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EMERGENCY ORDINANCE 87 dated 29 September 2010 to amend and complement Law 571/2003 – Fiscal Code (Official Gazette 669/2010)

We mention main amendments to tax on profit introduced by this Ordinance:

- Minimum tax is discontinued starting 1st October 2010.
- Year 2010 will be divided into 2 tax periods:
 - o from January to September 2010 and from October to December 2010;
 - o for each tax period, a form 101 regarding tax on profit will be submitted, the deadline being 25 February 2011 for the first period and 25 February 2011 or 25 April 2011 for the second period;
 - o deadline for payment of additional tax, if any, is the same as the deadlines mentioned above;
 - o the tax loss posted during the 2 tax periods regarding 2010 can be carried forward for up to 7 years as per the standard provision applicable to a fiscal period.
- Quarterly advance payments of tax only applicable to banking institutions will be determined by adding the tax on profit/minimum tax due for the 2 tax periods in 2010 and by applying the inflation rate. As for banking institutions which are newly set up and have posted a fiscal loss the previous year, the quarterly advance payment of tax will represent 16% of accounting profit in the period for which the advance payment is paid.

ORDER 2520 dated 27 September 2010 regarding submission of tax returns by remote means of electronic transmission by large and medium size taxpayers (Official Gazette 670/2010)

Starting with tax returns with a submission deadline of 25 November 2010, large and medium size taxpayers must submit the following tax returns by remote means of electronic transmission using the National Electronic System:

- 100 "State budget liability return", code 14.13.01.99/bs;
- 102 "Social insurance and special funds liability return", code 14.13.01.40;
- 300 "VAT return", code 14.13.01.02;
- 390 VIES "Recapitulative statement of EU Supplies/acquisitions/services", code 14.13.01.02/r;
- 101 "Tax on profit return", code 14.13.01.04;
- 710 "Adjustment return", code 14.13.01.00/r;
- 301 "Special VAT return", code 14.13.01.02/s;
- 120 "Excise return", code 14.13.01.03;
- 130 "Tax return on crude oil from domestic production", code 14.13.01.05.

ORDER 2568 dated 19 October 2010 to amend and complement ANAF Order 2520/2010 regarding submission of tax returns by remote means of electronic transmission by large and medium size taxpayers (Official Gazette 704/2010)

Order 2520/2010 presented above is amended and modified.

The holder of a qualified certificate may be appointed/empowered to sign tax returns for several taxpayers. The application for using a qualified certificate (form 150) will be accompanied by the following documents:

- Identity document of the holder of the qualified certificate, original and copy;
- document, original and copy, which proves the quality of legal representative of the taxpayer;
- power of attorney certified by a public notary granting the right of the holder of the qualified certificate to sign the tax returns on behalf of the taxpayer. This power of attorney is submitted in case the holder of the qualified certificate is not the legal representative of the taxpayer he/she represents.

The above mentioned documents are submitted by the holder of the qualified certificate, for each taxpayer he/she represents, **with any territorial unit under the subordination of ANAF**. Regarding documents presented in original and in copy, the tax authority will keep the copy of the document after checking its conformity to the original.

Upon reception of the documents, tax authorities will proceed as follows:

- a) process the application to use the qualified certificate (form 150) and check the identifica-

tion data of the taxpayer disclosed on the application with fiscal evidence;

- b) check that the identification data of the holder of the qualified certificate disclosed in the presented identity document matches the taxpayers' registry. In case of a mismatch, tax authorities will update the taxpayers' registry with the identity document of the holder of the digital certificate which is attached to the application.

NOTE: We mention that until the publication of the ANAF Orders regarding mandatory online submission for large and medium size taxpayers, online submission was already mandatory for large taxpayers. Large taxpayers were submitting their tax returns online via the www.e-guvernare.ro website, using a digital certificate issued by the Ministry of Public Finance via the National Electronic System to gain access. Starting with tax returns regarding October 2010 for which online submission becomes mandatory for medium size taxpayers, as well. Authentication and submission procedures are amended and accordingly, large taxpayers must acquire a digital certificate issued by one of the licensed providers (CertSIGN, DigiSIGN, Trans Sped,...). The former certificates issued by the Ministry of Finance are no longer valid and the Ministry of Finance will not issue new ones.

