

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

Contents:

- Standard VAT rate becomes 24% on 1st July 2010
- Luncheon vouchers subject to income tax but not to social contribution taxes
- Risks regarding re-qualification of independent activities as dependent activities
- Professional income: obligation made on income payor to withhold professional's individual contributions capped at a set amount
- Measures to fight tax evasion
- Enlarged joint responsibility
- Reverse taxation on EU purchases on food produce, upon EU council derogation, forthcoming
- EU Operators' Registry – Registration to be finalized by 1st August 2010 with form 095 and criminal record of shareholders and directors
- Criminal record of individuals and legal entities
- June 2010 NBR interest rate
- Consumer loan contracts – new EU Directive
- 2010 Collective bargaining for enterprises in the field of trade
- EU Directive – Coordination of social security regimes and duration of secondment capped at 24 months
- Dissolution and liquidation – Measures to speed up procedures
- Valuation of monetary items in foreign currency as at 30.06.2010
- Verify processing of tax returns submitted on-line
- Rules regarding changes in VAT rate from 19% to 24%
- Key HR figures
- July 2010 Agenda

EMERGENCY ORDINANCE 58 dated 26 June 2010 to amend and complement Law 571/2003 – Fiscal Code and other financial and fiscal measures (Official Gazette 431/2010)

VAT

Starting 1st July 2010, the standard VAT rate increases from 19% to 24%.

Reduced VAT rate of 9% remains unchanged.

Vouchers

Luncheon vouchers and Holiday vouchers become subject to **income tax**. However, they are not subject to social contribution taxes for the employee and employer.

Gift vouchers are deemed benefits subject to income tax as well as to all employee and employer social contribution taxes, except for gifts offered to under age children of employees for Easter, 1st June (*children's day*), Christmas and similar celebration in other religions as well as gifts offered to female employees on 8 March up to the limit of 150 RON per gift per person.

Dependent activities

Any activity will **qualify a dependent activity** if at least one of the following criteria is met:

- a) the income beneficiary is in a relationship of subordination to the entity which pays said income or to management bodies of the income payor. The beneficiary also respects working conditions imposed by the income payor, such as his/her duties and modalities to fulfil them, location where activity is carried out, business hours;
- b) while carrying out activity, the income beneficiary uses the income payor's material endowments, meaning its premises with related equipment, its work or safety equipment, its work tools and other items of similar nature;
- c) the income beneficiary contributes with his/her own physical or intellectual work but not with his/her own capital;
- d) the income payor supports, to achieve performance of the activity, business trip expenses of the income beneficiary, such as travel allowances in Romania and abroad as well as other expenses of a similar nature;
- e) the income payor supports all expenses for days off vacation or sickness of the income beneficiary;
- f) any other factor which reflects the dependent nature of the activity.

In case of requalification of an activity to a dependent activity, income tax as well as mandatory social contributions as per law will be reassessed and paid, the income payor and the income beneficiary being jointly responsible for their settlement. Under these circumstances, regulations applicable for determination of income tax are those applicable to income derived in addition to the main occupation.

Independent activities

The annual net income of an independent activity set as a lump sum cannot be less than 12 times the minimum national monthly gross salary in force at the date the lump sum fee is set.

The deduction rate applied to intellectual property rights for allowed expenses is reduced from 40% to 20% and to creators of monumental works of art from 50% to 25%.

Professional income: any income from a profession other than salary income is taxed with the income tax rate. Such income is subject to individual contributions for social insurance (*pension*), health insurance and unemployment insurance. The computation base to which these contributions apply is capped at 5 times the national average gross salary used to prepare the Budget of social insurance. **The obligation to declare, calculate, withhold and settle contributions** mentioned above **lays with the income payor** in accordance with legal provisions in force.

Tax on dividends

The tax rate on dividends allocated to a Romanian legal entity from another Romanian legal entity increases from 10% to 16%. The rate is nil if the entity which receives the dividends has held an ownership interest of at least 10% for more than 2 years from the date dividends are paid.

