

56 Boulevard Dacia,
District 2, Bucharest
Tel: +40 (0) 31-809 2739
Fax: +40 (0) 31-805 7739
Email: office@apex-team.ro

Contents:

- Health contribution rate for insured persons is reduced from 6.5% to 5.5% starting 1st July 2008
- Program to sustain SMEs – reinvested profit
- NBR interest rate for June 2008
- Procedures to declare a taxpayer inactive
- Obtaining form E101
- Amendments to Fiscal Code Project as of 1st January 2009
- Guaranteed national minimum monthly gross salary 1st July 2008
- Agenda July 2008

REMINDER - LAW 388 / 2007 - State Budget 2008 (Official Gazette 902/2007)

Starting 1st July 2008, the **health insurance** contribution rate for an insured individual is reduced from 6.5% to **5.5%**. The enterprise contribution rate remains unchanged.

ORDER 725 dated 30 May 2008 to approve Implementation procedures regarding the Program to sustain development of Small and Medium size Enterprises (SME) and its modalities by funds in the limit of the amounts paid with respect to gross reinvested profit (Official Gazette 434/2008)

Program Budget

The budget allocated to the Program for the 2008 Budgetary Year represents 7,879.20 thousand RON.

Through this Program, funds of up to 100 thousand RON per beneficiary up to a limit of the amounts paid with respect to gross reinvested profit are allocated.

Eligible Beneficiaries

Economic operators can benefit from non-reimbursable financial aid from this Program if, at the application date, they meet all the following eligibility criteria:

- They are legal entities (commercial companies, cooperatives), as defined by Law 346/2004 to enhance the establishment and development of SMEs, with its further amendments and complements: have an average annual headcount of between 1 and 249 employees, realize the RON equivalent of up to 50 million Euro in annual net turnover, or hold total assets which do not exceed the RON equivalent of 43 million Euro as per the most recent approved financial report, i.e. as of 31 December 2007. Total assets mean the total of fixed assets, current assets and prepaid expenses.
- They are not in the stage of dissolution, judicial reorganisation, insolvency, bankruptcy or temporary suspension of activity;
- Their share capital is fully private, they are registered and carry out their activity in Romania;
- They have been set up for more than one year at the date they apply for fund allocation;
- They have paid all liabilities to the Consolidated State Budget by the due date;
- They have paid all liabilities to the Local Budgets by the due date;
- They posted a profit during the 2007 fiscal year and have reinvested all or part of the profit;
- They have purchased new tangible or intangible assets which were commissioned by 31 December 2007;
- They did not apply accelerated depreciation as per Law 571/2003 – Fiscal Code with its further amendments and complements - on assets for which they apply for funds in respect of this Program;
- They are not facing difficulties as per the Commission Communication – an EU directive - regarding public assistance to save and restructure enterprises in difficulty, published by the JOCE 244/2004.

The economic operator must maintain the investment which benefited from non-reimbursable financial funds from this Program for at least 3 years.

Financial funds from this Program are not granted to:

- Fishing and fish breeding;
- Primary production of agricultural produce;
- Processing and marketing agricultural produce;
- Activities related to export to non-member States or member States as well as some aid directly related to the exported goods, to the set up and maintain distribution networks or for other current expenses related to export;
- Aid which promotes use of domestic products rather than imports;
- The coal sector;
- The road transport sector when the aid is to purchase vehicles;

- Economic operators who are not liable for corporate tax as per Law 571/2003 – Fiscal Code with its further amendments and complements.

Eligible expenses

Eligible expenses are the amount of profit spent in 2007 for investments in:

- Tangible assets:
 - technical equipment (machinery, tools and work installations) - group 2 sub group 2.1 -, as per provisions of Government Decision 2139/2004 to approve the Catalogue for classification of fixed assets and their normal useful life;
 - computers and related equipment;
- Intangible assets:
 - licences, author's rights, trademark or manufacturing method and other similar assets as well as purchase or production of software.

