

Romania, Bucharest
Blvd Dacia 56, District 2
Phone: +40 (0)31 809 2739
Phone: +40 (0)74 520 2739
Fax: +40 (0)31 805 7739
E-mail: office@apex-team.ro

DECISION 370 dated 24 April 2012 to establish day off for public sector on 30 April 2012 (Official Gazette 272/2012)

Employees of the public sector do not work on Monday 30 April 2012 and will make the day up on Saturday 5 May 2012.

These provisions do not apply to positions where activity cannot be interrupted due to production processes or specificity of the activity. They do not apply to judicial or prosecution courts staff involved in hearings scheduled for 30 April 2012 either. Private sector employers may also decide to apply provisions of this Decision.

Contents:

- 30 April, day off for public sector
- Future change in threshold for VAT exemption –from €35,000 to €65,000
- 29 May – deadline for submission of 2011 financial statements and accounting reports as at 31 December 2011
- Registration for the scope of VAT – clean fiscal file for all shareholders of a SRL
- VAT– deductibility for lease instalments, down payment, and residual value for automobiles
- Renewal of digital certificate for online submissions
- Recording business claims in accounting records
- Dormant company – derogatory declaration regime
- Adjustment to taxable profit regarding closed fiscal years to correct accounting errors
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- Statement of income obtained abroad – Romanian citizens and resident individuals in Romania
- 1st May, legal holiday but paid twice if worked and free time in lieu compensation not taken
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INFORMATION – Increase in VAT threshold

The European Union Council has authorized Romania to increase the present VAT threshold from Euro 35,000 to Euro 60,000 at the National Bank of Romania exchange rate in force when Romania joined the European Union (3.3817 RON/Euro). For this purpose, decision no. 2012/181/UE of the European Union Council was adopted 26 March 2012 and was published in the European Union Official Gazette no. L 92/26 dated 30 March 2012.

The Ministry of Public Finance has published a communiqué to specify that until publication of a text of law to amend the turnover threshold up to which VAT exemption for small enterprises is applicable in the Official Gazette of Romania, national provisions as per which the exemption ceiling of Euro 35,000 at the exchange rate when Romania joined EU, i.e. RON 119,000, remain in force.

In accordance with the present provisions in the field of VAT, taxable entities which carry out economic activities in Romania and which post a turnover of less than the ceiling of Euro 35,000 calculated at the exchange rate when Romania joined EU may apply the special exemption regime for small enterprises, ruled according to article 152 of Law 571/2003 – Fiscal Code.

INFORMATION – Clarification regarding submission of 2011 Financial Statements and Accounting Reports as at 31 December 2011

Documents necessary for submission of financial statements and accounting reports with tax authorities:

- Balance sheet summary (first page) printed, signed and stamped;
- CD which contains the financial statements/accounting report in PDF format together with the XML and ZIP files.

Depending on the type of financial statements and accounting reports submitted by the entity, the ZIP file will contain documents requested by law, as follows:

- a) For comprehensive annual financial statements – prepared by entities which exceed 2 of the 3 size criteria set per article 3 point (1) of OMFP 3055/2009 at the balance sheet date, i.e. total assets Euro 3,650,000, net turnover Euro 7,300,000, headcount 50, the ZIP file will contain:
 - o statement of changes in equity;
 - o cash flow statement;
 - o disclosure notes;
 - o a written representation by the person set at article 10 point (1) of Law 82/1991, republished with its further amendments and complements stating that he/she is responsible for preparation of the annual financial statements;
 - o management report;
 - o audit report or report of the "cenzori" committee, if applicable;
 - o proposal for profit allocation or recovery of accounting losses.
- b) For abbreviated annual financial statements – prepared by entities which do not exceed 2 of the 3 size criteria at balance sheet date, the ZIP file will contain:
 - o disclosure notes;
 - o a written representation by the person set at article 10 point (1) of Law 82/1991, republished with its further amendments and complements stating that he/she is responsible for preparation of the annual financial statements;
 - o management report;
 - o audit report or report of the "cenzori" committee, if applicable;
 - o proposal for profit allocation or recovery of accounting losses.

