

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

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Emergency Ordinance 43/2021 for the extension of term for submitting annual declaration regarding the real beneficiary of a legal entity, provided in art. 56 para. (4) of Law no. 129/2019 for preventing and combating money laundering and terrorist financing, as well as for amending and supplementing some normative acts (OG 561/2021)

The ordinance extends until 1 October 2021 the deadline for submitting the annual declaration on the real beneficiary of a legal entity subject to the obligation to be entered in the trade register.

The annual declaration regarding the real beneficiary may take the form of a private signature or in electronic format and may be sent to the trade register office by electronic means with electronic signature, or by postal and courier services. The declaration can also be given in front of the trade register's representative or it can be submitted, personally or through a representative, having a certain date, given by a notary public or attested by a lawyer.

Order 632/2021 for approval of model and content of the form (300), "Value added tax return" (OG 464/2021)

The order updates the model and the content of the form (300), "Value added tax return". The new statement is used starting with the declaration of the fiscal obligations related to June 2021, with a submission deadline of 25 July 2021.

Submission of VAT returns by tax groups

The most important change concerns an update to the VAT return form to allow a representative of a VAT group to submit its individual VAT return online. We emphasize that the representative of a VAT group only submits a consolidated statement of the VAT group online, and the individual statements of the members are submitted for information purposes, on paper, at the ANAF registry. A few months ago, ANAF allowed the online submission of informative statements of group members, which do not have the role of a debtor, having their status easily identified by ANAF based on fiscal vector. On the other hand, the group's representative could not submit two VAT returns, one consolidated as a representative and one individual for information purposes. In this context, the new return has an additional option in the introductory section of the form, in order to allow a differentiation between the informative and consolidated statements submitted by the tax group's representative.

Thus, starting with the June 2021 return, all VAT returns of members of a tax group, as well as the consolidated return, will be submitted by electronic means. Only the consolidated statement will be considered a debt to the state budget: the rest are for information only.

VAT regularization

According to provisions of art. 303 of the Fiscal Code amended by Law 296/2020, **VAT payable differences established by fiscal authorities (not only fiscal inspectors)** by decisions communicated through the submission date of the VAT return are included in the "cumulative tax payable" row, if these differences are not paid to the state budget on or before the submission date of the VAT return. The new VAT return form includes these changes.

The amounts of unpaid VAT that are not considered overdue according to art. 157 para. (2) of the Fiscal Procedure Code or according to other laws are not brought for-

ward in the current VAT return. Previously, the cumulative VAT payable did not include differences in VAT established by fiscal inspectors by tax decisions whose execution was suspended by the courts, according to the law, if they were not paid to the state budget by the submission date of the VAT return.

The above information is included on line 40 of the VAT return, in the Regularizations section, according to art. 303 of the Fiscal Code.



Law 123/2021 on approval of GO 5/2020 for amendment and completion of Law 207/2015 on the Fiscal Procedure Code (OG 476/2021)

The law approves, with some amendments, Government Ordinance 5/2020 which introduced provisions of DAC 6 regarding the reporting of cross-border arrangements to the Fiscal Procedure Code.

The law clarifies reporting obligations in the case of several intermediaries involved in a cross-border arrangement. In these cases, the reporting obligation rests with all intermediaries involved in the same cross-border reporting arrangement. However, any of the intermediaries may be exempted from the reporting obligation if they have conclusive evidence that there is no doubt that another intermediary has already reported the cross-border arrangement to either ANAF or the competent authority of another Member State.

Relevant taxpayers who also have conclusive evidence that there is no doubt that the information has already been reported to the competent authority of another Member State by another relevant taxpayer are also exempted from the reporting obligation.

The law complements/amends Annex 4 regarding distinctive signs in categories B, C and E.

Order 577/2021 on regulation of some aspects regarding fiscal residence of foreign legal entities in Romania (OG 520/2021)

The Order approves the model of documents to request and establish a fiscal residence in Romania by foreign legal entities with the location of effective management in Romania:

- “Questionnaire for establishing fiscal residence of a foreign legal entity with the location of effective management in Romania;”
- “Notification regarding fulfillment of the residence conditions according to provisions of art. 7 points 18 and 37 of the Fiscal Code by the foreign legal entity.”

Note that in accordance with amendments introduced to the Fiscal Code at the end of 2020, a foreign legal entity is resident in Romania if the place of effective management is in Romania, performing operations corresponding to economic, real and substantial purposes and where at least one of the below conditions is fulfilled:

- the economic-strategic decisions necessary for management of the activity of the foreign legal entity as a whole are taken in Romania by the executive directors/members of the board of directors;

or

- at least 50% of the executive directors/members of the board of directors of the foreign legal entity are residents.

