

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

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EMERGENCY ORDINANCE 117 dated 23 December 2010 to amend and complement Law 571/2003 – Fiscal Code and to establish financial and fiscal measures (Official Gazette 891/2010)

The Ordinance introduces amendments to the Fiscal Code, Code of Fiscal Procedure and other texts of law which apply starting 1st January 2011.

We mention a summary of the most significant changes below:

MICRO ENTERPRISE

The most important amendment is the reintroduction of the tax on micro enterprise revenue which was in force until the end of year 2009. Thus, a micro enterprise is a Romanian legal entity which meets all of the following conditions as of the close of previous year:

- obtains revenue from sources other than those mentioned below;
- employs 1 to 9 employees inclusive;
- has annual revenue which does not exceed the amount in RON of Euro 100,000;
- its share capital is held by persons other than the State or local authorities.

The enterprise cannot opt for the micro enterprise taxation regime when:

- it carries out its activities in the banking field;
- it carries out its activities in insurance and reinsurance, in the capital market, with the exception of legal entities which independently carries out the role of intermediary in these domains;
- it carries out its activities in the field of gambling, **consultancy or management**;
- its share capital is held by a shareholder which is a legal entity with headcount of over 250 employees.

The micro enterprise taxation regime is optional. The micro enterprise which is subject to profit tax can opt for this regime starting the subsequent fiscal year if it meets the conditions and if it has not previously been liable for micro enterprise tax on revenue. **For 2011, a legal entity can opt to be subject to tax on micro enterprise revenue if it meets all the required conditions as of 31 December 2010.**

A newly set up legal entity can opt to be liable for tax on micro enterprise revenue starting its first financial year if the condition regarding ownership of share capital is met at the date of registration with Trade Register and the condition regarding number of employees will be met within 60 days of registration date.

The micro enterprise can opt to be liable for profit tax starting the subsequent financial year. The option is exercised by 31 January of the financial year after the financial year it was subject to tax on micro enterprise revenue.

Tax on micro enterprise revenue applies to all revenue irrespective of its source, except for the following:

- changes in inventories (revenue);
- changes in works in progress regarding services (revenue);
- own production of tangible and intangible non-current assets;
- operating subsidies;
- reversing provisions or adjustments for depreciation, impairments and decline in fair value;
- restitution or cancellation of interest and/or penalties for late payment which were disallowed upon determination of taxable profit;
- compensation from insurance/reinsurance companies further to damage to items with the nature of inventories or own tangible assets.

Fiscal year for a micro enterprise is the calendar year. In case of a micro enterprise which is set up during the year or ceased to exist, fiscal year is the calendar year during which the legal entity existed.

Tax rate applied to micro enterprise revenue is **3%**.

The micro enterprise can no longer apply this tax regime starting from the fiscal year in which one of the required conditions is no longer met.

If, during a fiscal year, the micro enterprise obtains revenue of more than Euro 100,000, it will pay tax on profit, taking into account revenue and expenses which occurred from inception of the fiscal year, without the possibility of applying provisions of the micro enterprise regime in the subsequent year. Computation and payment of tax on profit is made quarterly when the threshold of Euro 100,000 is exceeded. Tax on profit which is owed represents the difference be-

tween: tax on profit calculated from the start of the year to the end of the reporting period and micro enterprise revenue tax due during the respective year.

In case a micro enterprise purchases an authorized tax cash register, its purchase cost represents a reduction in the taxable base in the quarter when the cash register is commissioned as per law in conformity with the supporting document.

Procedure for exercising options:

- Legal entities subject to profit tax inform local tax authorities about their **option to be liable for tax on micro enterprise revenue** with a "statement of mentions (*changes*) for legal entities, family associations and associations which are not legal entities" (form 010) **by 31 January**, inclusive, of the year in which tax on micro enterprise revenue will be paid.
- Legal entities set up during the fiscal year indicate their option on the application for registration with the Trade Register. The option is final for the respective year.
- If, during the fiscal year, one of the required conditions is no longer met, the micro enterprise must continue with this tax regime during the respective fiscal year without having the possibility of benefiting from provisions related to micro enterprises during the subsequent year, even if later it meets the required conditions.

Computation and payment of the tax on micro enterprise revenue is made quarterly by the 25th of the month which follows the quarter for which tax is computed.

If there is no legal regime for an association between a micro enterprise and an individual, resident or non resident, the micro enterprise must calculate, withhold, declare and pay to the State Budget the tax determined by applying 3% to its portion in association revenue by the 25th of the month which follows the quarter for which tax is computed.

The micro enterprise must keep evidence of tax depreciation expenses of its intangible and tangible assets as per article 24 of the Fiscal Code.

SOCIAL CONTRIBUTIONS

Social contributions ruled by the Fiscal Code are:

- Contribution of the insured person to social insurance (*pension*) and contribution due by the employer to public social insurance;
- Contribution of the insured person to social health insurance and contribution due by the employer to the budget of the Sole National Fund for social health insurance;
- Contribution for leave and indemnities from social health insurance due by the employer to the budget of the Sole National Fund for social health insurance;
- Contribution of the insured person to the unemployment insurance budget and contribution due by the employer to the unemployment insurance budget;
- Contribution to insurance for work accidents and occupational disease due by the employer to the budget of public social insurance;
- Contribution to the Guarantee Fund due by individuals as well as legal entities which are employers as per Law 200/2006 regarding establishment and operation of the Guarantee Fund for settlement of payroll liabilities with its further complements and amendments.

Model, content and modalities to submit and to administer the "return regarding social contributions, income tax and nominative list of insured persons" are approved by Government Decision (see Decision 1397 below).

REVENUE FROM UNIDENTIFIED SOURCES

To define and **tax revenue from unidentified provenance at the rate of 16%** is a new provision in the Fiscal Code. The measure is aimed at individuals who had expenditures or hold assets valued greater than 10% (but not less than RON 50,000)

of their declared and taxable income. Chapter III is introduced in the Code of Fiscal Procedure: "Special provisions for inspection of individuals subject to income tax." After inspection of the fiscal position, the difference between expenditures and undeclared income with an unknown origin is taxed at 16%.

OTHER PROVISIONS

Restrictions regarding deductibility of petrol/fuel expenses continue to apply in 2011. These restrictions were supposed to end on 31 December 2010 but the present Ordinance makes them applicable in 2011 as well. Restrictions regarding VAT recoverability on purchase of automobiles and petrol/fuel also apply in 2011.

Further information will be provided in January 2011 APEX Team newsletter.

DECISION 1397 dated 28 December 2010 regarding model, content and modalities to submit and administer "return regarding social contributions, income tax and nominative list of insured persons" (Official Gazette 897/2010)

The model and content of the "return regarding social contributions, income tax and nominative list of insured persons" as well as Appendix 1.1 "Employer appendix" and Appendix 1.2 "Insured person appendix" are approved.