- c) For simplified financial statements – prepared by entities which, during the previous financial year have met both the following criteria: net turnover up to the RON equivalent of Euro 35,000 and total of assets of up to the RON equivalent of Euro 35,000 and which opted to apply the simplified accounting system, the ZIP file will contain:
 - o disclosure notes;
 - o a written representation by the person set at article 10 point (1) of Law 82/1991, republished with its further amendments and complements stating that he/she is responsible for the preparation of the annual financial statements;
 - o management report;
 - o audit report or report of the "cenzori" committee, if applicable;
 - o proposal for profit allocation or recovery of accounting losses.
- d) For accounting reports (as per ANAF Presidential Order 1878/2010) prepared by:
 - o entities which opted for a financial year which differs from the calendar year in accordance with article 27 point (3) of Accountancy Law 82/1991 (branches in Romania which belong to a legal entity with headquarters abroad, with exceptions set by law, consolidated subsidiaries of a parent company with headquarters abroad, as well as subsidiaries of subsidiaries, with exceptions set by law),
 - o legal entities under liquidation, as per law,
 - o sub units opened in Romania by companies which are resident in European Economic Area States, the ZIP file will contain a statement (note) in which additional information is provided regarding the status of the commercial company.

Documents compressed in ZIP format must be signed by duly authorised persons, stamped, and scanned in black and white, and be readable. The ZIP file cannot exceed 10 MB.

Starting 1st February 2012, for reporting periods starting 2012, all financial statements and accounting reports are only submitted using the new versions of guidance for their preparation, in PDF format with the associated XML file enclosed, irrespective of the chosen modality for submission (online or at the local ANAF office). The new guidance versions (Soft A and Soft J) may be unloaded from the ANAF portal, Electronic Returns section – Download form. **The new versions of forms may be signed electronically via a digital certificate and submitted by Internet at www.e-guvernare.ro.**

Taxpayers which do not hold a digital certificate to sign returns may submit financial statements/ accounting reports with its local ANAF office, in PDF format and the XML file on a CD accompanied by a summary of the statement/report (first page) printed, signed and stamped.

Non compliance regarding financial statements and accounting report regulations is punished as per provisions of Accountancy Law 82/1991, article 41, point 2, letter e) and article 42 paragraph (1), as follows:

- breach in respect of preparation and signature, with a fine of between RON 2,000 and RON 3,000;
- submission after due date:
 - o fine of between RON 300 and RON 1,000, if the delay is between 1 and 15 business days;
 - o fine of between RON 1,000 and RON 3,000, if the delay is between 16 and 30 business days;
 - o fine of between RON 1,500 and RON 4,500, if the delay is over 30 business days.

ORDER 518 dated 13 April 2012 to amend Ministry of Public Finance Orders (Official Gazette 264/2012)

Amendments are introduced to Order 2795/2011 regarding establishment of criteria which condition registration under the scope of VAT. An amendment aims to extend the criteria of a clean fiscal file **to all shareholders** of a commercial company (not to shareholders of a public limited company or of a partnership limited by shares). Previously, the criterion only concerned shareholders holding more than 15% of share capital.

The Order also introduces amendments in the field of VAT regarding:

- exemptions applicable to boats aimed at sea navigation;
- exemptions applicable to NATO armed forces in respect of agreements between Romania and the USA.

INSTRUCTION 12 dated 29 March 2012 regarding the reference interest rate of the National Bank of Romania (Official Gazette 213/2012)

Starting 30 March 2012, the NBR reference interest rate is 5.25% per annum.