Other provisions

- compensation becomes taxable.
- Interest income on deposits and current accounts received are taxed at the rate of 16%, starting 1st July 2010. This tax represents final taxation, irrespective of the date the legal

relationship arose. In case of amounts which represent interest income on loans granted under civil contracts, the income tax is calculated by the payor and withheld from interest paid to the beneficiary. Settlement of the tax on interest income is due monthly, on or before the 25th of the subsequent month.

- gains on gambling are taxed by withholding 25% of the net income. Net income is calculated on gains obtained during the same day from the same organisation or payor.

EMERGENCY ORDINANCE 54 dated 23 June 2010 regarding measures to fight tax evasion (Official Gazette 421/2010)

This Ordinance introduces amendments to several texts of law.

EU Operators' Registry

Starting **1st August 2010**, the **EU Operators' Registry** is set up and maintained by ANAF and includes all taxable persons and non-taxable legal entities who realize EU transactions.

When registration is made into the Registry

- Upon application for registration under the scope of VAT as per article 153 or 153¹ of the Fiscal Code, by requesting to be registered in the EU Operators' Registry because EU transactions are expected to be carried out;
- As for the persons already registered under the scope of VAT as per article 153 or 153¹, by requesting to be registered into the EU Operators' Registry because EU transactions are expected to be carried out.

How to register with the Registry

- By submitting Form 095 to ANAF accompanied by:
- Shareholders judicial file issued by Romanian authorities, except for SA;
- Directors' criminal record issued by Romanian authorities;
- Other documents mentioned in an Order to be issued by ANAF.

The following persons cannot be registered with the EU Operators' Registry:

- Taxable persons and non-taxable legal entities who are not registered under the scope of VAT as per article 153 or 153¹;
- Taxable persons who have as shareholder or Director a person against whom a penal action was opened and/or have an offence regarding EU acquisitions/supplies of goods and services mentioned in his/her judicial file.

For companies which usually carry out EU transactions, it is important to make sure that all registration forms are finalized prior to 1st August 2010 when the Registry enters into force.

BE AWARE! Entities which are not registered in the EU Operators' Registry will not have a valid VAT code for EU transactions even if they are registered under the scope of VAT as per article 153 or 153¹. Under these circumstances, the EU supplier/provider will be not able to validate the VAT code in the VIES system and will charge VAT.

The Ordinance sets a fine for failure to register with the EU Operators' Registry of between RON 1,000 and RON 5,000.

De-registration from the EU Operators' Registry

- Upon taxpayer request;
- Ex officio, if:
 - o The taxpayer has become inactive or has entered into a temporary inactivity period declared at the Trade Register;
 - o The taxpayer no longer has EU transactions in the year following its registration in the EU Operators' Registry;
 - o The taxpayer has requested de-registration under the scope of VAT;
 - o A penal case has been opened against one of the compa-

ny shareholder or Director for acts regarding EU transactions.

Amendments to the Code of Fiscal Procedure

Article 27 regarding joint responsibility is amended.

Subsequently, the following entities **are held jointly responsible with the debtor**:

- a) associates of associations which do not have legal capacity, including members of family enterprises, for fiscal liabilities owed by them, together with legal representatives and, in bad faith, have determined that fiscal liabilities have not been declared and/or have not been paid in due time;
- b) parties such as banks which have had a sequestration notice served upon them and have allowed the entity to withdraw funds.

For outstanding liabilities of the debtor declared insolvent, the following entities are held jointly responsible with the debtor:

- a) individuals or legal entities which, prior to the date of declaration of insolvency, purchased debtor assets in bad faith irrespective of the modality, thus triggering insolvency;
- b) directors, shareholders or any other person who provoked insolvency of the debtor (legal entity) by selling or hiding debtor assets in bad faith, irrespective of the modality;
- c) directors who, during his/her mandate, in bad faith, have not complied with the legal obligation to apply for introduction of the insolvency procedure with the Court, for fiscal liabilities regarding the period of his/her mandate and being unsettled at the date when insolvency status is declared;
- d) directors or any other person, who, in bad faith, have determined that fiscal liabilities have not been declared and/or have not been paid in due time;
- e) directors or any other person, who, in bad faith, have determined that amounts which the debtor was not entitled to were refunded from the State Budget.

