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EMERGENCY ORDINANCE 44 dated 24 May 2018 on certain measures to apply certain provisions and to extend a deadline provided by Government Emergency Ordinance 28/1999 on obligation of economic operators to use electronic fiscal cash registers, as well as to complement GEO 64/2007 on public debt (Official Gazette 454/2018)

The Ordinance postpones the deadline to introduce the new cash registers with electronic journal (AMEF) by 3 months. Thus, the Ordinance provides a 3-month postponement of application of certain sanctions, such as:

- ☑ sanction provided by law for not meeting within the time limit the obligation of economic operators to only use cash registers with an electronic journal – applicable to large or medium-size taxpayers starting the 1st of September 2018 (previously the 1st of June 2018) and for small-size taxpayers starting the 1st of November 2018 (previously the 1st of August 2018);
- ☑ sanction provided by law for authorized distributors which continue to market old cash registers is effective starting the 1st of November 2018 (previously the 1st of August 2018).

Furthermore, the validity term of permits/authorizations to distribute old cash registers is extended by 3 months (until the 31st of October 2018).

LAW 145 dated 20 June 2018 to approve GEO 18/2018 to approve certain fiscal and budgetary measures and to amend and complement certain normative acts (Official Gazette 525/2018)

The Law approves GEO 18/2018 and also introduces certain new regulations, such as:

- ☑ persons who have purchased a means of transportation, under the diplomatic or consular regime, which benefited from VAT exemption, will have the obligation to pay the exempted VAT if they sell/give/donate the means of transportation within a period of less than 2 years from import/purchase date;
- ☑ extension of exemption from tax on buildings, related land and means of transportation to spouse of the deceased, where the deceased person disappeared or was exterminated during detention, was abusively admitted into psychiatric hospitals, deportees, prisoners or was under house arrest;
- ☑ in the case of land owned by religious units officially recognized in Romania and religious associations, as well as their local components, except areas used for economic activities, the taxable value is set by assimilation with non-productive land;
- ☑ several exemptions from taxes are defined in relation to preparing, organising and carrying out the 2020 European Championship – such as tax exemption on non-resident income, fee for advertising and publicity, fee for display of ads (mesh) as well as tax on spectacles.

EMERGENCY ORDINANCE 50 dated 21 June 2018 to implement *Invest in yourself* Governmental Programme (Official Gazette 516/2018)

The Ordinance defines a governmental programme aiming to facilitate access to funding for young people (between 16 and 26 years of age) who are enrolled in the educational system or who follow specialization courses, authorized by the Ministry of National Education and, depending on the case, by the Ministry of Labour and Social Justice.



A governmental program for personal development for young people and adults up to 55 years of age was launched

Facilitating the access to funding consists of guaranteeing up to 80% of a loan amounting to a maximum of RON 40,000.

The loan is destined to cover the needs of beneficiaries and their families related to education, health, culture, sports and environment.

Payment of interest for loan granted as well as the expenses related to analysis and management commissions for warranties are borne by the State Budget.

The loan will be granted as a credit in one or more instalments, depending on the invoices presented for settlement or direct payment to supplier based on pro-forma invoice(s). The loan is granted for a maximum period of 10 years, including grace period.

The programme may also be accessed by persons between 26 and 55 years of age, only if they are enrolled in the education system or change their career and/or take specialized courses. This loan is for a maximum of RON 35,000.

The granted loan may be supplemented by up to RON 20,000 if the beneficiary is employed throughout the loan period.

ORDER 1450 dated 7 June 2018 to approve application Norms of provisions of art. I and III of GEO 3/2018 on certain fiscal and budgetary measures (Official Gazette 507/2018)

The Order regulates application Norms of provisions of GEO 3/2018, the Ordinance which sets, by derogation from the Fiscal Code, a different method to calculate health contribution (CASS) for individuals exempted from paying tax on salaries:

- a) individuals with a major or severe disability;
- b) individuals carrying out IT software development activities;
- c) individuals carrying out research, development and innovation activities;
- d) individuals carrying out activities based on an individual labour contract concluded for a period of 12 months, with Romanian legal entities carrying out seasonal activities as provided by art. 1 of Law 170/2016 on specific tax for certain activities, throughout a year.

Thus, for 2018, CASS will be calculated for persons mentioned above, according to the following formula:

Withheld CASS = 2018 Gross Income – CAS owed in 2018 – Net Salary in December 2017.
The value representing a positive difference between owed and calculated CASS according to provisions of the Fiscal Code and withheld CASS according to the formula mentioned above is set by the employer and is distinctly highlighted as a deducted amount in Form 112.

On a daily basis, the central tax authority sends a file containing the deducted amounts on-line to State Treasury units. Based on this file a distinct income account of the State Budget is debited, this account being coded with the fiscal identification code of the employer/payer (26.A.21.27.00 Differences related to social health insurance contribution). Simultaneously, the income account of the Unique National Fund for social health insurance is credited, the account being coded with the fiscal identification code of the employer/payer (26.A.21.27.00 Differences related to social health insurance contribution). Verification of the manner to determine CASS is performed by fiscal authorities according to provisions of the Fiscal Procedure Code, based on a specific risk analysis which will determine the level of fiscal risk for each taxpayer/payer subject to this analysis. Depending on the fiscal risk, measures will be imposed regarding the manner to evaluate, manage and treat established risks (notify taxpayers that they must comply, and/or conduct tax inspections).

