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ORDER 895 dated 16 June 2017 to approve Accounting report system for economic operators as at 30 June 2017 and also regulate certain accounting aspects (Official Gazette 463/2017)

The Order approves the Accounting report system for economic operators as at 30 June 2017, which applies to entities that, during the previous financial year, registered **turnover of above RON 220,000**.

The system pertains to entities applying OMFP 1802/2017 provisions and to those applying IFRS, regulated by OMFP 2844/2016.

The system also applies to economic operators having the financial year different from the calendar year.

Preparation and submission of accounting reports as of 30 June 2017 are required if an entity's turnover exceeds the criterion mentioned above, based on indicators resulting from annual financial statements of the previous financial year. The same provisions are also applied in the case of entities which have chosen a financial year different from the calendar year.

Branches and permanent establishments

The provisions also apply to subsidiaries opened in Romania by companies residing in states belonging to the European Economic Area regardless of the chosen financial year, according law. Subsidiaries opened in Romania by companies residing in states belonging to the European Economic Area determine whether they have an obligation to submit accounting reports as at June 30 2017, based on the same turnover criterion according to annual accounting reports as at 31 December 2016.

From an accounting point of view, permanent establishments in Romania, belonging to legal entities that have their headquarters abroad represent subunits without legal personality of these foreign legal entities, yet also have the obligation to prepare mid-year accounting reports.

If a legal entity having its headquarters abroad, carries out its activity in Romania through several permanent establishments, then the accounting reports are prepared by the permanent establishment assigned to fulfil fiscal responsibilities, by reflecting the activity of all permanent establishments. In this regard, the designated permanent establishment proceeds to consolidate information that corresponds to activities carried out by each permanent establishment.

In the case of legal entities having subsidiaries without legal personality, the related financial results are also consolidated by the legal entity preparing accounting reports as at 30 June 2017.

Entities regulated by National Bank of Romania/Financial Supervisory Authority

Entities licensed, regulated and monitored by NBR, namely, the FSA, will submit accounting reports as at 30 June 2017 to the territorial unit of the Ministry of Public Finance in the format and within the timeline provided by regulations of those institutions.

Who does not submit accounting reports as at 30 June 2017?

The following entities do not have the obligation to submit accounting reports:

- Economic operators which, during the previous financial year, had turnover of below the threshold of RON 220,000;
- Entities which did not carry out activity from set-up date through the 30th of June

2017;

- Entities which, during the first half of 2017, were in temporary inactivity;
- Entities set up during 2017, as well as legal entities which are under liquidation process, according to law.

Accounting reports as at 30 June 2017 prepared by entities applying OMFP 1802/2014 contain:

For micro-entities:

- a) Statement of assets, liabilities and equity (code 10);
- b) Abbreviated income statement (code 20);
- c) Informative data (code 30) – extended format;

For small, medium and large entities:

- a) Statement of assets, liabilities and equity (code 10);
- b) Income statement (code 20) – classic format;
- c) Informative data (code 30) – classic format.

Accounting reports as at 30 June 2017 prepared by entities whose securities are admitted for trade on a regulated market and which apply IFRS contain:

- Statement of assets, liabilities and equity (code 10);
- Income statement (code 20);
- Informative data (code 30).

Entities which opted for a different financial year

Entities which opted for a different financial year than the calendar year should complete the forms with data related to the period from the 1st of January to the 30th of June 2017 (and 2016, where comparative information is presented).

How to determine reporting type?

In order to set the type of reports that should be completed and submitted, it is necessary to establish whether the entity may be classified as a micro-entity or not. The type of form to be completed is set according to this classification.

The indicators – total assets, net turnover and average headcount – that determine the type of entity are set based on annual financial statements related to the previous financial year. This rule is also available for entities that have opted for a different financial year than the calendar year.

Submission of Accounting reports

The Accounting reports may be submitted at the registration office of the local units of MPF in paper and electronic format, or only digitally on www.e-guvernare.ro having attached an extended electronic signature.

The electronic format of the Accounting report submitted online or to the registration office of MPF consists of a PDF file to which an XML file is attached.

The Accounting report (having the digital version attached) may also be submitted to the registration office of local units of MPF or by registered postal mail, with confirmation of receipt.

The guide to prepare the Accounting report may be accessed on the ANAF website.

Who signs Accounting reports as at 30 June 2017?

