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## LAW 40 dated 31 March 2011 to amend and complement Law 53/2003 – Labour Code (Official Gazette 225/2011)

### Conclusion and amendment to a labour contract

The employer must, **prior to inception of activity**, provide the employee with his/her labour contract.

From now on, salaries are only set by negotiation between the employee and the employer. The minimum salary amount is set by a collective labour agreement when applicable. A job description disclosing duties of the position as well as professional assessment criteria prevailing within the enterprise must be included in the labour contract.

Any amendment to one of the captions of a labour contract in progress triggers the conclusion of an amendment to the labour contract within 20 business days starting amendment date except for cases when such an amendment is expressly established by law.

Upon request of an employee or a former employee, the employer must issue a document which certifies the activity he/she performs or performed for the length of employment, salary, and seniority at work, by profession or speciality.

The employer is entitled to set individual performance objectives as well as assessment criteria regarding achievement.

### Labour contract for a determined period

A labour contract for a determined period can also be concluded for carrying out projects or programmes.

**A labour contract for a determined period cannot be concluded for a period of more than 36 months** (vs. 24 months previously). **The same Parties cannot conclude 3 consecutive labour contracts for a determined period.**

If a labour contract for a determined period is concluded within 3 months from termination of a former determined period labour contract, they are deemed successive contracts and each contract may have a period of more than 12 months.

### Staff Register (REVISAL)

**Any** employer must maintain staff registers, effective immediately. REVISAL is maintained electronically using the IT application provided by the Labour Inspectorate (ITM) and includes identification data of each employee, hire date, job position as per the Classifications of Employment in Romania (COR) or as per other texts of law, type of labour contract, salary, incentives and amount, period and provisions regarding suspension of labour contract, secondment period and termination date of the labour contract. Conclusion of the labour contract must be recorded in REVISAL prior to inception of activity and forwarded to ITM online.

### Trial period

For the purpose of checking the employee aptitude, **a trial period of up to 90 calendar days for regular employees** (vs. 30 days previously) **and up to 120 calendar days for management positions** (vs. 45 days previously) can be set upon conclusion of the labour contract.

Management positions are those defined by law **or by internal employer regulation**. During or at the end of the trial period, the labour contract may only be terminated by written notification, without notice period, at the initiative either Party and without justification.

The period when it is possible to hire several persons for the same position with a trial period is 12 months at the most.

### Contract via a temporary work agent

The maximum period for a temporary work assignment is 24 months and can be renewed for successive periods, in addition to the initial duration of the assignment but the outcome cannot be a total work period longer than 36 months.

The temporary labour contract for the purpose of carrying out an assignment may include a trial period which cannot exceed:

- 2 business days if the temporary labour contract is concluded for a period of less than or equal to 1 month;
- 5 business days if the temporary labour contract is concluded for a period of between 1 and 3 months;
- 15 business days if the temporary labour contract is concluded for a period between 3 and 6 months;

- 20 business days if the temporary labour contract is concluded for a period beyond 6 months;
- 30 business days in cases of an employee hired for a management position for a temporary labour contract period for more than 6 months.

### Internal Regulations

Internal Regulations must include criteria as well as procedures for professional assessment of employees.

### Secondment and mobility

Secondment may be imposed for a period of 60 calendar days within 12 months and may be renewed for successive periods of 60 calendar days at a most, only with the employee's agreement. The employee's refusal to renew the secondment period cannot be grounds for disciplinary sanction.

In case a mobility provision is set in the labour contract, the amount of employee benefits from additional compensation in cash or in kind must be disclosed in the labour contract.

### Paid holidays

In case the holiday plan sets several vacation periods, the employer must plan in such a manner that any employee may have 10 consecutive business days off within a calendar year (vs. 15 days previously).

### Extra pay

Extra pay for working at night increases from 15% to 25% of the base salary if the number of hours worked during night time represents at least 3 hours considering the standard duration of work. We emphasize that, in the absence of negotiated provisions, **extra pay for overtime hours worked** set by the Labour Code is **75% of the base salary**.