DECISION 7 dated 15 March 2012 to approve Norms to establish measures to prevent and fight money laundering and financing of terrorism acts by the intermediary of tax consulting activities (Official Gazette 216/2012)

ORDER 649 dated 27 March 2012 to amend Appendix 3 of ANAF Vice Presidential Order 9988/2006 to approve technical norms to complete, use and print summary statement and sole administrative document (Official Gazette 224/2012)

ORDER 479 dated 5 April 2012 to approve methodological Norms for preparation and submission of quarterly financial statements by public institutions as well as some monthly financial reports in 2012 (Official Gazette 254/2012)

29 May deadline for submission of 2011 financial statements and accounting reports as 31 December 2011



INFORMATION – Fiscal provisions regarding VAT on lease instalments, down payment and residual value

What is the VAT regime for down payment, lease instalments and residual value regarding acquisition of an automobile which is not subject to exceptions set per article 145¹ of the Fiscal Code for a lease contract in progress in 2011 as well as for a lease contract concluded in 2012?

Instruction 420167 dated 7 February 2012 regarding unitary application of fiscal provisions which entered into force 1st January 2012 in respect of acquisition of vehicles intended exclusively for road transport of persons, with an authorized weight of up to 3.5 tons and having no more than 9 passenger seats including the driver, and in respect of acquisition of petrol/fuel to run such vehicles which belong to or are used by the taxable entity establishes the following:

The VAT regime pertaining to lease operations is presented in detail at paragraph 7 point (3) of Implementation Norms of Title VI of the Fiscal Code, approved by Government Decision 44/2004, with its further amendments and complements, i.e.:

"The transfer of the right to use items on the basis of a lease contract is considered a provision of service in accordance with article 129 point (3) letter a) of the Fiscal Code. At the end of the lease period, if the lessor/financier transfers ownership of the item to the lessee/user, the operation is deemed a supply of goods at the value at transfer date. The end of the lease contract is also considered to be the date when the lessor/financier transfers the ownership right of the item to the lessee/user prior to lease contract expiration, a circumstance where the transfer value will also include total lease instalments which were not yet due as well as additional charges which are invoiced along with lease instalments. If transfer of ownership of the item occurs before expiry of 12 consecutive months starting with inception date of the lease contract, a lease operation is deemed to have not occurred, but instead, is considered a supply of goods at the date when the item was made available to the lessee/user.

If, while the financial lease contract is in progress, a transfer occurs between users with the approval of the lessor/financier or a transfer of the financial lease contract resulting in a change of lessor/financier, the operation is not deemed to represent a supply of goods, considering that the entity which assumes the lease contract continues the contract. The operation remains a provision of services, the entity which takes over the lease contract having the same obligations in respect of VAT as the former party."

Thus, by correlating the above mentioned provisions with provisions of article 145¹ of the Fiscal Code, it clearly results that provisions regarding the limitation of the VAT deduction right will not be applicable to lease instalments paid by lessees to lease companies during the period when the lease contracts are in progress, because they represent provision of services from a VAT point of view as defined by article 129 point (3) letter a) of the Fiscal Code. However, VAT will only apply to the value at which the transfer of ownership is made at the end of the lease contract, this transfer being considered a supply of goods.

We underline the fact that, as per paragraph 7 point (3) of Implementation Norms of Title VI of the Fiscal Code, the end of the lease period is also considered to be the date when the lessor/financier transfers the ownership right of the item to the lessee/user before the end of the lease period, but only after 12 months. In this context, we draw attention to the fact that if the transfer of ownership of the item to the lessee/user is made before expiry of 12 consecutive months starting inception date of the lease contract, it is considered that a lease operation did not occur, but a supply of goods at the date when the item was made available to the lessee/user, a circumstance where provisions regarding partial limitation of the right of deduction applies to the full acquisition value of the vehicle, in the limits and conditions set by law.

If the transfer of ownership of the leased item occurs after expiry of 12 consecutive months starting inception date of the lease contract but prior to the end of the lease contract, a supply of goods is deemed to have occurred at the value as at transfer date, this value also including unpaid lease instalments not yet due.

