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Contents:

- Postponement of AMEF introduction
- Amending the Norms for the Application of the Fiscal Code
- Updating the D100 form
- Updating statement D112
- Assistance procedure for fill-in the form D212
- Amendments to the Fiscal Code
- Updating the D212 form
- The new interest reference rate published by NBR
- Publication of various information about economic agents on the MFP website
- Update the face value of nursery and meal vouchers
- Other legislative news
- Advertising on the submission of financial statements
- Closing exchange rates for May 2018
- Agenda of June 2018
- Social indicators

INFO – DRAFT TO ONCE AGAIN POSTPONE MANDATORY INTRODUCTION OF ELECTRONIC FISCAL CASH REGISTERS

On the website of the Ministry of Public Finance, a draft Emergency Ordinance was published. This draft intends/aims to postpone the mandatory introduction of electronic fiscal cash registers for three months (the 1st of September for large and medium-size taxpayers, the 1st of November for small size taxpayers).

DECISION 354 dated 16 May 2018 to amend and complement methodological Norms to apply Law 227/2015 on the Fiscal Code, approved by Government Decision 1/2016 (Official Gazette 442/2018)

The Decision brings amendments to methodological Norms to apply the Fiscal Code because of the multiple changes to the Fiscal Code during 2018.

CORPORATE TAX

Assignment of receivables

During 2018, two regulations related to assignment of receivables were available. Between the 1st of January and the 25th of March 2018, according to provisions of art. 25 (3) letter n) of the Fiscal Code, expenses representing the value of assigned receivables were deductible up to 30% of their value.

Starting the 26th of March 2018, this regulation was amended to be a 30% deduction of the difference between transfer price and value of transferred receivable.

Therefore, through the 25th of March 2018, a 30% deduction was applied to all receivable expense, without taking into consideration income obtained. After the 25th of March, the deductibility limit of 30% only applies to the net loss from the receivables, taking into consideration income obtained from assignment those receivables.

The application Norms amended by this Decision mention the fact that during the application period of provisions of art. 25 (3) letter n) of the Fiscal Code, 1 January – 25 March, the 30% rate also applies in the case where the deduction of the receivable from records are not expensed, because they are related to other accounting regulations.

Limit on excess indebtedness costs

As a reminder, starting the 1st of January 2018 another mechanism to limit indebtedness costs is functional and no longer takes into consideration the degree of indebtedness. The new regulations are presented in APEX Team Newsletter no. 11/2017.

Due to the new mechanism, a new threshold of EUR 200,000/year was introduced, a threshold up to which the excess indebtedness costs are deductible. In the case where extra indebtedness costs exceed the deductibility threshold of EUR 200,000, then these costs will be deductible when calculating corporate tax within the limit of 10% of the calculus base.

Application Norms detail that for quarterly payers of corporate tax, the exchange rate for RON conversion of this threshold is the closing NBR exchange rate for the last day of each quarter and for the last day of the fiscal year.

Also, the norms present an example on how to calculate limits introduced through the new mechanism.

SPECIFIC TAX

Companies paying specific tax per Law 170/2016 and obtaining income up to EUR 1,000,000 (because of increasing the threshold for micro-enterprises from EUR 500,000 to EUR 1,000,000) will no longer pay specific tax, this being replaced by the



**The Application
Norms of the
Fiscal Code have
been updated**

tax on micro-enterprise income.

TAX ON MICRO-ENTERPRISE INCOME

Opting to apply corporate tax

Micro-enterprises which register at least 2 full-time labour contracts (individual labour conventions according to the special law) and share capital greater than RON 45,000, may opt to pay corporate tax starting the 1st of April 2018. They may make this election only once, the option being final as long as the conditions are met.

The norms specify that when corporate tax is calculated, income and expenses are taken into consideration starting the quarter when the conditions are met. This rule was also applied in 2017.

Tax rates

The norms specify that suspended labour contracts are also taken into consideration when setting the application conditions for the 1% reduced tax rate. As a reminder, a micro-enterprise applies the reduced tax rate of 1% instead of 3% standard tax rate, if it has at least one full-time employee or more part-time employees that cumulatively reach the full-time norm.