### Temporary reduction of activity and overtime

In case of temporary reduction of activity for economic, technological, structural or other reasons for periods which exceed 30 business days, the employer is entitled to reduce the period of work from 5 days to 4 days per week with a corresponding decrease in salary until the circumstances which provoked the work period reduction are remediated, upon prior consultation with the trade union which is representative within the enterprise or the employees' representatives, as the case may be.

In case of temporary reduction of activity, the employees remain "at the disposal" of the enterprise and can be required to resume activity at any time.

During the interruption period, employees benefit from compensation which is equal to at least 75% of the base salary for their job position.

The maximum length of work including overtime cannot exceed 48 hours per week.

By exception, the duration of work time including overtime can be extended beyond 48 hours per week under the condition that the average number of work hours calculated upon a **reference period of 4 calendar months** (vs. 3 months previously) does not exceed 48 hours per week.

For some activities or professions set in the applicable collective labour agreement, a reference period of 4 to 6 months for computation of the average duration of work time can be negotiated.

Subject to compliance with regulations regarding health and safety protection of employees, in cases of objective, technical or operational reasons, collective labour agreements may provide for exceptions to the duration of reference periods established above, but such reference periods cannot exceed 12 months.

Overtime is compensated by paid time off within **60 calendar days** (vs. 30 days previously) after having worked extra hours.

During the periods of reduction of activity, the employer is entitled to grant paid days off which will be compensated by overtime carried out during the subsequent 12 months.

### Professional training

In case of attendance for courses or professional training sessions further to the initiative of the employer, all related costs are to be supported by the employer.

Employees who **benefit** from a course or **professional training** session **cannot have the initiative to terminate the labour contract within a period set in an addendum to the labour contract** (previously, the period was set at 3 years at most for professional training of 60 days).

### Salary payment

Payment of the salary can be made by transfer into a bank account.

### Suspension and termination of a labour contract

When, during suspension of the labour contract, a reason for termination by law of the labour contract occurs, the reason for termination by law prevails.

In case of suspension of the labour contract, all timeframes regarding conclusion, amendment, performance or termination of the labour contract are suspended except for cases when the labour contract is terminated by law. Suspension of the labour contract occurs in circumstances when licenses, approvals or certificates necessary for carrying out the profession expire. If, within 6 months, the employee has not renewed his/her license, approval or certificate, the labour contract ceases by law.

Dismissal of an employee for professional inadequacy can be decided only after prior assessment in accordance with assessment procedures set by the applicable labour agreement or, in its absence, by Internal Regulations.

To select employees who could be concerned by a collective dismissal, social criteria will be used after assessment of performance criteria.

Within 45 days starting dismissal date, the employee made redundant further to a collective dismissal has the right to be re-hired in priority without exam, competition or trial period for the position which was recreated in the same conditions. In case, during this period, the same activities are resumed, the employer will communicate to employees who were made redundant from positions for which activity is resumed in the same conditions of professional competence, a written notice to inform them about resumption of activity. Employees have at a most 5 calendar days from date of employer communication to express, in writing, their consent regarding the position offered. If employees entitled to be re-hired do not express their consent in writing in the set timeframe or refuse the position offered, the employer may proceed with new hires for the remaining unoccupied positions.

Dismissed employees benefit from a notice period which cannot be less than 20 business days in the following cases:

- for physical and/or mental deficiency set by competent bodies of medical expertise;
- because he/she is not professionally fit for the position for which he/she is employed;
- for reasons which are not related to the employee.

The employer must register the employee resignations. Employer refusal to register employee resignations gives the employee the right to provide evidence of resignation, with any means of proof.

The **notice period in case of resignation cannot exceed 20 business days for regular employees** (vs. 15 calendar days previously) **or cannot exceed 45 business days for employees with management positions** (vs. 30 calendar days previously).