In case the contract sets that part of the down payment and/or part of the lease instalment represents residual value and the respective vehicles are used for the purpose which would allow a 50% VAT deduction as per article 145¹ of the Fiscal Code, VAT on residual value will also be deductible up to 50% before the generating event.

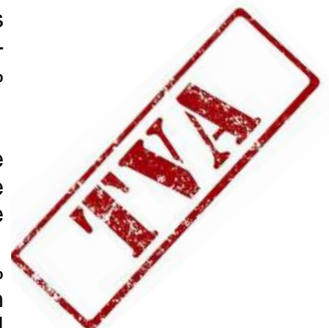
From the above legal provisions, it results that:

- ☑ VAT pertaining to down payment and lease instalments is fully deductible both in case of a lease contract in progress in 2011 and a lease contract concluded in 2012, because the operations are considered provisions of services and are not subject to the deduction limitations of set at article 145¹ of the Fiscal Code.
- ☑ VAT pertaining to residual value is deductible starting 1st January 2012, in the proportion of 50% because it is considered that an acquisition of goods has occurred and is subject to the deduction limitation set per article 145¹ of the Fiscal Code. We mention that this 50% limitation applies to all acquisitions made after 1st January 2012 irrespective of the signature date on the lease contract (2011 or 2012) under condition that the occurrence of these acquisitions (transfer of ownership) was after 1st January 2012.
- ☑ If the transfer of ownership of the item to the lessee/user is made before expiry of 12 consecutive months starting inception date of the lease contract, it is considered that a lease operation did not occur, but a supply of goods at the date when the automobile was made available to the lessee/user, circumstance where provisions regarding partial limitation of the deduction right apply to the full value of the vehicle at acquisition.

Source: ANAF



VAT
Deductibility for
lease installments,
down payment and
residual value for
automobiles



INFORMATION – Renewal of digital certificate

As per provisions of article 27 of Government Decision 1259/2001 to approve technical and methodological Norms for application of Law 455/2001 regarding electronic signature, the validity period for a digital certificate issued by an accredited provider of certification services is 1 year at most, starting communication date to the client.

Steps that you must undertake to renew your digital certificate are as follows:

1. Download confirmation form from <http://static.anaf.ro/static/10/Anaf/formulare/confirmare.pdf>
2. Complete confirmation form, sign it electronically and transmit this file by email to the certification service provider which issued your digital certificate. The provider will apply its electronic signature in the section for the certification authority and will then return the confirmed document to you via your email address.
3. Access the ANAF portal, Electronic returns page, Renewal of certificates menu and transmit the confirmation document. You will receive an email where you will be informed that your new certificate number has been introduced in the ANAF database and that you may use the online submission facility.

Usually, after information update in the database which is made within 4 days of transmission, an confirmation email is automatically transmitted by the IT application to communicate that the new certificate number has been introduced in the database and that the new certificate may be used to access ANAF services and submit documents electronically. Non receipt of such an email is not a procedural, technical or other impediment to submit documents in electronic format for the taxpayer.

After 4 days, you may try to use the online submission facility. The receipt received further to an online submission is confirmation of the technical ability to use the "Submission of electronic documents" facility.

No other document should be submitted to tax authorities for digital certificate renewal.

Source: ANAF



INFORMATION – Recording a business claim in accounting records

In practice, the issue of whether a business claim for multiple documents may be recorded in a summarized mode or document by document is often raised.

We mention that as per provisions of article 6 of Accountancy Law 82/1991 "(1) Any economic and financial operation is recorded at the time it occurs using a document which stands as the basis of accounting records, thus acquiring the quality of supporting document. (2) Supporting documents which are at the basis of book entries are the responsibility of individuals who prepared, signed and approved such documents as well as individuals who recorded them in accounting records, as the case may be."