In case you are a taxpayer under the administration of the tax authority in charge of large taxpayers, be aware of the changes regarding digital certificates and pay attention to information transmitted by ANAF regarding new digital certificates. For more information, visit the ANAF website and its "Electronic returns" caption.

INFORMATION – ANAF – Controlled access to fiscal file by taxpayer

ANAF has made a new online service available to the taxpayer, namely "Controlled access by the taxpayer to its file".

It is accessible to the taxpayer **which holds a digital certificate** to submit online tax returns registered with ANAF. On-line access is made after authentication on the ANAF website, then by accessing the "Private space" caption and the "Fiscal file" option.

Information provided is as follows:

- taxpayer identification data;
- data regarding the taxpayer fiscal status ("*vector fiscal*") (fiscal obligations for which the taxpayer is registered and periodicity of declaration);
- summary of fiscal position;
- sub-caption for each tax return, with the ability to visualise the status of tax returns which were submitted, of amounts remaining unsettled and of payments made. We mention that the system allows generation of copies of any tax return, the copy being an electronic version from the ANAF database.

EMERGENCY ORDINANCE 90 dated 29 September 2010 to amend and complement Law 31/1990 regarding commercial companies (Official Gazette 674/2010)

The Ordinance introduces following amendments to Law 31/1990 regarding commercial companies. Annual financial statements will be submitted in paper and electronic format **OR only in electronic format** which will include an extended electronic signature **to the territorial units of the Ministry of Public Finance** which, in turn, will electronically transmit them to the Trade Register (ONRC) to enable their publication.

Deadline for submission are those set by Accountancy Law, i.e.:

- 150 business days after financial year end for commercial companies, national companies, "regii autonome" as well as national research and development institutes;
- 120 business days after financial year end for other entities.

Commercial companies with an annual turnover of more than 10 million RON must publish an announcement in the Official Gazette, Part IV, confirming publication of annual financial statements, but it is not specified whether ONRC will do for them. As for commercial companies with an annual turnover less than 10 million RON, an announcement will be made by ONRC and access will be available on the ONRC website at no charge.

EMERGENCY ORDINANCE 88 dated 29 September 2010 to amend and complement Government Ordinance 92/2003 - Code of fiscal procedure (Official Gazette 669/2010)

We mention the main amendments introduced by the Ordinance:

Settlement of fiscal liabilities with netting

In case of settlement of fiscal liabilities by netting amounts due by the State, netting is enacted by tax authorities upon taxpayer request or ex officio. Netting by law means settling reciprocal receivables/payables, carried out at the date both exist and are also certain, liquid and owed, interest and penalties being applicable only through this date. These provisions only apply to certain, liquid and outstanding receivables/payables which both exist at the same date after November 2010. In case of existence of receivables/payables not collected/settled as at 1st November 2010, the following treatment will apply:

- If one of the receivables/payables is certain, liquid and owed prior to 1st November and the other receivables/payables is certain, liquid and owed after 1st November, netting will be made at the date the second receivables/payables is certain, liquid and due;
- If both receivables/payables are certain, liquid and owed as at 1st November 2010, netting will be made on 1st November 2010.

It is set that the due date for receivables/payables occurs:

- a) at due date;
- b) at date set by law as deadline for submission of VAT return including an application for VAT refund for the amount of refund which was approved by decision issued by the tax authority as per law;
- c) at date of communication of a decision which is the outcome in processing an application for refund of excises or VAT as per law, if applicable;
- d) at date of communication regarding fiscal liabilities in principal as well as additional fiscal liabilities determined by decision of the tax authorities;
- e) at date of submission of adjusted tax returns to tax authorities regarding adjustments of fiscal liabilities determined by the taxpayer;
- f) at the date of communication of the individual administrative act for amounts the State Budget must pay;
- g) at the date of reception by the tax authorities of execution titles issued by other institutions in the scope of forced execution as per law.

Interest rate

Starting 1st October 2010, the interest rate applied to fiscal liabilities is reduced from 0.05% per day to **0.04% per day of delay**.

Suspension of forced execution

Forced execution of collection will not be undertaken in case the taxpayer has a refund application in progress when the amount for which refund is applied for is equal to or larger than the fiscal liability for which forced execution was undertaken. If a forced execution of collection is in progress, it will be suspended in case the taxpayer applies for refund in an amount of at least equal to the amount due to the State Budget.