ORDER 2047 dated 14 May 2018 to apply provisions of Government Ordinance 26/2000 on associations and foundations (Official Gazette 514/2018)

The Order assigns the Service for communication, public relations, mass-media and transparency to keep evidence of associations and foundations carrying out their activity in the competence sphere of the Ministry of Public Finance and to give notice on their registration in the Register of associations and foundations. Also, it will intermediate the collaboration between the Ministry of Public Finance (MPF) and the non-governmental organisations in order to carry out common activities or programmes.

Registration of associations and foundations is performed by the Service of communication, public relations, mass-media and transparency (SCRPMMT). In order to be regis-

tered, an association or foundation should activate in the same domain as the MPF. The Order regulates the registration procedure for associations and foundations in the Register managed by MPF.

INFORMATION – DRAFT of the Ministry of Public Finance to amend accounting regulations

According to a new draft of the Ministry of Public Finance, accounting regulations are amended in order to introduce new accounts related to specific tax, protocol expenses and advertising and commercial expenses.

Therefore, the name of account 441 - corporate tax/tax on income will be changed to corporate tax and other taxes, and account 4415 - specific tax for certain activities will be introduced.

The following expense accounts will be introduced:

- 6231 - *Protocol expenses;*
- 6232 - *Advertising and commercial expenses;*
- 695 - *Expenses with specific tax for certain activities.*

The changes will also be made to regulations specific to non-governmental organisations.

INFORMATION – DRAFT to amend Accounting Law and Law on companies

According to this draft, which already passed by vote in Parliament, companies may grant dividends to its shareholders or associates on a quarterly basis. In this regard, the obligation to prepare certain intermediary financial statements will be introduced, these being subject to statutory audit, in the case where the entity has the obligation to submit annual financial statements to a statutory auditor and the entity opts to have their financial statements audited.

INFORMATION – DECISION of the Court of Justice of the European Union in joint cases C-660/16 Finanzamt Dachau v Achim Kollross and C-661/16 Finanzamt Goppingen v Erich Wirtl

The cases analysed by the Court refers to two taxable persons (individuals) who made advance payments to suppliers for purchases of goods, deducting the related VAT.

The suppliers subsequently became insolvent, the sale of goods for which they received payment in advance not being performed. The taxable persons who made the payments in advance did not receive a refund.

German fiscal authorities rejected the right to VAT deduction related to the payments performed in advance.

The Court has ruled that the right to deduct VAT on payments in advance for a purchase which does not occur may not be refused if the beneficiary made the payment in good faith, knowing all data regarding the future purchase, which appeared to be certain and could not recover those amounts from its supplier.

The Court's Decision is important for emphasizing the fact that the right to VAT deduction is kept for payments in advance, even though the purchase of goods does not take place. This is only applicable if the beneficiary may not recover the tax from the supplier and did not or should not have known that the respective purchase was not certain.

INFORMATION – DECISION of the Court of Justice of the European Union in case C-81/17 Zabrus Siret SRL

The case analysed by the Court refers to the Romanian company, Zabrus Siret SRL. The company was subject to a VAT inspection which ended with the issuance of a VAT inspection report.

Subsequent to inspection, the company performed adjustments to certain transactions and to the VAT return related to the period which was the subject of the VAT inspection. Specifically, the company identified supporting documents which allowed VAT deduction for certain transactions related to the period subject to VAT inspection, performed some adjustments and requested a VAT reimbursement.

The tax authority rejected the right to VAT deduction for the respective adjustments considering them related to a period already subjected to a tax inspection, where the principle of tax inspection uniqueness was applied.



Companies will soon be able to pay dividends quarterly





The Court decided that, for as long as the right to deduct VAT is exercised within the statute of limitation period, it cannot be rejected simply because the VAT to be deducted is related to a period previously subjected to a tax inspection.

The Court also argued that the principle of tax inspection uniqueness may not be invoked to reject the right to VAT deduction, since this principle acts only for the effectiveness of tax inspections and for proper functioning of the national administration. The Court's Decision is important and emphasizes the fact that the right to VAT deduction may also be exercised subsequent to tax inspection of a fiscal period, observing the statute of limitation period of 5 years, in the case where no fraud is discovered.

INFORMATION – DECISION of the Court of Justice of the European Union in case C-533/16 Volkswagen

The case analysed by the Court refers to German company Volkswagen AG that, between 2004 and 2010, purchased goods from suppliers established in Slovakia. The transactions were erroneously considered as VAT exempt, a fact discovered in 2010. In order to correct the transactions, correction invoices were issued with Slovakian VAT. Volkswagen AG paid those invoices and claimed VAT reimbursement from Slovakian authorities. The authorities rejected the claim for VAT reimbursement considering the statute of limitation period expired, the right to VAT reimbursement occurring on the delivery date of the goods, which was when VAT became chargeable.

