trade Register;
- ☑ cancellation of registration under the scope of VAT in the case where shareholders/directors of the taxable entity or the taxable entity itself have registered on their fiscal records criminal acts and/or acts that attract joint liability with the debtor, set through a decision issued by the competent fiscal authority;
- ☑ cancellation of registration under the scope of VAT of taxable entities which did not submit a VAT return for 6 consecutive months, as well as of taxable entities for which the fiscal period is the calendar quarter and which did not submit a VAT return for 2 consecutive calendar quarters;
- ☑ cancellation of registration under the scope of VAT if the VAT returns submitted for the prior 6 consecutive months or the prior 2 consecutive quarters (for taxable entities having the quarter as their fiscal period) does not prove the existence of any acquisitions of goods/services nor any supply of goods/provision of services carried out during this reporting period;
- ☑ cancellation of registration under the scope of VAT for intra community acquisitions or services when the entity itself registers under the scope of VAT;
- ☑ cancellation of registration under the scope of VAT of the entity which was not obliged or did not have the right to apply for registration under the scope of VAT.

The Order repeals provisions of Order 3331/2013 in order to align with provisions of the new Fiscal Code (Law 227/2015).

ORDER 1939 dated 18 August 2016 on the definition of financial institutions having the reporting obligation, categories of information regarding taxpayer identification as well as financial information on bank accounts opened and/or closed by taxpayers with financial institutions, definition of financial institutions and accounts excluded from reporting obligation, compliance rules applied by these institutions in order to identify accounts subject to reporting, as well as procedure to declare this information as well as administrative norms and procedures meant to ensure the application and observance of fiscal reporting and diligence procedures provided by legal instruments under international law to which Romania is a party (Official Gazette 648/2016)

The Order establishes implementation norms for new reporting required of financial institutions, requirements set out by Law 233/2016 regarding ratification of Agreement between Romania and the USA to improve international fiscal compliance and to implement FATCA and Law 70/2016 regarding ratification of the Multilateral Agreement of competent authorities in order to carry out an automatic exchange of information on financial accounts, as well as implementation norms on provisions of the new Fiscal Procedure Code.

New requirements are meant to ensure cooperation on automatic exchange of information about taxpayers residing in states with which Romania is party to a legal instrument. In this regard, financial institutions have the obligation to annually report to Romanian fiscal authorities the information about accounts opened and/or closed by these taxpayers.



**Implementation of
the new reporting
requirements for
financial
institutions**





ORDER 2266 dated 27 July 2016 to amend and complement Procedure to publish lists of debtors registering outstanding fiscal liabilities, as well as the amount of these liabilities, approved by ANAF Presidential Order 558/2016 (Official Gazette 578/2016).

According to provisions of the Fiscal Procedure Code, ANAF publishes the list of debtors to the State Budget, both legal entities and individuals, on a quarterly basis.

The Order brings a substantial change to the concept of debtor, meaning that the taxpayer has a receivable from the Budget in amounts that are higher than what should be paid is no longer considered a debtor to the State Budget. The structure of presentation tables is also modified. Separate tables have been prepared for large, small or medium-size taxpayers and individuals, including those who carry out independent economic activities and liberal professions.

ORDER 1376 dated 5 August 2016 on types of fiscal receivables which may be paid online with credit cards using National Electronic System for Payments (Official Gazette 614/2016)

The Order only applies to resident and non-resident individuals fiscally identified with a Personal Numeric Code or Fiscal Identification Code. Several types of fiscal receivables which may be paid with credit cards (the list is not exhaustive) are mentioned below:

- Tax on income
- Tax on income obtained from Romania by non-resident individuals
- Excise duties
- Social insurance contributions
- Work accident and occupational disease insurance contributions
- Health and social insurance contributions
- Unemployment insurance contributions
- VAT
- Fines, penalties and confiscations/seizures

Some taxes may be paid using bank cards

ORDER 1265 dated 2 August 2016 to approve Procedure to apply provisions of art. 41 of Law 70/2015 to strengthen financial discipline on cash receipts and cash payments and to amend and complement Government Emergency Ordinance 193/2002 to introduce modern payment systems (Official Gazette 603/2016)

The Order approves Procedure to grant a higher threshold for cash receipts than what is currently set by the law at RON 10,000 received from an individual by wedding and baptism organisers for services related to these events.