### Disciplinary sanction and monetary liability

The disciplinary measure of labour contract suspension for a period of up to 10 business days is abrogated.

The disciplinary sanction is removed by law at expiry of 12 months from its application if a new disciplinary sanction is not

applied to the employee during this timeframe. Removal of disciplinary sanctions is established by written resolution of the employer.

In case the employer discovers that the employee is liable for damages caused by him/her and in relation to his/her work, the employee can require, in a report of findings and valuation of damages, reimbursement for damages by agreement between the Parties in a timeframe which cannot be less than 30 days from the date of communication. The amount of damages recovered by agreement between the Parties cannot exceed the equivalent of 5 minimum gross salaries according to the national plan.

#### Contraventions and infractions

The following acts represent breach of law:

- to employ up to 5 persons without concluding a labour contract and is punished by fine of between RON 10,000 and RON 20,000 per identified person;
- working without a labour contract is punished by fine of between RON 500 and RON 1,000 for the person who work as such;
- violation of the employer obligation to require, upon hire, a medical certificate declaring that the person in question is able to work as well as with the obligation to maintain evidence of the number of hours worked by each employee and to present these documents as often as requested upon labour inspection is punished by fine of between RON 1,500 and RON 3,000;
- infringement of legal provisions regarding registration of a resignation by the employer is punished by fine of between RON 1,500 and RON 3,000;
- infringement of the provisions of article 1001 by a temporary labour agent (the temporary labour agent does not receive any fee from the temporary employee for steps undertaken for the purpose of his/her hire by a client or for conclusion of a temporary labour contract) is punished by fine of between RON 5,000 and RON 10,000 per identified person, but no more than the cumulated amount of RON 100,000;
- infringement of provisions of article 16 point (3) (the employer must give the employee his/her labour contract prior to inception of activity) is punished by fine of between RON 1,500 and RON 2,000.

Persons which have repeatedly concluded labour contracts with a salary less of than the minimum gross salary which payment is guaranteed in the country as per law have committed an infraction punished by imprisonment of between 6 months to 1 year or a penal fine.

The same sanctions apply to legal entities which have repeatedly refused access by Labour Inspectors to any of its premises or refused to provide inspectors with documents required as per law.

Persons which employed more than 5 persons irrespective of their nationality without concluding a labour contract have committed an infraction punished by imprisonment of between 1 year to 2 years or a penal fine.

#### Collective Labour Agreement

Most of the provisions of the former Labour Code regarding the National Sole Collective Agreement are abrogated. The obligation remains to negotiate a collective agreement within the enterprise except for cases when headcount is less than 21 employees. Negotiation of the collective agreement within the enterprise takes place between company representatives (employer) and the representative trade union or, in its absence, employee representatives.

On Monday, 18 April 2011, the Government has engaged its responsibility in front of the Parliament regarding the Project of Code of Social Dialogue. The future Code, prepared by the

Labour Ministry, will include regulations regarding employers, trade unions, social dialogue, collective labour disputes as well as organisation and operation of the Economic and Social Council.

As per these new provisions, there will no longer be a National Sole Collective Agreement and the labour collective agreements will be concluded by branch of activity.

#### EMERGENCY ORDINANCE 35 dated 30 March 2011 to establish measures in the field of performance of programmes of public or social interest, of fulfilment of fiscal obligations and optimal operation of public institutions as well as for unitary application of legal provisions (Official Gazette 253/2011)

The Ordinance suspends the obligation to certify annual tax returns of a taxpayer which is a legal entity by a tax consultant until 1<sup>st</sup> January 2013.

#### EMERGENCY ORDINANCE 37 dated 13 April 2011 to amend and complement Accountancy Law 82/1991 and to amend other related texts (Official Gazette 285/2011)

The amendments introduced to the Accountancy Law are presented below.