TAX ON INCOME

The norms update procedures to set tax on income and social contributions for certain income categories, in relation to changes brought to the Fiscal Code so far, starting the 1st of January 2018.

The norms introduce procedures to also be followed when applying exemptions from tax on income obtained from salaries for certain taxpayer categories listed by art. 60 of the Fiscal Code:

- Persons having a major or severe disability;
- Persons carrying out IT software development activity;
- Persons carrying out innovation, research and development activities;
- Persons carrying out their seasonal activity at employer location.

Several calculated examples are given for each income category.

Detailed regulations related to changes already brought to the Fiscal Code are introduced and we mention the following:

- introducing self-taxation system and replacing the system setting obligations to be paid based on tax decisions;
- possibility to perform payments to account for tax on income at any time throughout the year until payment deadline, meaning the 15th of March of the year following when income was earned;
- introducing bonuses when paying tax on income;
- eliminating current norms related to obligation to submit supporting documents to tax authorities by the following categories of persons:
 - o Persons having major or severe disability in order to be exempted from tax on income;
 - o Persons taxed based on income quotas, who temporarily interrupt their activity;
 - o Persons obtaining income from rental activities.
- eliminating the obligation to register rental contracts to tax authorities;
- eliminating provisions related to income obtained from intellectual property rights from norms and regulating them within a distinct category of income;
- clarification on fiscal regime for income obtained based on sports activity contracts defined by the Law on sports and physical education 69/2000, in order to introduce a system to withhold taxes;
- specifications regarding conditions under which taxpayers who are individuals may opt to give 2% of tax owed on income to support non-profit organisations which are set up and operate according to law, to religious units, as well as to grant private scholarships or entities, or 3.5% of the tax owed on income to non-profit organisations and religious units, which are accredited providers of social services according to law;
- option to give 2% or 3.5% of the tax on income, depending on the case, by the income payer, the option being valid for a period up of to 2 consecutive fiscal years;
- repealing current norms related to deduction of social health insurance contribution (CASS), due to change in fiscal regime for CASS deduction from the income tax base,



in relation to not granting CASS deduction for income obtained from rental activities, as well as for income from pensions and/or pension differences;

- ☑ clarification of the fiscal regime for cash contributions or the RON equivalent of in-kind contributions made by the taxpayer at the commencement of an activity or in the course of his/her activity from personal patrimony to the business patrimony as well as clarification of the deductibility of amounts paid in advance, referring to other tax periods.
- ☑ clarification on including in-kind gross income as part of income obtained from salaries and similar to salaries;
- ☑ in order to correlate methodological Norms to provisions of Law 136/2017, specifications are introduced in relation to conditions to grant exemption from tax on income as provided by art. 60 point 3 for taxpayers who are individuals obtaining both salary income exempted from taxation from the same source, as well as taxable salary income;
- ☑ manner through which the taxpayer calculates and receives external fiscal credits for tax paid abroad.

SOCIAL CONTRIBUTIONS

As in the case of tax on income, clarifications and alignments of norms with provisions of the Fiscal Code were also made for social contributions. The most important aspects are listed below:

- ☑ in the case of individuals obtaining income from independent activities, intellectual property rights, agricultural activities, forestry and fish-breeding, associations with legal entities, rental activities, investments and other sources, the previous provisions to set CAS and CASS are eliminated. Also, clarifications related to application of the new fiscal regime are introduced.
- ☑ introducing self-taxation system and replacing the system to set obligations to be paid in relation to CAS and CASS based on tax decisions.
- ☑ possibility to make payments to CAS and CASS accounts anytime throughout the year by the payment deadline, meaning the 15th of March of the year following the year when income was earned.
- ☑ withholding CAS and CASS, depending on the case, for income obtained by individuals from intellectual property rights, based on sports activity contracts, from association with legal entities or lease of agricultural land. If income obtained by individuals from intellectual property rights, based on sports activity contracts, from association with legal entities or lease of agricultural land is less than 12 minimum gross national salaries, but cumulatively, this income exceeds 12 minimum gross national salaries, then taxpayers prepare calculation on their own CAS and CASS, depending on the case, which is owed according to the Sole Tax Return.
- ☑ a new chapter is introduced - chapter VIII *Employment insurance contribution*, introducing clarification related to taxpayers owing employment insurance contributions on income for which the contribution is owed. Thus, the basis for calculation also includes compensation for persons on the board of directors, directors' committee, superior council, executive committee, discipline committee and other similar committees.
- ☑ providing examples for the manner to classify income in the case of individuals obtaining income from independent activities and intellectual property rights, within the threshold represented by 12 minimum gross national salaries, in order to set CAS to be paid for 2018, given the new system of social contributions.
- ☑ providing examples for the manner to classify income in the case of individuals obtaining income from independent activities, intellectual property rights, agricultural activities, forestry and fish-breeding, associations with legal entities, rental activities, investments and other sources, within the threshold represented by 12 minimum gross national salaries, in order to set CASS to be paid for 2018, given the new system of social contributions.

VALUE ADDED TAX

The norms bring clarification to VAT regime applied to research and development activities. As a reminder, research and development activities are not subject to VAT if their



Many examples of the application of new regulations on income tax and social contributions have been added to the Norms





results are not given to a third party. VAT deduction is allowed for purchases made within these activities, observing the general conditions for deduction. The norms mention that when research, development or innovation activity results are transferred to a third party, the activity enters the sphere of VAT, given the fact that delivery of goods or provision of services in the sphere of VAT is carried out.

Collective management institutions for copyright and other rights related to them are taxable entities from a VAT perspective. Given the necessity to observe European case law on VAT regime related to collection of compensatory remuneration for use of private copyrighted material, applicable rules are clarified both on relationship between the copyright holder - the collective management body and the relation between the collective management body and the user of copyright, meaning that remuneration is not the counterpart of a supply of services in the VAT sphere

Also, in view of the main situations that may be encountered in practice, regarding the commission charged by the collecting society to the rights holders, this represents the equivalent of a taxable service for the benefit of the right holders.

Furthermore, taking into consideration the main situations which may be met in practice, a commission received by collective management institutions from copyright holders represents the value of taxable services provided for the benefit of copyright holders.

EXCISE DUTIES

Changes are brought regarding authorization conditions.

Economic operators proving good faith may benefit from warranty discounts if they do not register debts to the State Budget. In this regard a fiscal warehouse, a registered recipient or a registered sender benefit from a warranty discount of 50% if during the previous 2 consecutive years they did not have outstanding liabilities to the State Budget, and by 75% if during the previous 3 consecutive years they did not have outstanding liabilities to the State Budget.

LOCAL TAXES

Documentation required for granting exemption from tax on buildings for those considered historical, architectural or archaeological monuments, regardless of the ownership right or administration right, and having the street and/or main façade restored or rehabilitated is defined.

Also, calculation examples for tax on land were revised, given the elimination of taxation on land which is registered in agricultural registers with usage category of land with construction/buildings, as well as registered in agricultural registers under another usage category than that of land with construction/buildings with a surface up to 400 m².

ORDER 1203 dated 10 May 2018 to amend and complement ANAF Presidential Order 587/2016 to approve template and content of forms used to declare taxes and contributions under self-assessment or withholding regime (Official Gazette 424/2018)

The Order amends form 100 due to changes brought into law.

Thus, through GEO 18/2018 a series of amendments and complements to the Fiscal Code have been brought, among which include the change of provisions of art. 132, *Declarative obligations of income payers applying withholding regime*. According to these new provisions, payers of income obtained from intellectual property rights, rental activities or associations with legal entities should withhold health insurance contribution (CAS) and submit form 112 (instead of form 100, as previously submitted).