Regarding our issue, the document which is at the basis of recording expenses incurred by an individual acting for the enterprise is the business claim ("*decont de cheltuieli*"). In theory, the business claim which is an accumulation of several vouchers, receipts, notes, etc. may be recorded in a single book entry under the condition that totals are disclosed in the business claim enabling reconciliation between the book entry and the business claim.

Furthermore, article 17 of the Accountancy Law sets states the following:

"(1) accounting for expenses is made by nature of expense, according to its nature or destination, on a case by case basis."

Therefore, if the business claim only contains "primary" documents to claim expenses of the same nature, it would be possible to record the business claim which consolidates several vouchers, receipt, notes, etc. into a single book entry under the condition that the nature of the expense is the same.

However, we draw attention to the existence of fiscal barriers against recording a business claim summarized by nature which includes several "primary" documents, namely:

- depending on the "primary" document, VAT is or is not deductible;
- depending on the nature of the expense, it is or is not fully deductible for both profit tax and/or VAT purposes;
- the same expense has a different accounting treatment depending on the "primary" document which stands as its basis (invoice or fiscal voucher).

INFORMATION - Derogatory declaration regime – conditions for approbation and subsequent consequences

The procedure was ruled by ANAF Presidential Order 1221/2009 (Official Gazette 415/2009).

General aspects

Commercial companies which have registered temporary inactivity with Trade Register may opt for the derogatory declaration regime. The derogatory regime is requested by the taxpayer by filing an application with the tax authority in charge of keeping that taxpayer's tax and contribution information. Proof that temporary suspension of activity has been registered in the form of an excerpt from the Trade Register with this notation must be attached to the application.

Length, conditions

For cases of temporary inactivity, tax authorities may approve, upon taxpayer request, other deadlines or conditions regarding submission of tax returns for tax and contributions administered by ANAF.

The derogatory regime may be approved for more than a 12 month period but not longer than 3 consecutive years.

To benefit from the derogatory declaration regime, the taxpayer must meet all of the following conditions:

Business claim: is it possible to avoid recording each voucher, receipt, ticket and record in total?

UNITATEA
DECONT DE CHELTUIELI
 inregistrat la nr.

Subsemnatul si un salariu de avand functia de
 boerdereului si a actelor justificative anexate pentru
 justificarea anuntului prin la data de

In baza ordinului de deplasare nr.
 Data si ora plecarii
 si ora sosirii

Avans primit la plecare lei
 Avans primit in timpul deplasarii
 TOTAL LEI

Cheptuilei confirm boerdereului lei

Diferenta de restituit lei

S-a deplasat cu chitanta nr.

Semnatura titularului,

Se certifica indeplinirea Verificat si glosat in regula Vintu,
 (denotandu-se delegatii) pentru suma de lei
 Sef compartiment Mijlocul lei Contabil suf.
 Serv. Financiar, 200,

- carries out no type of activity;
- obtains no operating revenue, no financial revenue, no extraordinary revenue and/or element similar to revenue;
- has no employee or income payments subject to the income tax withholding regime;
- must be disclosed in tax authority records as having met all declarative and payment obligations;
- has no application for VAT refund in progress, nor an application for refund of tax or contribution;
- must not be subject to a tax inspection in progress;
- must not be registered on the list of taxpayers declared as inactive.

In its application, the taxpayer declares under own responsibility that the above mentioned conditions have been met and mentions the length of the requested derogatory declaration regime.

The application is processed by tax authorities within 30 days starting submission date. Approved requests are the object of a decision which includes both length for which a derogatory declaration regime request is approved and conditions in which it is approved. The decision to approve/reject the application is communicated as per article 44 of Government Ordinance 92/2003 – Code of Fiscal Procedure, republished with its further amendments and complements.

