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**DECISION 968 dated 26 August 2009 to amend and complement Government Decision 109/2009 regarding organisation and operation of National Agency for Fiscal Administration (Official Gazette 617/2009)**

ANAF activities are complemented/redefined as follows:

- exercise the function of internal public audit in accordance with the law;
- perform inspections on compliance with the law within the organisation itself as well as within subordinated units in its field of activity with the objective of identifying breach of law and take measures to remediate the damage which occurred, if applicable;
- exercise financial control upon operations and preventive internal financial control in the scope of collecting and using public funds in a legal and efficient manner;
- draft, document and approve, if applicable, the draft budget of expenses of the Agency for its own operations, of the National Customs Agency, of the Financial Guard and of the General Inspectorates of the "Judet " and Bucharest public finance authorities as well as the investment programme and public acquisitions that ANAF transmits to the Ministry of Public Finance to be included in its centralized budget;
- establish loans necessary for each funding entity for each budgetary period.

**PROCEDURE AND CONDITIONS for registration of economic operations which market - wholesale or retail - products in the field of energy established by the Fiscal Code (Official Gazette 585/2009)**

The following enter under the incidence of the registration procedures:

- Economic operators which market and/or store or intend to sell wholesale to the market and/or store products in the field of energy;
- Economic operators which market and/or store or intend to market in the retail sector and/or store products in the field of energy.

**ORDER 1445 dated 27 August 2009 to amend Appendix 1 of Order 363/2009 of ANAF President to approve the List of taxpayers declared inactive (Official Gazette 611/2009)**

**ORDER 6 dated 23 July 2009 to approve Regulation 12/5/2009 of the National Bank of Romania (BNR) and of the National Commission of Securities (CNVM) to amend and complement Regulation 15/20/2006 of BNR and CNVM regarding treatment of credit risk exposure for credit institutions and investment entities according to internal rating models (Official Gazette 602/2009)**

**INSTRUCTION 32 dated 1st September 2009 regarding the National Bank of Romania (NBR) reference interest rate for September 2009 (Official Gazette 603/2009)**

For the month of September 2009, the NBR reference interest rate is 8.53% per annum.

**REGULATION 16 dated 17 September 2009 to amend NBR Regulation 9/2008 regarding the client knowledge in order to prevent money laundering and terrorism financing (Official Gazette 626/2009)**

**REGULATION 17 dated 17 September 2009 to amend and complement NBR Regulation 11/2007 regarding licensing credit institutions, Romanian legal entities and Romanian branches of third State credit institutions (Official Gazette 626/2009)**

**REGULATION 18 dated 17 September 2009 regarding administration framework of activities of credit institutions, internal process of evaluating adequacy of share capital compared to the risks and conditions for outsourcing such activities (Official Gazette 630/2009)**

**ORDER 18 dated 7 September 2009 to approve Norms regarding principles of organisation of internal control and risk management as well as organisation and performance of internal audit for insurers/reinsurers (Official Gazette 621/2009)**

## INFORMATION – SIGNIFICANT CHANGES IN 2010 REGARDING VAT

Starting 1<sup>st</sup> January 2010, major changes regarding VAT will take place and affect EU transactions. These changes are due to the implementation of the following EU Directives within Romanian legislation:

- ☑ Directive 8/2008 – to amend Directive 2006/112/CE with respect to the place of the provision of services;
- ☑ Directive 9/2008 – to set detailed norms regarding VAT refunds to taxable entities established in another member State than the member State to whom the refund falls;
- ☑ Regulation 143/2008 – to amend Regulation (CE) 1798/2003 with respect to implementation of the cooperation and exchange of information on regulations regarding the place of provision of services, special regimes and VAT refund procedure.