##### Persons to whom Accountancy Law applies

Article 1 is complemented by the following:

- Entities of collective investment which are not set up in a deed as set in legislation regarding capital markets, optional pension funds, pension funds administrated by the private sector and the other entities set up as per the Civil Code. These entities must organize and maintain financial accounting.
- Individuals who carry out activities generating income must maintain a simplified accounting system based on the rules of single entry bookkeeping. These persons maintain the Ledger Journal of collection and payment as well as the Inventory Register.

Sub units opened in Romania by companies which are resident in a State within the European Economic Area must organise and keep their own books as per the Accountancy Law **without preparing annual financial statements for their own activity.**

##### Simplified Accounting System

- Entities which, during the previous financial year, have posted a **turnover net less** than the equivalent in RON of **Euro 35,000 and present a total of assets of less** than the equivalent in RON of **Euro 35,000**, can opt for the Simplified Accounting System, approved by Order of The Ministry of Public Finance.
- To assess if the above mentioned criteria are met, results per annual financial statements and the trial balance at year end of the previous financial year are taken into consideration and the exchange rate of the National Bank of Romania in force at year end of this same financial year is used.
- A simplified accounting system is defined as a set of basic rules regarding valuation, recording assets by using a simplified chart of accounts, and regarding their presentation in annual financial statements which comprise a balance sheet and simplified income statement, the EU provisions in this respect being taken into account.
- For companies which apply the simplified system, accounting can be managed and maintained as per the standard system (separate department managed by the Financial Director/Chief Accountant or outsourced to a natural or legal person, member of the Body of Romanian Chartered Accountants- CECCAR) but it is also possible upon option that bookkeeping is made by an individual with a degree in Economy with whom the company will conclude a contract

or agreement as per the Civil Code. In the latter case, responsibility for bookkeeping lays with this individual.

- ☑ Annual financial statements and Accounting reports are prepared and signed by persons who organise and keep the books in cases where entities apply the simplified system.

#### Conservation of technical support

Legal entities who use IT systems for processing data must ensure processing of data recorded in accountancy in accordance with applicable accounting regulations, control and conserve them using computerized media back-up for a duration of **10 years**. Legal entities must ensure access to data kept on technical media back-up to tax authorities.

#### Financial year different from calendar year

The option for a financial year different from the calendar year implies the following obligations:

- ☑ Preparation and submission of the Annual Accounting Report with the territorial units of the Ministry of Public Finance (MFP);
- ☑ Written information to the territorial unit of MFP regarding the chosen financial year at least 30 calendar days prior opening date of the chosen financial year. For this purpose, the entity must prove that it is a branch of a legal entity with its headquarters registered abroad or a subsidiary of a parent company with its headquarters registered abroad and which has a financial year different from the calendar year.
- ☑ Except for cases where the foreign legal entity or the foreign parent company changes its year end or reorganisation operations occur, the chosen date for preparation of annual financial statements cannot be changed from one financial year to another.

#### Non profit organisations

Non profit organisations prepare annual financial statements which comprise a balance sheet and income statement. **Non profit organisations no longer need to prepare disclosure notes and accounting policies.**

#### Deadlines for submission of annual financial statements

- ☑ Commercial companies, national companies, "regii autonome," research and development institutes, sub units in Romania which are not legal entities and which belong to legal persons with registered headquarters abroad with the exception of sub units opened in Romania by companies which are resident in a State within the European Economic Area submit their annual financial statements within 150 days after end of the financial year.
- ☑ For other legal entities, deadline for submission is 120 days from end of the financial year.
- ☑ Legal entities which, from set up date, have not carried out any activity as well as sub units in Romania which are not legal entities and which belong to legal entities with registered headquarters abroad and which have not carried out any activity since set up date, must submit a statement in this respect with territorial units of MFP within 60 days from the end of the financial year.
- ☑ During liquidation period, legal entities under liquidation progress as per law submit an Accounting report with territorial units of MFP within 90 days starting the end of each calendar year, the content of which is set by MFP Order.
- ☑ Annual financial statements prepared for the purpose of performing operations of merger, demerger or liquidation of the respective entities are submitted with territorial units of MFP in the conditions set by accounting regulations issued in this respect.
- ☑ The Board of Directors or the Directorate of the parent company as defined in applicable accounting regulations

must submit the **consolidated** annual financial statements to territorial units of MFP within 15 days starting date of approval as per legal provisions in force.