ORDER 2374 dated 30 September 2010 to set deadline for declaration and payment of amounts resulting from VAT adjustments in case the beneficiary of the asset is not registered under the scope of VAT (Official Gazette 679/2010)

In case an asset transfer is made in accordance with article 128 point 7 of the Fiscal Code (in kind contribution to the share capital, for instance) and the entity which disposes of the asset is registered under the scope of VAT, but the entity which benefits from the asset is not registered under the scope of VAT, it is mandatory to adjust VAT as per provisions of articles 128 point 4, article 148, 149 or 161 of the Fiscal Code.

This Order sets that amounts resulting from VAT adjustment must be declared and paid by the 25th of the month after the month in which the transfer occurred.

INSTRUCTION 81544 dated 11 October 2010 issued by the Ministry of Public Finance regarding the EU Operators' registry (ROI) – posted on the Ministry of Finance website www.mfinante.ro

The instruction clarifies consequences of failure to register with the EU Operators' Registry ("ROI"), validating what the last APEX Team newsletter mentioned, namely:

- Fine as per Code of Fiscal Procedure between RON 1,000 and RON 5,000;
- Non registration in "VAT Information Exchange System" (VIES) and therefore impossibility to communicate a valid VAT code to business partners to whom an EU acquisition of goods/services is made, which means being charged with VAT in force in their State.

The instructions clearly mention that provisions regarding duties and obligations which lay with taxable entities which carry out EU acquisitions have not been changed regarding the following but not limited to: mandatory information which must be disclosed on invoices, exercise of the deduction right, application of VAT exemption for EU supplies of goods, obligation of submission of VAT returns and recapitulative statements, VAT payment. For more information, the MFP instruction can be consulted at: http://discutii.mfinante.ro/static/10/Mfp/infotva/Circulara_81544_11102010.pdf

INFORMATION – EXCHANGE RATE FOR THE DETERMINATION OF EXCISE TAXES IN 2011

The exchange rate which will apply for the determination of excise taxes in 2011 is 4.2655 RON/EURO as per the quotation of the European Central Bank (ECB). The exchange rate in force in 2010 is 4.2688 RON/EURO.

As per the Fiscal Code, the amount of excise taxes is determined by converting amounts denominated in Euro into RON at the exchange rate communicated by the ECB on the first business day of October of the previous year.

ORDER 2600 dated 20 October 2010 to approve the model and content of form 225 "Return to determine the tax amount representing the quarterly advance payment on tax on annual capital gain tax further to capital gains made upon disposal of securities other than shares and securities of closed companies" (Official Gazette 704/2010)

The Order approves the model and content of form 225 "Return to determine the tax amount representing the quarterly advance payment on tax on annual capital gain tax further to capital gains made upon disposal of securities other than shares and securities of closed companies", code M.F.P. - A.N.A.F. 14.13.01.13/a.t.v..

Form 225 is filed by the taxpayer on the basis of information transmitted by intermediaries, companies in charge of investment administration or other payers of income, in accordance with provisions of the Fiscal Code.

Form 225 is used to declared net gains/losses at the end of

each quarter at the amount of tax representing the quarterly advance payment on tax on annual capital gain tax further to capital gains made upon disposal of securities other than shares and securities of closed companies, starting 1st July 2010.

ORDER 2414 dated 7 October 2010 to complement Implementation Norms for preparation and submission of quarterly financial statements by public institutions as well as 2010 monthly financial reports, approved by Order of Public Finance Ministry 980/2010 (Official Gazette 692/2010)

INSTRUCTION 32 dated 1st October 2010 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of October 2010 (Official Gazette 671/2010)

For the month of October 2010, the NBR reference interest rate is 6.25% per annum.

ORDER 1377 dated 1^{er} October 2010 for the application of provisions of article 11 point 2 of Government Decision 1768/2005 regarding collecting data from labour books regarding contribution periods in the public pension regime prior to 1st April 2001 (Official Gazette 674/2010)

As per the provisions of Government Decision 1768/2005, individuals and legal entities which hold and/or keep labour books according to the law must make them available to the local pension houses of their domicile or registered headquarters by 30 September 2010 for the purpose of collecting data regarding contribution periods prior to 1st April 2001. Breaching these provisions is punished with a fine of between RON 300 and RON 600 for individuals and between RON 1,500 and RON 5,000 for legal entities.

