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#### **EMERGENCY ORDINANCE 28 dated 18 March 2009 to establish social protection measures (Official Gazette 186/2009)**

As per this Ordinance, 3 additional months are added to the period when compensation can be received by the persons who meet, through 31 December 2009, one of the qualifications for compensation set by article 17 of Law 76/2002 regarding the right to benefit from unemployment compensation.

For the length of temporary interruption of activity of the employer (“**technical unemployment**”), but for no more than 3 months, **both employer and employee are exempted from the payment of social contributions** applicable to **compensation** which the employee is entitled to and which represents **75% of the base salary** for the work position. Social contributions mean: social security contribution (*pension*), unemployment contribution, contribution to work accident and occupational disease fund, contribution to fund to guarantee payment of salary liabilities, health insurance contribution including medical leave contribution and health insurance allowance, contributions due by the employer and the employee on 75% of base salary for the work position.

The employee continues to be an insured person for the period mentioned above.

The compensation of 75% of base salary for the work position which is paid for 3 months maximum during 2009 for the employee who is idle as per the provisions of article 53 point 1 of Law 53/2003 – Labour Code represents payroll expenses but is not considered an employee's salary and subsequently is **not a taxable income** as per Law 571/2003 – Fiscal Code with its further amendments and complements.

To determine and compute the rights set per Law 76/2002 regarding the unemployment insurance regime and enhancing labour as per Law 19/2000 on the public pension regime and other social insurance rights, the minimum monthly gross salary will be used.

#### **ORDER 297 dated 12 February 2009 regarding inflation rate to index advance corporate tax payments in 2009 (Official Gazette 127/2009)**

For fiscal year 2009, the inflation rate used to index advance payments of 2009 corporate taxes is 5%.

We remind that as per provisions of the Fiscal Code, only Romanian banks and Branches in Romania of foreign banks are under the regime of annual corporate tax with payment of quarterly advance payments which are indexed using an inflation rate (December indicator compared to December of previous year). In 2008, the rate was 3.8%.

#### **ORDER 360 dated 26 February 2009 to approve procedures for refunding excess amounts paid regarding tax on pollution of vehicles (Official Gazette 136/2009)**

The Order approves refund procedures of differences in the amount of tax on pollution of vehicles which result from application of the provisions of Government Emergency Ordinance (OUG) 7/2009, OUG 208/2008 and OUG 50/2008. The computation of the tax difference is made by tax authorities and payment of the difference will be made by the Treasurer attached to the competent tax authority.

Application for this tax refund is processed by the tax authority within 45 days, starting the date of registration of the application. In case the applicant has debts towards the tax authorities, such debts will be deducted from the refund.

#### **DECISION 264 dated 11 March 2009 to set the number of work permits which can be issued to foreigners in 2009 (Official Gazette 156/2009)**

This Decision sets at 8,000 the number of work permits which can be issued in 2009 to foreigners who wish to be hired or seconded in Romania as per a secondment letter drafted by their employer, a foreign legal person as per provisions of OUG 56/2007 regarding employment and secondment of foreigners in Romania approved with amendments and complements by Law 134/2008. UE and EEE citizens are not affected by these provisions as access to work in Romania is open for them.

#### **INSTRUCTION 8 dated 1<sup>st</sup> March 2009 regarding the reference interest rate of the National Bank of Romania (NBR) for March 2009 (Official Gazette 127/2009)**

For the month of March 2009, the NBR reference interest rate is 10.14% per annum.

### DECISION 192 dated 25 February 2009 to amend and complement Implementation Norms of Law 571/2003 – Fiscal Code, approved by Government Decision 44/2004 (Official Gazette 143/2009)

Clarifications are made upon the modalities to constitute guarantees necessary upon issue of final user licenses and possibilities to reduce the guarantee amount for economic operators which carry out their activity with products in the field of energy which are liable for excise taxes.

### DECISION 215 dated 4 March 2009 to approve Implementation Norms regarding granting holiday vouchers (Official Gazette 145/2009)

Among the important issues of these Norms, we mention:

- Maximum amount of holiday vouchers which can be granted within a year represents 6 minimum monthly gross salaries (*i.e.* 6\*RON 600 *to date*). Holiday vouchers are tax deductible when computing corporate tax or tax on income.
- The value of holiday vouchers granted to an employee is not taken into account for the employer or for the employee when establishing the rights and obligations based on employee salary. Holiday vouchers do not represent taxable income to the employee.
- Holiday vouchers cannot be distributed by the employer if, at the date set for their distribution, the employer has not paid the face value and printing cost of the vouchers to the enterprise which issued them.
- Persons who receive nominative holiday vouchers are the sole beneficiaries for the timeframe mentioned on to the holiday voucher and only pay for the contractual tourist package.
- In case of plurality of labour contracts, holiday vouchers can only be granted by the employer where the employee has his/her main occupation.

