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EMERGENCY ORDINANCE 92 dated 30 June 2009 to postpone payment of fiscal liabilities which were not settled at due date as a consequence of the economic and financial crisis (Official Gazette 457/2009)

As per provisions of this Ordinance, it is possible to apply to postpone settlement of fiscal liabilities administrated by ANAF which are falling due and not paid on the last day of the month prior to submission of the application. The duration for which postponement is applied cannot exceed 6 months or 20 December of the current fiscal year when postponement is accepted, whichever is earlier. Deferred payment is granted once a calendar year. To qualify, the taxpayer must meet all following requirements:

- Have no arrears in fiscal liabilities as at 30 September 2008;
- All tax returns submitted;
- No inscription in fiscal record;
- Not considered liable as per provisions of Law 85/2006 regarding the insolvency procedure with its subsequent amendments and complements and/or jointly liable as per provisions of articles 27 and 28 of OG 92/2003 - Code of fiscal procedure, republished with its subsequent amendments and complements.

Applications submitted to the tax authorities are processed within a maximum of 15 days from the submission date. Within 15 days after communication of the resolution to postpone payments, the taxpayer must set up guarantees by means of a letter of credit issued by a bank and/or propose assets which are not subject to liens and can be used as guarantees for a value greater than the fiscal debts and the penalties for late payment computed for the entire duration of postponement.

The provisions of this Ordinance are in effect until 30 June 2010.

ORDER 1308 dated 2 July 2009 regarding measures for processing application for VAT refunds and for balancing by contra or restitution amounts representing VAT duly approved by resolution for refund (Official Gazette 476/2009)

Among the most important provisions, we mention:

- In case the tax authority in charge of processing the application for VAT refund asks other tax authorities to reconcile data as per article 97 of OG 92/2003 - Code of fiscal procedure, republished with its subsequent amendments and complements, the tax authority which performs this reconciliation must transmit its findings within 45 days starting the request date and under certain circumstances within an additional period of 45 days. Reconciliation can be performed also by the Financial Guard regarding specific matters.
- Clarification is made on the regulation for balancing VAT refunds with fiscal debts in arrears as well as transmission of the right to a VAT refund between 2 taxpayers.
- The form and content of forms which are necessary for the transmission of the right to a VAT refund between 2 taxpayers are described, i.e.:
 - o Form entitled "List of unpaid suppliers as at ...";
 - o Form entitled "Notification regarding transmission of the right to VAT refund as per article 30 of OG 92/2003 - Code of fiscal procedure, republished with its subsequent amendments and complements".

ORDER 2281 dated 7 July 2009 to implement provisions of article 36 of OUG 34/2009 regarding budgetary adjustment for 2009 and for establishing financial and fiscal provisions (Official Gazette 487/2009)

Tax authorities must plan for the disbursements of VAT which are transferred into taxpayer bank accounts as per law in accordance with the model presented in Appendix 3 of this Order. The statement is prepared every 10 days of the month and is submitted to the Treasury of the tax authority within a minimum of 3 working days before the inception of each 10 day period.

LAW 277 dated 7 July 2009 to approve OUG 173/2008 to amend and complement Law 85/2006 regarding insolvency procedure and to amend article 6 letter c) of Law 146/1997 on the judicial stamp tax (Official Gazette 486/2009)

The creditor who is entitled to be part of the insolvency procedure is the creditor whose application for registration of its receivable on the list of creditors prepared during the procedure has

been fully or partly accepted, has the right to: organize and vote at creditor meetings, including meetings about the judicial reorganisation plan agreed by the Judge, be appointed as a member of the creditors' committee, receive funds resulting from the judicial reorganisation of the debtor or from liquidation of the debtor assets, as well as to be informed on progress of the procedure and to participate in any other procedure ruled by the present law. Debtor employees have the right to be part of the insolvency procedure without having to report their receivable personally.