The present Order sets that the staff of the legal and/or financial department within the local (*judet*) or Bucharest pension house is empowered to draft an official statement and assess fines.

ORDER 2559 dated 6 October 2010 to amend and complement ANAF President Order 101/2008 to approve model and content of forms used to declare taxes and contributions under self assessment or withholding regime (Official Gazette 692/2010)

The ANAF Order to approve the model and content of forms used to declare taxes and contributions under self assessment or withholding regime is amended and complemented as follows:

- Two new declarative obligations are introduced in form 102 "Social insurance and special funds liability return", code 14.13.01.40:
 - o individual contribution to social insurance (*pension*) due by persons who obtain professional income other than salary income;
 - o individual contribution to unemployment insurance due by persons who obtain professional income other than salary income.
- Provisions of this Order were applicable starting with the payment obligations for which deadline line for declaration was 25 October 2010.

ORDER 2466 dated 20 October 2010 to approve instructions regarding declaration and payment of individual contributions to social insurance and unemployment insurance set at article III of Government Ordinance 58/2010 to amend and complement Law 571/2003 – Fiscal Code and other financial and fiscal measures (Official Gazette 706/2010)

Individual contributions to social insurance (*pension*) and to unemployment insurance calculated and withheld by the in-

come payer upon authors' rights and income derived from civil contracts are declared to tax authorities subordinated to ANAF via form 102 for liabilities towards the Budgets of social insurance and special funds.

These contributions are paid into the sole account of BAS (Social Insurance Budget) opened at the State Treasury of the tax authority in charge of administration of the taxpayer who pays the income.

REMINDER – Electronic Staff Registry

Hiring an employee must be declared on the **business day before start of activity** mentioned in the labour contract by registration with the Electronic Staff Registry. The decision regarding termination of a labour contract is to be registered with the Electronic Staff Registry **on the date of termination** of the labour contract. The addendum to amend a labour contract is to be registered with the Electronic Staff Registry within **5 calendar days from the amendment date**.

Breaching deadlines for registering with the Electronic Staff Registry is punished by fines of between RON 2,000 and RON 5,000. Failure to register a labour contract at the latest on the business day before start of activity is punished by a fine of RON 1,500 per contract but capped at RON 20,000 in case of several contracts. Providing the Registry with inaccurate information is punished by a fine between RON 3,500 and RON 5,000.

REMINDER – Organisation and performance of an inventory of patrimony

Order 2861 dated 9 October 2009 (Official Gazette 704/2009) has established the legal framework, procedures documentation which is prepared at the time of the inventory of the enterprise patrimony.

Companies must issue internal procedures regarding inventory which are approved by the company Director.

Provisions of the present Order apply to persons who obtain income from independent activities and who must as per law organise and maintain simple entry bookkeeping.

In accordance with Accountancy Law 82/1991, republished, companies must perform an inventory of items they hold with the nature of assets, liabilities, equity at inception of activity, at least once during the financial year while carrying out its business, in case of merger or termination of business, as well as in other circumstances.

All the elements having the nature of assets are placed under the responsibility of a keeper or are used by employees or company Director(s).

As per Accounting Law, entities which have a financial year different from the calendar year organise and perform an annual inventory in such a manner that the outcome of the inventory is included in the financial statement prepared for the year end that was chosen. In case of stock count in warehouses during the year, the amount of the inventories existing at the date of performance is disclosed in the Inventory Register and is mentioned in the inventory lists which are updated with the entries and stock releases which occur in the period between the stock count date and year end.

INVENTORY COMMITTEE

The inventory of items having the nature of assets, liabilities and equity is performed by an inventory committee which is appointed by a written resolution of the company Director. In the designation resolution, it is mandatory to indicate the composition of the committee (name of the President and committee members), mode of performance of the inventory, inventory method used, warehouse subject to inventory, as well as inception and completion date of inventory operations. The warehouse keeper in charge of the warehouse subject to inventory, the accountant who tracks inventories for this warehouse, inter-

nal auditors and statutory auditors cannot be appointed members of the inventory committee.

In case the entity has no employee, the Director is in charge of performance of the inventory.

ITEMS HELD BY THIRD PARTIES

Inventory lists including items which belong to third parties are transmitted to the natural or legal, Romanian or foreign persons to which the items belong within 15 working days after completion of the inventory so that the owner may communicate any discrepancies within 5 working days starting the date the inventory lists are received.