The legal entity is held jointly responsible with the debtor declared insolvent in conditions of the Code of Fiscal Procedure or declared insolvent if, directly or indirectly, it controls, is controlled or is under common control with the debtor and if at least one of the following conditions is met:

- a) acquires, irrespective of the modality, ownership right of tangible assets of the debtor, the book value of these assets representing at least half of the book value of all debt- or assets;
- b) has or had commercial contractual relations with clients and/or suppliers other than utility suppliers which have or had contractual relationships with the debtor in the ratio of at least half of the total value of all transactions;
- c) has or had employment relations or civil relations through contracts for provision of services with at least half of head-count or service providers of the debtor.

The Code of Fiscal Procedure introduces the obligation of banking institutions to communicate, upon request of ANAF fiscal bodies, all transactions and/or closing balances of accounts opened with the bank, identification data of persons with signature rights as well as safe deposit box rental, if any.

Other amendments introduced by the Ordinance

- An addition is made to article 160, ruling simplification measures (where reverse tax is made if both supplier and purchaser are registered under the scope of VAT). It regards the supply of goods in the following categories set by Order of the Ministry of Public Finance (MFP) upon proposal by ANAF President: cereal, "technical plants," fruit and vegetables, meat, sugar, flour, bread and baked products. We mention that these provisions enter in force 10 days after communication of approval of the derogation of the EU Council to apply these provisions by 31 December 2011. MFP will post the date approval of the derogation by the EU Council is communicated on www.mfinante.ro.
- Provisions regarding excise taxes are amended.

- ☑ Amendments are made to the customs regime of goods sold duty free. The annual licensee fee is increasing from Euro 10,000 to Euro 100,000 for each duty free shop. This fee is also due by diplomatic shops selling goods in foreign currency under the duty free regime and for sale on board airplanes with direct routes towards a third State.

ORDER 2101 dated 24 June 2010 to approve organisation and operation Procedures for the EU Operators' Registry as well as to approve the model and content of forms (Official Gazette 429/2010)

The Order approves the procedure to register with the EU Operators' Registry and the related forms.

The following forms are approved:

- ☑ "Application for registration/deregistration with the EU Operators' Registry," code MFP 14.13.01.10.11/r.o.i.;
- ☑ "Decision to register/reject registration with the EU Operators' Registry," code MFP 14.13.02.61;
- ☑ "Decision to de-register upon application with the EU Operators' Registry," code MFP 14.13.02.62;
- ☑ "Decision to de-register ex officio with the EU Operators' Registry," code MFP 14.13.02.63;
- ☑ "Notification to amend the list of shareholders and/or directors," code MFP 14.13.02.64.

To register with the EU Operators' Registry, the taxpayer must submit to the tax authorities:

- ☑ Form 095 "Application for registration/deregistration with the EU Operators' Registry; "
- ☑ Criminal record of all shareholders, issued by the Romanian authorities, except for "SA," as well as criminal records of Directors.

Individuals who apply for registration with the EU Operators' Registry submit his/her criminal record.

In case a penal action against any shareholder or director is disclosed in his/her criminal record, the taxpayer must present documents issued by penal prosecutors from which it results that the penal case is or is not related to EU operations.

In case infringements are disclosed in the criminal record, the taxpayer must present copies of judicial decisions which punish such infringements as well as the document issued by the legal department with the general inspectorate of public finance which coordinates the tax authority in charge or, if case, within ANAF for large taxpayers from which it results that the penal case is or is not related to EU operations.

The application for registration is filed at the registration desk of the tax authority in charge or sent by post using confirmed delivery.

Taxpayers which apply for registration for the EU Operators' Registry starting registration date under the scope of VAT for persons who register under the scope of VAT from set up date must file form 095 together with the application for issue of the registration certificate under the scope of VAT. This requirement applies to entities which register under the scope of VAT from set up date or, if case, with the forms for tax registration/mentions (*amendments*) through which registration under the scope of VAT is applied for as per article 153 or 153¹ of the Fiscal Code.