We remind that as per Emergency Ordinance 8 dated 18 February 2009 for granting holiday vouchers (Official Gazette 110/2009), the employer can grant holiday vouchers **only if the enterprise has posted a fiscal profit during the previous fiscal year** or has obtained income, if applicable.

### INFORMATION regarding closing 2008 financial year for non-profit organisations – published on the Ministry of Finance website

Non –profit organisations must prepare annual financial statements in accordance with the applicable accounting regulations as per OMFP 1969/2007.

Annual financial statements comprise:

- Balance sheet;
- Income statement;
- Disclosure notes to the annual financial statements.

Entities who do not carry out an economic activity prepare simplified annual financial statements which comprise:

- Balance sheet (short version);

- Income statement (short version);
- Disclosure notes to the simplified annual financial statements.

Annual financial statements as at 31 December 2008 are submitted to territorial units of the Ministry of Finance in electronic format (floppy) accompanied by the forms printed by use of software at the taxpayer's disposal, signed and stamped as per law together with the following:

- Copy of fiscal code;
- Director's report;
- Copy of the "synthetic" trial balance;
- Short "censor" or audit report, as the case may be ;
- Minutes of the General Meeting held to approve the annual financial statements;
- A written representation by the legal representative as per article 10 of Accountancy Law 82/1991 stating he/she is responsible for the annual financial statements and confirms that:

- the accounting policies used to prepare the annual financial statements are in conformity with the applicable accounting regulations;
- the annual financial statements give a fair view of the financial position, the financial results and the other information related to the activity carried out;
- the legal person carries out its activity as a going concern.

Deadline for submission of 2008 annual financial statements for non-profit associations/foundations is 120 days after year end, *i.e.* 30 April 2009.

### REMINDER - EMPLOYER'S DUTIES REGARDING LABOUR PROTECTION AND HEALTH IN THE WORKPLACE

Among its duties, the employer must take the necessary steps to:

- Ensure safety and protect employee health by performing a mandatory medical examination by a physician specialised in labour medicine upon hire and also with mandatory annual medical examinations;
- Prevent occupational risks by informing and training employees through assessment of specific risks for each work position in terms of health and safety in the workplace and through mandatory training in accordance with norms set by Law 319/2006 regarding health and safety in the workplace. In addition, the employer must maintain individual docketts on work protection and individual training docketts regarding emergencies. Instruction and maintenance of individual docketts can only be made by legal entities or natural persons licensed to carry out their activity in the domain of safety and health in the workplace;
- Provide an organisational framework and resources necessary for workplace safety and health.

Measures regarding safety, health and hygiene in the workplace cannot be undertaken at the employee's expense.

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## H.R. KEY FIGURES

2009 Contribution	Employer (%)	Employee (%)
Social security contribution	20.8% for normal working conditions 25.8% for particular working conditions 30.8% for special working conditions	10.5%
Medical leave contribution and health insurance allowance	0.85%	
Work accident and occupational disease fund	0.15% - 0.85% depending on CAEN code for main activity	
Unemployment fund	0.5%	0.5%
Contribution to fund to guarantee payment of salary liabilities	0.25%	
Health insurance fund	5.2%	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 600) for every 100 employees	
Minimum monthly gross salary	RON 600 for unqualified positions RON 720 for positions requiring High School RON 1,200 for positions requiring a University degree	
Luncheon voucher	RON 8.48	
Average monthly gross salary (INSSE January 2009)	1,839 RON	
Per diem (in Romania)		
Employees in the public sector	13.00 RON	
Employees in the private sector (*2.5)	32.50 RON	

### INFORMATION – INVENTORY REGISTER

The Inventory register is a mandatory accounting register where the results of the inventory of assets and liabilities are disclosed.

It is prepared at start-up, at the end of the financial year and at termination of business, with no erasure or blank space of information included in the inventory lists, inventory minutes of items of assets and liabilities grouped by account or group of accounts, if applicable.

The Inventory Register is completed after an inventory of all items of assets and liabilities grouped by nature and listed as the balance sheet captions is conducted. In case inventory is performed during the year, the information resulting from the inventory operations are updated with the entries and releases which have occurred between the inventory date and the end of the year, updated information being further entered into the Inventory Register. Inventory records are updated in order to provide a fair view of the position of assets and liabilities at year-end. Receivables from third parties and liabilities to third parties are reconciled based on requests of confirmation of the closing balances or other reconciliation procedures.

In case of termination of business, the Inventory Register is completed with the amount of items of assets and liabilities at that date.