Type of financial aid

- Through this Program, 16% of profit spent in 2007 is allocated, but no more than 100 thousand RON for the acquisition of tangible and intangible assets which have been invoiced, fully paid and commissioned during the 1st January - 31 December 2007 period.
- Financial aid is granted only if the purchased assets are new, introduced in the market and commissioned in compliance with applicable technical regulations and if an accelerated depreciation method was not applied as per Law 571/2003 – Fiscal Code with its further amendments and complements.
- Financial aid is not granted if the tangible and intangible assets were purchased through a financial lease and if they were second hand.
- Payments in the form of offsetting liabilities between the contracting parties are not accepted.

Program Implementation

- The Program is carried out by the territorial units for SMEs and cooperatives ("OTIMMC");
- To receive an agreement in principle regarding financing, the economic operator should complete one line and transmit the appropriate form available on the www.mimmc.ro website, any working day between 9 am and 8 pm until the Program Budget is consumed, MIMMCTPL having to state when this happens on its website.

INSTRUCTION 16 dated 2 June 2008 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of June 2008 (Official Gazette 427/2008)

For the month of June 2008, the NBR reference interest rate is 9.75 % per annum.

RE-PUBLICATION - LAW 82 dated 24 December 1991 – Accountancy Law (Official Gazette 454/2008)

ORDER 819 dated 19 May 2008 to approve Procedures to declare taxpayers inactive (Official Gazette 404/2008)

Taxpayers, legal entities or any other entity are posted in the list of inactive taxpayers if they meet all of the following criteria:

- Have not submitted any required declaration for 2 consecutive declaration deadlines;
- The application for a derogatory tax declaration regime has been rejected by the tax authorities.

Required declarations are: form 100 "State consolidated budget liability return", form 102 "Social insurance and special funds liability return", form 103 "Excise tax return", form 300 "VAT return", form 301 "Special VAT return", VIES form 390 "Recapitulative statement for EU deliveries and acquisitions" and form 394 "Informative Statement on domestic supplies/services rendered and acquisitions".

The declaration that the taxpayer is inactive enters into force on the date of publication of the ANAF President Order approving the List of taxpayers declared inactive in the Official Gazette.

Taxpayers declared inactive become active if they meet one of the following conditions:

- Their application for derogatory declaration regime is approved;
- Their declarative obligations are fulfilled.

Inactive taxpayers become active on the date of publication of the ANAF President Order approving the List of taxpayers declared reactivated in at the Official Gazette .

Obtaining form E101

The formalities to obtain form E101, in the perspective of secondments of one or several employees that will carry out a temporary activity in another member State must be performed by the employer.

An application for form E101 should be submitted to the National House for Pension and Social Insurance (CNPAS, Str. Latina nr. 8, District 2, Bucharest Telephone: 021.316.91.11; 08 00 826 727) 30 calendar days prior inception of the secondment.

The following documents should be attached to the application:

- Tax certificate issued by ANAF confirming the employer has no liabilities towards the State Consolidated Budget at the date of application for form E101 (original certificate). If the economic operator has subsidiaries, branches, or secondary offices (work points), the tax certificate will be issued by the authorities which will collect social contributions for the employees the employer intends to second.

Join the team!

APEX Team recruits senior and junior accountants.

Send your C.V. at recrutare@apex-team.ro

Your application will be treated confidentially.