Even if at present, the changes in legislation are in the project stage, we mention some significant changes which will be taken in account below:

- ☑ The basic rule to determine the place of provision of services changes. Starting in 2010, it will be the location where the client, taxable person acting as such, has established its economic activities **or** the where the fixed establishment of the entity to whom the services are rendered. Thus, VAT related to services will follow the general rule and will be paid by the client by reverse tax.
- ☑ Exceptions to the basic rule: property-related services, transport of persons, catering and restaurant services, short term rental of a means of transport, as well as services related to cultural, artistic, sport, scientific, educational and entertainment activities or other similar activities, such as fairs and expositions.
- ☑ The obligation to declare EU services is introduced and a declaration similar to the present declaration of EU supplies and acquisitions of goods (form 390) will be implemented. Exempted services need not be declared.
- ☑ In case of beneficiary, taxable entities established outside the EU, the place of rendering service is Romania if the effective use and exploitation of the services is in Romania in the following cases: accessory transport services, work on movable tangible goods, evaluation of movable tangible items, and transport of goods and persons.
- ☑ For the provision of services for which VAT is due by the beneficiary as per article 150 (2), chargeability will occur at the date of the generating event irrespective of whether an invoice has been issued before this date.
- ☑ In case of simplification measures set by article 160, the applicable regime will be that in force at the date chargeability of VAT occurs. Simplification measures in case of supply of goods and provision of services to entities for which an insolvency procedure has been opened will no longer apply. The measures will continue to apply to the

supply of goods and provision of services performed by these entities.

- ☑ A new procedure regarding refund of VAT paid in another member State will be introduced and will apply to applications for refund submitted after 1<sup>st</sup> January 2010. The new items are the following:
  - Refund applications are submitted online to the tax authority where the taxable entity is established;
  - A codification of goods and services will be requested;
  - Deadline for submission will be 30 September of the following year (vs. 30 June at present) and the refund must be processed within 4 months;
  - Payment is made within 10 working days once the application has been processed;
  - Applications must cover a period of a least 3 months and at most 1 year;
  - Amounts to be refunded must be over Euro 400 (for a period of 3 months) and Euro 50 (for 1 year);
  - The procedure only applies to entities established in the EU. The amount refunded will depend on the pro rata VAT calculated by the entity.

APEX Team will keep you informed regarding amendments which will be adopted as well as the stage of the projects in progress in future newsletters.

## INFORMATION – EXCHANGE RATE USED IN CASE OF EU ACQUISITIONS

The exchange rate used to determine the taxable base and related VAT in case of an EU acquisition is the exchange rate pertaining to the date of VAT chargeability as per article 135 of the Fiscal Code, i.e. either the date of issue of the invoice by the EU supplier or the 15<sup>th</sup> of the month following the month during which delivery in the other member State took place.

Acquisitions of EU goods differ in this respect from domestic supply/provision of services. VAT chargeability occurs at the date the supplier invoice was issued in case the invoice is issued prior to the 15<sup>th</sup> of the month following the month during which the delivery of goods took place. If the item has been received and the supplier invoice from the other member State has not been received by the 15<sup>th</sup> of the subsequent month, the Romanian client must issue an invoice to itself in accordance with article 155<sup>1</sup> of the Fiscal Code and the exchange rate used to determine the taxable base and VAT is the exchange rate in force on the 15<sup>th</sup> when the Romanian entity issues the invoice to itself. The taxable base and VAT thus determined are disclosed in the journal of purchases and in the VAT return under captions 4 and 15, usually 4.1 and 15.1. Upon receipt of the supplier invoice, adjustments are made to determine the taxable base at the exchange rate in force at the issue date of the supplier invoice but only in case the invoice has been issued prior to the 15<sup>th</sup> of the month following the month when the delivery took place.

## Training!

**APEX Team is providing professional training!**  
**You are invited to attend a course dedicated to Accountancy Basics.**  
**The first session will take place on 19 and 20 November 2009.**

**For any information and inscription, please contact [office@apex-team.ro](mailto:office@apex-team.ro) before 16.10.2009**

**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 8.72 starting September 2009	
Average monthly gross salary (INSSE July 2009)	1,901 RON	
Per diem (in Romania)		
Employees in the public sector	13.00 RON	
Employees in the private sector (*2.5)	32.50 RON	

*Example 1* – an item is received on 20 May 2009 but no invoice is received prior to 15 June. As at 15 June, the Romanian entity issues an invoice to itself and the EU acquisition is declared in the journal of purchases and in the VAT return pertaining to the month of June. At the date of reception of the invoice, whether the invoice was issued prior to 15 June will be checked and if required, an adjustment will be made to determine the taxable base of the EU acquisition using the exchange rate in force at the date the supplier invoice was issued.