Also, GEO 25/2018 also introduces dispositions referring to deduction from tax owed from micro-enterprises for expenses related to sponsorship to support non-profit organisations and religious units, which are accredited providers of social services according to law with at least one licensed social service.

Due to these amendments, form 100 changes as follows:

- introduction of a distinct row, *Deductible amount*, in Section 1 – Taxes paid to the sole bank account – to highlight amounts representing sponsorship expenses which are deductible from tax on micro-enterprises;
- introduction of a new section containing necessary information to highlight exempted amounts, representing corporate tax and tax on micro-enterprises, according to provisions of Law on agricultural cooperation 566/2004;

The form D100 has been updated



- ☑ removal from List of fiscal liabilities owed to State Budget, annex to form 100, the positions where withheld tax was declared for income obtained by individuals from intellectual property rights, lease of agricultural land activities or within an association without legal personality;
- ☑ a new list has been introduced, annex to form 100, List of liabilities exempted from payment, according to law, which includes fiscal facilities in force, such as exempted corporate tax and exempted tax on micro-enterprises, according to provisions of Law on agricultural cooperation 566/2004;
- ☑ filing instructions were adequately changed.

ORDER 1931 dated 26 April 2018 to approve template, content and modalities to submit and manage Return on social contributions, income tax and nominative list of insured persons (Official Gazette 402/2018)

The Order amends Annexes and filing instructions for form 112, Return on social contributions, income tax and nominative list of insured persons, due to changes in specific legislation introduced by GEO 3/2018, GEO 8/2018, GEO 18/2018 and GEO 25/2018.

The following changes are made:

- ☑ withholding tax on income and mandatory social contributions, depending on the case, for payers of income obtained from intellectual property rights and based on sports activity contracts is introduced;
- ☑ withholding tax on income and social health insurance contributions, depending on the case, for payers of income obtained based on lease contracts for agricultural land and obtained from associations with legal entities which are taxpayers according to Title II and III or according to Law 170/2016 is introduced;
- ☑ a special provision related to calculating, declaring and paying social health insurance contributions for individuals obtaining income exempted from tax on income, as provided by art. 60 of the Fiscal Code, is introduced;
- ☑ a special provision on the option to distribute and pay amounts representing 2% or 3.5% of income tax on a monthly basis for private scholarships, as well as to support non-profit organisations/religious units, by the income payer, is introduced;
- ☑ update of annexes according to amendments brought to specific legislation.

ORDER 1938 dated 26 April 2018 to approve Procedure to grant assistance by local tax authority in collaboration with central tax authority to complete and/or submit, as well as to submit Sole Tax Return (Official Gazette 399/2018)

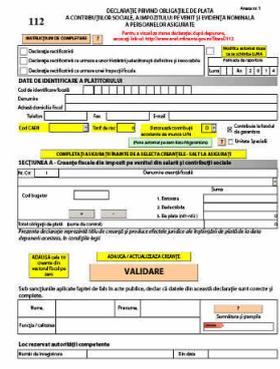
The Order approves Procedure through which tax authorities grant assistance to individuals to complete and/or submit, as well as to submit Sole Tax Return (Form 212).

The Procedure sets that within 15 days from the end of the fiscal year and based on information obtained, the central tax authority prepares a list of persons who have the obligation to submit the Sole Tax Return already assigned to each local tax authority, depending on the fiscal domicile of the taxpayer, and sends it to local tax authorities. For 2018, however the list of persons who should submit the Sole Tax Return is due within 5 days from the date when the current Procedure comes into force.

When preparing the list, the central tax authority will take into consideration individuals about whom they already have information, who earned the following categories of income during 2017:

- ☑ income from independent activities defined as per art. 67 of the Fiscal Code;
- ☑ income from intellectual property rights, except those whose taxation was final;
- ☑ income from rental activities, except income obtained from lease of agricultural land whose taxation was final;
- ☑ income from investments, except income from dividends, interest and from dissolution of a legal entity, whose taxation was final;
- ☑ income from agricultural activities, forestry and fish-breeding.

The Procedure sets the method in which the central and local tax authority establish technical and human resources required to grant the assistance.