The documents which should be submitted are:

- Application
- Documents of property ownership or right to use space(s) where the event/events take place
- Affidavit of the owner of space(s) used for event organisation, regarding its/their surface and capacity (maximum number of chairs/tables), having attached authorization to operate in these space(s)
- situation of cash receipts for each event held during the prior 12 months or periods when such events were held, but no less than 2 events
- copies of invoices issued according to provision of service contracts for the period

Documents are submitted to the competent fiscal authority or sent by post with confirmation of receipt. Renewing the threshold for cash receipts may be requested 30 days prior to expiration date of the validity period of the threshold. Modification of the approved threshold may be requested as many times as the organiser considers it necessary.

ORDER 1099 dated 12 July 2016 to regulate certain aspects on residence of individuals in Romania (Official Gazette 577/2016)

The Order replaces provisions of Order 74/2012 and updates the content and template of Questionnaires to set tax residence of an individual upon arrival in/departure from Romania as well as the content and template of Notifications on fulfilling residence conditions by the individual who has arrived in/departed from Romania. References to the



new Fiscal Code are also updated.

The changes introduced by the new order, changes caused by the new Fiscal Code applicable from the 1st of January 2016, are mentioned below:

- ☑ Lodging is considered permanent if it is available to the individual and/or his (her) family at any time, and the questionnaires to set tax residence of the individual have been properly updated.
- ☑ The individual who meets all residence conditions and does not prove that he is resident of another state with which Romania has an agreement in order to avoid double taxation or proves that he/she is resident of a state with which Romania has not concluded any agreement to avoid double taxation, is resident in Romania and has full fiscal liability starting the date when he/she becomes resident in Romania.
- ☑ Starting from arrival date and until the individual becomes resident in Romania, he/she is considered a non-resident individual and is only subject to taxation for income obtained in Romania. Previously, the resident individual had full fiscal liability in Romania starting from the 1st of January of the calendar year following the year when the status of resident in Romania was obtained.
- ☑ Individuals who leave Romania for a period or several periods longer than 183 days during 12 consecutive months, have the obligation to submit the questionnaire to set tax residence of an individual. Previously, according to Order 74/2012, this questionnaire had to be submitted by individuals going abroad for more than 183 days during a calendar year.
- ☑ Romanian resident individuals with a Romanian domicile has full fiscal liability in Romania up to the date when his/her residence is changed. This differs from previous provisions, which set that the individual with a Romanian domicile has full fiscal liability up to the end of the calendar year when he/she provided proof of change of tax residence to another state.
- ☑ The non-resident individual who later becomes resident in Romania has full fiscal liability up to the date when he/she leaves Romania for a period or several periods for more than 183 days during 12 consecutive months, not through the end of the calendar year when the individual left Romania, as stated by previous provisions.
- ☑ Questionnaires to set tax residence of an individual upon arrival in/departure from Romania as well as Notifications on fulfilling residence conditions by the individual who arrived in/departed from Romania have been updated to include the date the individual becomes a resident and has full fiscal liability, and conversely, the date when the individual is no longer a resident and no longer has full fiscal liability in Romania.

Other clarifications and new regulations:

- ☑ When submitting the questionnaire to set tax residence upon arrival in Romania, the individual should also attach a document issued by the fiscal authority from abroad, attesting to his/her removal from its tax records.
- ☑ Questionnaires may be electronically edited and/or filed, and may also be submitted from distance (on-line).
- ☑ The possibility to issue a duplicate of the notification on the fulfilment of residence conditions is introduced.
- ☑ The fiscal residence certificate will attest the year/years, meaning the period of the year during which the individual is resident in Romania.
- ☑ If arrival in Romania was prior to the 1st of January 2014, non-resident individuals who apply to obtain a residence certificate have the obligation to complete Questionnaire to set tax residence of an individual upon arrival in Romania and to prove payment of tax on income obtained regardless of the source.