*Example 2* – On 22 June 2009, minutes are prepared upon receipt of a vehicle purchased from Hungary. The supplier invoice which has been issued bears the date of 2<sup>nd</sup> April 2009 and is received during the month of April. The EU acquisition will be recorded in April yet vehicle delivery will be in June 2009.

From an accounting point of view, in case of purchased items accompanied by a delivery note, the invoice being received afterwards, the exchange rate used for bookkeeping is the exchange rate in force at the date the goods are received (article 152 point 5 of Accounting Regulations in conformity with CEE Directive IV, approved by OMFP 1752/2005 with its subsequent amendments and complements).

**REMINDER – FISCAL VOUCHERS**

Please find a short presentation below regarding the use of fiscal vouchers in accountancy as disclosed in the "Guide to record economic operations in the books" posted by the Ministry of Finance website

[http://www.mfinante.ro/Ghid\\_practic25062009.pdf](http://www.mfinante.ro/Ghid_practic25062009.pdf)

- For purchases of gasoline for automobiles, the fiscal voucher is the supporting document for recording the expense in the books if it is stamped and bears the name of the purchaser and the car registration number.
- Fiscal vouchers issued by the fiscal cash registers as per obligations made to economic operators to use fiscal cash registers (OUG 28/1999, republished with its further amendments and complements) are documents which

prove payment and are to be attached to the Petty Cash Register. Recording purchased goods or rendered services which were paid from petty cash or by bank card in accounting records can be made under the following conditions:

- o The enterprise requests the invoice related to the purchased goods or rendered services from the supplier and the fiscal voucher issued by the cash register is attached to the invoice;

OR

- o The enterprise justifies the supported expense either by a document which attests to entry of the purchased goods into the warehouse or by other documents such as professional trip docket, business claims to which the fiscal voucher is attached, the documents being approved by persons who authorise performance of these expenses. In case of the use of business claims, the document to be used is the "Report of expenses – code 14-5-5" form approved by OMEF 3512/2008 regarding financial and accounting documents, which will be adapted for internal needs.

VAT deduction is exercised based on documents defined by Title VI of the Fiscal Code and limitations to the right of deduction of VAT on gasoline introduced by OUG 34/2009 will be observed.

**INFORMATION – Project to support young entrepreneurs initiated by the Ministry in charge of SME**

Individuals under 35 years of age who have not previously owned a company would be able to set up a company with share capital in the amount of only RON 10 and would benefit from an exemption of corporate tax and tax on salary for 3 years according to an initiative of the Ministry in charge of SME. The enterprises thus set up would be considered starter-ups and would receive priority financial support in several forms. They would be exempted from customs duties and would have access to loans with a grace period. However, young entrepre-

neurs would have certain obligations such only choosing among 5 domains of activity their scope of activity and, after 3 years, to have a minimum share capital of Euro 5,000 from capitalisation of the profit.

## OCTOBER 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 Fiscal Register for Quarter III 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 October 2009

### 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 7 October last day to submit

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

#### That Monday 12 October is the last day to submit

- Return for collection of hotel tax

#### That Monday 12 October is the last day to pay

- Hotel tax
- Advertising service tax

#### That Thursday 15 October is the last day to submit

- INTRASTAT statement for September 2009

#### That Monday 26 October 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 Quarter III 2009 for EU deliveries and acquisitions (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 26 October 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 or minimum tax;
- Tax on the micro enterprise revenue or minimum tax;
- 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.

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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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 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 »**
- Start up services**
- Organization of the accounting function**
- Assistance in implementation of ERP**
- Training**



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