The form D112 has been updated once again



LAW 111 dated 16 May 2018 to amend and complement Law 227/2015 on the Fiscal Code (Official Gazette 422/2018)

The Law amends and complements the Fiscal Code by extending the categories of taxpayers benefitting from exemption to pay local taxes on buildings or land, as well as on means of transportation.

The Law maintains exemption to pay tax on buildings used as domicile and owned or co-owned by persons with major or severe disabilities, or the 1st degree of invalidity. The exemption is extended to persons who have under care/take care of persons with major and severe disabilities, or 1st degree of invalidity. In this last case, the exemption is granted only during the period when the concerned person takes care/has under care a disabled person.

The same tax exemption is applied for means of transportation, owned or co-owned by persons with major or severe disabilities and persons considered having 1st degree of invalidity, operated by their legal representatives/guardians only during the period when they take care of persons with major and severe disabilities or persons considered having 1st degree of invalidity, for only one means of transportation according to taxpayer's choice.

ORDER 1155 dated 17 April 2018 to amend ANAF Presidential Order 888/2018 to approve template, content and modalities to submit and manage form 212, Sole Tax Return (Official Gazette 405/2018)

The Order already amends Order 888/2018 which regulated template, content and modalities to submit and manage form (212) *Sole Tax Return*, to adapt the new tax return to legal amendments brought on the Fiscal Code.

ORDER 2045 dated 14 May 2018 to amend and complement Order of the Minister of Public Finance 1485/1999 to publish information regarding registered taxpayers (economic agents and public institutions) on the server of the Ministry of Finance (Official Gazette 430/2018)

The Order amends Order of Minister of Public Finance 1485/1999 to publish information regarding registered taxpayers (economic agents and public institutions) on the server of the Ministry of Finance.

Therefore, information collected from documents submitted by taxpayers to units of the Ministry of Public Finance and introduced in the central database of the Ministry, are published daily on the Ministry's website, in order to present changes to the database with a maximum delay of 24 hours.

Sets of data in open format containing information on economic agents are uploaded on Government portal <http://www.data.gov.ro/> from the published database. The period for publishing/updating the information is twice a year at 6-month intervals and the data remain published for a period of 10 years. After this interval, data may no longer be viewed/downloaded.

ORDER 1619 dated 2 May 2018 to set monthly amount which is granted as nursery vouchers for the first half of 2018 (Official Gazette 412/2018)

Starting May 2018, the monthly amount which is granted as a nursery voucher is RON 450 (previously RON 440).

ORDER 1618 dated 2 May 2018 to set indexed face value of a luncheon ticket for the first half of 2018 (Official Gazette 412/2018)

Starting May 2018, the indexed face value of a luncheon ticket may not exceed RON 15.18

ORDER 1937 dated 26 April 2018 to amend Annex to Order of Deputy Prime Minister, Minister of Environment and Minister of Public Finance 1144/1672/2017 to approve template for application to reimburse amounts representing special tax on motor vehicles, pollution tax on vehicles, tax on pollution emissions produced by motor vehicles and environment stamp for motor vehicles (Official Gazette 415/2018)

The Order updates application to reimburse amounts representing environment taxes for motor vehicles, mentioning the names of this tax throughout the period of 2007-2016.



The new Sole Tax Return has just been updated



The update was necessary as a result of simplifying legislation, where application completed by the owner (with no supporting documents) being sufficient to claim reimbursement of amounts.

INSTRUCTION 12 dated 7 May 2018 on the level of the National Bank of Romania reference interest rate (Official Gazette 391/2018)

Starting the 8th of May 2018, the NBR reference interest rate is 2.50% per year.