The "return regarding social contributions, income tax and nominative list of insured persons" (form 112) is used to declare social contributions starting with the tax month of January 2011, with a submission deadline of 25 February 2011. The return can be submitted to tax authorities in paper format during a transition period ending 1st July 2011, after which the return may only be submitted online.

EMERGENCY ORDINANCE 123 dated 28 December 2010 to abrogate Law 130/1999 regarding protection measures for employees (Official Gazette 888/2010)

This Ordinance discontinues Labour books and repeals the tax paid to the Labour Inspectorate. Starting also 1st January 2011, labour contracts have no longer to be registered at the Labour Inspectorate.

The Labour Inspectorate and employers which have approval to keep Labour books must return them to employees by 30 June 2011.

ORDER 2870 dated 23 December 2010 regarding the main issues for preparation and submission of financial statements and accounting reports to tax authorities (Official Gazette 889/2010)

The Order establishes instructions for preparation of annual financial statements as at 31 December for entities which financial year matches the calendar year as well as accounting reports as at 31 December for entities for which the financial year differs from the calendar year.

The same regulations which applied in previous years for preparation and submission of financial statements are generally kept.

Again, financial statements are submitted to local units of the Ministry of Public Finance (MFP) when, we recall, they were submitted to the Trade Register last year.

Same deadlines for submission are kept: 150 business days after close of the financial year for commercial companies and 120 business days for non-profit organisations.

Entities which have not carried out activity since set up date as well as those which are under liquidation as per law will submit a statement with local units of MFP within 60 days after close of the financial year.

Same criteria upon which comprehensive or simplified annual statements are prepared apply, as follows:

- Total assets: Euro 3,650,000
- Net turnover: Euro 7,300,000
- Average headcount: 50

The Order clarifies how to present accounts in financial statements used by sub-units in Romania which belong to legal entities with their headquarters abroad, namely branches. Subsequently, the balances of account 481 "Operations between headquarters and sub-units" and account 482 "Operations between sub-units" are reclassified to the account 461 "Sundry debtors" with a distinct sub-account or to the account 462 "Sundry creditors" with a distinct sub-account, if applicable, and, upon opening the subsequent year records, balances are reclassified back to the accounts from which they originated.

The Order discloses regulations which apply to entities with a financial year which matches the calendar year separately from regulations applicable to entities which opted for a financial year different from the calendar year.

Further information will be provided in January 2011 APEX Team newsletter.

DECISION 1193 dated 24 November 2010 to set the minimum monthly gross salary which payment is guaranteed at a national level (Official Gazette 824/2010)

Starting 1st January 2011, the minimum gross salary which payment is guaranteed on a national basis is set at **RON 670** per month for full time employment of 170 hours in average which represents an average of RON 3.94 per hour.

To grant in a labour contract a monthly gross salary of less than this minimum represents an infringement of the law punished by a fine of between RON 1,000 to RON 2,000.

As per provisions of the NATIONAL LABOUR WORK CONTRACT FOR 2011-2014, the minimum negotiated gross salary will be RON 4.118 per hour, i.e. RON 700 for full time employment of 170 hours per month.

2011-2014 NATIONAL LABOUR WORK CONTRACT

The present agreement is concluded for a period of 4 years with the possibility of annual updates. Among the main amendments it introduces, we mention:

The minimum negotiated gross base salary will be RON 4.118 per hour, i.e. RON 700 for full time employment of 170 hours per month.

To set the hierarchy of salary scales, the **2011** minimum coefficients are the following, by employee category:

- a) workers:
 1. unqualified – 1;
 2. qualified – 1.1.
- b) administrative staff for occupations which require an education level of:
 1. high school – 1.1;
 2. post high school – 1.15.
- c) specialised staff for occupations which require an education level of:
 1. vocational school (e.g. foremen) – 1.3;
 2. post high school short-term study – 1.3.
- d) staff engaged in positions which require university degrees – 1.72.

The above mentioned coefficients apply to the minimum salary negotiated with the enterprise.

The hierarchy of salary scales will also be set taking into account occupational standards for the respective position.

The minimum gross base salary of the present agreement in force for national 2011-2014 plan will be the object of an annual negotiation as per law.

For 2012, to set the hierarchy of salary scales, reference will be made to the following minimum coefficients:

- a) workers:
 1. unqualified – 1;
 2. qualified – 1.2.
- b) administrative staff for occupations which require an education level of:

1. high school – 1.2;
 2. post high school – 1.25.
- c) specialised staff for occupations which require an education level of:
 1. vocational school (e.g. foremen) – 1.3;
 2. post high school short-term study – 1.5.
 - d) staff engaged in positions which require university degrees – 2.

An employee who retires as he/she reaches retirement age receives an indemnity equal to at least 2 gross base salaries for the month he/she retires.

In addition to assistance employees are entitled by law, they will benefit from the following:

- in case of death of the employee, granting at least 2 average monthly salaries in force at the enterprise to the family;
- if death occurs as a result of a work accident, a work-related accident or an occupational disease, financial aid granted to the family will be at least 3 average monthly salaries in force at the enterprise;
- an average monthly salary in force at the enterprise granted to the mother upon birth of each child. If the mother is not employed, her spouse will receive an average monthly salary in force at the enterprise;
- an average monthly salary in force at the enterprise in case of death of the spouse or a first degree relative who was supported by the employee.

The notice period for termination of the labour contract which employers are obliged to comply with is 20 business days. **By derogation, the notice period is 15 business days for employees of small or medium enterprises (SME) in accordance with provisions of Law 53/2003 – Labour Code.**

LAW 263 dated 16 December 2010 regarding the unitary public pension regime (Official Gazette 852/2010)

This Law enters into force on 1st January 2011. The National Pension House and other Social insurance rights becomes the National Public Pension House ("*Casa Nationala de Pensii Publice*" - CNPP). At the date the Law enters into force, the value of one pension point earned is RON 732.80.

Contribution rates to State social insurance (*pension*) effective the date the Law enters into force are:

- 31.3% for normal working conditions: 10.5% for the employee and 20.8% for the employer;
- 36.3% for particular working conditions: 10.5% for the employee and 25.8% for the employer;
- 41.3% for special working conditions and other working conditions in the domain of national defence, public order and national security: 10.5% for the employee and 30.8% for the employer.

The monthly base to determine the contribution to social insurance for insured persons (*named "individual contribution"*) is:

- the gross monthly income for an insured person who carries out his/her activity under a labour contract;
- an amount representing 35% of the average gross salary used for the preparation of the Budget of State Social Insurance in case of compensation from social health insurance and in relation to the number of business days of sickness leave, except for work accident or occupational disease;
- gross income is reduced by the standard deduction as deemed expenses as per article 50 point (1) letter a) or, as per article 50 point (2) letter a) of Law 571/2003, with its further amendments and complements regarding intellectual property rights and related rights, for persons who obtain professional revenues other than from employment, author's rights and related rights on a regular or occasional basis;

- ☑ gross income derived from activities carried out by persons under civil contract/convention concluded in accordance with the Civil Code.