#### ORDER 1853 dated 5 April 2011 to approve Implementation procedures of provisions of Government Emergency Ordinance 29/2011 regarding granting instalment payments (Official Gazette 249/2011)

This Order approves the Implementation procedures of instalment payments ruled by OUG 29/2011 which was fully presented in March 2011 APEX Team Newsletter.

#### ORDER 1967 dated 11 April 2011 to approve Registration Procedures under the scope of VAT in accordance with provisions of article 153 point (1) letter a) or c) of Law 571/2003 – Fiscal Code and to approve the model and content of forms (Official Gazette 271/2011)

The Order approves the model and content of the form "Decision for registration under the scope of VAT in accordance with provisions of article 153 point (1) letter a) or c) of Law 571/2003 – Fiscal Code, with its further amendments and complements," code 14.13.02.60/i.c.

Registration certificates under the scope of VAT issued prior to entry in force of the present Order remain valid.

The Order also approves the registration procedure for legal entities to be under the scope of VAT in accordance with provisions of article 153 point (1) letter a) or c) of Law 571/2003 – Fiscal Code.

The main amendment which is introduced consists of the fact that registration under the scope of VAT is not made directly at set up by selecting the option with Trade Register. Registration under the scope of VAT is made once the legal entity is set up, by submitting necessary documentation to ANAF.

Registration of a taxable entity under the scope of VAT is considered valid starting:

- a) communication date of the decision to approve registration under the scope of VAT in the case of taxable persons which apply for registration in the conditions of article 153 point (1) letter a) of the Fiscal Code before carrying out taxable operations;
- b) the first day of the month subsequent to the month when the decision to approve registration under the scope of VAT has been communicated to the taxable entity in the cases where of article 153 point (1) letter c) of the Fiscal Code applies; that is, when the taxpayer posts turnover less than the exemption threshold during a calendar year but opts for application of the standard VAT regime.

#### ORDER 1873 dated 12 April 2011 to approve Decision 1/2011 of the Central Fiscal Commission (Official Gazette 278/2011)

For interpretation and unitary application of article 137 point (1) letter a) and of article 140 of the Fiscal Code Fiscal as well as paragraph 23 point (1) and (2) of Title VI of the Implementation Norms of the Fiscal Code, for taxable supplies of construction and parcels of land, output VAT is determined depending on the will of the Parties as it results from contracts or other means of proof administrated as per the Code of Fiscal Procedure, as follows:

- a) by application of the VAT rate to the amount of the supply in accordance with the provisions of paragraph 23 point (1) of Implementation Norms of Title VI "VAT," in the case from which it results that:
  1. the Parties have agreed that VAT is not included in the amount of the supply; or
  2. the Parties have not agreed anything regarding VAT;
- b) by application of a "grossing up" computation set at paragraph 23 point (1) of the Implementation Norms of the Title VI "VAT," in cases where it results that the Parties have

agreed that VAT is included in the amount of the supply.

**ORDER 1932 dated 30 March 2011 to amend and complement ANAF Presidential Order 101/2008 to approve model and content of standard forms to declare taxes and contributions under self-assessment or withholding regime (Official Gazette 244/2011)**

The main amendment refers to the introduction of the access fee to gambling establishments among the fiscal liabilities to be declared in form 100 regarding liabilities to the State Budget.

**ORDER 1977 dated 18 April 2011 to amend and complement ANAF Presidential Order 1786/2010 to approve Procedures for amending ex officio the fiscal status ("vector fiscal") regarding VAT as well as model and content of forms (Official Gazette 282/2011)**

We mention the amendments introduced by this Order below.