ORDER 1578 dated 8 August 2016 to apply point 101 of Title IX, Local taxes of Methodological Norms to apply Law 227/2015 on the Fiscal Code approved by Government Decision 1/2016 (Official Gazette 659/2016)

The new form, Register of transportation means subject to registration, is introduced by the current Order. Thus, the followings aspects are approved:

- ☑ Standard form Register of means of transportation subject to registration (REMTII), template 2016 ITL-053



News regarding fiscal residency in Romania for individuals





New automatic exchange of information between public authorities for registration and tracking of vehicles

- ☑ Standard form, Contract of disposal-acquisition of a means of transportation, template 2016 ITL
- ☑ Cooperation Frame Protocol on information exchange between fiscal authorities and competent bodies which deal with vehicle registration/cancellation of registration

This register should result in better organisation of records on registered means of transportation and also the establishment of a protocol regarding cooperation between public institutions, by carrying out exchange of information through electronic means or other communication channels, in order to correctly register in the local fiscal records and at the Directorate for Driving Licenses and Vehicle Registrations of means of transportation which are registered or subject to registration in Romania, as well as cancellation of registrations or transfer of ownership right.

ORDER 1098 dated 12 July 2016 to repeal Order of the Minister of Public Finance 110/2007 to repeal Procedure for management of the accompanying administrative documents prepared in case of movement of products subject to excise duties under the suspense regime (Official Gazette 566/2016)

ORDER 2329 dated 5 August 2016 to amend and complement ANAF Presidential Order 1849/2016 to approve Procedure to register economic operators carrying out wholesale and retail trade in energy products – gasoline, diesel fuel, kerosene, liquefied petroleum gas and biofuel - as well as to approve template and content of certain forms, to complement ANAF Presidential Order 1850/2016 to approve Procedure to register activity for wholesale distribution of and trade in alcoholic beverages and/or processed tobacco, and to approve template and content of certain forms (Official Gazette 626/2016)

ORDER 2460 dated 22 August 2016 to approve Technical Norms to apply representation right provided by Regulation (EU) no. 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down Union Customs Code and approve Instructions to complete boxes 2, 8, 14 and 54 on custom form in certain situations that depend on the type of representation (Official Gazette 649/2016)

ORDER 2313 dated 3 August 2016 to approve standard form of Minutes on findings and sanctioning offenses used by tax inspectors from Fiscal Verification Directorate for Individuals (Official Gazette 596/2016)

ORDER 2442 dated 18 August 2016 on Procedures to approve and select insolvency practitioners by ANAF (Official Gazette 649/2016)

REMINDER – Valuation of monetary items in foreign currency

The August closing NBR exchange rates to use for valuation of monetary items (cash on hand, receivables, payables) denominated in foreign currency, as well as receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement are:

1 EUR = 4.4535 RON; 1 CHF = 4.0614 RON; 1 GBP = 5.2459 RON; 1 USD = 3.9945 RON.

SEPTEMBER 2016 – AGENDA

Every day - do not forget

- ☑ To complete the petty cash register (or print electronic version)
- ☑ To complete the purchase ledger and sales ledger
- ☑ To update electronic employee registers with information regarding labour contract inception/amendment or termination, if any

At month end - do not forget

- ☑ To complete the journal ledger
- ☑ To register contracts concluded during the month for services rendered by non-residents with tax authorities as per article 8 point 8 of the Fiscal Code
- ☑ To revalue monetary assets and liabilities in foreign currency (cash on hand, assets, liabilities) at the NBR exchange rate in force on the last banking day of the month
- ☑ To organize a stock count of inventories if the enterprise does not use a perpetual inventory system



- To issue final invoices for the current month.