The Court ruled that when applying corrections to transactions, such as changing the taxation regime, the beneficiary is entitled to VAT deduction even subsequent to expiration of the statute of limitation period, if the parties convened the initial (erroneous) VAT treatment in good faith. The Court considers that prior to correcting and paying VAT, the substantive and formal requirements to grant the right to VAT deduction were not met, the requirements only being accomplished subsequent to payment.

INFORMATION – DECISION of the Court of Justice of the European Union in case C-8/17, Biosafe - Indústria de Reciclagens SA

The case analysed by the Court refers to a Portuguese company that between 2008-2010 sold goods while erroneously using the reduced VAT rate. During a tax inspection in 2011, the authorities imposed on the company an additional VAT payable as a result of applying the standard VAT rate, instead of the reduced VAT rate. The company issued correction invoices in 2012 and asked the customer to pay the difference in VAT. The customer refused to pay considering the statute of limitation period had expired for purchases performed in 2008 and had no valid right to VAT deduction.

The Court ruled that in the case of corrections to certain transactions, such as changing the taxation regime or the VAT rate, the beneficiary is entitled to the VAT deduction even subsequent to expiration of the statute of limitation period, if the parties convened the initial (erroneous) VAT treatment in good faith. An essential condition to maintain the deduction right is that the treatment initially applied was not fraudulent.

INFORMATION – DECISION of the Court of Justice of the European Union in case C-580/16 Hans Bühler KG

The case analysed by the Court refers to a German company registered under the scope of VAT in both Germany and Austria. The company purchased goods from suppliers established in Germany, using its Austrian VAT number.

The goods were then re-sold to a customer established in the Czech Republic, being directly transported from Germany to the Czech Republic and simplification measures related to triangular transactions were applied. The Company initially did not declare these triangular operations in its tax returns, having them subsequently adjusted by submitting corrected tax returns.

The Austrian tax authorities considered the intra-Community acquisition of goods performed to be taxable in Austria, because Hans Bühler had not fulfilled its reporting obligations and had not proved that the final purchase made by the Czech customer had been subject to VAT in the Czech Republic.

The Court ruled that in the case of triangular operations, simplification measures may be applied regardless of whether or not the buyer-re-seller is registered under the scope of VAT in the Member State from where the goods were dispatched and, for granting the

Interesting ECJ rulings on VAT cases



right to apply simplification measures, only the VAT number under which the intra-Community purchase is made, may be taken into consideration.

Submission of corrected returns within the legal deadline is a formal requirement, and failure to comply may not, in principle, lead to rejection of the right to apply simplification measures. The Court has emphasized that the application of simplification measures may be refused only if it is proven that the buyer-re-seller has participated with the intention to commit tax fraud or if the failure to comply with formal requirements makes it impossible for tax authorities to ascertain whether the substantive requirements of the simplification measures are satisfied.

LAW 8 dated 14 March 1996 on copyright and related rights – REPUBLISHED (Official Gazette 489/2018)

DECISION 387 dated 31 May 2018 to approve Multilateral agreement between competent authorities on exchange of reports for each country, signed in Bucharest on the 19th of December 2017 (Official Gazette 507/2018)

The Decision approves Multilateral agreement between competent authorities on the exchange of reports for each country (CbC / Country-by-Country) and it also represents the engagement of Romanian authorities (Ministry of Public Finance) to apply provisions of this agreement regarding the exchange of information between fiscal authorities of the signatory countries.

ORDER 1281 dated 18 May 2018 to approve Methodology to distribute amounts representing employment insurance contribution paid by taxpayers to the distinct account and to settle them (Official Gazette 460/2018)

Employment insurance contribution was introduced starting the 1st of January 2018, being the only contribution paid by the employer and represents 2.25% of salary expense. Basically, the contribution has consolidated the previous contributions paid for unemployment, medical leave, work accidents and guaranteed salary liability funds.

The Order approves the Methodology to distribute amounts collected for this contribution, as follows:

- ☑ 15% to *Fund to Guarantee payment of salary liabilities*;
- ☑ 20% to *Budget for unemployment insurance*;
- ☑ 5% to *System of insurance for work accident and occupational disease*;
- ☑ 40% to *Unique National Fund for social health insurance related to payment of medical leave*;
- ☑ 20% to State Budget.

ORDER 2010 dated 9 May 2018 to amend joint Order of Deputy Prime Minister, Minister of Environment and Minister of Public Finance 1488/3198/2017 to approve Methodological Norms to apply Government Emergency Ordinance 52/2017 on reimbursement of 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 457/2018)

The Order approves procedure to reimburse through administrative mean 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, as well as related interest expense.

ORDER 1263 dated 17 May 2018 to amend Instructions to prepare administrative document in digital form (e-DA) using EMCS-RO application – Control of movements performed under regime of suspension/exemption of excise taxes, approved by ANAF Presidential Order 2901/2016 (Official Gazette 515/2018)



Refund of special motor vehicle taxes can be claimed by August 31



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 = 4.6611 RON; 1 CHF = 4.0340 RON; 1 GBP = 5.2626 RON; 1 USD = 4.0033 RON

JULY 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 JULY 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*