The Accounting Reports are signed by persons entitled to do so, their full name being disclosed. The caption regarding the quality of the person who prepared the Accounting Report is completed as follows:

- CFO, head of accounting department or other empowered person occupying this position as per Law 82/1991. In this regard, the empowered person should be a person hired according to law, having higher education in the field of economics and also having the competence to conduct/manage the entity's bookkeeping.
- Individual or legal entity, duly licensed, member of the Romanian Body of Chartered and Licensed Accountants (CECCAR).

The Accounting Report as at 30 June 2017 is also signed by the Director or by the person with whom management of the entity lies.

Deadline for submitting accounting report as at 30 of June 2017

The deadline to submit Accounting Reports as at 30 June 2017 is Wednesday, **the 16th of August 2017**. Failure to submit accounting reports as at 30 June 2017 under the condi-



**16 August -
Deadline for
submission of mid
-year accounting
reporting to ANAF**



tions stated by this Order is penalized by a fine.

Amendments brought to accounting regulations of OMFP 1802/2014 and 2844/2016

The Order introduces certain amendments to regulations regarding bookkeeping for green certificates.

ORDER 703 dated 16 May 2017 on classification of IT software development activity (Official Gazette 468/2017)

The Order amends the procedure to grant tax exemption for income obtained from salaries and similar compensation given to employees by economic operators which carry out their activity on Romanian territory and which have IT software development (NACE codes 5821, 5829, 6201, 6202, 6209) as its object of activity.

The main amendment is the return to the situation that existed during the first few years this tax exemption was applied, meaning that the tax exemption is **conditioned** on justification that employees have IT software assignments. External income from IT software development must also be a minimum of EUR 10,000 per eligible staff member, except the newly established employers that are exempt from this tax during the year of set-up as well the subsequent year. These amendments come into force starting the 1st of July 2017.

Eligibility conditions

The exemption is granted if the following conditions are cumulatively met:

- job positions for which they are hired correspond to those mentioned in the annex to the Order;
- the job position is part of a specialized IT department, highlighted in the company's organizational chart as follows: computing centre, directorate, department, office, division, compartment, or similar;
- eligible employees hold diplomas awarded upon graduating from long-term or bachelor studies. These diplomas should be issued by an acknowledged higher-education institution and they provide one of the activities mentioned in the annex;
- during the previous financial year, as a result of the activity to develop IT software destined to be sold based on a contract, the employer obtained and distinctively registers annual income in its analytical (detailed) trial balance;
- annual income provided by letter d) have a value of at least the RON equivalent of EUR 10,000 (calculated at the average monthly exchange rate communicated by the National Bank of Romania, related to each month in which the income was registered) for each employee who benefits from the tax exemption.

Job positions for which the tax exemption is granted:

- Database administrator;
- Analyst;
- IT engineer;
- Software engineer;
- IT project manager;
- Programmer
- IT programmer;
- IT developer.

Supporting documents required for tax exemption:

- Constitutive Act, in the case of economic operators;
- employer's Organizational Chart;
- job description;
- copy of employee's education diploma, mentioning in conformity with the original (plus academic record or supplement to diploma);
- copy of the individual labour agreement, mentioning in conformity with the original;
- separately prepared payroll schedule;
- internal order, approved by the employer's management;
- analytical (detailed) trial balance.



Tax exemption to programmers is once again conditioned by reaching a minimum income ceiling



EMERGENCY ORDINANCE 42 dated 9 June 2017 to amend and complement Law 207/2015 on Fiscal Procedure Code (Official Gazette 438/2017)

The Ordinance incorporates into domestic law provisions of Directive 881/2016 regarding automatic exchange of fiscal information between EU Member States, a directive also known as *Country by Country Reporting*.

A new obligation is introduced for multinational companies whose parent companies have their fiscal residence in Romania. Such companies have the obligation to submit a financial report for each country, with aggregate information related to the amount of income, profit/loss prior to income taxation, tax on paid income, tax on accumulated income, declared capital, non-distributed profit, average headcount and tangible assets other than cash or cash equivalents for each jurisdiction where the multinational enterprise group carries out its activity.

Identification manner of each constituent entity from the multinational enterprise group will be reported, mentioning the jurisdiction where the constituent entity has its fiscal residence and, in case of a jurisdiction different from fiscal residence, then according to law, the jurisdiction under which the constituent entity is organized will be mentioned as well as the nature of the main economic activities of the entity.

A multinational enterprise group represents a group which includes two or more enterprises, that have their fiscal residences in different jurisdictions, or which includes an enterprise with fiscal residence in a jurisdiction, but being taxable in another jurisdiction for activity carried out through a permanent establishment and which is not part of an excluded multinational enterprise group.