Application for registration with the EU Operators' Registry is processed within 10 calendar days starting date of registration of the application at the tax authority. Registration with the EU Operators' Registry is effective starting the communication date of the decision regarding registration with the EU Operators' Registry.

In case of taxable entities for whom legal provisions set that registration under the scope of VAT as per article 153 of the Fiscal Code is effective starting the 1st of the subsequent month, further to submission of the registration application, registration with the EU Operators' Registry occurs as of the

communication date of of the decision, but not earlier than the date of registration under the scope of VAT.

Starting with its registration date with the EU Operators' Registry, the taxpayer has a valid VAT code for the EU operations set per article 158² point 1 of the Fiscal Code.

The taxpayer must, within 30 days of amending the list of shareholders and/or directors, inform the tax authorities by submitting a new appendix to the application for registration accompanied by criminal records of the new shareholders and/or directors and, if case, the above mentioned supporting documents.

IMPORTANT – Information regarding criminal record of legal entities

Emergency Ordinance 216/2008 (Official Gazette 848/2008) to amend and complement Law 290/2004 regarding criminal records has introduced a criminal file for legal entities.

The Romanian Police General Inspectorate (IGP) through its department of criminal records, statistics and operations is the central body regarding exchange of information mentioned in the criminal record within the European Union member States. In the case of legal entities, the following data are mentioned in the criminal file:

- a) sentences and security measures pronounced by final judicial rulings;
- b) inception, interruptions and termination of punishment execution, payment of penal fines;
- c) amnesty, reprieve, prescription of execution of punishment, rehabilitation;
- d) sentences and measures pronounced by final penal rulings abroad as well as measures taking by acts made by penal judicial bodies abroad, if these rulings were recognized by Romanian competent bodies;
- e) final rulings which oblige correction in the criminal file.

Application for issue of a copy of the criminal record must be motivated and must include:

- a) civil status, including personal numeric code for individuals;
- b) identification data, including tax registration code for legal entities.

Applications are filed with the police station for the individual's place of birth, at the police station for the legal entity's registered headquarters, or at the Romanian Police General Inspectorate for non-resident individuals or legal entities. The police stations will immediately transmit a copy of criminal records of individuals against whom a decision to introduce prosecution for flagrant or preventive imprisonment has been taken. In the other cases, a copy of the criminal record will be transmitted within 3 business days of application. The application form with full identification data and the reason for application is submitted by the legal representative of the legal entity, who must prove his/her quality with the police station where the branch, the subsidiary or the secondary establishment is located.

To obtain a criminal record of another EU member State, individuals apply at the department of criminal records, statistics and operations with Romanian Police General Inspectorate.

Application can be made by individuals who are or were residents in Romania or in other EU member States with the applicable police station mentioned above.

For legal information regarding criminal records, please refer to an attorney.

EMERGENCY ORDINANCE 51 dated 16 June 2010 to set measures to reduce outstanding debts and other financial provisions (Official Gazette 413/2010)

Significant outstanding amounts are owed by local administration units to economic operators which render services or perform work in the public interest as well as amounts due by economic operators to the State Budget, Budget of public social

insurance and special funds budgets. Accordingly, the Ministry of Public Finance is granting loans of up to RON 1.5 billion to local administration units, for a duration of up to 5 years set in the loan contract concluded with local authorities, with an interest rate of 6.5% per year and a grace period of 1 year. Funds originate from privatisations and are recorded in the current account of the State Treasury.

The loan must be used by local authorities to pay debts recorded as at 31 December 2009 as of the loan application date and not settled with economic operators, suppliers of goods, services and public interest work including economic operators which render a public service of production, transport and distribution of heat through a centralised network.

As per the present Ordinance, outstanding debt is defined as all debts due by economic operators as at 31 March 2010 and not settled with the State Budget, the Budget of social insurance or special funds budgets.