Ex officio registration of a taxable person under the scope of VAT is considered valid starting:

- the first day of the month subsequent to the month when the decision regarding ex officio registration for the scope of VAT has been communicated to the taxable person;
- the reactivation date of a taxpayer which was declared inactive as per ANAF Presidential Order;
- the registration date of amendments ("*mentiuni*") regarding resumption of activity with the Trade Register, if applicable.

The registration date for the scope of VAT is 1<sup>st</sup> of the month subsequent to the date when the declaration of "*mentiuni*" (*amendments*) was registered, the reactivation date of the taxpayer which was declared inactive as per ANAF Presidential Order or the registration date with Trade Register of "*mentiuni*" (*amendments*) regarding resumption activity, as the case may be.

**ORDER 1957 dated 4 April 2011 to amend ANAF Presidential Order 986/2008 to approve Procedures for determination of tax for pollution from vehicles (Official Gazette 265/2011)**

**INFORMATION – EU Operators Registry (ROI) – Update upon change of shareholder or Director**

When changes in shareholders or Directors occur in an entity registered in the EU Operators Register, ANAF must be informed, in order to update data in ROI.

For this purpose, the following documents must be submitted:

- Appendix to form 095 with the notation of "amendment" ("*mentiuni*") in 2 originals disclosing the list of shareholders and Directors as per the new certificate ("*certificat constatator*") issued by the Trade Register further to changes which occurred;
- Judicial certificates of the new shareholders and of the new Directors;
- Copy of the appendix to form 095 previously submitted;
- Certificate of "*mentiuni*" (*amendments*) issued by the Trade Register in copy;
- Decision of the Judge of the Trade Register in copy;
- "Certificat constatator" (*Extract of the Trade Register*) issued by the Trade Register in copy.

In case a shareholder withdraws from the company or a Director is removed, all the above mentioned documents must be submitted to ANAF except for the judicial certificates.

We underline that this applies to shareholders which are either individuals or legal entities. In addition to an effective change of shareholder or Director, a change in name also applies.

**INSTRUCTION 12 dated 1<sup>st</sup> April 2011 regarding the reference interest rate of the National Bank of Romania (NBR) for the month of April 2011 (Official Gazette 230/2011)**

For the month of April 2011, the NBR reference interest rate is 6.25% per annum.

**ORDER 1930 dated 30 March 2011 to approve obligations which lay with offices appointed by the National Public Pension House, National Health Insurance House and National Employment Agency in the application of Procedures regarding reception, processing and transmission of "Return regarding social contributions, income tax and nominative list of insured persons" (Official Gazette 254/2011)**

**LAW 52 dated 15 April 2011 regarding carrying out temporary activities by day labourers (Official Gazette 276/2011)**

This Law rules the legal framework in which day labourers may carry out temporary activities which represent departure from provisions of the Labour Code.

We present the main provisions of this Law below:

- The relation between the day labourer and the beneficiary is established without conclusion of a labour contract.
- The length of the occasional activity which can be carried out is at least of one day which corresponds to 8 hours of work.
- The maximum length for carrying out activities by a day labourer cannot exceed 12 hours, or 6 hours for an underage person who can work. Even if the Parties convene of a lower number of work hours, the pay of a day labourer will be made for the equivalent of at least 8 hours of activity.
- No one can hire someone who has not reached the age of 16 as day labourer.
- No day labourer can carry out activities for the same beneficiary for over 90 accumulated days during a calendar year.
- The beneficiary cannot hire a day labourer to carry out activities for the benefit of a third person.
- The beneficiary must maintain the Day Labourers Registry which is kept at the Beneficiary headquarters. This registry must be kept daily before inception of activity. Monthly, at the latest on the 5<sup>th</sup> of the month, the registry must be presented to the Labour Inspectorate where the registered headquarters of the company beneficiary is located.
- Payment to the day labourers is made at the end of each day of work.
- Payment of income tax due for the activity carried out by the day labourer is supported by the beneficiary. The amount of the income tax is 16% applied to the gross pay.
- The activity carried out in conditions of the present Law does not confer to the day labourer the quality of insured person within the public pension regime, public unemployment insurance regime or public health insurance regime. The day labourer can obtain health and/or pension insurance separately if he/she wishes.
- Upon income derived from activities carried out by day labourers, no mandatory social contribution are due by the day labourer or by the beneficiary.
- The amount of hourly gross pay set by the Parties cannot be less than RON 2 per hour or more than RON 10 per hour and is paid at the end of each day of work prior to signature of the Day Labourers Registry both by the day labourer and the beneficiary. Proof of payment of the daily pay is made by signature by the day labourer in the Day Labourers Registry.