LAW 270 dated 7 July 2009 to approve OUG 25/2009 to amend and complement OUG 99/2006 regarding credit institutions and adequate equity (Official Gazette 483/2009)

For the purpose of remediating cases of significant deterioration in indicators regarding prudence and financial performance of credit institutions, Romanian entities responsible for preventing the occurrence of such significant deterioration which could endanger the capability of credit institutions to meet requirements regarding prudence in the near future, the National Bank of Romania (NBR) is entitled to decide on the following provisions:

- To require persons who hold a qualified interest to financially sustain the credit institution by increasing share capital;
- To require persons who hold a qualified interest to financially sustain the credit institution by granting loans which qualify as being included in the computation of equity as per regulations issued by NBR and/or by converting these type of loans in equity shares;
- To forbid any profit allocation for its entire or partial amount to destinations other than those set as mandatory until the NBR states that concerns regarding financial position of the credit institutions have been addressed.

INSTRUCTION 21 dated 1st July 2009 regarding the National Bank of Romania reference interest rate for July 2009 (Official Gazette 452/2009)

For the month of July 2009, the NBR reference interest rate is 9.50% per annum.

LAW 268 dated 7 July 2009 to approve OUG 28/2009 to establish social protection measures (Official Gazette 482/2009)

In 2009, for the length of suspension of the labour contract at the initiative of the employer, in case of temporary interruption of activity of the employer as per article 52 point 1 letter d) of Law 53/2003 – Labour Code with its further amendments and complements, employees whose labour contracts are thus suspended and who are entitled to compensation of a minimum of 75% of base salary for the work position are exempted from payment of social contributions which are due per law but no more than 90 days.

Compensation the employee is entitled to in the amount of 75%

of base salary for the work position is included in payroll expense for the length of temporary interruption of activity of the employer but is not considered an employee's salary, and for a maximum of 90 days in 2009 is not taxable income per the Fiscal Code with its further amendments and complements.

LAW 240 dated 10 June 2009 to complement point 2 of article 1 of OUG 148/2005 regarding support to families with children to raise (Official Gazette 403/2009)

Starting 1st January 2009, persons who during the year prior to the child's birth have obtained professional income liable for income tax for 12 months as per provisions of Law 571/2003 – Fiscal Code benefit from leave until the child is 2 years of age as well as monthly compensation of RON 600 or, optionally, 85% of the average income obtained during the 12 months, but not more than RON 4,000.

Maximum compensation is therefore capped at **RON 4,000** by this Law.

ORDER 448 dated 1st July 2009 regarding information to consumers by economic operators who carry out exchange transactions (Official Gazette 467/2009)

Economic operators who carry out exchange transactions must inform consumers of the rate of exchange they apply for selling as well as buying foreign currencies in a location which can be seen inside and outside of their premises.

The exchange rates which will be disclosed will include commissions charged by the economic operator, if any.

REGULATION 11 dated 30 June 2009 to amend Regulation 3/2007 to limit credit risk on loans granted to natural persons (Official Gazette 459/2009)

Further to amendments introduced by this regulation, the lender sets maximum acceptable debt levels, including documentation, differentiated by category of clientele, by scope of credit (for instance, consumer credit, mortgage credit), by type of loan (analyzed based on currency in which the loan is denominated or, if case, on indexation factors, on type of interest, i.e. fixed or variable, on length for which the loan is granted as well as behaviour of the client regarding debt servicing, and whether the loan is guaranteed). In case the loan is not guaranteed by the State or by a mortgage on property or plots of land located in a constructed area, the maximum gearing ratio is set by taking into consideration foreign exchange risk, interest rate risk as well as a possible increase in loan costs due to commissions and other administration expenses as per the loan contract.

DECISION 631 dated 20 May 2009 to amend and complement Government Decision 1164/2007 to grant de minimis aid to develop or modernize enterprises (Official Gazette 398/2009)

Maximum budget for de minimis aid is the equivalent in RON of 100 millions Euro limited by a ceiling of the annual budget for the period of 5 years.

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The following are eligible expenses:

- Investments in tangible assets consisting of:
 - o Construction with an industrial scope aimed at carrying out activities for which financing is applied for;
 - o Technical equipment;
 - o Machinery, equipment and installations;
 - o Measurement equipment and devices for control and regulation;
 - o Non registered means of transport to sustain enterprise activity.
- Intangible investments regarding licenses, commercial brands and other similar rights and assets.

Expenses with an industrial scope are taken into consideration only if the construction is carried out by a company licensed in this field and if the enterprise which is the beneficiary of the project proves that it owns the plot of land on which the construction will be built or it holds a right of "uzufruct" or a concession contract or a rental contract upon the plot of land for a length of at least 5 years after completion of the investment.