Lease companies must request that users be provided with inventory lists regarding items representing the object of the contract. Based on information included on these lists, the lease company can calculate and register adjustments regarding depreciation of assets or financial assets, if applicable.

In case the user does not provide the inventory lists to the lease company, the lease company can record adjustments regarding depreciation of these items on the basis of the market prices available at the date of inventory, taking into account features of the item which represents the object of the lease (year of manufacture, useful life).

In this respect, entities which hold items must make a stock count and communicate the inventory lists for confirmation, just as the owners of these items must request confirmation of the items held by third parties. **Not receiving a confirmation of the existence of the items held by third parties does not represent tacit confirmation.**

CONFIRMATION OF BALANCES

Receivable and payable balances are subject to verification and request for confirmation of the closing balances of receivables and payables with significant weight in these accounts using the "Statement of account" form (code 14-6-3) or by written reconciliation. Breaching these procedures as well as refusal to confirm represent an infringement to the present Norms and is punished as per law.

Cash at bank or at State Treasury in the entity books are reconciled with the closing balances as per bank statements. For this purpose, the bank statements as at 31 December or the last banking day which will be provided by the banks and State Treasury will bear their official stamp. In case the entity has opted as per provisions of Law 82/1991 republished for a financial year other than the calendar year, information regarding the last day of the chosen financial year will then be taken into account.

INVENTORY LISTS

Each page of the inventory list is signed by the President and inventory committee members, by the warehouse keeper as well as by the experts the inventory committee President has requested to participate in the identification of the items subject to inventory.

In case the elements having the nature of assets are subject to inventory using electronic methods of identification (for example: bar code reader, etc.), data being directly transmitted into the financial and accounting management system, the inventory lists are issued directly by the IT system. Comprehensive lists are printed with all captions subject to inventory or in a selective manner only for captions for which differences in quantity or in value (depreciation) were found, if applicable. In case the inventory lists are printed for the sole captions for which differences in quantity or in value were found, comprehensive inventory lists are kept in a magnetic format for the legal conservation period of such documents. In this case, the valuation of items to determine eventual adjustments is performed by analysis upon all items subject to inventory and not only upon those for which differences in quantities were found. Partial stock counts as well as stock counts performed during

the year when the entity performs several stock counts are performed in accordance with the present Norms, except for maintaining the "Inventory Register" (code 14-1-2) which is completed at the time of the annual inventory.

INVENTORY DIFFERENCES – ADJUSTMENTS / ATTRIBUTABLE / BALANCES

For all differences in plus or in minus, impairments to items found at the time of the inventory and losses subsequent to confirmation of receivable, the inventory committee requests written explanations from the persons in charge of keeping the items, collecting receivables, etc. in order to establish the nature of missing quantities, losses, damages and impairments which were found as well as the provenance of excess quantities and make accounting entries in accordance with legal provisions regarding the modality to adjust the accounting data with factual data which result from the inventory.

In case of missing quantities which the warehouse keeper are liable for, the Director must charge them to the responsible person at replacement cost or at a value set by an expert committee in case these items cannot be purchased on the market.

To determine the applicable amount, in case missing quantities do not represent infractions, the possibility to balance missing quantities with quantities in excess is taken into account if the following conditions are met:

- There is a risk of confusion between the types of tangible items due to their similarity regarding their external aspect: colour, design, model, dimensions, packaging or other features;
- The differences found in plus or in minus refers to the same period and the same warehouse.

A balance is not admitted when it is proved that the missing quantities found at the time of the inventory come from subtraction or impairment of items performed by persons who are responsible for keeping these items.

Lists disclosing the type of goods, merchandise, packaging and other tangible items which meet conditions for balancing excess and missing quantities due to the risk of confusion **are approved annually** by the Director, the head of the public entity or the person who is responsible for management and are used for internal purposes within the entity.

Balancing is made for equal quantities between quantities in excess and missing quantities. Equalizing quantities is made starting with the items with the lowest unitary cost and in increasing order. For items for which fall in weight/length/volume is admissible, in case of balance between quantities in excess and missing quantities, decreases are only computed in case missing quantities are larger than quantities in excess. In this case, decreases first apply to items for which missing quantities were found.

The Norms afferent to admissible limits for perishable items or internal norms in this respect do not apply by anticipation, but only after, and up to the limit of, missing quantities found. The limits for perishable items do not automatically apply, being considered upper limits.