The monthly contribution base for insured persons (named "individual contribution") is **capped at 5 average monthly gross salaries**. The average monthly gross salary is that used for the preparation of the Budget of State Social Insurance and approved by the Law regarding the Budget of State Social Insurance (i.e. RON 2,022 for 2011).

The monthly contribution base for the employer represents the total monthly gross pay/monthly gross monthly salary as well as related income. It is **capped at an amount representing the average amount of insured persons during the month** for which the contribution is determined as **5 times the average monthly gross salary**.

In the sense of the present Law, gross monthly income from employment/gross pay/gross monthly salary means income from employment or salary related income, which is subject to income tax in accordance with provisions of the Fiscal Code.

The following is not included in the contribution base for social insurance:

- ☑ compensation supported by the Budget of State Social Insurance including compensation granted for work accident and occupational disease;
- ☑ daily allowances granted for travel, secondment, transfer;
- ☑ profit sharing participation by employees as per Government Ordinance 64/2001 regarding profit allocation of national companies and commercial companies with a share capital fully or mainly owed by the State as well as "regii autonome", approved per Law 769/2001, with its subsequent amendments and complements;
- ☑ optional contributions paid to a pension fund in the limits of deductibility set by law;
- ☑ value of technical equipment, individual work and safety equipment, food required by law for health/safety purposes, medicine, hygiene and sanitary products as well as other rights in the field of work protection;
- ☑ value of transport to and from work place.

Deadline for payment of contributions to social insurance is the 25th of the month which follows the month for which they are due.

Standard age for retirement is 65 years old for men and 63 years old for women.

The minimum length of the contribution period is 15 years for men as well as for women. The full length of the contribution period is 35 years for men as well as for women. In the public pension regime, some periods when the person did not contribute are deemed contribution periods: for instance, when the person was attending daily classes at a university under the condition that the final exam was passed.

The monthly contribution base to social insurance established by the present Law applies in the same modality to the employer contribution for insurance for work accident and occupational diseases.

Within 6 months from date of publication of the present Law, ANAF, CNPP and the industry pension houses must correlate their databases to achieve an accurate and unitary evidence of the rights and obligations of participants in the public pension regime as well as the regime of privately administered pension funds.

LAW 287 – Budget of State Social Insurance for 2011 (Official Gazette 880/2010)

Average gross salary used for the preparation of the Budget of State Social Insurance is RON 2,022 for 2011.

The amount of the death indemnity is set:

- ☑ RON 2,022 in case of death of an insured person or pensioner;

- ☑ RON 1,011 in cases of death of an insured person's family member.

Contribution rates to the Budget for **unemployment** insurance as well as to the Budget for **public social insurance** (pension) **remain at those in force in 2010**, as follows:

- ☑ 0.5% unemployment contribution by the employer;
- ☑ 0.5% unemployment contribution by the employee;
- ☑ 1% unemployment insurance contribution by persons who conclude a contract with the unemployment insurance fund;
- ☑ 0.25% contribution to fund the guarantee payment of salary liabilities by the employer as per article 7 paragraph (1) of Law 200/2006, with its further amendments and complements.

Contribution rates to State social insurance (pension) therefore remain:

- ☑ 31.3% for normal working conditions: 10.5% for the employee and 20.8% for the employer;
- ☑ 36.3% for particular working conditions: 10.5% for the employee and 25.8% for the employer;
- ☑ 41.3% for special working conditions: 10.5% for the employee and 30.8% for the employer.

The percentage out of the employee contribution redistributed to the mandatory private pension funds (pillar II) as per Law 411/2004 regarding privately administered pension funds increases from 2.5% to **3%**.

LAW 286 – State Budget for 2011 (Official Gazette 879/2010)

For 2011, starting with salaries pertaining to the month of January **2011**, **contribution rates** to the budget of the National Fund for Social health insurance **remain at those in force in 2010**, meaning:

- ☑ 5.2% for the employer, as set per article 258 of Law 95/2006, with its further amendments and complements;
- ☑ 10.7% for voluntary insured persons, as set at article 259 paragraph (6) of Law 95/2006, with its further amendments and complements ;
- ☑ 5.5% for the other categories of persons which must pay the contribution directly or from other sources.

ORDER 2869 dated 23 December 2010 to amend and complement accounting regulations (Official Gazette 882/2010)

This Order introduces amendments to several legal provisions in the field of accountancy.

Amendments and complements to Order 3055 dated 29 October 2009 to approve Accounting Regulations in conformity with European Directives (Official Gazette 766/2009)

We mention below the main amendments introduced in Order 3055:

- ☑ The treatment of price reductions granted after invoicing applies to goods as well as to services. For this purpose, accounts 609 "Commercial discounts received" and 709 "Commercial discounts granted" are used. In case commercial discounts represent post balance sheet events, they are recorded at the balance sheet date using account 408 "Suppliers- invoices to be received", account 418 "Accounts Receivable – invoices to be issued", if applicable, and are reported in the financial statements of the financial year they apply to if the respective amounts are known at the date the balance sheet is finalised.
- ☑ The treatment of negative goodwill in the stand alone financial statements is clarified.
- ☑ Valuation of receivable and payable denominated in foreign currency at the end of each month also applies to:
 - a) receivable or payable recorded in the account 481

"Operations between headquarters and sub-units" and in the account 482 "Operations between sub-units" by the sub-units in Romania which belong to legal entities with headquarters abroad or deriving from relations with the legal entity to which these sub-units belong or from relations with other sub-units of the same legal entity, as the case may be;

- b) advances paid for tangible or intangible non-current assets (account 232 "Advances paid for tangible non-current assets" and account 234 "Advances paid for intangible non-current assets");
 - c) advances paid for purchase of goods with the nature of inventories and advances received for supplies of goods and provision of services, if any (account 409 "Suppliers - debtors" and account 419 "Accounts Receivable - creditors");
 - d) bank deposits in foreign currency (account 267 "Long term receivable" and account 508 "Other short term investments and assimilated receivable").
- Receivables and payables denominated in RON for which collection/settlement is made in accordance with a foreign currency exchange rate are disclosed in the annual financial statements "Informative Data" as receivables and payables in RON.
 - In case of goods returned by customers during the same financial year as the one when the sale occurred, accounts 411 "Accounts Receivable", 707 "Sale of goods", 607 "Purchase of goods" and 371 "Inventory" are adjusted. In case the returned goods refer to a sale made during the previous financial year, the adjustment is recorded at balance sheet date to account 418 "Accounts Receivable — invoices to be issued" and if applicable, to account 408 "Suppliers – invoices to be received" and is recorded in the financial period it regards if the respective amounts are known at the date the balance sheet is finalised. The same treatment also applies in case of returns of sold finished products by adjustment of the corresponding accounts, namely account 701 "Sale of finished products," the account 711 "Cost of production" and account 345 "Finished goods."
 - In the event of merger by absorption, the value of the held shares of the absorbed company is recorded in the share capital of the absorbing company upon taking over the balance sheet items of the absorbed company, using account 1095 "Own shares representing held securities of the absorbed company by the absorbing company."
 - Two new accounts are introduced into the Chart of Accounts:
 - o account 1095 "Own shares representing held securities of the absorbed company by the absorbing company" (Asset);
 - o account 2677 "Bonds purchased upon issue by third parties" (Asset).
 - Provisions regarding how some accounts function are expanded or amended.
 - The concept of related parties (relations between entities and individuals as well as individuals and entities) are re-defined and complemented.