An excluded multinational enterprise group represents a group which, during the previous year of the reporting financial year, has consolidated group revenue of less than EUR 750,000,000 or equivalent amount in RON, as reflected in the group's consolidated financial statements for the respective previous financial year.

For every reporting financial year, the average exchange rate in January communicated by the National Bank of Romania is used to determine the amount in RON.

Reporting aim

The aim of this reporting is to evaluate risks related to transfer pricing by fiscal authorities: risks related to base erosion (BEPS - *Base erosion and profit shifting*) and risks related to profit shifting from one jurisdiction to another. The competent Romanian fiscal authority will send this report through automatic exchange of fiscal information to any Member State where one or several entities belonging to the group have their fiscal residence or carry out taxable economic activities through a permanent establishment.

Similarly, fiscal authorities in Romania will receive, in return, information regarding the report for each country from fiscal authorities from other jurisdictions. This information will allow fiscal authorities to react to harmful fiscal practices by changing the law or by carrying out adequate evaluations of risks and corresponding fiscal audits, as well as to notice if companies adopt practices which have as a result artificial transfer of significant amounts of income to environments which are advantageous from a fiscal point of view.

Therefore, the increase in transparency level for multinational enterprise groups is an important element in combating base erosion and profit shifting. In case a company in Romania is part of a group, but does not accomplish the quality of parent-company, surrogate-company or reporting company, then it has the obligation to report to the fiscal authority in Romania, within the deadline set by the present law, the identity and fiscal residence of the reporting entity for the group to which it belongs.

Effective date/Reporting deadlines

The ultimate parent company of a multinational enterprise group that has its fiscal residence in Romania has the obligation to submit a financial report described in the previous section for each country and each reporting financial year.

This should be transmitted within 15 months from the last day of the group's financial year to which the report for each country refers to. The first report for each country for the group's financial year beginning on the 1st of January 2016 or subsequent to this date, is transmitted within 18 months from the last day of the respective financial year.

Non-submission of the report by the deadline set by law, or transmission of incomplete



Country by
Country reporting
is under
implementation in
Romania



or incorrect information, implies the payment of fines of between RON 30,000 and RON 50,000. Failure to submit the report at all leads to fines of between RON 70,000 and RON 100,000.

ORDER 894 dated 16 June 2017 to complement Order of the Minister of Public Finance 450/2016 to approve Procedure to adjust errors within annual financial statements and annual accounting reports submitted by economic operators and non-profit organisations (Official Gazette 467/2017)

The Order complements Procedure to adjust errors within annual financial statements and annual accounting reports submitted by economic operators and non-profit organisations regulated by OMFP 450/2016.

The list of errors that may lead to adjustment of financial statements and accounting reports is completed with the following situations:

- ☑ incorrect filing of unique registration code of reporting entity;
- ☑ incorrect filing of reported indicators in Balance Sheet/Statement of Financial Position form, if the value of these indicators may be proven by other documents (Constitutive Act/contracts etc.) and this aspect is mentioned on an affidavit.

As a reminder, the procedure has already been amended this year by Order 543/2017, where provisions and procedures were presented in the 3rd issue of the APEX Team Newsletter.

LAW 136 dated 13 June 2017 to approve Government Emergency Ordinance 32/2016 to complement Law 227/2015 on the Fiscal Code and to regulate certain fiscal-financial measures (Official Gazette 440/2017)

Certain complements are made regarding tax exemption granted to persons obtaining income from salaries or income similar to salaries as a result of carrying out innovation, research and development activities. Those complements are:

- ☑ tax exemption is granted for each person who is involved in an innovation, research and development projects, the result indicators being defined;
- ☑ tax exemption is granted within the limit of expenses incurred for staff assigned to innovation, research and development projects, distinctly highlighted in the project's budget;
- ☑ payroll sheet related to income from salaries and similar compensation obtained by each employee from activities carried out within the project is separately prepared for each project.

DECISION 337 dated 18 May 2017 to approve methodological Norms on secondment of employees as part of provision of trans boarder services on Romanian territory (Official Gazette 411/2017)

Methodological Norms on secondment of employees as part of provision of trans boarder services on Romanian territory are updated.