ORDER 2062 dated 16 May 2018 to approve Procedure on activity to monitor and control observance of legal conditions to authorize fiscal warehouses, registered recipients, registered senders and authorized importers by authority provided by art. 359 para. (1) of Law 227/2015 on the Fiscal Code (Official Gazette 445/2018)

ORDER 1850 dated 18 April 2018 to amend and complement Procedure to apply enforcement titles on which garnishment of accounts opened at units of State Treasury for public authorities and institutions is requested, approved by Order of the Minister of Public Finance 2336/2011 (Official Gazette 382/2018)

IMPORTANT – Publication of annual financial statements

We emphasize provisions of article 185, paragraphs 1 and 4 of Law 31/1990 regarding commercial companies:

- ☑ "(1) In the conditions set at Accountancy Law 82/1991, republished, the Board of Directors or the Supervisory Board, should submit annual financial statements and, if applicable, the report issued by *cenzori* or auditors to territorial offices of the Ministry of Public Finance, both in paper and electronic format or only in electronic format to which an extended electronic signature is attached."
- ☑ "(4) Commercial companies with **annual turnover of greater than RON 10 million should publish an announcement in the Official Gazette of Romania, Part IV-a**, by which submission of documents set at paragraph (1) is confirmed."

To comply with this obligation, we recommend submission of the following documents to the Official Gazette:

- ☑ accompanying letter which may be downloaded from
- ☑ http://www.monitoruloficial.ro/docs/159_cerere%20publicare%20PIV.pdf;
- ☑ announcement prepared on computer, signed and stamped by a legal representative of the company. A model may be downloaded from
- ☑ http://www.monitoruloficial.ro/docs/373_anunt.pdf;
- ☑ an appendix disclosing the number of characters in the announcement;
- ☑ power of attorney for the person who will submit the document for publication;
- ☑ document which proves payment of the fee for publication;
- ☑ company details (contact person, phone number).

The appendix disclosing the number of characters in the announcement may be obtained from a text editor and, for instance, if drafted using Microsoft Word:

- ☑ select the full text to be published (Ctrl+A);
- ☑ select Word Count on the bottom left bar (Tools);
- ☑ copy the displayed window by simultaneously pressing Alt+Print Screen;
- ☑ copy selected image with the *paste* command by pressing Ctrl+V simultaneously, and print.

Where and how may the fee for publication be paid?

- ☑ at the cashier's desk located in the centre for public inquiries at the Official Gazette;
- ☑ by payment order upon receipt of invoice which is issued for documents transmitted by fax. The invoice also includes the price of one copy of the Official Gazette.

How to obtain the Official Gazette of Romania, Part IV-a?

- ☑ at the library located in the centre for public inquiries at the Official Gazette;
- ☑ by e-mail for subscribers, on the publication date, in electronic format of the Official Gazette, Part IV-a;
- ☑ by mail or, in case of documents transmitted by fax, after printing.



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REMINDER – Valuation of monetary items in foreign currency

The May 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 = 4.6485 RON; 1 CHF = 4.0343 RON; 1 GBP = 5.2950 RON; 1 USD = 3.9734 RON

JUNE 2018 – 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

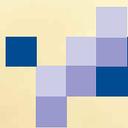
- Mention the registration code under the scope of VAT on documents for EU business partners
- Check validity of registration code under the scope of VAT mentioned on invoices received
- Check amount of VAT disclosed on invoices received
- Check references related to VAT (e.g.: “reverse charge,” “operation 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 JUNE 2018, visit the following link on ANAF webpage (in Romanian):

https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2018.htm

KEY HR FIGURES

2018 Contributions for dependent activities	Employer and Beneficiary of activities considered dependent activities (% rate)	Employee and provider of dependent activities (% rate)
Social security contribution (pension)	Not owed for normal working conditions 4% for particular working conditions 8% for special working conditions	25%
Health insurance fund (based on gross salary)	Not owed	10%
Employment insurance contribution	2.25%	
Salary tax		10%
Contribution for non-employment of disabled persons (for employers with more than 50 employees)	4 x minimum gross salary for every 100 employees	
Minimum monthly gross salary	RON 1900	
Luncheon voucher	Up to maximum RON 15.18	
Per diem (in Romania)		
Employees in the public sector	RON 17.00	
Employees in the private sector (x 2.5)	RON 42.50	



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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*