During the entire duration of the derogatory declaration regime, tax authorities may perform inspections regarding compliance with above mentioned conditions at any time. If, during approved duration of derogatory declaration regime, tax authorities find non compliance with conditions, the taxpayer will return to the standard declaration regime. In such circumstances, tax authorities will notify the taxpayer of termination of derogatory declaration regime.

Declarative obligations regarding activities carried out prior to application of the derogatory declaration regime remain in effect.

Sphere of application, derogation of the obligation to submit certain returns

The following returns enter in the sphere of application of the derogatory declaration regime:

- form 100 "Statement of liabilities to the State Budget;"
- form 300 "VAT return;"
- form 101 "Statement of profit tax ;"
- form 104 "Statement of allocation of revenue and expenses between associates;"
- form 120 "Excise tax return;"
- form 130 "Statement of tax on crude oil from local production."

The derogatory declaration regime requires that all liabilities be declared, on the above mentioned forms and disclosed in the taxpayer status ("*vector fiscal*").

For the length of the derogatory declaration regime period, the taxpayer does not have the obligation to submit the above mentioned statements, except for the following cases: for the part of fiscal year outside the duration of application of the derogatory declaration regime period, the taxpayer must submit forms 101, 120 and 130 by deadlines set by law.

Administration

Information related to application of the derogatory declaration regime as well as its termination is disclosed in taxpayer status ("*vector fiscal*").

Taxpayers which have the obligation to submit forms 101, 120 and 130 for a part of year, if any, are subject to the standard notification procedures for late submission and ex officio returns.

For other fiscal obligations or informative statements other than those mentioned above, deadlines for submission and applicable administration procedures are set by fiscal legislation in force.

Source: DGFP Vâlcea

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 subject to interest and penalties for late payment of this additional tax in accordance with the law (the most recent text being Order 144 dated 10 February 2012 to approve adjustment Procedures for errors in tax returns when taxpayers submit adjusted tax returns - Official Gazette 137/2012, presented in APEX Team newsletter no. 3_2012).

REMINDER – Employer duties regarding labour protection and health in the workplace

Among its duties, the employer must take the necessary steps to:

- Ensure safety and protect employee health by performing a mandatory medical examination by a physician specialised in labour medicine upon hire and also with a mandatory annual medical check-up;
- Prevent occupational risks by informing and training employees through assessment of specific risks for each work position in terms of health and safety in the workplace and through mandatory training in accordance with norms set by Law 319/2006 regarding health and safety in the workplace. In addition, the employer must maintain individual docketts on work protection and individual training dock-



Derogatory regime for dormant companies





**1st May, day off
but paid twice
unless equivalent
free time taken
within next 60 days**

ets regarding emergencies. Instruction and maintenance of individual dockets may only be made by legal or natural persons licensed to carry out their activity in the domain of health and safety in the workplace;

- Provide an organisational framework and resources necessary for workplace safety and health. Measures regarding safety, health and hygiene in the workplace cannot be undertaken at the employee's expense.

INFORMATION – Complete and submit form 201, "Statement of income obtained abroad"

Form 201 is completed and submitted by resident Romanian individuals having their domicile in Romania and by persons who meet for the year being declared the condition set at article 40 point (2) of Law 571/2003 – Fiscal Code, correlated with provisions of article 7 point 23 and who obtained income abroad, taxable in Romania, further to performance of activities abroad such as income from professions, income from commercial activities, income derived from intellectual property, rental income, agricultural income, dividends, interest, prize and gambling income, gains on disposal of personal real estate, gains on disposal of securities, gains on forward foreign currency contracts and similar operations, other investment income, pensions as well as other taxable income as per Title III of the Fiscal Code.

The statement is also submitted by resident Romanian individuals having their domicile in Romania and by individuals who met for the year to declare the condition set at article 40 point (2) of Law 571/2003 – Fiscal Code, correlated with provisions of article 7 point 23 and who carry out an employee activity abroad and who are paid for the employee activity performed abroad by or on behalf of an employer which is resident in Romania or by a permanent establishment in Romania (employee income represents a tax allowed expense of the permanent establishment in Romania) in the case where this same employee income was taxable both in Romania and abroad.