Amendments and complements to Implementation Norms regarding preparation and use of financial and accounting documents approved by OMEF 3512/2008 (Official Gazette 870/2008)

- New regulations are introduced regarding the periodicity for recording documents in accounting books. Thus, it is set that "recording economic and financial operations in accounting records of is **usually** made monthly" and an exception to this rule is introduced for entities which posted

a turnover less than the RON equivalent of Euro 35,000 during the previous financial year. Such entities can record their economic and financial operations in their books with a periodicity different from the month but no later than the date in which profit tax returns must be prepared or the closing date for annual financial statements or accounting reports where dates are set by law. In this case, book entries are made on the basis of supporting documents or on the basis of a centralising statement which includes several supporting documents which refer to operations of the same nature and made in the same period. In the latter case, the supporting documents are attached to the centralising statement. Similarly, entries into the Journal Ledger and the General Ledger are made for the same period. To determine the amount in RON of the Euro 35,000 ceiling, the exchange rate communicated by NBR at year end of the previous financial year is used. Considering that at present, the regime of quarterly advance payments of corporate tax is not in force (except for banks), it results that **the periodicity for recording operations in accounting records can be quarterly** for entities with a turnover less than Euro 35,000 at the end of the previous year.

- Starting 1st January 2011, **entities** which posted a **turnover of less than the RON equivalent of Euro 35,000** during the previous financial year **no longer submit an accounting report** during the financial year (*financial statements as at 30 June*) to the territorial units of Ministry of Public Finance.

The present Order enters in force starting with annual financial statements and annual consolidated financial statements pertaining to financial year 2010, excepted for provisions regarding related parties and amendments introduced to OMEF 3512/2008 which enter into force 1st January 2011.

ORDER 2730 dated 30 November 2010 to organise administration activities of large taxpayers (Official Gazette 820/2010)

Starting 1st January 2011, the top 3,000 taxpayers selected in a declining order using the following criteria are considered large taxpayers:

- a) The base criterion is the result of an aggregation of 4 indicators calculated for the previous 2 consecutive years, the indicators being selecting from an economic and budgetary viewpoint and in the following proportions, which demonstrate the importance given to each indicator:
 - o volume of fiscal liabilities declared by the taxpayer - 40%;
 - o volume of operating revenues - 30%;
 - o volume of payroll expenses - 15%;
 - o volume of tangible and intangible non-current assets (total) - 15%.
- Public institutions and taxpayers under an insolvency procedure are excluded from this list.
- b) The criterion specific to activity for companies in the banking sector, namely:
 - o National Bank of Romania;
 - o banks;
 - o insurance companies;
 - o non banking financial institutions;
 - o financial investment companies.
 - c) The investment criterion on the basis of which newly set up taxpayers are registered as large taxpayers upon set up date, if commitment is made by statement under own responsibility to realize investments for an amount greater than the RON equivalent of Euro 10 million.

The Order discloses the list of companies considered large taxpayers as at 1st January 2011.

ORDER 2731 dated 30 November 2010 to organise administration activities of middle size taxpayers by public finance administrations in charge of middle size taxpayers within the "Judet" and of Bucharest General Inspectorates (Official Gazette 820/2010)

Starting 1st January 2011, taxpayers who meet the following criteria are considered middle size taxpayers:

- a) The base criterion is the result of the aggregation of 4 indicators calculated for the last 2 consecutive years, the indicators being selecting from an economic and budgetary viewpoint and in the following proportions which demonstrate the importance given to each indicator:
 - o volume of fiscal liabilities, declared by the taxpayer - 40%;
 - o volume of operating revenues - 30%;
 - o volume of payroll expenses - 15%;
 - o volume of tangible and intangible non-current assets (total) - 15%.
- b) The insolvency criterion refers to taxpayers with their fiscal domicile in a "Judet" which have fiscal liabilities greater than RON 3 million.

ORDER 24 dated 29 November 2010 to complement NBR Order 15/2009 regarding preparation of annual stand alone financial statements in conformity with IFRS by credit institutions (Official Gazette 834/2010)

This Order complements provisions of National Bank of Romania Order 15/2009 by stating that annual stand alone financial statements in conformity with IFRS as per Order 15/2009 are prepared in Romanian, presented in RON and are published on the internet site of each credit institution.

ORDER 26 dated 13 December 2010 issued by NBR to amend and complement Accounting Regulations in conformity with European Directives applicable to credit institutions, financial institutions, non banking financial institutions as well as the Fund to guarantee deposits with the banking system, approved by NBR Order 13/2008 (Official Gazette 886/2010)

Accounting Regulations are amended and complemented in accordance with provisions disclosed in Appendices no. 1 and no. 2 (published in Official Gazette 886 Bis) which enter into force 1st January 2011.

ORDER 27 dated 16 December 2010 to approve Accounting Regulations in conformity to IFRS applicable to credit institutions (Official Gazette 890/2010)

EMERGENCY ORDINANCE 131 dated 28 December 2010 to amend and complement OUG 39/1996 regarding establishment and operation of Fund to guarantee deposits within the banking system (Official Gazette 893/2010)

The ceiling for guarantee is set at the RON equivalent of Euro 100,000.

ORDER 115 dated 14 December 2010 to approve Instructions 4/2010 to amend Instructions 2/2007 regarding preparation and submission of annual financial statements by entities which are licensed, regulated and monitored by the National Securities Commission (Official Gazette 851/2010)

INSTRUCTION 40 dated 2 December 2010 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of December 2010 (Official Gazette 806/2010)

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

EMERGENCY ORDINANCE 111 dated 8 December 2010 regarding leave to raise a child and monthly compensation (Official Gazette 830/2010)

Provisions of the Ordinance rule the rights which are granted to persons who give birth to a child after 1st January 2011.

Starting 1st January 2011, persons who, during the 12 months prior to the date of birth of a child obtained salary income, revenue from independent activities, revenue from agricultural activities subject to income tax, can benefit, **upon option**, from the following rights:

- Leave to grow the child until he/she is 1 year old** as well as monthly compensation which is set at 75% of average the net income obtained during the previous 12 months but no less than RON 600 and no more than **RON 3,400**. If this person obtains taxable income before the child is 1 year old, a monthly return to work bonus of RON 500 is granted for the period until the child to be 2 years old. For the person who benefits from monthly compensation and applies for the return to work bonus, payment of monthly compensation is suspended.
- Leave to raise the child until he/she is 2 years old as well as monthly compensation which is set at 75% of the net pay obtained during the previous 12 months but no less than RON 600 and no more than RON 1,200. The person who exercises this option does not benefit from the return to work bonus mentioned above.