ORDER 1193 dated 12 June 2009 to amend Appendix to OMEF 2229/2008 to approve the State regime "Aid to investments realized by Small and Medium size Enterprises (SME) to develop e-economy," related to operations 3.3.1 "Sustain integrated IT&C systems and other electronic applications for business" and 3.3.2 "Sustain development of electronic commerce and other on-line solutions for business," major field of 3.3 "Sustaining e-economy," priority axe 3 "Information and communication technology (IT&C) for private and public sector" within the operational sector programme "Enhancing economic competitiveness" (Official Gazette 470/2009)

Among the eligibility requirements, the applicant must have no net liabilities towards the State Budget (difference between the arrears due to the Budget and amounts to recover from the Budget) larger than 1/12 of debts owed by the applicant during the last 12 months in case of a tax certificate issued by ANAF or 1/6 of the total of the liabilities owed during the last 6 months in case of a tax certificate issued by local tax authorities.

DECISION 104 dated 18 June 2009 to approve Norms to establish a public aid regime aimed to facilitate access to financing in the present period of economic and financial crisis consisting of guarantees granted to SME and large enterprises (NI-GAR-08-I/0) (Official Gazette 458/2009)

Norms to establish a State aid regime to facilitate access to financing in the present period of economic and financial crisis consisting in guarantees granted to SME and large enterprises are approved as per the Appendix to this Decision.

These Norms introduce a transparent regime for public aid where Banca de Export-Import a Romaniei EXIMBANK - S.A. guarantees in the name and on behalf of the State bank loans granted to SME and large enterprises for investments and/or operations, the amount of the guarantee not exceeding 90% of the loan amount for its entire duration.

ORDER 1785 dated 29 June 2009 to approve methodological Norms for processing customs statements prepared using information technology (Official Gazette 452/2009)

Technical and methodological NORMS for implementing Law 589/2004 regarding the legal regime of activities performed electronically by notaries (Official Gazette 487/2009)

Within the activities performed electronically by notaries, qualified certificates issued by providers of certification licensed to operate under the provisions of Law 455/2001 are used as well

as temporary marking provided as per Law 451/2004 regarding temporary marking.

ORDER 190 dated 30 March 2009 to approve Procedures to determine and to pay tax on income obtained in cash from agricultural activities from the sale of produce made by enterprises specialized in harvesting, enterprises specialized in industrial processing as well as other entities for their use as such (Official Gazette 464/2009)

The procedure approves the mode of determination and payment of the income tax on cash proceeds from agriculture derived from selling produce to enterprises specialized in harvesting, enterprises specialized in industrial processing or other entities for their use as such as set in Appendix which is an integral part of the Order.

REMINDER – Luncheon and Holiday vouchers

Luncheon vouchers are not granted when the employee is not at work: during paid or unpaid holidays, absences, technical unemployment, sick leave, legal days off, etc.). In addition, when the employee is on a business trip and receives a daily allowance (to cover his/her food expenses), he/she is not entitled to receive a luncheon voucher.

The 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.

Persons who receive nominative holiday vouchers are the sole beneficiaries for the timeframe mentioned on the holiday voucher and only pay for the contractual tourist package in Romania.

As per Emergency Ordinance 8 dated 18 February 2009 for granting holiday vouchers (Official Gazette 110/2009), the employer can grant holiday vouchers in 2009 **only if the enterprise has posted a fiscal profit during 2008.**

REMINDER – CONSOLIDATED FINANCIAL STATEMENTS

As per provisions of Decision 1579/2007 to amend and complement Implementation Norms of Law 571 – Fiscal Code approved by Government Decision 44/2004 (Official Gazette 894/2007), a parent company is exempted from having to prepare consolidated financial statements if, as at the consolidated financial statement date, the companies which are to be consolidated do not exceed on the basis of their most recent stand-alone financial statements, 2 of the 3 following criteria in total:

- total assets – Euro 17,520,000;
- net turnover – Euro 35,040,000;
- average headcount during financial year - 250.

Companies which must prepare annual consolidated financial statements may either prepare them in accordance with Accounting Regulations in conformity with Directive VII of the European Economic Community or IFRS.