INSTRUCTION 18 dated 1st June 2010 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of June 2010 (Official Gazette 360/2010)

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

EMERGENCY ORDINANCE 50 dated 9 June 2010 regarding consumer loan contracts (Official Gazette 389/2010)

This Ordinance rules the rights and duties of consumers and lenders with respect to promotion, conclusion and carrying out various loan contracts, and brings Directive 2008/48/CE issued by European Parliament and Council on 23 April 2008 regarding loan contracts with consumers into the Romanian legislation, which abrogates Directive 87/102/CEE issued by the EU Council.

The Ordinance applies to loan contracts and to lease contracts, including loan contracts guaranteed by a mortgage or secured with real estate as well as loan contracts for the purpose of purchasing or keeping ownership of an existing or projected immovable item or for refurbishing, equipping, consolidating, renovating, extending or increasing the value of property irrespective of the amount of the loan.

The main provisions of the Ordinance are as follows:

- ☑ Obligation of the lender and the loan intermediary, if applicable, to provide the consumer with all relevant information in a standard form prior to signature of the loan contract, which enables the consumer to analyse and compare several offers in order to take a well grounded decision. The lender also has the obligation to provide clarification regarding information provided;
- ☑ Obligation of the lender to assess the consumer soundness before the conclusion of the loan contract on the ground of the provided information and by accessing the available database in this respect;
- ☑ Access by lenders located in other member States to a database maintained by rating agencies to assess consumer credit worthiness for trans-border loans;
- ☑ Interdiction against charging a commission to file if the loan is not granted, as well as against charging a commission for remittance/cash withdrawal to repay loan principal and interest;
- ☑ Possibility for the consumer to terminate the loan within 14 calendar days starting date of signature without having to give a reason;
- ☑ To determine variable interest rates, fluctuations in reference indices such as EURIBOR/ROBOR/LIBOR/National Bank of Romania interest rates will be taken into account, the lender being entitled to add a set fixed margin;
- ☑ Commissions regarding the loan contract are limited to loan administration commissions, early repayment com-

missions, insurance fees, if any, as well as late payment penalties, and the sole commission for services rendered upon consumer request;

- ☑ Early repayment commissions are only allowed for fixed interest rate loans and its ceiling is 1% of the amount of the amount paid ahead of schedule, if the time lapse between the anticipated refund and termination date of the loan contract is over 1 year, and 0.5% if the time lapse is less than 1 year;
- ☑ Early repayment commissions are not due in the following 3 circumstances: refund occurs further to activation of an insurance contract which objective was to cover the risk of non-payment, the loan was contracted under the form of "overdraft," or the refund occurs in a period when the interest rate was variable;
- ☑ Obligation of the lender to communicate a written proposal regarding rescheduling or refinancing of the contract to the consumer in case of inability of the consumer to accept the interest rate increase.

The Ordinance applies to new contracts as well as to contracts in progress. Lenders are obliged to draft addenda to contracts within 90 days of its entry into force. If the consumer does not sign the addendum, tacit acceptance is assumed.

The new provisions entered into force on 22 June 2010, the date when Law 289/2004 regarding the legal regime of consumer loan contracts was abrogated and several provisions of Law 190/1999 were amended.

2010 COLLECTIVE BARGAINING FOR ENTERPRISES IN THE FIELD OF TRADE (Official Gazette Part V no. 3/2010)

Provisions of the Collective Labour Contract produces its effects for all enterprises in the field of Trade which have concluded it irrespective of ownership (public or private, Romanian, foreign or both), if the main field of activity is trade, public restaurant, retail, rental of owned property, or gambling, as per CAEN codes 45, 46, 47, 56, 68.2, 92.