EMERGENCY ORDINANCE 108 dated 6 December 2010 to amend and complement Law 76/2002 regarding the regime of unemployment insurance and enhancing employment (Official Gazette 830/2010)

Starting 1st January 2011, unemployment allowances and other rights established by Law 76/2002 regarding the regime of unemployment insurance and enhancing employment are determined in function of the value of the *reference social indicator*. The value of the reference social indicator can be modified by Government Decision depending on the increase in consumer prices forecast the previous year for the current year.

The person who applied for their unemployment rights but refused a position adequate for his/her training or level of studies, or refused to benefit from services provided by employment agencies or attend a professional training session cannot benefit from unemployment allowances.

DECISION 1352 dated 23 December 2010 to approve the structure of the Classification of occupations in Romania – level base group, in accordance to International standard occupation ISCO 08 classifications (20100894) (Official Gazette 894/2010)

DECISION 1345 dated 23 December 2010 to set the number of new work permits which will be issued to foreigners in 2011 (Official Gazette 887/2010)

The Decision sets a total of 5,500 work permits to be issued to foreigners in 2011 who wish to be employed in Romania or to be seconded in Romania by their employer which is a foreign legal entity. The total breakdown is as follows:

- permanent work permits – 4,000,
- work permit for secondees - 600,
- work permit for seasonal workers - 200,
- nominative work permits - 100,
- work permits for trainees - 100,
- work permits for athletes - 300,
- work permits for trans-borders residents working in Romania – 200.

EMERGENCY ORDINANCE 133 dated 28 December 2010 to amend and complement Law 95/2006 regarding reform in the domain of health to improve efficiency of certain institutions or activities in this field (Official Gazette 893/2010)

The date in which national social health insurance cards will be issued is set by Government Decision.

EMERGENCY ORDINANCE 115 dated 15 December 2010 to amend and complement OUG 196/2005 regarding Environment Fund (Official Gazette 862/2010)

A contribution of **2 RON per kilogram** is due by economic operators which introduce packaging for sale of goods or promotion into the domestic market on the difference between quantities of packaging waste through sales, compared to: recovery by incineration in authorized incarnation units or recycling.

DECISION 1292 dated 15 December 2010 to amend and complement Government Decision 349/2005 on waste storage (Official Gazette 862/2010)

ORDER 7630 dated 18 November 2010 to approve Instructions regarding access by economic operators to the EMCS-RO application for control of movement of excisable products under the suspension regime of excise taxes (Official Gazette 804/2010)

EMERGENCY ORDINANCE 118 dated 23 December 2010 to amend and complement OUG 50/2008 to establish a tax on pollution for vehicles (Official Gazette 888/2010)

Starting 1st January 2011, **tax on pollution increases 45-50% on average** depending on age and cylinder capacity of the vehicle, vehicles more than 10 years old registering the highest increase.

Another amendment refers to the introduction of a tax for vehicles with the Euro 5 pollution norm at an amount which varies from Euro 60 to Euro 1,200 depending on cylinder capacity.

As for vehicles purchased under the scope of registration in Romania prior to 31 December 2010 and not registered by the date the present Ordinance enters in force, the former pollution tax rates apply. For this purpose, the persons who register these vehicles must submit an application accompanied with the proof of full or advance payment with the tax authorities in charge of determination of pollution tax by 31 January 2010 and are granted 30 days to complete the file.

DECISION 1347 dated 23 December 2010 to approve the tax scale on means of transport set by article 263 paragraph (4) and (5) of Law 571/2003 – Fiscal Code, applicable to fiscal year 2011 (Official Gazette 887/2010)

The tax scale on means of transport to be paid in 2011 is set for transport of goods with a total weight over 12 tonnes depending on the number of axles, licensed weight, type of transport (domestic or international) and on the suspension system of the vehicle.

For instance, for a vehicle with 2 axles, weighing between 15 and 18 tonnes with a pneumatic suspension or equivalent which is only used for domestic transport services, the tax increases from RON 278 in 2010 to RON 517 in 2011. If the vehicle has another type of suspension, the tax increases from RON 630 to RON 1,169. In case such a vehicle provides international transport of goods, the tax increases from RON 397 to RON 517 (pneumatic suspension), or from RON 899 to RON 1,169 (for other types of suspension).

Taxes are also heavier for combinations of vehicles such as tandem trailer trucks. The highest tax, around RON 4,000 is due for a vehicle over 44 tonnes with 3+2 axles whether used for domestic or international transport.

This decision does not regard motorcycles, automobiles, buses or other vehicles weighing under 12 tonnes.

DECISION 1235 dated 6 December 2010 to approve implementation of National Electronic System for online tax payment using bank cards (Official Gazette 832/2010)

Implementation of a virtual cash collection point named "National Electronic System for payment taxes online using a bank card" (SNEP) is approved as a component of the National Electronic System (SEN) in accordance with terms and conditions of the present Decision. Public institutions which collect taxes must register with SNEP according to the following calendar:

- step 1: registration of cities which are heads of "Judet" and cities with over 150,000 inhabitants within 7 months starting date of entry in force of the present Decision;
- step 2: registration of the towns with up to 150,000 inhabitants within 5 months after completion of Step 1, but no later than 1 year starting date of entry in force of the present Decision;
- step 3: registration of communes and public institutions not covered by the first two steps within 6 months after completion of Step 2, but no later than 18 months starting date of entry in force of the present Decision.

DECISION 1355 dated 23 December 2010 to amend Implementation Norms of Law 571/2003 – Fiscal Code approved by Government Decision 44/2004 (Official Gazette 896/2010)

The Romanian Government has adopted this Decision due to the obligation to incorporate Directive 2010/66/UE issued by the European Council on 14 October 2010 into national legislation.

Application for VAT refund is transmitted to the member State where the applicant is established by 30 September of the calendar year which follows the refund period. By exception, for applications which refer to refunds related to 2009, deadline for submission of applications is 31 March 2011. Applications which refer to refunds related to 2009 which were submitted between 1st October 2010 and the date the present Decision enters in force are deemed submitted in the legal timeframe.

We emphasize that application for refund of VAT paid in another member State (form 318) is submitted with ANAF online.

INFORMATION – VAT – SIMPLIFICATION MEASURES

The European Council agreed to apply the reverse charge mechanism through 31 December 2013 for operations conducted between taxable persons registered for VAT purposes in Romania, in the following cases:

- a) Supply of lumber products by taxable entities, including standing timber, fuel wood, timber products, square edged or chipped wood, unprocessed, processed or semi-processed wood.
- b) Supply of goods and services by taxable entities under an insolvency procedure, with the exception of retailers.