Foreign legal entities registered with the location of effective management in Romania through 31 December 2020 inclusive, as well as those registered in the period between 1 January 2021 and the date this order enters into force (19 May 2021), have the obligation to submit the Questionnaire and to attach the documents listed in art. 81 para. (2) of the Fiscal Code by 30 June 2021, inclusive.

The questionnaire is submitted by the foreign legal entity to the registry of the central fiscal body or is sent by mail, with confirmation of receipt, or by electronic means of remote transmission, in PDF format with XML attached.

The central fiscal body analyzes fulfillment of the residence conditions depending on the specific situation of the foreign legal entity, taking into account provisions of the Fiscal Code, documentation presented and data entered in the questionnaire.

After performing the analysis, the foreign legal entity is notified whether or not it fulfills the conditions of residence according to the location of effective management in Romania, within 30 days from submission of the Questionnaire.

Within 30 days of receipt of the notification, the foreign legal entity must register with

DAC 6 reporting news



the central tax authority using form 016, "Tax registration declaration/declaration of mentions/deregistration declaration for foreign legal entities having the place of effective management in Romania." It is considered resident in Romania, according to the location of exercising the effective management, from the date of fiscal registration with the central fiscal body.

Obligations of the foreign legal entity:

- to register as a profit taxpayer;
- to lead and keep accounting records in Romania, to prepare financial statements according to Romanian accounting legislation;
- to keep minutes of board meetings and meetings of shareholders/associates;
- to maintain their residence in Romania for a period of at least one fiscal year.

Emergency Ordinance 37/2021 for amending and supplementing Law no. 53/2003 - Labor Code (OG 474/2021)

The ordinance brings amendments to the Labor Code aiming flexibility and "de-bureaucratization" of labor relations for micro-enterprises with up to nine employees regulated by Law 346/2004 on stimulating the establishment and development of small and medium enterprises. More precisely, this category includes companies that have up to 9 employees and achieve a net annual turnover or have total assets of up to the RON equivalent of EUR 2 million.

We mention below the main measures introduced:

- the obligation to include a job description in the individual employment contract is eliminated. The duties of the job can be communicated verbally to the employee, but, if he/she expressly requests it, then the job description will have to be communicated in writing by the employer, specifying the job responsibilities;
- the obligation to draw up Internal Regulations by the employer is eliminated.
- the record of working hours will be kept by the employer under conditions established with employees by written agreement.

Emergency Ordinance 36/2021 on use of advanced electronic signature or qualified electronic signature, accompanied by an electronic time stamp or qualified electronic time stamp and a qualified electronic seal of the employer in the field of labor relations, and for amending and supplementing normative acts (OG 474/2021)

The Order brings amendments to the Labor Code, Law 81/2018 on telework and Law 319/2006 on safety and health at work. We present below the primary changes below:

Labour Code

The possibility of electronic signature is introduced, by using an advanced electronic signature or a qualified electronic signature, accompanied by an electronic time stamp or a qualified electronic time stamp and a qualified electronic seal of the employer in the following cases:

- signing individual employment contracts/addenda or other documents in the field of labor relations under conditions established by internal regulations and/or the applicable collective labor agreement;
- in its relations with public institutions.

The parties must use the same type of signature, namely a handwritten signature or electronic signature. The employer may not require the selected candidate for employment or, as the case may be, the employee to use an electronic signature. The employer has the obligation to inform the candidate selected for employment or the employee about procedures regarding the use of an advanced electronic signature/qualified signature accompanied by an electronic time stamp or qualified electronic time stamp and qualified electronic seal.

The employer may incur, in order to fulfill its legal obligations, expenses to acquire advanced electronic signatures or qualified electronic signatures accompanied by an electronic time stamp or qualified electronic time stamp and qualified electronic seal of the employer, used for signing employment/security and occupational health documents.

All documents signed according to GEO 36/2021 will be archived by the employer in compliance with provisions of the Law on National Archives no. 16/1996 and Law no.



**Flexibility of
labor relations
for SME's**



135/2007 on archiving documents in electronic form, and will be made available to control bodies upon their request.

The ordinance also introduces the provision that employees under a work-at-home regime have the obligation to respect and ensure the confidentiality of information and documents used while working at home.

Teleworking

The definition of telework is changed, in the sense that the condition that telework be carried out in a place other than the workplace organized by the employer at least one day a month has been removed.

It is no longer mandatory to mention in the individual employment contract the place/places where telework activity takes place.

It is expressly provided that the employee must respect and ensure confidentiality of information and documents used during telework.

The right of the employer to verify the activity of the teleworker is introduced mainly through the use of information and communication technology.