H.R. KEY FIGURES

2008 Contribution	Employer (%)	Employee (%)
Social security contribution (*)	19.50% for normal working conditions (**) 24.50% for particular working conditions (**) 29.50% for special working conditions (**)	9.5%
* NOTE: The basis for the employer and employee contribution to social insurance is no longer subject to a ceiling. ** NOTE: Starting 1 st December 2008, employer contributions to social insurance decrease to: 18% for normal working conditions 23% for particular working conditions 28% for special working conditions		
Medical leave contribution and health insurance allowance	0.85%	
Work accident and occupational disease fund	0.4% - 2% depending on CAEN code for main activity	
Unemployment fund	1%	0.5% (**)
** NOTE: Employee unemployment contributions are calculated by applying 0.5% to total gross income		
Contribution to fund to guarantee payment of salary liabilities	0.25%	
Health insurance fund	5.5% (*)	5.5% (**)
* NOTE: Starting 1 st December 2008, employer contributions to health insurance will be 5.2%. ** NOTE: Starting 1 st July 2008, employee contributions to health insurance are reduced from 6.5% to 5.5%.		
Labour office commission	0.25% or 0.75%	
Salary tax		16%
Contributions for non employment of disabled persons (for employers with more than 50 employees)	4 x 50% minimum gross salary (RON 500) for every 100 employees	
Luncheon ticket	7.88 RON	
Minimum monthly gross salary	RON 500 - RON 540 starting 1 st July 2008 RON 1,000 for positions requiring a University degree - RON 1,080 starting 1 st July 2008	
Average monthly gross salary (INSSE April 2008)	1,751 RON	
Per diem (in Romania)		
Employees in the public sector	13.00 RON	
Employees in the private sector (*2.5)	32.50 RON	

- Certificate regarding pension contribution during the last 12 months for each employee the employer intends to second as issued by the territorial Pension House (original);
 - Most recent financial statements of the commercial operator in Romania or from abroad, duly approved, audited and published as per legislation of the State where the commercial operator has its domicile/registered headquarters where information regarding turnover in Romania and in the State where employees are seconded are disclosed (original and readable copy);
 - Trade register certificate regarding the company issued by the Trade Register (original and readable copy);
 - Labour contract for the employee which the employer intends to second (original and readable copy or copy certified by the territorial Labour Inspectorate –ITM-, if necessary);
 - Certificate issued by ITM issued as per article 5 point 1 and 2 of Law 133/1999 where the number of employees as of the application date for form E101 is disclosed (original);
 - Extract of the Trade Register ("certificat constatator") regarding the status of the employer, issued during the current month (original);
 - Contract/draft contract concluded between the Romanian employer and the employer of the State where the employee will be seconded as well as its translation into Romanian by an authorised translator and certification by a public notary (original and/or readable copy);
 - Romanian identity card of the employee who will be seconded (readable copy).
- Among the conditions for the employer to obtain an E101 form, we mention:
- The **number of employees** for which form E101 is applied for cannot exceed **half of the total number of company's employees**;
 - The **turnover realized in Romania** by carrying out contracts concluded with Romanian companies must represent at least **25% of the total turnover**;
 - The **inception date of activity** mentioned in the employee labour contract for which form E101 is applied for must be at least **one month before the secondment inception date**;
 - The **labour contract of the employee** for which a form E101 is applied for **cannot be terminated** on the initiative of the employer earlier than **one month after the secondment ends**.
- When all the mandatory conditions are met, the CNPAS will issue form E101 within 25 working days after submission of the application file and will remit it to the employer.
- For employees seconded in Belgium, Denmark, Germany, France, Netherlands, Austria, Finland or Sweden, CNPAS will transmit a copy of form E101 to the corresponding institutions in these States as mentioned in the E101 form.
- Contacts:
Service for International Relations (Directorate for Communication and International Relations)
Telephone: 0040.21.316.94.08
Fax: 0040.21.316.91.12.
- PROJECT FOR AMENDING THE FISCAL CODE**
- The main amendments which would enter into force as at 1st January 2009 are:
- Annual fiscal loss declared on the corporate tax return starting 2009 would be carried forward and recovered from taxable profits obtained during the next 7 consecutive years;

- Interest on State bonds and obligations issued by municipalities which are currently non-taxable income would be subject to tax and income derived from holding or trading State bonds and/or Obligations issued by territorial administrative units would become taxable income;
- Dividends paid to an enterprise which is a legal Romanian entity, a legal entity resident in an EU member State or in a State which belongs to the European Association for free exchange, i.e. Iceland, Liechtenstein, and Norway, would be subject to a 10% tax rate unless the conditions for detention (15% for an interrupted period of at least 2 years) are met, in this latter case they are not taxable.