**We emphasize that it is mandatory to complete the Inventory Register as soon as the annual inventory has been performed and NOT when the annual financial statements are finalized. In case of adjustments are necessary after completing the inventory Register, new entries are then added to the Register. Failure to complete the Inventory Register is subject to a fine.**

### IMPORTANT

Once annual financial statements for 2008 are prepared, all supporting accounting and fiscal documentation regarding 2008 is to be finalized:

- the Tax Evidence Register (to disclose computation of the tax profit/loss from accounting profit/loss) has been completed;
- check that the minutes of the Inventory Committee are duly signed as well as resolutions for writing off
- and discarding assets, as the case may be;
- by archiving supporting documents.

### Conservation of documents and accounting registers

- The Order 3512 dated 27 November 2008 regarding accounting documents and registers (Official Gazette 870/2008) discloses the **list of financial and accounting documents** which may be **kept for 5 years** starting the closing date of the financial year during which they were drafted, unless internal company requirements indicate they should be kept longer. Among the most important documents, we mention: Entry Note and minutes of differences ("NIR"), Consumption notes ("BC"), Instructions for delivery, Stock cards, Inventory Lists, Receipts, Disposition for payment/collection forms for petty cash, Travelling docket (delegation), Bank statements, Journal of sundry operations (for "synthetic" accounts), Account ledger for sundry operations, Cumulative document;
- Payroll statements** are to be kept for **50 years**. **Supporting documents** and registers are to be kept for **10 years** starting the closing date of the financial year during which they were drafted, except as stated below;
- Invoices regarding capital assets, meaning real estate property which were taken into account in determining VAT deductions for taxable persons under a mixed regime and for the persons partially taxable in accordance with Fiscal Code provisions will be kept for the duration set in article 149 paragraph 6 of Law 571/2003 – Fiscal Code, with its further amendments and complements;
- Financial accounting documents which attest the provenance of items with a lifespan of over 10 years will usually be kept for a longer period, i.e. the useful life of the item.
- Mandatory accounting registers**, i.e. the Journal Register (code 14-1-1), Inventory Register (code 14-1-2) and General Ledger (code 14-1-3) **are kept within the enterprise for 10 years**, starting the closing date of the financial year for which they were maintained.

**ORDER 1 dated 25 February 2009 to abrogate Order of Ministry of Administration and Internal Affairs 820/2005 to establish the documents and to set the minimum amount in foreign currency that Romanian citizens must hold when they leave Romania when travelling in EU member States or in countries where an entry visa is not needed (Official Gazette 147/2009)**

**DECISION 10 dated 2 March 2009 to set the model of approval for transfer of data with personal information abroad on the basis of article 29 point 4 of Law 677/2001 regarding protection of persons with respect to processing data with personal data and of free transfer of data (Official Gazette 149/2009)**

**ORDER 3 dated 25 February 2009 to implement Norms regarding the form and content of financial and technical reports which insurance and/or reinsurance brokers must prepare (Official Gazette 171/2009)**

#### APRIL 2009 – AGENDA

##### Every day - do not forget:

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

##### At month end - do not forget:

- To complete the journal ledger
- To complete the Tax Evidence Register (to disclose computation of tax profit/loss from accounting profit/loss) for Quarter I 2009
- To register contracts concluded during the month for services rendered by non-residents, with tax authorities
- To organise a stock count of inventories if the enterprise does not use a perpetual inventory system
- To issue final invoices for the month of April 2009 (but be aware that the deadline of the 15<sup>th</sup> 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 Friday 10 April is the last day to submit:

- Return on collection of hotel tax

##### That Friday 10 April is the last day to pay:

- Hotel tax
- Advertising service tax

##### That Wednesday 15 April is the last day to submit:

- Annual corporate tax return (form 101) for the year 2008;
- INTRASTAT statement for March 2009.

##### That Wednesday 15 April is the last day to pay:

- Corporate tax – final payment for 2008

##### That Monday 20 April is a legal holiday (Monday after Orthodox Easter)

##### That Monday 27 April 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 of EU supplies/acquisitions regarding Quarter I 2009 (form 390)\*
- 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 Monday 27 April 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
- Corporate tax due for Quarter I 2009**
- Tax on the micro enterprise income
- 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
- Contribution for non employment of disabled persons
- Contribution to the Environment Fund
- Gambling tax.

##### That Thursday 30 April is the last day to submit:

- Financial Statements as at 31.12.2008 for non-profit organisations
- Annual excise tax return (form 120)
- Annual return regarding tax on crude oil from domestic production (form 130).

##### IMPORTANT

All forms mentioned above as well as guidance on their preparation may be downloaded from the Ministry of Economy and Finance website: [www.mfinante.ro](http://www.mfinante.ro).

The tax returns noted with an asterisk (\*) can be submitted by remote means of electronic transmission by taxpayers which have opted to file their returns on-line and which hold a digital certificate.



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