Among provisions of the Collective Labour Contract, we mention:

- ☑ Full time base salary is RON 50 more than minimum gross salary set by National Labour Contract;
- ☑ For positions for which Saturday and Sunday are business days, given the features of the activity, the employer must grant the employee at least 1 week-end free per month and the number of free Sundays per year cannot be less than 18. If the employer cannot meet the requirements of 18 free Sundays per year, the employee will receive a bonus equal to at least to 50% of base salary;
- ☑ Overtime and hours worked during on days off are compensated with double time off in lieu of overtime within 30 days or are paid twice the base salary;
- ☑ Hours worked on a Saturday are paid with an increase of 10% of base salary;
- ☑ Hours worked on a Sunday are paid with an increase of 15% of base salary;
- ☑ Hours worked on a legal holiday are paid double or the same number of free hours is granted;
- ☑ Employees who reach retirement age receive compensation equal to 3 base salaries of the month when he/she retires;
- ☑ In case of death of the employee, support to the family in the amount of at least 3 monthly average gross salaries of the deceased employee is granted;
- ☑ If the employee death was caused by a work accident or related to work or an occupational disease, the amount of support granted to the family is at least 6 average monthly salaries of the enterprise;

- Upon birth of an employee's child, 1 average company salary is granted;
- Upon the employee's first wedding, 2 average company salaries per month are granted;
- In case of death of the spouse or of a first degree relative, 1 average company salary per month is granted;
- In case of termination of the labour contract for reasons which are beyond the employee's control, compensation of at least 2 months will be paid;
- In case of collective dismissal, compensation in cash of at least 6 gross monthly salaries earned by the employee will be paid.

Days off for special events mentioned in the National Labour Contract have changed. Three additional paid days off are granted for moving domicile within the same town and the number of free days in case of death of grandparents, brothers or sisters is amended from 1 to 3.

In addition, the National Labour Contract **recommends** payment of the following bonuses or additional income:

- Easter Bonus of minimum RON 100 gross;
- Christmas Bonus of minimum RON 500 gross;
- Vacation bonus at least ½ of base salary;
- Profit allocation up to 10%;
- Luncheon vouchers, Gift vouchers, Nursery vouchers, social vouchers and similar instruments granted as per legal provisions;
- Other income granted to employees on 8 March, of a minimum amount of RON 50 net per employee;
- Other income granted to employees with under age children, of a minimum amount of RON 150 RON net for each child for Christmas tree and for a minimum of RON 100 net for Easter for each child.

ORDER 1810 dated 9 June 2010 to approve Precisions regarding procedure to collect funds received by donations to the State Budget in order to reduce effect of the economic crisis (MO 395/2010)

Precisions are approved on the mode to collect funds received in the form of donations to reduce the effects of the economic crisis. Donations can be made by individuals, through the intermediary of his/her employer in the limit of the amount due by the employer on the grounds of a written document from the donor where the amount of the donation and whether the donor wishes to reveal his/her identity and to make the donation public are disclosed. Donations made by individuals by the intermediary of his/her employer which is a public institution are upon payment by the public institution from the account for budgetary expenses or from the Treasury account, depending on from which account salaries rights of the individuals who donate are paid.

REGULATION (CE) 883 dated 29 April 2004 of European Parliament and Council regarding coordination of social security regimes (European Gazette L166&200/2004)

On 1st May 2010, the regulation regarding application of social security regimes for persons who move within the European community entered into force. This regulation applies to nationals of one of member State, to stateless persons and to refugees who are residents in one member State and fall under the legislation of one or several member States as well as to their family members and descendants.

The Regulation applies to legislation afferent to the branches of social security regarding:

- Sickness benefits;
- Maternity benefits and assimilated paternity benefits;
- Disability benefits;
- Retirement benefits;

- Survivor benefits;
- Work accident and occupational disease benefits;
- Death benefits;
- Unemployment benefits;
- Pre-retirement benefits;
- Family benefits.

In its sphere of application, this Regulation replaces any social security convention applicable between member States. Some provisions of social security conventions concluded between Member states prior to the date the present Regulation entered into force continue to apply to the extent that they are more favourable to beneficiaries or in case they result from special historical circumstances and are in effect for a limited period of time.

Except as otherwise stated, the present Regulation does not confer or maintain the right to benefit from several benefits of the same kind for the same period of mandatory insurance.

A person who has a paid occupation in a member State for an employer which usually carries out its activity in the same member State and who is seconded to work there by his/her employer in another member State, continues to be subject to legislation of the first member State under the condition that the foreseeable duration of the secondment does not exceed 24 months and he/she is not seconded to replace another person.