Unlike operations mentioned under point A), those included under point B) are not currently stipulated in national legislation. However, Romania can implement these stipulations by 31 December 2013 with no need for further approvals.

Source: Official Journal of the European Union no. L256 30.09.2010

INFORMATION – OPTIONAL – APPLICATION FOR DEREGISTRATION UNDER THE SCOPE OF VAT IF TURNOVER IS LESS THAN EURO 35,000

On 1st January 2011, a legal provision enters into force in the domain of VAT according to which taxable persons registered under the scope of VAT as per article 153 of the Fiscal Code and with turnover during a calendar year below the ceiling set for small enterprises per article 152 of the Fiscal Code, may apply for deregistration from the list of taxable entities regis-

tered under the scope of VAT as per article 153 of the Fiscal Code by 20 January of the subsequent year, for the purpose of subsequently applying the special exemption regime.

Taxable entities which apply for deregistration within the set timeframe and in the conditions set by law must submit the VAT return set per article 152 (6) of the Fiscal Code for the operations carried out during the month of January by 25 February. Taxable entities must disclose the amount resulting from all VAT adjustments in accordance with Title VI of the Fiscal Code on the final VAT return to be submitted.

We underline the deadline of 20 January 2011 for a taxable entity registered under the scope of VAT as per article 153 of the Fiscal Code and with 2010 turnover of less than Euro 35,000 set for small enterprises to apply for deregistration if such an option is exercised.

Source: Communiqué of the Ministry of Public Finance

INFORMATION – Census of inhabitants and dwellings to be carried out in Romania in the period from 22 to 31 October 2011 (Official Gazette 856/2010)

LAW 279 dated 24 December 2010 to approve Government Emergency Ordinance 58/2010 to amend and complement Law 571/2003 - Fiscal Code and to establish other financial and fiscal measures (Official Gazette 878/2010)

This Law approves OUG 58 dated 26 June 2010 to amend and complement Law 571/2003 - Fiscal Code as well as establish other financial and fiscal measures (Official Gazette 431/2010), with its further amendments.

PROJECT OF AMENDMENT OF THE ACCOUNTANCY LAW

On 22 December 2010, Ministry of Public Finance (MFP) posted online a project for public debate in the perspective of amending the Accountancy Law (Law 82/1991). From the Notes which are disclosed to sustain this project, the main amendments and complements would involve:

- ☑ regulation regarding responsibility of persons who organise and manage accountancy;
- ☑ separation between provisions regarding organisation and management of accountancy and those regarding signature of annual financial statements;
- ☑ clarification of some issues regarding preparation and submission of financial statements;
- ☑ statement in an expressive mode that in all financial statements and for categories of entities, recording, valuation and presentation of items with the nature of assets, liabilities and equity are made in conformity with applicable accounting regulations;
- ☑ introduction of provisions regarding the circumstance when the financial year differs from calendar year for certain categories of entities;
- ☑ introduction of the possibility for legal entities with turnover of less than a ceiling set by MFP Order to be signed by the Directors for the purpose of reduction of administrative costs;
- ☑ introduction of provisions regarding preparation, audit and submission of annual financial statements of sub-units registered in Romania which belong to foreign entities whose headquarters are abroad;
- ☑ introduction of the obligation for commercial companies to only submit annual financial statements and consolidated financial statements with territorial units of MFP;
- ☑ introduction of provisions regarding submission of annual financial statements which are prepared in case of merger or demerger to territorial units of MFP;
- ☑ designation of persons in charge of archiving supporting documents and accounting registers in case of reorganisation;

- ☑ abrogation of provisions regarding accounting for approved programmes until budget and accounting matters are addressed in the same manner;
- ☑ widening the category of entities included in the definition of legal entities of public interest subject to audit;
- ☑ updating provisions regarding infringements set by law and punishment.

PROJECT OF AMENDMENTS TO THE LABOUR CODE

- ☑ Length of work which includes overtime could be increased beyond 48 hours per week under the condition that the average work period calculated on a reference period of 4 calendar months (vs. 3 at present) does not exceed 48 hours per week;
- ☑ The timeframe when overtime can be compensated with paid time off would increase from 30 to 60 days;
- ☑ Upon conclusion of a labour contract, a trial period of 45 calendar days at most (vs. 30 days at present) could be set for non-management positions and of 120 calendar days at a most (vs. 90 days at present) for management positions;
- ☑ Notice period for an employee who resigns would be increased from 15 days to at least 20 business days for employees with non-management positions and from 30 days to 45 days for employees with management positions;
- ☑ Length of labour contracts for a determined period would change from 24 to 36 months at a most;
- ☑ In case of temporary reduction of activity for economic, technological, structural or similar reasons for a duration less than 30 days, the employer would reduce the number of business days from 5 to 4 per week with a proportional reduction in salary until the circumstances which trigger reduction of time at work are remediated;
- ☑ The employer would be allowed to set individual performance objectives, as well as evaluation criteria;
- ☑ The duty to provide proof in case of a lawsuit in relation to a labour dispute would lay with the employee and not the employer as at present.

REMINDER – Impairment of receivables

As per provisions of Accounting Regulations in accordance with E.E.C Directive IV, receivables are presented in financial statements at their probable collection value.

Impairment of receivables recorded in client receivables or other debtors is made at the time of the annual inventory by recording an impairment expense.

What fiscal implications does impairment of receivables have?

As per provisions of article 22 of the Fiscal Code, the deductibility of impairment expense is examined upon determination of the fiscal profit/loss:

- ☑ Impairment expenses are tax deductible up to 20% starting 1st January 2004, 25% starting 1st January 2005 and 30% starting 1st January 2006, of the value of the client receivables which meet all of the following conditions:
 - were recorded after 1st January 2004,
 - have not been collected 270 days after due date,
 - are not guaranteed by a third person,
 - are owed by a person who is not a related party,
 - were included in the taxable income of the taxpayer.
- ☑ Impairment expenses are fully tax deductible when all the following conditions are met:
 - were recorded after 1st January 2007,
 - receivable is from legal entity for which a bankruptcy procedure has been opened based on a judicial decision which proves this situation,
 - are not guaranteed by a third person,
 - are owed by a person which is not a related party,

o were included in the taxable income of the taxpayer. As per provisions of article 21, letter n of the Fiscal Code, the loss recognised by recording a receivable as irrecoverable is tax deductible in the following cases:

- ☑ The bankruptcy procedure of the debtor has been finalized by a judicial decision,
- ☑ The debtor is deceased and the receivable cannot be collected from his/her heirs,
- ☑ The debtor in the case of a limited liability company with a sole shareholder has been dissolved or liquidated without a successor,
- ☑ The debtor is facing major financial difficulties which jeopardize the entire entity.

From a VAT point of view, we mention that article 138 letter d of the Fiscal Code states that the tax base is reduced in case the value of the delivered goods or rendered services cannot be collected due to bankruptcy of the beneficiary. Adjustment is allowed starting the date of pronouncement of the judicial decision for wind down procedures set per Law 85/2006 regarding insolvency procedures, the decision being final and binding.