OUTCOME OF THE INVENTORY

The outcome of the inventory is disclosed in minutes drafted by the inventory committee which includes:

- date prepared;
- names and surnames of members of the inventory committee;
- number and date of the resolution for appointment of the inventory committee;
- warehouse(s) subject to inventory;
- inception and completion date of inventory operations;
- results of inventory;
- conclusions and proposals of inventory committee regarding causes of quantities in excess and missing quantities

found at the time of the inventory and persons liable for losses, as well as proposed corrective measures to be taken;

- volume of impaired inventories, inventory without movement or slow moving stock, items which are difficult to sell, without known outlet and proposed measures to reintegrate them in the economic circuit;
- proposals to write off tangible and intangible fixed assets;
- proposals to withdraw from use low inventory balances and for impairment of or writing off inventory;
- findings regarding conservation, warehousing, safety, assurance of entirety of items in patrimony as well as other matters related to activities of the warehouses which were subject to inventory.

The proposals comprised in the minutes of the inventory committee are presented to the Director within 7 working days after completion of the physical inventory counts. The Director will decide the measures to be taken in coordination with the head of the accounting and finance department and the head of the legal department in accordance with legal provisions.

INVENTORY REGISTER

In case the inventory is performed during the year, data resulting from the physical inventory are updated with entries and releases for the period from the date of inventory and the date for closing the financial year, the updated data being noted in the inventory register.

Completing the inventory register is made at the time all balances of all the balance sheet accounts are finalized including those related to corporate tax and adjustments for depreciation or impairment, if any.

The inventory register can be adapted to the specifics and internal requirements under the condition that mandatory minimum information is disclosed.

Results of the inventory must be recorded in the evidence kept for tracking operations within the 7 working days from the date of approval of the minutes of inventory by the Director.

REMINDER – REVALUATION OF LAND AND BUILDINGS

The accounting law does not oblige enterprises to revalue land and buildings every 3 years. From an accounting point of view, the European Directive and implicitly IAS16 rules apply and there is no provision regarding frequency of revaluation except for indications of changes in fair value.

Revaluation every 3 years is based on the following:

Main resources of local communities are the employee income tax which is withheld by the employer and transferred to the local budget, tax on land (computed as an amount per square meter per category of land) and tax on buildings. This latter tax is a percentage of gross value (not on net value) set by local authorities. This percentage is increased if the gross value has remained unchanged for 3 years; in other words, has not been re-valued, leading to this concept that a revaluation is to be performed every 3 years. The revaluation must be performed by an appraiser who is a member of ANEVAR (Romanian association of valuers) and must be recorded in the books as at 31 December prior to preparation of annual financial statements.

First revaluation in case of an increase in value of the asset is recorded according to one of the following 2 methods:

- Gross method (for increases in value: Debit "Building" account and Credit account 105 "Revaluation difference" for revaluation of gross value, and simultaneously, depreciation of revaluation difference: Debit account 105 "Revaluation difference" and Credit "Accumulated depreciation").
- Net method (for increases in value: write off accumulated depreciation first and then Debit "Building" account and Credit account 105 "Revaluation difference" for the change in net value).

Upon the second revaluation, if a loss in value is found, account 105 is reduced first and, if the reduction in fair value is such that account 105 is zero, the additional loss is recognised in the income statement.

Upon the third revaluation, if the fair value has increased, the loss recognised in the income statement at the time of the second revaluation must first be cancelled and the surplus recorded in account 105.

It is emphasized that account 105 cannot be used for increasing the value of share capital.

Under these circumstances, local authorities should be contacted for the increased tax rates in force, by location. Standard tax rates (from 0.25% to 1.50%) and the increased tax rates (from 5% to 10%) for buildings are established at the discretion of each community. A community with a large number of enterprises and considered prosperous should not have a very aggressive policy regarding the level of local taxes, as it collects income tax for all employees who work in the area. A cost-benefit analysis of appraisal fees compared to the effect of increased taxes should also be taken into account.

REMINDER – Valuation of monetary items in foreign currency

Do not forget that starting 2010, at the end of each month, monetary items (cash on hand, receivables, payables) denominated in foreign currency are valued at the NBR exchange rate in force on the last banking day of the month.

This procedure also applies to receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement.

