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EMERGENCY ORDINANCE 102 dated 14 November 2013 to amend and complement Law 571/2003 regarding Fiscal Code and regulating certain financial and fiscal measures (Official Gazette 703/2013)

The Ordinance brings some important amendments to the Fiscal Code effective the 1st of January, 2014. We mention below some of the main amendments:

GENERAL PROVISIONS

A new tax on constructions will be regulated by the Fiscal Code.

Some further clarifications are made regarding the regime of taxpayers declared inactive or for those who make purchases from inactive taxpayers. Basically, an inactive taxpayer that performs economic activity during its period of inactivity is subject to all tax liabilities during the respective period, but it does not benefit from the right of deduction for associated expenses and VAT for purchases. VAT can be adjusted only after re-activation/re-registration under the scope of VAT. This VAT adjustment will only be made for goods/services/assets required for operations that will be performed after re-activation/re-registration. The situation is similar for those who purchase from inactive taxpayers: the buyers do not benefit from the right to deduct expenses and related VAT for those purchases (except for purchases performed within the procedure of forced execution or the procedure of bankruptcy).

PROFIT TAX

Fiscal year

The possibility to opt for a fiscal year different than the calendar year is introduced for those taxpayers having a financial year different than the calendar year.

The first modified/changed fiscal year also includes part of the prior calendar year (between the 1st of January and the day prior to the first day of the modified fiscal year), this representing a single fiscal year. Taxpayers must notify fiscal territorial authorities of the modification in fiscal year within at least 30 days from the beginning of the modified fiscal year.

Provisions regarding the transition from a calendar fiscal year to a different fiscal year are included in the Fiscal Code.

The due date for submission of the annual profit tax declaration and for payment of the profit tax is the 25th day of the third month after the end of the modified fiscal year.

Holding companies

Favorable fiscal measures for setting up holding companies in Romania are introduced. Dividend income, capital gains and income derived from the liquidation of another legal entity are non-taxable, provided that the beneficiary, a Romanian legal entity, holds a minimum of 10% of the share capital of its subsidiary (e.g. a Romanian legal entity or foreign legal entity established in a state with which Romania has a Double Taxation Treaty) for a continuous period of at least one year.

In light of the above, the condition regarding the minimum holding period changes from two years to one year for the application of provisions of the Fiscal Code which set the convergence of Directive 2011/96/EU into domestic fiscal legislation regarding the common fiscal regime that applies to parent companies and their subsidiaries which are established in different member states.

Sponsorship expenses

The possibility to carry forward any unused tax credits from sponsorships to future financial years is introduced in the Fiscal Code. Therefore, taxpayers which do not benefit from fiscal credits in the year they grant sponsorships according to the law may carry forward the fiscal credit for seven consecutive years.

Carrying forward interest expense and net foreign exchange losses

Within restructuring operations, the right to carry forward non-deductible interest expense and net foreign exchange losses is split between the beneficiary/assignor legal entity in proportion to the assets and liabilities transferred/maintained under the merger/spin-off transaction.

Fiscal credit

A permanent establishment in Romania by a foreign legal entity residing in a European Union (EU) member state or in a state belonging to the European Economic Area (EEA) which earns income from another EU or EEA member state, taxed both in Romania and in that member state, may claim a tax credit in Romania under provisions of the Fiscal Code.

REVENUE TAX FOR MICRO-ENTERPRISES

The requirements regarding classification of entities as micro-enterprises have changed:

- A micro-enterprise may have income obtained from consultancy and management that must not exceed 20% of the total value of income. Until now, this type of income was not allowed for a micro-enterprise. The transition to profit tax is made starting the quarter during which one of the



**The Court Decision
is no longer
necessary to not
adjust VAT for
stolen goods**

provided limits is surpassed, taking into account income and expense activity from the beginning of the fiscal year;

- ☑ Amendments are made to the method of calculating the taxable base for determining the micro-enterprise revenue tax. We mention the main amendments below:
 - The value of commercial discounts granted after billing is deducted from the taxable base. The value of commercial discounts received after billing is added to the taxable base.
 - Gains resulting from foreign exchange differences recorded in the first three quarters of the year are not taken into consideration. During the fourth quarter, the favorable net difference between gains and losses resulting from foreign exchange differences, accumulated from the beginning of the year, is added to the taxable base.

INCOME TAX FOR NON-RESIDENTS

The minimum holding period to apply the exemption from paying taxes on dividends paid by a Romanian entity to an entity residing in the EU or to a permanent establishment of an entity residing in the EU is reduced from two years to one year.