Activities with an occasional feature can be carried out in the following domains: agriculture, hunting and fishing, forestry including timber activities, fish farming and aquaculture, tree and vineyard cultivation, bee keeping, breeding of stocks, performing arts, cinematographic and audiovisual productions, cultural activities, handling goods, maintenance and cleaning activities.

**ORDER 1865 dated 8 April 2011 to approve methodological Norms for preparation and submission of quarterly financial statements of public institutions as well as monthly reports in 2011 (Official Gazette 271/2011)**

**REMINDER – Adjustment to taxable profit regarding closed fiscal years to correct accounting errors**

We remind that in accordance with provisions of the Fiscal Code (article 19) and Norms for application of the Fiscal Code, revenue and expenses which were inaccurately recorded or omitted are corrected by adjusting taxable profit for the tax period they refer to.

When improper recording or omission of revenue or expense is discovered after submission of the annual profit tax return, **the taxpayer must submit an adjusted profit tax return (form 101) for the year it refers to.** In case this adjustment triggers an additional tax to be paid, the taxpayer is also liable for interest and penalties for late payment of this additional tax in accordance with the law.

**INFORMATION – The Romanian Government and the National Bank of Romania have decided to keep 2015 as date for changing the national currency to EURO.**

**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 April 2011:

1 Euro = 4.0744 RON; 1 USD = 2.7408 RON;  
1 CHF = 3.1594 RON; 1 GBP = 4.5659 RON.

**MAY 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 electronic employee 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 7<sup>1</sup> 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 May 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

**During the month - do not forget**

**That Monday 2 May is the last day to submit**

- Annual financial statements for non profit organisations**
- Annual tax return regarding excises (form 120)\*;
- Annual return regarding tax on crude oil from domestic production (form 130)\*.

**That Friday 6 May 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 April 2011. Starting May 2011, VAT returns will be submitted monthly.

**That Tuesday 10 May is the last day to submit**

- Return on collection of hotel tax

**That Tuesday 10 May is the last day to pay**

- Hotel tax
- Advertising service tax

**That Monday 16 May is the last day to submit**

- INTRASTAT statement for April 2011 (standard or extended submitted on-line)
- Recapitulative statement of EU Supplies/acquisitions/services (form 390)\* for April 2011;
- Return regarding the state of acquisitions and deliveries of excisable products for the month of April 2011;
- Return regarding income obtained in 2010 by individuals per category and source of income (form 200 and 201);
- Application regarding destination of amount representing 2% of the annual income tax.** Form 230 is to be filed by individuals who obtained salary income in 2010 and wish to **sponsor** legal non-profit entities with an amount of up to 2% of annual tax. A copy of tax form F1 or F2 is to be attached to the application. This form 230 is also used to apply for deduction of expenses for the purpose of realising collective savings in the rental field.

**That Wednesday 25 May is the last day to submit**

- State budget liability return (form 100)\*;
- Return regarding social contributions, income tax and nominative list of insured persons (form 112)\*;
- VAT return (form 300)\*;
- Special VAT return for VAT non payers (form 301)\*;
- 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);
- Environment Fund Statement (except "ecotax");
- Return regarding income obtained in 2010 from agricultural activities which were taxed as per income tax quota during the year (form 225).