A person who carries out his/her employment activity in 2 or several member States is subject to:

- the legislation of the member State of residence in case of performance of a substantial part of his/her activity in the respective member State or in case he/she depends on several enterprises or several employers whose headquarters or place of performance of activity is located in different member States

or

- the legislation of the member State where headquarters or place of performance of the activity of the enterprise or of his/her employer is located, in case the person carries out a substantial part of his/her activity in the member State of residence.

The Regulation expressly sets the possibility of an employer to hire an employee for the purpose of his/her secondment in another member State, under certain conditions. Until 1st May 2010, although there was no provision expressly forbidding immediate secondment, the courts disallowed the possibility of hiring an employee for the sole purpose of his/her secondment.

SUMMER JOBS AND INTERSHIPS

During the holidays, pupils and students aged 16 or above can work in different seasonal activities on a temporary basis. Parental consent is required for pupils and students who are 16 or 17 years old. Only pupils or students 18 years and older may occupy work positions with difficult working conditions, hazardous or presenting risk of injury.

A labour contract for a determined period can be concluded. The trial period is 5 working days for a labour contract for less than 3 months. The number of working hours for employees under 18 years old cannot exceed 6 hours per day and 30 hours per week. Overtime or night shifts are not allowed. A daily a luncheon break of 30 minutes must be granted.

The employer which, during legal school vacation periods, recruits pupils or students will benefit from monthly financial aid equal to 50% of the social reference indicator (RON 500) for each employed pupil or student, but no more than 60 working days per calendar year. To benefit from this aid, the employer must conclude an agreement with the Labour Agency within 30 days of the employment date during legal school vacation periods.

H.R. KEY FIGURES

2010 Contribution	Employer (%)	Employee (%)
Social security contribution	20.8% for normal working conditions 25.8% for particular working conditions 30.8% for special working conditions	10.5%
Medical leave contribution and health insurance allowance	0.85%	
Work accident and occupational disease fund	0.15% - 0.85% depending on CAEN code for main activity	
Unemployment fund	0.5%	0.5%
Contribution to fund to guarantee payment of salary liabilities	0.25%	
Health insurance fund	5.2%	5.5%
Labour office commission	0.25% or 0.75%	
Salary tax		16%
Contributions for non employment of disabled persons (for employers with more than 50 employees)	4 x 50% minimum gross salary (RON 600) for every 100 employees	
Minimum monthly gross salary	RON 600 for unqualified positions RON 720 for positions requiring High School RON 1,200 for positions requiring a University degree	
Luncheon voucher subject to income tax starting July 2010	RON 8.72	
Average monthly gross salary — (INSSE April 2009)	RON 1,973	
Per diem (in Romania)		
Employees in the public sector	RON 13.00	
Employees in the private sector (x 2.5)	RON 32.50	

The financial aid is deducted by the employer from employer contributions to unemployment insurance.

There is also the possibility of internships, especially for the students on an unpaid basis.

As for the civil contracts, some tax inspectors do not recognize them and re-qualify them as labour contracts with all social and fiscal obligations it triggers.

EMERGENCY ORDINANCE 43 dated 5 May 2010 to amend legal provisions in the scope of administrative reduction or simplification of licenses/approvals/procedures further to measures assumed by the Romanian Government in the frame of the Simplification Plan regarding the agreement memorandum between the European Community and Romania signed at Bucharest on 23 June 2009 (Official Gazette 316/2010)

This Ordinance amends several texts of law. We mention the changes introduced to Law 31/1990 republished regarding commercial companies:

- Liquidation of a company must be completed at the most 1 year starting the date of its dissolution, a deadline which can be postponed to 24 months maximum upon grounded reasons. These deadlines must be considered in light of recent amendments of the Fiscal Code which set that minimum tax is due even if dissolution has been pronounced.
- Every 6 months, the liquidator will submit a report on the status of the liquidation operations to the Trade Register.
- Within 15 days of completion of the liquidation, the liquidator will submit the application for deregistration to the Trade Register.
- The judicial decision regarding deregistration is communicated to the company registered headquarters, to ANAF and is published on the website of the Trade Register.
- Companies which at the date of publication of the present Ordinance have been in dissolution or in liquidation for more than 3 years are de-registered ex officio from the Trade Register.
- Companies, companies under a voluntary dissolution for over 5 years from the date of publication of the present Ordinance are de-registered ex officio from the Trade Register.