The main changes are:

- ☑ In order to determine the situations of trans boarder secondment to avoid, the factual elements cited by the Labour Inspectorate are detailed:
 - Factual elements which characterise the activities carried out by enterprises include the following:
 - location where the enterprise has its headquarters, location of the offices, location where taxes and social insurance contributions are paid and, if the case, location where entity is authorized to carry out its activity, or location registered at the chamber of commerce or professional authority of the Member State where entity has settled;
 - main activity for which the enterprise is authorized and object of the contract of provision of services/provision contract concluded between the provider of services/temporary work agency and beneficiary/user, based on which the trans boarder secondment is performed;
 - recruitment location of seconded employees and location they are sent;
 - the law applied to contracts concluded by enterprises with its workers, as well as to contracts signed with clients;



The conditions regarding the income tax exemption in the R & D activity have been complemented





**Rules on
insolvency of
individuals have
been published**

- labour contracts/other employment forms signed by the enterprise with its employees, according to the law applicable in the state of origin;
- location where the enterprise carries out its main activity, as well as location where administrative personnel are hired;
- number of executed contracts and/or size of turnover obtained in the Member State where it is settled, considering the activity carried out, as well as the specific situation of newly-set enterprises and micro and medium size enterprises (IMM);
- o Factual elements which characterise the labour and situation of employee who is seconded on Romanian territory, include the following:
 - the activity of the employee is carried out in Romania for a limited period;
 - the date when the secondment begins and ends;
 - the secondment is carried out on Romanian territory from another Member State or from the Swiss Confederation, where the seconded employee usually carries out his or her activity;
 - the documents stating the end of secondment and resumption of activity by the seconded employee at his work place in the Member State or in the Swiss Confederation;
 - correspondence between the activity carried out by the seconded employee and the object of the contract for provision of services;
 - the modality to ensure transportation, meal and accommodation expenses for the seconded employee;
 - previous periods when the same position was held by the same or by another trans boarder seconded employee.
- ☑ If these legal provisions are not observed, the fines are between RON 5,000 and RON 9,000 and are also applied in case of refusal to present information requested by the Labour Inspectorate.

DECISION 419 dated 9 June 2017 to approve methodological Norms to apply Law 151/2015 on insolvency of individuals (Official Gazette 436/2017)

Law 151/2017 on insolvency of individuals comes into force starting the 1st of August 2017. The Decision adopts implementation norms of the Law on insolvency for individuals.

Forms of insolvency procedure for individuals are the following:

- a) insolvency procedure based on a plan for debts reimbursement;
- b) legal insolvency procedure by liquidation of assets;
- c) simplified insolvency procedure.

ORDER 1817 dated 20 June 2017 to amend and complement ANAF Presidential Order 3695/2015 on competence to perform verification of personal fiscal situation and its preliminary activities (Official Gazette 486/2017)

ORDER 1718 dated 14 June 2017 to amend and complement ANAF Presidential Order 3695/2016 to approve forms to determine annual tax on income and social contributions owed by individuals (Official Gazette 477/2017)

ORDER 840 dated 7 June 2017 to set personnel empowered to discover contraventions and to apply fines provided by Accounting Law 82/1991 (Official Gazette 486/2017)

The Order refers to form to apply fines for failure to submit financial statements of public institutions on a quarterly basis to territorial units of the Ministry of Public Finance.

REMINDER – Valuation of monetary items in foreign currency

The June 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 = 4.5539 RON; 1 CHF = 4.1655 RON; 1 GBP = 5.1852 RON; 1 USD = 3.9915 RON



JULY 2017 - 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 organise 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 JULY 2017, visit the following link on ANAF webpage (in Romanian):


<https://static.anaf.ro/static/10/Anaf/AsistentaContribuabililor/Calendar/Calendar-obligatii-fiscale-2017.htm#iul>

KEY HR FIGURES

2017 Contributions	Employer and Beneficiary of activities considered dependent activities (% rate)	Employee and provider of dependent activities (% rate)
Social security contribution (pension) <i>See note 1</i>	15.8% for normal working conditions 20.8% for particular working conditions 25.8% for special working conditions	10.5%
Health insurance fund (based on gross salary) <i>See note 2</i>	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 1450	
Luncheon voucher	up to maximum RON 15.09	
Per diem (in Romania)		
Employees in the public sector	RON 17.00	
Employees in the private sector (x 2.5)	RON 42.50	

Note 1: Basis for calculating social insurance contribution (CAS) is no longer capped after February 1, 2017 (applicable for both employer and employee contribution)

Note 2: Basis for calculating health insurance contribution (CASS) has been capped for the period 1 to 31 January 2017. As of February 1, 2017 capping the tax base is repealed returning to the regime applicable in 2016.



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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*