To comply with requirements regarding VAT

- Mention the registration code under the scope of VAT on documents for EU business partners
- Check validity of registration code under the scope of VAT mentioned on invoices received
- Check amount of VAT disclosed on invoices received
- Check references related to VAT (e.g.: "reverse charge," "operation not subject to VAT," etc...)
- On invoices, write VAT amount received in case of reverse charge
- Maintain ledger of goods received
- Maintain ledger of non-transfer of goods
- Maintain non-current assets ledger
- Mention which exchange rate will prevail (NBR, commercial bank or Central European Bank) in contracts with foreign partners

To consult the calendar of tax liabilities for September 2016, visit the following link on ANAF webpage (in Romanian):

https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2016.htm#sepe

KEY HR FIGURES

2016 Contributions	Employer and Beneficiary of activities considered dependent activities (% rate)	Employee and provider of dependent activities (% rate)
Social security contribution (<i>pension</i>)	15.8% for normal working conditions 20.8% for particular working conditions 25.8% for special working conditions (contribution base capped at an amount representing the average amount of insured persons during the month for which the contribution is determined as 5 times the average monthly gross salary) ¹	10.5% (contribution base per employee capped at 5 average monthly gross salaries according to Budget for public social insurance, i.e. 5 x 2,681 = RON 13,405) ¹ (contribution base for a person under civil contract: gross income)
Health insurance fund (based on gross salary)	5.2%	5.5%
Medical leave contribution and health insurance allowance (based on gross salary)	0.85%	
Unemployment fund (based on gross salary)	0.5%	0.5%
Work accident and occupational disease fund (based on gross salary) ²	0.15% - 0.85% depending on CAEN code for main activity	
Contribution to fund to guarantee payment of salary liabilities (based on gross salary) ³	0.25% (only for employees under labour contract included for retired persons)	
Salary tax		16%
Contribution for non-employment of disabled persons (for employers with more than 50 employees)	4 x 50% minimum gross salary for every 100 employees	
Minimum monthly gross salary	RON 1250 (starting 1 May 2016)	
Luncheon voucher - employee subject to salary starting May 2016	RON 9.57	
Per diem (in Romania) Employees in the public sector Employees in the private sector (x 2.5)	RON 17.00 RON 42.50	

Note 1: Contribution to pension is also due during periods when the insured person benefits from medical leave and health insurance allowances. For these periods, the contribution base is 35% of the average monthly gross salary corresponding to the number of business days of medical leave.

Note 2: Contribution for work accident and occupational disease is also due during periods when the insured person benefits from medical leave and health insurance allowances. For these periods, the contribution base is the minimum gross salary where payment is guaranteed on a national basis corresponding to the number of business days of medical leave.

Note 3: The contribution to Fund to guarantee payment of salary liabilities is also to be calculated for health insurance allowances but only in respect of the first 5 days of temporary incapacity to work supported by the employer as well as for allowances for temporary incapacity to work further to a work accident or occupational disease but only in respect of the first 3 days of temporary incapacity of work supported by the employer.

Be Aware! Income paid to a person who carried out an activity considered dependent activity is disclosed on a separate "Payment statement" and is included on form 112.

Helesteului Str. 15-17, District 1
Bucharest - 011986

Phone: + 40 (0) 31 809 2739
+ 40 (0) 74 520 2739
Fax: + 40 (0) 31 805 7739
E-mail: office@apex-team.ro

www.apex-team.ro

Our Mission:
Adding Value to Client's Business

APEX Team includes qualified professionals able to provide a full range of accounting and payroll services. Our consultants are ready to share their knowledge and experience gained whilst working in Romania as consultants for one of the Big 4 international companies, having many international companies acting in a wide range of industries as clients.

The team includes chartered accountants (Romanian Chartered Accountants Body and also ACCA) specialised in accounting for business entities, as well as a group specialised in payroll administration on behalf of the client.

APEX Team provides a full range of accounting services, payroll services, local tax compliance and tax advice, as well as services tailored to your company needs:

- Bookkeeping*
- Recurring accounting assistance*
- Payroll computation and additional HR services*
- Accounting and tax advice « on line »*
- Consulting and assistance in drafting transfer price files*
- Start up services*
- Organization of the accounting function*
- Assistance in implementation of ERP*
- Training*