The range of application of Directive 2011/96/EU regarding the common fiscal regime which applies to parent companies and their subsidiaries which are established in different member states and of Directive 2003/49/EC regarding the common system of taxation applicable to interest and royalty payments effected between associated entities from different member states is reduced to EU member states only, EFTA member states being excluded (Norway, Iceland and Liechtenstein).

REVENUE TAX

Certain provisions are introduced regarding the fiscal treatment of income earned from abroad that have the same nature as income obtained in Romania. Therefore, income obtained from abroad has the same fiscal treatment as income obtained in Romania.

Income from independent activities

The list of limited deductibility expenses for independent activities is extended to include the following:

- ☑ Contributions made on behalf of employees to optional pension funds to authorized entities, established in EU member states or EEA countries, capped at the RON equivalent of EUR 400/employee/fiscal year;
- ☑ For taxpayers which obtain income from independent activities for which annual net income is determined based on single entry accounting information, interest expense related to loans in foreign currency contracted with individuals or legal entities, other than institutions which perform credit activity with professional title, is capped at the level of the interest rate for credits/loans in foreign currency.

Employment income

In order to calculate the tax on employment income, the following were introduced in the category of deductible elements: mandatory social security contributions in accordance with domestic law and provisions of the European Union or conventions/agreements regarding coordination of social security systems, contributions to optional pension funds made to authorized entities, established in EU member states or EEA member states, capped at the RON equivalent of EUR 400/employee/fiscal year.

Income from rental activities

Provisions regarding taxation of income from leasing agricultural land using a real income system are repealed.

Mandatory social security contributions owed for the current fiscal year in accordance with provisions of the Fiscal Code are considered deductible regardless of whether annual net income from renting goods is determined using a real income system, income quotas, or fixed expense quotas.

Income from agricultural activities

New provisions regarding non-taxable income and income quotas are introduced.

Income from prizes

Publicity materials, flyers, samples and bonus points granted with the purpose of stimulating sales do not represent taxable income.

Income from dependent activities of non-resident individuals

New provisions are introduced regarding the assessment of taxable income for individuals who are residents of other EU member states or EEA member countries. Under certain conditions, these individuals benefit from the same deduction rights as resident individuals.

VALUE ADDED TAX

Non-taxable elements

The amounts cashed on behalf or to the account of another entity are also added to the category of amounts which are non-taxable from a VAT perspective. Case C-224/11 BGZ Leasing sp. z.o.o. is taken from the European case law. Therefore, re-invoicing of insurance paid by a lessor to the lessee is not included in the taxable base; hence, such transactions will be subject to the regime of VAT exemption.

VAT reimbursement

VAT reimbursement related to purchases made in Romania by non-residents will not be conditioned by proof of payment of the invoices issued by Romanian suppliers.

VAT adjustment

VAT adjustment is no longer necessary for goods which have been destroyed, lost or stolen, if these situations can be duly proved or confirmed. For stolen goods, the taxable individual must prove the theft on the basis of the documentation issued by judicial authorities.

VAT for goods which have been subject to the 50% deduction right limitation cannot be further adjusted.

EXCISE DUTIES

A new method of calculating the reference exchange rate for excise duties and tax on oil from internal production is introduced when the value of the exchange rate from the reference year is lower than that of the previous year. The reference exchange rate for excise taxes for 2014 was, in fact, lower than that



of 2013. Thus, the exchange rate for 2014 excise duties is to be calculated using the exchange rate for 2013 (4.4485 RON/EUR) multiplied by the consumer price index (inflation index) communicated by the National Statistics Institute for the month of September 2013 (104.77%). Therefore, the value will be 4.6607 RON/EUR.

TAX ON CONSTRUCTIONS

A new tax has been introduced for constructions included in the first group of the Catalogue regarding the classification and normal useful life of fixed assets, except for those which are subject to tax on buildings under provisions of Title IX of the Fiscal Code.

The tax on constructions is calculated by applying a 1.5% rate to the value of constructions recorded in taxpayer accounting records as at 31 December of the previous year, with the value determined in accordance within provisions of the law.

The entities which are subject to this tax are:

- Romanian legal entities, except public institutions, national research and development institutes, associations, foundations and other non-profit organizations;
- Foreign legal entities which conduct their activity through a permanent establishment located in Romania;
- Legal entities with headquarters in Romania established according to European law.

Taxpayers mentioned above are required to calculate and declare the tax on constructions until the 15th of May (inclusive) of the year for which the tax is due. The tax must be paid in two equal installments by the 25th of May and the 25th of September (inclusive).