Occupational safety and health

The possibility of proving training in the field of occupational safety and health, in electronic format or on paper, is introduced, depending on the method chosen by the employer and established by internal regulations. Proof of training in electronic format must be signed with an advanced electronic signature/qualified electronic signature accompanied by an electronic time stamp or qualified electronic time stamp and qualified electronic seal of the employer.

Law 138/2021 for completing art. 34 of Law no. 53/2003 - Labor Code (OG 501/2021)

The law introduces a new provision in the Labor Code whereby, in the event that an employer is in insolvency, bankruptcy or liquidation proceedings, the judicial administrator or judicial liquidator is obliged to:

- issue to employees a document attesting the activity carried out by them;
- cease and transmit the termination of individual employment contracts to the general register of employees (Revisal).

Decision 536/2021 for amendment and completion of Methodological Norms for application of provisions of GEO 111/2010 regarding leave and monthly allowance for raising children, approved by GD 52/2011 (OG 510/2021)

The decision modifies and completes the Methodological Norms regarding leave and monthly allowance for raising children, approved by GD 52/2011. The completion refers to recent amendments brought to GEO 111/2010 by GEO 26/2021, on providing encouragement to parents to be active on the labor market through support granted in the form of an increased insertion incentive to those who return to professional activity early, in order to cover part of the costs of day care services.

The amendments to the Methodological Norms aim at:

- elimination of provisions regarding payment of individual social health insurance contribution to persons benefiting from the child-rearing allowance;
- regulation of the period that is taken into account in order to establish the right to leave and indemnity in the situation provided in art. 91 of the emergency ordinance;
- correlation of provisions regarding performance of the period of at least one month of parental leave by the parent who did not initially request the right, or "father's month," with those provided in GEO 111/2010 amended and supplemented by GEO no. 26/2021;
- regulation of granting the insertion incentive in the amounts provided by the emergency ordinance, in the amount of RON 1,500 and RON 650, depending on the time when the right to leave and allowance for raising the child is requested, in the period until the child reaches the age of 2 years, or 3 years in the case of a child with disabilities;
- correlation of some provisions of methodological norms with regulations of GEO no. 111/2010 amended and supplemented by normative acts approved in the period 2018 - 2021.



Do you know what are the obligations to employees upon entering in insolvency, bankruptcy or liquidation?



In order to ensure more flexible communication of decisions to grant these rights, e-mail has been included as a means of communicating decisions in addition to direct and postal services.

Order 758/2021 for amendment and completion of Order of the President of ANAF 2.117/2018 regarding approval of the model and content of forms and documents used in the activity of verifying the personal fiscal situation (OG 519/2021)

The order approves the model of the form, "Notice for the final discussion," that is used in the activity of verifying the personal fiscal situation. Through this document, the natural person is notified by the control bodies of the date, time and place of presentation of conclusions resulting from the procedure for verifying the personal tax situation, of the tax findings and consequences contained in the draft tax audit report, which must be sent together with the notification.

Order 111/2021 regarding amendment of annex no. 4 to Order of the president of the National Office for Prevention and Combating Money Laundering no. 14/2021 for approval of the form and content of reports provided in art. 6 and 7 of Law no. 129/2019 for preventing and combating money laundering and terrorist financing, as well as for amending and supplementing some normative acts and the methodology of their transmission (OG 510/2021)

INFO – 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 = 4.9198 RON; 1 CHF = 4.4854 RON; 1 GBP = 5.7227 RON; 1 USD = 4.0361 RON.

**PLEASE KEEP YOUR
DISTANCE**



AND WEAR A MASK

MONTHLY 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, visit the following link from ANAF (in Romanian):

https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2021.htm

KEY HR FIGURES

2021 Contributions for dependent activities	Employer and beneficiary (for activities considered dependent) (% share)	Employee and dependent worker (% share)
Social security contribution (pension)	Nothing due for normal working conditions 4% for special work conditions 8% for special work conditions	25% (**)
Contribution to health insurance fund (calculated on gross income)	Not due	10% (***)
Work insurance contribution	2.25% (*)	
Income tax		10% (****)
Disability Fund (for employers with more than 50 employees)	4 x minimum wage for every 100 employees	
The amount of a taxable meal tax in the sense of income tax	maximum 20.01 lei	
Minimum wage (gross) from 1 January 2021	2,300 lei 2,350 lei (for more than 1 year and functions requiring higher education) 3,000 lei for employees in the construction field	
Diurnal (in the country) For employees of public institutions For private sector employees (* 2.5)	20 lei 50 lei	

The below tax facilities are available for employers on the field of construction, when minimum 80% of turnover if from construction activities defined by law:

(*) not due by employer

(**) the social security owed by the employee is decreased to 21,25%

(***) health insurance is not due by the employee

(****) tax on income is not due for monthly realised gross salaries up to 30.000 lei.

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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*
- Audit*