REMINDER - model and content of fiscal forms for 2010 salary income

Form 210 "Fiscal form regarding tax on salary income" must be remitted to employees and submitted by 28 February 2011 at the latest.

Despite monthly nominative statements, continued use of Labour Books in 2010, fiscal forms - either Fiscal Form F1 for salaries obtained from the declared main occupation employer or Fiscal Form F2 for salaries other than from main occupation and income assimilated to salaries (compensation for censor, member of Board of Directors, etc.), Form 210 remains useful under the following circumstances:

- ☑ Annex to form 230, which is filed by natural persons who obtained salary income and assimilated income and thus request that up to 2% of their annual tax be transferred to support non-profit organisations,
- ☑ To justify the amount of tax withheld in Romania for an employee sent on secondment by his/her Romanian employer for such a period he/she has become a tax resident in that State and must prove the amount of tax which was withheld in Romania,
- ☑ To justify realized revenue in case of adjustment of income tax for persons which also received remuneration for author's rights (form 200) or revenue from civil conventions, by 15 May 2011,
- ☑ **To be presented upon application for a loan.**

REMINDER – Loss of more than half of share capital

As per provisions of Law 31/1990 regarding commercial companies, republished with its further amendments, if it is found that more than half of net assets have been lost, the share capital must be reconstituted or reduced before any appropriation.

When Directors ("Administratori") find that further to losses enacted in the annual financial statements, the net assets, calculated as the difference between total assets and total liabilities of the company has decreased up to at least 50% of subscribed share capital, they must convene an extraordinary general meeting to decide whether the company must be dissolved. If the general meeting does not result in a decision to dissolve the company, the company must, by the end of the financial year following the year when the loss has been disclosed, reduce share capital by an amount at least equal to the losses which could not be covered by reserves; unless company net assets had been reconstituted at that time up to an amount equal to at least half of share capital.

REMINDER – Attributing numbers to accounting documents

Do not disregard provisions of Order 2226/2006 (Official Gazette 1056/2006):

- ☑ An internal procedure for tracking invoice numbers must be established,
- ☑ Persons responsible for organizing and maintaining bookkeeping must designate one or several persons who will have among their attributions allocation and management of invoice numbers issued by the enterprise, by written internal resolution,
- ☑ The invoice has a number **in one or several series**. The numbering scheme set by the enterprise must be sequential and measured in order to cover the volume of invoices to be issued by the enterprise,
- ☑ Every year, the number of the first invoice of the year will be established.

It is no longer mandatory to sign and stamp invoices, but such procedures contribute to internal control and represent a means to fight fraud.

We also highlight provisions of Order 3512/2008 regarding accounting documents and registers (Official Gazette 870/2008) which were presented in detail in APEX Team Newsletter no. 12_2008, which makes an internal numbering scheme for financial and accounting documents mandatory.

The internal numbering scheme for financial and accounting documents will thus be ensured:

- ☑ Persons responsible for organizing and maintaining bookkeeping must designate by a written internal resolution one or several persons who will have among their attributions allocation and management of numbers of the documents issued by the enterprise;
- ☑ Each form will have a number or series, which must be sequential. For the allocation of a number, the organisation of the entity in warehouses, secondary establishments, branches, etc will be taken into account;
- ☑ An internal procedure for tracking/allocating numbers or series, if applicable, must be established. Every year, the number of the first document of the year will be established.

The annual internal decision must set the numbers allocated to invoices, cash receipts, delivery notes as well as to other financial and accounting forms used by the entity (business claims, disbursement notes, collection notes, reception notes - "NIR," stock cards, etc.).

REMINDER – Do not forget to request tax residence certificates issued in 2011 from your foreign business partners

The tax residence certificates issued in 2010 are valid for the first 60 days of 2011.

Main EXCHANGE RATES FOR FOREIGN CURRENCY at the close of the 2010 financial year

1 EURO = 4.2848 RON; 1 USD = 3.2045 RON,
1 GBP = 4.9673 RON, 1 CHF = 3.4211 RON

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

JANUARY 2011 – 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 January 2011

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

DO NOT FORGET to establish the numbers which will be used during this financial year for invoices, petty cash receipts, delivery notes and other accounting documents at the very beginning of 2011 by an internal resolution.

During the month - do not forget**That Friday 7 January last day to submit**

- Form 092 (*amendments*) to change VAT return periods from Quarterly to Monthly in case an EU acquisition of goods occurred in December 2010. Starting January 2011, VAT return will be submitted monthly.

That Monday 10 January is the last day to submit

- Return on collection of hotel tax
- Return for fiscal registration/for mentions (*amendments*) for legal entities, associations and other entities who are not legal persons (form 010) for legal persons who must register for the scope of VAT as their turnover exceeded the legal threshold for exemption (Euro 35,000 at the NBR exchange rate in force at the date when Romania joined UE, i.e. 1 Euro = 3.3817 RON) – as per article 152 (6) of the Fiscal Code;
- Return for fiscal registration/for mentions (*amendments*) for individuals who carry out independent economical activities or carry out a profession (form 070). These persons must register for the scope of VAT as their turnover exceeded the legal threshold for exemption (Euro 35,000 at the NBR exchange rate in force at the date when Romania joined UE, i.e. 1 Euro = 3.3817 RON) – as per article 152 (6) of the Fiscal Code;
- Return for fiscal registration/for mentions (*amendments*) for Romanian individuals (form 020) for individuals other than Romanian individuals who carry out independent economical activities or carry out a profession and must register for the scope of VAT as their turnover exceeded the legal threshold for exemption (Euro 35,000 at the NBR exchange rate in force at the date when Romania joined UE, i.e. 1 Euro = 3.3817 RON) – as per article 152 (6) of the Fiscal Code.

That Monday 10 January is the last day to pay

- Hotel tax
- Advertising service tax

That Monday 17 January is the last day to submit

- INTRASTAT statement for December 2010 (submitted online)
- Recapitulative statement of EU Supplies/acquisitions/services (form 390)* for December 2010;**
- To submit "Statement of estimated revenue" form 220 related to 2011 in respect of:
 - o Revenue from independent activities: commercial activities, independent professions carried out individually or under a form of association
 - o Rental revenue
 - o Agricultural revenue for which net revenue is determined on a real basis obtained from single entry bookkeeping data
 - o Qualified rental revenue from independent activities (over 5 rental contracts)
- a statement of production capacity by beer producers with licensed fiscal warehouse under own responsibility.

That Thursday 20 January is the last day to submit

- Application for VAT deregistration for legal entities which do not exceed the annual threshold of exemption for small enterprises (turnover of Euro 35,000 calculated at the exchange rate of 1 Euro = 3.3817 RON in force when Romania joined EU). We underline that deregistration is not mandatory.