We remind the conditions of residence defined by article 7 point 23 of the Fiscal Code.

A resident individual is a person who meets at least 1 of the following conditions:

- a) has his/her domicile in Romania;
- b) the centre of his/her vital interests is located in Romania;
- c) is present in Romania for one or several periods which exceed a total of 183 days for any period of 12 consecutive months ending in the calendar year concerned;
- d) is a Romanian citizen who works abroad as public servant or employee of Romania in a foreign State.

By exception to provisions of letters a) - d), the following individuals and their family members are not resident individuals: a foreign citizen with the status of diplomat or consul in Romania, a foreign citizen who is a civil servant or employee of an international or intergovernmental organisation registered in Romania, a foreign citizen who is a civil servant or employed by a foreign State in Romania.

Income obtained abroad by individuals during the declaration year as well as related tax paid abroad, denominated in the currency of each State, will be translated into RON at the annual exchange rate communicated by the National Bank of Romania for the year when income is obtained.

INFORMATION – 1st May, legal holiday

As per the Labour Code, 1st May is a legal holiday. Employees who work on 1st May can recover hours worked with the same number of idle hours within the next **30 days**. If for grounded reasons, free time cannot be granted, the employee will receive **double pay** for work performed on 1st May, considering the base salary for work performed during standard business hours.

We remind that starting 1st May 2011, when the amended Labour Code entered into force, overtime is compensated by an equal amount of free time within the subsequent 60 days. If such compensation is not possible, the employee benefits from additional pay for overtime which is set in the collective labour contract or, if applicable, in the individual labour contract which cannot be less than 75% of base salary for standard hours.

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 2012:

1 EUR = 4,3970 RON; 1 USD = 3,3240 RON; 1 CHF = 3,6593 RON; 1 GBP = 5,4090 RON.

MAY 2012 – 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/amendment 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. In case a written contract is not concluded, documents which support the actual provision of services in Romania (statements of work, commissioning minutes, activity reports, feasibility studies, market studies, and any other supporting document are registered with tax authorities

- 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 2012

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 Tuesday 1st May is a legal holiday (Labour Day)

That Wednesday 2 May is the last day to submit

- Annual financial statements for non profit organisations***
- Annual tax return regarding excise taxes for 2011 (form120)*
- Annual return for 2011 regarding tax on crude oil from domestic production (form 130)*.

That Tuesday 8 May is the 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 2012. Starting May 2012, VAT returns shall be submitted monthly.

That Thursday 10 May is the last day to submit

- Return on collection of hotel tax
- Return for mentions (*amendments*) or deregistration under the scope of VAT in case of entities registered under the scope of VAT as per article 153 of the Fiscal Code which, during the previous year, do not exceed the exemption threshold set at article 152 of the Fiscal Code (form 096).

That Thursday 10 May is the last day to pay

- Hotel tax
- Advertising service tax

That Tuesday 15 May is the last day to submit

- INTRASTAT statement for April 2012 (standard or extended, submitted on-line)
- Statements of acquisitions and supplies in the field of energy in April 2012.

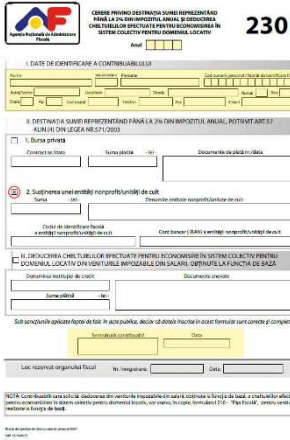
That Friday 25 May is the last day to submit