The newly established taxpayers must pay the tax on constructions starting their next fiscal year.

The template and content of the form regarding the tax on constructions is to be decided through an ANAF Presidential Order.

DECISION 871 dated 14 November 2013 to set the guaranteed national minimum monthly gross salary (Official Gazette 703/2013)

Starting the 1st of January, 2014, the minimum monthly gross salary will be RON 850 per month for full time employees working an average of 168 hours per month, which represents RON 5.059 per hour.

Starting 1st of July, 2014, the minimum monthly gross salary will be RON 900 per month for full time employees working an average of 168 hours per month, which represents RON 5.357 per hour.

A labour contract with a monthly gross salary of less than the minimum wage represents an infringement of law and is penalized with a fine of between RON 1,000 and RON 2,000.

ORDER 1898 dated 22 November 2013 to amend and complement Accounting Regulations according to European Directives, approved by Order of the Minister of Public Finance 3055/2009 (Official Gazette 727/2013)

The Order amends and complements the main Romanian accounting framework, the Order of the Minister of Public Finance 3055/2009.

The changes take effect starting the 1st of January, 2014.

Detailed information will be presented in the December 2013 Newsletter.

LAW 291 dated 13 November 2013 to amend Law 142/1998 regarding luncheon tickets

Law 142/1998 regarding luncheon tickets is amended, the main change being the introduction of electronic luncheon tickets, defined as electronic value tickets, being exclusively regulated by provisions of this law.

Provisions of the present law come into force after 90 days from its publication, or the 13th of February, 2014.

We mention below the main regulations regarding electronic luncheon tickets (tickets in paper format will continue to be used in parallel).

Electronic luncheon tickets may be used to pay for products which have a total value of less than the nominal value of a luncheon ticket, as opposed to paper version, where the nominal value of the luncheon ticket must be used to make purchases in its entirety.

Only funds in the amount of the nominal value of the luncheon tickets granted by the employer may be added to electronic tickets and the tickets can only be used to pay for meals or grocery products/food. Cash withdrawals are not permitted or available.

Funds are added to electronic luncheon tickets on a monthly basis during the final ten days of the month for the subsequent month's luncheon ticket period, according to the number of working days for the month for which the transfer is made. The transfer is operated by the tickets' issuer.

The value of electronic luncheon tickets cannot be transferred to employees if the employers have not paid the issuer the entire nominal value of electronic luncheon tickets purchased, including the cost related to their issuance, on the date set for the transfer.

ORDER 3477 dated 7 November 2013 on the occasional nature of introducing goods on Romania's territory which are brought in the personal luggage of travelers coming from a third state (Official Gazette 686.2013)

The occasional nature of introducing goods into Romania's territory which are brought in the personal luggage of travelers coming from a third state is defined as the introduction of goods that do not represent a fractional part of a series of introductions made by the same traveler during a short period of time (at least 7 days).

The regular introduction of goods made several times a day or week cannot be considered an occasional nature.



The minimum monthly gross salary become RON 850 from 1 January 2014 and RON 900 from 1 July 2014



INSTRUCTION 33 dated 5 November 2013 regarding the reference interest rate of the National Bank of Romania

Starting the 6th of November, 2013, the reference interest rate of the National Bank of Romania is set at 4% per year.



The NBR reference rate reached a new low of 4%

DECISION 855 dated 6 November 2013 to approve Implementation Norms of Law 279/2005 regarding apprenticeship employment (Official Gazette 705/2013)

Implementation Norms regulate application of provisions of Law 279/2005 regarding employment as an apprentice, republished.

Professional training in the workplace based on an employment apprenticeship contract is organized at the employer's initiative by professional training suppliers which are authorized according to provisions of Emergency Ordinance 129/2000 regarding professional training of adults.

Employers which intend to organize apprenticeship activities have the duty to transmit the vacant positions to be offered through an apprenticeship contract to the employment agency in their jurisdiction (at County or Bucharest level).

The norms include detailed provisions regarding:

- Apprenticeship contract;
- Organization of apprenticeship employment;
- Financial support of apprenticeship employment.

If participation in the apprenticeship is initiated by the employer, all related costs are borne by the employer.

Funding of an apprenticeship through sponsorships granted by individuals and/or legal entities are made in accordance with provisions of Law 32/1994 on sponsorships. Funding through European structural funds is also possible.

In order to receive funding from the unemployment insurance budget, the employer concludes a convention with the County/Bucharest employment agency within 30 days from expiration of the trial/probationary period which is mentioned in the apprenticeship contract.