CHECK THAT THE TAX RETURNS SUBMITTED ON-LINE WERE INDEED PROCESSED BY THE TAX AUTHORITIES

Tax returns submitted by remote means of electronic transmission by taxpayers can be checked on ANAF website in the section entitled "Visualisation of the status of submission of returns." The procedure consists of logging onto the ANAF website and by presenting the digital certificate supplied by the licensed provider to check the historical status of tax returns submitted on-line from the very first on-line submission until the effective processing of the last tax return submitted on-line. This control is made by selection of the taxpayer registration code from a defined list. In case the holder of the digital certificate represents the interests of several entities, the list will include all the tax registration codes registered on the ANAF portal for the holder.

It is very important to periodically perform this control because, although on-line submission triggers a confirmation receipt upon submission, tax authorities subsequently deliver different messages regarding the different types of errors which appear subsequent processing tax returns submitted on-line. Under these circumstances, the taxpayer can then take corrective measures.

The entire procedure can be found on www.anaf.ro under the caption: "Legal entities – Information regarding submission of returns."

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 June 2010:

1 Euro = 4.3688 RON; 1 USD = 3.5617 RON;
1 CHF = 3.2956 RON; 1 GBP = 5.3493 RON.

VAT – Rules to apply regarding the change in VAT rate from 19% to 24%

Base rule: the applicable rate is the rate of the generating event (meaning the rate in force at delivery date, at date of pro-

vision of services, etc.), in accordance with article 140 (3).

Exceptions to the base rule, in accordance with article 140 (3):

- If the invoice is issued before the generating event, the VAT rate in force at the date of issue of the invoice applies;
- If an advance payment has been collected before the generating event, the VAT rate in force at the date of cash-in of the advance payment applies (but, if the fiscal invoice is issued at the date of supply/provision of services, at a date on or after 1st July 2010, in this case, the adjustment, meaning the write-off of the advance payment, is made with the VAT rate initially applied on the invoice issued on receipt of the advance payment and for the final invoice, the VAT rate of 24% in force upon supply/provision of services applies).

JULY 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 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 update fiscal evidence register for Quarter II 2010
- 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 July 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 Wednesday 7 July is 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 June 2010. Starting July 2010, VAT returns will be submitted monthly.

That Monday 12 July is the last day to submit

- Return for collection of hotel tax

That Monday 12 July is the last day to pay

- Hotel tax
- Advertising service tax

That Thursday 15 July the last day to submit

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

That Monday 26 July is the last day to submit

- State consolidated 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 first 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)
- Statement of income obtained from abroad by individuals who carry out activity in Romania and by Romanian citizens who are employees of diplomatic missions and consular posts accredited in Romania (form 224)
- Special VAT return for VAT non payers (form 301)*
- Environment Fund Statement.

That Monday 26 July is the last day to pay

- Excise taxes
- Tax on crude oil and natural gas from domestic production
- Withholding tax on non-resident income
- Tax on profit/minimum tax for Quarter II 2010;**
- 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 the Environment Fund
- Gambling tax.

And in the near future.....

- The EU Operators' Registry which enters into force as at 1st August 2010**
- "Accounting Report" as at 30 June 2010 (balance sheet, income statement, informative data) is due by Friday 13 August 2010!!!**

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 or from the ANAF website: www.anaf.ro. Tax returns noted with an asterisk (*) can be submitted by remote means of electronic transmission by taxpayers which have opted to file their returns on-line and which hold a digital certificate.



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**



The above information is a short summary of recently published information and is not intended to be advice on any particular matter. APEX Team International disclaims liability to any person in respect of anything done in reliance of the contents of these publications.