Regarding accounting regulations applicable to consolidated financial statements, we mention provisions of Law 259 dated 19 July 2007 to amend and complement the Accountancy Law 82/1991 (Official Gazette 506/2007):

- Parent companies must prepare annual consolidated financial statements;
- Legal entities which are part of a group and enter into the consolidation perimeter of the parent company must have their stand-alone financial statements audited;
- Annual consolidated financial statements must be accompanied by a written representation of the parent company Director in which his/her responsibility for the prepared consolidated financial statements is stated and the Director further confirms that:

- o Accounting policies used in preparing annual consoli-

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 May 2009)	1,855 RON	
Per diem (in Romania)		
Employees in the public sector	13.00 RON	
Employees in the private sector (*2.5)	32.50 RON	

dated financial statements are in accordance with applicable accounting regulations;

- o The annual consolidated financial statements present a fair view of the financial position, financial performance as well as other information regarding group activity.
- Members of administration, management and supervision bodies have the obligation to ensure that the annual consolidated financial statements are prepared and published in accordance with Order 917 dated 28 June 2005. Publication means submission of documents set per law at the Trade Register and disclosure of indicators which have a public feature in accordance with modalities set by this institution, i.e. publication of these indicators on the website of the Trade Register or remittance upon request of certified copies of the full set of annual consolidated financial statements together with the Director's report and the audit report.
- Annual consolidated financial statements are prepared within 8 months after the end of parent company financial year (i.e. by 31 August 2009 for the financial year ended as at 31 December 2008).

INFORMATION – ONLINE SUBMISSION OF TAX RETURNS

The list of tax returns which 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 is presented below:

- 100 – State consolidated budget liability return
- 101 – Annual corporate tax return
- 102 – Social insurance and special funds liability return
- 103 – Excise tax return
- 120 – Excise statement
- 130 – Statement on crude oil from domestic production

- 300 – VAT return
- 301 – Special VAT return for VAT non payers
- 390 – Recapitulative Statement of EU supply/acquisition
- 710 – Adjusted return

We mention that the form 394 "Informative Statement on domestic supplies/services rendered and acquisitions" cannot be submitted online.

INFORMATION –SUBMISSION OF ACCOUNTING REPORT AS AT 30 JUNE 2009

Economic operators irrespective of their form of organisation or shareholding and even if under a derogatory declaration regime (*dormant*) must prepare and submit an Accounting Report as at 30 June 2009 to the local units of Ministry of Economy and Finance.

Accounting Reports as at 30 June 2009 must be submitted by **14 August 2009**. The deadline is the same for submitting the statement of non activity prepared by economic operators which have not carried out any activity from set-up date through 30 June 2009 or are under the process of liquidation.

PROJECT TO AMEND THE ACCOUNTANCY LAW

The Ministry of Economy and Finance is studying the preparation of a text of law to amend the Accountancy law. Among the contemplated provisions, we mention:

- Year end could be different from the present mandatory 31 December;**
- Deadline for submission of annual financial statements for credit institutions would be reduced from 150 to 130 days after year-end;
- Individuals who carry out activities from which revenues are derived would have to organize and maintain book-keeping (but not double entry bookkeeping);

- In case of merger, division, dissolution or liquidation, different criteria would be set for mandatory audit of the financial statements (total assets Euro 500,000, net turnover 1 million Euro as per financial statements for the last financial year closed);
- Annual financial statements would be kept 25 years.

AUGUST 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 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 August 2009 (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 Wednesday 5 August last day to submit

- Form 092 (amendments) to change from Quarterly to Monthly VAT returns for EU acquisitions in July 2009. Starting July, the VAT return will be submitted monthly.

That Tuesday 11 August is the last day to submit

- Return on collection of hotel tax

That Tuesday 11 August is the last day to pay

- Hotel tax
- Advertising service tax

That Friday 14 August is the last day to submit "Accounting Report" as at 30 June 2009 for economic operators (not non-profit organisations)

That Monday 17 August is the last day to submit

- INTRASTAT statement for July 2009.

That Tuesday 25 August 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)*
- 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 Tuesday 25 August 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
- Contribution for non employment of disabled persons for employers with headcount over 50
- Contribution to the Environment Fund
- Gambling tax.

That Monday 31 August is the last day to prepare 2008 consolidated annual financial statements

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.

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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ACCOUNTING AND PAYROLL
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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.

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



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