- 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)*
- VAT return for taxable entities whose registration code under the scope of VAT is cancelled as per article 153 point (9) letter a) - e) of the Fiscal Code (form 311)
- Recapitulative statement of EU Supply/acquisitions/services (form 390)* for April 2012
- Informative Statement on domestic supply/services rendered and acquisitions regarding April 2012 (form 394)*
- Statement of salary 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 (excluding "ecotax")
- Return regarding income obtained in 2011 by individuals per category and source of income (form 200 and 201)
Form 200*, "Statement of income obtained in Romania," is submitted by individuals who derive income from independent activities, rental income (except rental of agricultural land), gains on disposal of securities, and gains on forward contracts of foreign currencies.
Form 201, "Statement of income obtained abroad," is submitted by taxpayers who obtained abroad income from professions, commercial activities, rental income, dividends, interest, prize and gambling income as well as other income obtained abroad.
- Return regarding estimated income/income quota for the current year



**Allocate 2% of your
annual income tax
to a non profit
organisation!**





- Return regarding income from agricultural activities taxed on income quota (form 221) for the current year
- 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 2011 and wish to **sponsor** legal non-profit entities in the amount of up to 2% of annual tax. Form 230 is also used to apply for deduction of expenses for the purpose of realising collective savings in the rental field.

That Friday 25 May is the last day to pay

- Excise taxes
- VAT
- Liabilities to the sole bank account – **State Budget**
 - o Tax on crude oil and natural gas from domestic production
 - o Withholding tax on non-resident income
 - o Income tax on salary (*separate bank transfer for headquarters and each secondary establishment*)
 - o Tax on income from independent activities, withheld at source
 - o Tax on dividends paid in April 2012
 - o Tax on interest income
 - o Tax on investment income
 - o Tax on pension income
 - o Tax on income from prizes and gambling
 - o Tax on income from other sources
 - o Contribution for non employment of disabled persons for employers with headcount over 50
- Liabilities to the sole account – Public Insurance Budget and special funds
 - o Social security contribution (*pension*)
 - o Health insurance contribution
 - o Medical leave contribution and health insurance allowance
 - o Unemployment contribution
 - o Contribution to fund to guarantee payment of salary liabilities
 - o Contribution to work accident and occupational disease fund
- Contribution to Environment Fund (excluding "ecotax")
- Quarterly contribution for medicine for Quarter I 2012.

That Tuesday 29 May is the last day to submit to ANAF the annual accounting report* for entities which have opted for a financial year different from calendar year as per article 27 (3) of Accountancy Law 82/1991 republished and for sub units opened in Romania by resident companies in EEA States

That Tuesday 29 May is the last day to submit Annual Financial Statements* as at 31 December 2011

- for commercial companies, national companies, "regii autonome," national institutes for research and development;
- for sub units in Romania which belong to legal entities with headquarters abroad, except for sub units opened in Romania by resident companies in EEA States.

IMPORTANT

Once the 2011 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 by 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 Public Finance website: www.mfinante.ro

Tax returns noted with an asterisk (*) may 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.



**Be aware of
deadline for
submission and
payment!**

KEY HR FIGURES

2012 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) ¹	10.5% (contribution base per employee capped at 5 average monthly gross salaries according to Budget for public social insurance, i.e. 5 x 2,117 = RON 10,585) ¹ (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) ²	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 700) for every 100 employees	
Minimum monthly gross salary as per Government Decision 1225/2011	RON 700	
Luncheon voucher - employee subject to salary starting March 2011	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 allowances. 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 allowances. 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 2,117 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.

² The author or 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, 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.

Romania, Bucharest
Blvd Dacia 56, District 2

Phone: + 40 (0) 31 809 2739
Phone: + 40 (0) 74 520 2739
Fax: + 40 (0) 31 805 7739
E-mail: office@apex-team.ro

Our Mission:
Adding Value to Client's Business

www.apex-team.ro

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 »
- Consulting and assistance in drafting transfer price files
- Start up services
- Organization of the accounting function
- Assistance in implementation of ERP
- Training