That Tuesday 25 January 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)*
- Informative Statement on domestic supplies/services rendered and acquisitions regarding second half of 2010 (form 394)
- Social security statement with list of insured persons
- Social security statement regarding liabilities to the National Fund for health insurance, medical leave and compensation from health insurance
- List of insured employees and health contribution to social health insurance fund
- Unemployment fund statement with list of insured persons
- Tax return for commission due by employers to the Labour Inspectorate (ITM) pertaining to December 2010 and it will be the last return as this commission is removed;
- 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 (including "ecotax").
- VAT draft Pro rata for the 2011 fiscal year and computation method
- Return regarding turnover realized in 2010 (or computed prorata temporis if case of newly set up taxpayers) for the taxable persons registered for the scope of VAT whose period of report is quarterly and who have not made EU acquisitions of goods in 2010 (form 094).** Taxable persons as per article 153 of the Fiscal Code who were submitting quarterly VAT returns in 2010 and have exceeded the threshold of Euro 100,000 of turnover will submit also a form 010 to enact the change of VAT reporting period from quarterly into monthly. Conversely, if the

VAT reporting period was monthly in 2010 and 2010 turnover was lower than Euro 100,000, a form 010 which will be submitted will enact the change in VAT reporting period from monthly into quarterly;

- Statement regarding the determination of the tax representing quarterly advance payment on gains obtained from disposal of securities other than shares and securities in case of closed companies, during Quarter IV 2010 (form 225).

That Tuesday 25 January 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
- Tax on profit related to Quarter IV 2010 (amount equal to the tax due for Quarter III 2010 for taxpayers who DO NOT FINALISE the amount of the tax on profit pertaining to the period 1st October 2010- 31 December 2010 until the date of 25 February 2011, date when the final return 101 for the period mentioned must be submitted);**
- Salary tax
- Tax on income from independent activities, withheld at source
- Tax on interest income
- Tax on investment income
- Tax on dividends paid in December 2010 or on dividends allocated and not paid during 2011**
- 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 and it is the last time this commission is paid
- Contribution to work accident and occupational disease fund
- Contribution for non employment of disabled persons for employers with headcount over 50
- Social and tax contributions on second half 2010 salaries for associations, foundations and other non-profit organisations** which make such payments twice a year as per Government Ordinance 47/ 28.08.2007 (except for ITM commission)
- Contribution to Environment Fund (not ecotax)
- Gambling tax

That Monday 31 January is the last day to submit

- Option for entities which meet as of 31 December 2010 all criteria to apply micro enterprise taxation regime and wish to exercise the option to apply it starting with fiscal year 2011;**
- "The application to opt for the determination of net income under the real regime" (effective amounts) accompanied by an "self-assessment of income derived from independent activities" (form 220) or the self-assessment of rental income for taxpayers which wish to opt for the determination of their revenue based on effective amounts,
- The declarations to local public authority which are used for the computation of tax on land, tax on buildings and tax on means of transport. **The obligation to declare vehicles or buildings held under a financial lease contracts**

falls with the user.

That Monday 31 January is the last day for

- Full payment of vehicle tax by user, foreign natural person or legal entity, which applies for temporary registration in Romania for means of transport in case registration is made for a period which lasts beyond 31 December of the fiscal year when the application is requested, as follows:
 - a) Annual tax if the registration is for the fiscal year,
 - b) The tax afferent to the period from 1st December and the first of the month following the month when the registration expires in case the registration expires before 1st January of the subsequent same year.

IMPORTANT: starting 2010, payment of tax on dividends declared but not paid can be made by 25 January of the subsequent year (thus, 25 January 2011 for dividends allocated and not disbursed in 2010). Previously, tax on dividends withheld had to be paid by 31 December of the year when dividends were allocated. Tax on dividends is to be disclosed on the December 2010 "State budget liability return" (form 100).

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

2011 Contributions	Employer and Beneficiary of activities considered dependent activities (% rate)	Employee and provider of dependent activities (% rate)
Social security contribution (<i>pension</i>)	20.8% for normal working conditions 25.8% for particular working conditions 30.8% for special working conditions (contribution base capped at an amount representing the average amount of insured persons during the month for which the contribution is determined as 5 times the average monthly gross salary)	10.5% (contribution base employee capped at 5 average monthly gross salaries as per Budget for public social insurance, i. e. 5 x 2,022 = RON 10,110) (contribution base for a person under civil contract: gross income)
Health insurance fund (based on gross salary)	5.2%	5.5%
Medical leave contribution and health insurance allowance (based on gross salary)	0.85%	
Unemployment fund (based on gross salary)	0.5%	0.5%
Work accident and occupational disease fund (contribution base capped at an amount representing the average number of insured persons during the month for which the contribution is determined multiplied by 5 times the average monthly gross salary)	0.15% - 0.85% depending on CAEN code for main activity	
Contribution to fund to guarantee payment of salary liabilities (based on gross salary)	0.25% (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 670) for every 100 employees	
Minimum monthly gross salary (as per national collective bargaining for 2011-2014)	RON 670 for unqualified positions RON 770 for positions requiring High School RON 1,204 for positions requiring a University degree	
Luncheon voucher subject to income tax starting July 2010	RON 8.72	
Average monthly gross salary (INSSE October 2010, identical to August and September 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 (eg: in-house "captive" PFA or who meets at least 1 out of the 4 re-qualification criteria mentioned in OUG 82/2010) is disclosed on a separate "Payment statement" and is included in form 112.		
Contributions	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 (<i>if applicable</i>) (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, i.e. 5 X 2,022 RON)	0%	10.5% ¹
Contribution to health insurance	0%	0% ²
Contribution to unemployment insurance (<i>if applicable</i>)	0%	0.5% ³
Income tax		16% ⁴

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.

² 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.

³ 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.

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 35% of average monthly gross salary as per Budget for public social insurance (i.e. RON 2,022 x 35%) but no more than 5 average monthly gross salaries. The rate of contribution is 31.3%. The insured person can be a Romanian citizen, a citizen of another State or stateless for the period he/she has, as per law, his/her domicile or residence in Romania.

As for the legal entity which grants such remuneration, it 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.



56 Boulevard Dacia,
District 2, Bucharest

Tel: +40 (0) 31-809 2739

Tel: +40 (0) 74-520 2739

Fax: +40 (0) 31-805 7739

E-mail: office@apex-team.ro

Site: www.apex-team.ro

ACCOUNTING AND PAYROLL
EXPERT TEAM

APEX Team includes qualified professionals able to provide a full range of accounting and payroll services. Our consultants are ready to share their knowledge and experience gained whilst working in Romania as consultants for one of the Big 4 international companies, having many international companies acting in a wide range of industries as clients.

The team includes chartered accountants (Romanian Chartered Accountants Body and also ACCA) specialised in accounting for business entities, as well as a 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 »**
- Certification of annual profit tax**
- Start up services**
- Organization of the accounting function**
- Assistance in implementation of ERP**
- Training**



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