Exchange rates to use for valuation at the end of October 2010:
1 Euro = 4.2664 RON; 1 USD = 3.0904 RON;
1 CHF = 3.1233 RON; 1 GBP = 4.9096 RON.

NOVEMBER 2010 – 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 employee electronic registers with information regarding labour contract inception 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 7¹ 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 month of November 2010

To comply with 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 5 November last day to submit

- Form 092 to change VAT return periods from Quarterly to Monthly for EU acquisitions of goods in October 2010. Starting October, the VAT return will be submitted monthly.

That Wednesday 10 November is the last day to submit

- Return on collection of hotel tax

That Wednesday 10 November is the last day to pay

- Hotel tax
- Advertising service tax

That Monday 15 November is the last day to submit

- INTRASTAT statement for October 2010 (submitted on-line)
- Recapitulative statement of EU Supplies/acquisitions/services (form 390)* for October 2010;

That Monday 15 November is the last day to pay:

- Agricultural revenue tax (50% Instalment II and final for 2010).
- Billboard tax (Instalment IV and final for 2010)

That Thursday 25 November is the last day to submit

- State budget liability return (form 100)*
- Social insurance and special funds liability return (form 102)*
- 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 (not ecotax).

That Thursday 25 November 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 dividends
- 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 Environment Fund (not ecotax)
- Gambling tax.

And in perspective that Wednesday 1st December is a legal holiday (National Day)

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.

Tax returns noted with an asterisk (*) can be submitted by remote means of electronic transmission by large and medium size taxpayers as well as by taxpayers which have opted to file their returns on-line and which hold a digital certificate.

KEY HR FIGURES

2010 Contribution (based on the gross income)	Employer and Beneficiary of activities considered dependent activities (%rate)	Employee and provider of dependent activities (%rate)
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% (only for employees under labour contract)	
Health insurance fund	5.2%	5.5%
Labour office commission ("ITM" commission)	0.25% or 0.75% (only for employees under labour contract)	
Salary tax		16%
Contribution 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 subject to income tax starting July 2010	RON 8.72	
Average monthly gross salary (INSSE August 2010)	RON 1,846	
Per diem (in Romania) Employees in the public sector Employees in the private sector (x 2.5)	RON 13.00 RON 32.50	

Income paid to a person who carried out an activity considered dependent activity (example: in-house "captive" PFA or who meets at least one out of the four re-qualification criteria mentioned in OUG 82/2010) are disclosed on a separate "Payment statement" which is not submitted to ITM but is included in all payroll returns except the return regarding ITM commissions.

Contributions starting 10 September 2010 (based on gross income reduced by the standard deduction as deemed expenses for intellectual property rights and based on gross income for persons under civil contract and in both cases capped at 5 average monthly gross salaries)	Income payer / Beneficiary of professional activities (of author or person under civil contract) (% rate)	Provider of professional activities (author or person under civil contract) (% rate)
Contribution to social insurance (if applicable)	0%	10.5% ¹
Contribution to unemployment insurance (if applicable)	0%	0.5% ²
Contribution to health insurance	0%	0% ³
Income tax		16% ⁴

Note 1: The income payer calculates, withholds, pays and declares the individual contribution for pension (CAS) if the author or person under civil contract does not prove he/she is retired or insured in another pension regime within Pillar 1.

Note 2: The income payer withholds, pays and declares the individual contribution for unemployment if the author or the person under civil contract does not prove he/she is insured **by option** with the unemployment insurance regime.

Note 3: The author or the person under civil contract remains responsible for submitting his/her return for health insurance as well as for payment of the health contribution as per Law 95/2006.

Note 4: Regarding income tax, it remains possible for the author to have 10% of his/her income tax withheld when author's rights are paid, and to annually declare author's rights income obtained to tax authorities and to adjust the 10% income tax rate to 16%, paying the balance due.

Regarding a Director appointed in the Constitutive Deed (and not through an administration or management contract) and to whom a Shareholder General meeting resolution grants remuneration, he/she must insure himself/herself in the public pension regime via an insurance declaration unless he/she is not already an insured person. The base for his/her contribution is at his/her decision but cannot be less than 75% of the minimum salary. The rate of contribution is 31.3%.

As for the legal entity which grants such remuneration, it will must support the contribution to health insurance at the rate of 5.2%. The legal entity will also declare and pay health contribution (5.5%) and income tax which it will have withheld from the Director's remuneration.



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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.

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