NOTA BENE

Government Decision 1507 dated 12 December 2007 to set the guaranteed national minimum monthly gross salary (Official Gazette 877/2007) stipulates that starting 1st July 2008, the minimum salary increases to RON 540 for the non-qualified positions, to RON 648 for positions requiring high school studies and to RON 1,080 for positions requiring a University degree. Trade unions and employers' representatives are presently negotiating to an amended minimum salary and the Government Decision will probably be modified and amendments would enter in force as at 1st July 2008.

JULY 2008 – AGENDA

Everyday - do not forget:

- To complete the petty cash register (or print the electronic version)
- To complete the purchase ledger and sales ledger

At month end - do not forget:

- To complete the journal ledger
- To complete the Register of fiscal evidence for Quarter II 2008
- To register contracts concluded during the month for services rendered by non-residents, with tax authorities
- To organize a stock count of inventories if the enterprise does not use a perpetual inventory system
- To issue final invoices for the month of July 2008 (but be aware that the deadline of the 15th of the following month applies).

To comply with new requirements regarding VAT:

- Mention the registration code under the scope of VAT on documents for EU business partners
- Check the validity of the registration code under the scope of VAT mentioned on invoices received
- Check the 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 the ledger of goods received
- Maintain the ledger of non-transfer of goods
- Mention which exchange rate will prevail (NBR or commercial bank) in contracts with foreign partners.

During the month - do not forget:

That Thursday 10 July is the last day to submit:

- Return on collection of hotel tax

That Thursday 10 July is the last day to pay:

- Hotel tax
- Advertising services tax

That Tuesday 15 July is the last day to submit:

- INTRASTAT statement for June 2008 (submit on-line)

That Friday 25 July is the last day to submit:

- State consolidated budget liability return (form 100)
- Social insurance and special funds liability return (form 102)
- Excise tax return (form 103)
- VAT return (form 300)
- Recapitulative statement for EU deliveries and acquisitions for Quarter II 2008 (form 390)
- Informative Statement on domestic supplies/services rendered and acquisitions for the first half of 2008 (form 394)
- Social security statement with list of insured persons
- Social security statement regarding liabilities to the National Fund for health insurance, medical leave and compensation from health insurance
- List of insured employees and health contribution to social health insurance fund
- Unemployment fund statement with list of insured persons
- Tax return for commission due by employers to the Labour Inspectorate (ITM)
- Statement of income obtained from abroad by individuals who carry out activity in Romania and by Romanian citizens who are employees of diplomatic missions and consular posts accredited in Romania (form 224)
- Special VAT return for VAT non payers (form 301)
- Environment Fund Statement

That Friday 25 July is the last day to pay:

- Excise taxes
- Tax on crude oil and natural gas from domestic production
- Withholding tax on non-resident income
- VAT
- Salary tax
- Tax on income from independent activities, withheld at source
- Tax on interest income
- Tax on investment income
- Tax on pension income
- Tax on income from prizes and gambling
- Tax on income from other sources
- Social security contribution
- Health insurance contribution
- Medical leave contribution and health insurance allowance
- Unemployment contribution
- Contribution to fund to guarantee payment of salary liabilities
- Commission to ITM for holding and updating Labour books
- Contribution to work accident and occupational disease fund
- Contributions for non employment of disabled persons
- Contributions to the Environment Fund
- Gambling tax.

All forms mentioned above as well as guidance on their preparation may be downloaded from the Ministry of Public Finance website: www.mfinante.ro



56 Boulevard Dacia,
District 2, Bucharest

Tel: +40 (0) 31-809 2739

Tel: +40 (0) 74-520 2739

Fax: +40 (0) 31-805 7739

E-mail: office@apex-team.ro

Site: www.apex-team.ro

ACCOUNTING AND PAYROLL
EXPERT TEAM

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 team specialised in payroll administration on behalf of the client.

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

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



The above information is a short summary of recently published information and is not intended to be advice on any particular matter. APEX Team International disclaims liability to any person in respect of anything done in reliance of the contents of these publications.