**That Wednesday 25 May 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
- Income tax on salary
- Tax on income from independent activities, withheld at source
- Tax on interest income
- Tax on investment income
- Tax on pension income
- Tax on income from prizes and gambling

- Tax on income from other sources
- Social security contribution (*pension*)
- Health insurance contribution
- Medical leave contribution and health insurance allowance
- Unemployment contribution
- Contribution to fund to guarantee payment of salary liabilities
- Contribution to work accident and occupational disease fund
- Contribution for non employment of disabled persons for employers with headcount over 50
- Contribution to Environment Fund (excluded "ecotax").

**That Monday 30 May is the last day to submit with ANAF the annual accounting report for the entity which has opted for a financial year different from calendar year as per article 27 (3) of Accountancy Law 82/1991 republished**

**That Monday 30 May is the last day to submit Annual Financial Statements as at 31 December 2010**

- for commercial companies, national companies, "regii autonome," national institutes for research and development;
- for permanent establishments of legal entities in Romania with registered headquarters abroad;
- for the Fiscal representative which is a legal entity.

#### IMPORTANT

Once the 2010 financial statements are submitted, the very last operations to complete accounting and fiscal evidence of the year are:

- Complete the Register of fiscal evidence;
- Maintain the Inventory Register;
- Check that the minutes of the inventory committee and decisions for writing off assets are signed;
- Archive the primary accounting documents (which usually ought to be kept for 10 years except for the list of the exceptions set per Order 3512–Official Gazette 870/2008 to be kept 5 years). Retention period for financial statements has been reduced to 10 years per Law 259 (Official Gazette 506/2007). Mandatory accounting registers, i.e. the Journal Register, Inventory Register and General Ledger are kept within the enterprise for 10 years. Payroll statements are to be kept for 50 years.

All forms mentioned above as well as guidance on their preparation may be downloaded from the Ministry of Economy and Finance website: [www.mfinante.ro](http://www.mfinante.ro).

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) <sup>1</sup>	10.5% (contribution base per employee capped at 5 average monthly gross salaries according to Budget for public social insurance, i.e. 5 x 2,022 = RON10,110) <sup>1</sup> (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 (based on gross salary) <sup>2</sup>	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 included for retired persons)	
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 Government Decision 1193/2010	RON 670	
Luncheon voucher starting from March 2011 subject to income	RON 9	
Per diem (in Romania) Employees in the public sector Employees in the private sector (x 2.5)	RON 13.00 RON 32.50	

Note 1: Contribution to pension is also due during periods when the insured person benefits from medical leave and health insurance allowance. For these periods, the contribution base is 35% of the average monthly gross salary corresponding to the number of business days of medical leave.

Note 2: Contribution for work accident and occupational disease is also due during periods when the insured person benefits from medical leave and health insurance allowance. For these periods, the contribution base is the minimum gross salary where payment is guaranteed on a national basis corresponding to the number of business days of medical leave.

Note 3: Income paid to a person who carried out an activity considered dependent activity (example: 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 on 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% <sup>1</sup>
Contribution to health insurance	0%	0% <sup>2</sup>
Contribution to unemployment insurance ( <i>if applicable</i> )	0%	0.5% <sup>3</sup>
Income tax		16% <sup>4</sup>

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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 General Shareholder 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 make a contribution to health insurance at a tax rate of 5.2% and also for medical leave allowances of 0.85%. The legal entity will also declare and pay the health contribution (5.5%) and income tax which it will have to withhold from the Director's remuneration.**





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ACCOUNTING AND PAYROLL  
EXPERT TEAM

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

The team includes chartered accountants (Romanian Chartered Accountants Body and also ACCA) specialised in accounting for business entities, as well as a group specialised in payroll administration on behalf of the client.

APEX Team provides a full range of accounting services, payroll services, local tax compliance and tax advice, as well as services tailored to your company needs:

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



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