ORDER 1891 dated 20 November 2013 to amend and complement Order of the Minister of Public Finance 500/2007 regarding approval of Norms on procedure for issuing a certificate to postpone payment of VAT at Customs checkpoints as well as issue of guarantees for import of goods (Official Gazette 724/2013)

The Order amends Norms on the procedure to obtain the certificate to postpone payment of VAT to Customs for imports performed starting 25 November 2013.

The new provisions extend the right to obtain a certificate to postpone payment of VAT for entities which are authorized economic operators (AEO) and also for operators which perform in-house customs clearance formalities.

Also, the AEO will not have the obligation to constitute guarantees for import of goods performed under the scope of an exempted intra-community delivery.

ORDER 4 dated 22 November 2013 to amend and complement Accounting Regulations in conformity with European Directives approved by National Bank of Romania Order no. 27/2011 (Official Gazette 729/2013)

ORDER 3582 dated 20 November 2013 regarding the administration of medium size taxpayers (Official Gazette 728/2013)

The Order amends and complements legislation regarding the administration of medium size taxpayers.

The selection criteria for entities classified as medium size taxpayers are updated.

Non-resident legal entities represented by a fiscal representative classified as a medium size taxpayer are also managed as medium size taxpayers.

Taxpayers that are in temporary inactivity registered at the Trade Register, as well as taxpayers declared inactive will not be selected as medium size taxpayers. Medium size taxpayers which enter into temporary inactivity or are declared inactive will be excluded from the category of medium size taxpayers starting the 1st of January next year.

Taxpayers created following a spin-off of a medium size taxpayer will continue to be managed as medium size taxpayers. A newly created taxpayer as a result of a merger between a medium size taxpayer and another taxpayer will be managed as a medium size taxpayer.

If a taxpayer which is not included in the category of medium size taxpayers absorbs a medium taxpayer through a merger, then it will start to be managed as a medium size taxpayer within 10 days from the date of registration of the operation at the Trade Register.

The list of taxpayers and secondary offices is updated annually through an ANAF Presidential Order by the 30th of November of each year and is published on the Ministry of Public Finance's website – ANAF section.

For taxpayers which are included in the category of medium size taxpayers, data available on the information system for the administration of fiscal liabilities will be transferred between the fiscal authorities involved in the procedure of delivery-receipt in electronic format, within the first 5 working days of the year. The transfer of affected taxpayers' fiscal files must be completed by the 20th of January.

The Order takes effect on the 1st of January, 2014.



ORDER 3581 dated 20 November 2013 regarding administration of large size taxpayers (Official Gazette 728/2013)

Starting 1st of January 2014, the quality of large size taxpayers is granted to the top 2,500 Romanian legal entities, including entities formed following a merger with another taxpayers and branches belonging to foreign legal entities which perform their activity on the Romanian territory. They are selected in descending order according to the eligibility criteria provided by the present Order.

Non-resident legal entities represented by a fiscal representative which qualify as large size taxpayers are also included in the large size taxpayers category.

The remaining regulations are similar to those mentioned for medium size taxpayers above (Order 3582/2013).

The Order will be applied starting the 1st of January, 2014.

ORDER 1228/2474/1906 dated 20 November 2013 on regulation of interpretation of the European Union Court's Decision (the 6th room) on the case T-89/10 regarding recoverability of eligible VAT within the Sectorial Operational Programme for Human Resource Development (Official Gazette 731/2013)

This is a common order of the Minister of Public Finance, the Minister of European Funds and the Minister of Work, Family, Social Protection and the Elderly, and refers to the modality to recover eligible VAT within the Sectorial Operational Programme for Human Resource Development. Thus, for this programme, eligible VAT that is non-deductible according to national fiscal law, is considered non-recoverable and will be claimed for reimbursement from the European Social Fund, taking into account its non-recoverability.

Upon submission of the Funding Request, the Beneficiary declares that its project is not generating income and has the obligation to maintain the destination of assets; that is, to assure the use and maintenance of purchased equipment for a period of at least 3 years after the conclusion of the project, according to provisions of the funding contract.

The provisions apply to contracts which are subject to Government Decision 759/2007 regarding eligibility norms for expenses made within funding operations performed through operational programs, with subsequent amendments.

DECISION 848 dated 30 October 2013 to amend and complement Government Decision 274/2013 regarding granting de minimis assistance for investments made by small and medium size enterprises (SMEs) (Official Gazette 689/2013)

The Decision modifies Government Decision 274/2013. We mention below the primary modifications:

- The maximum budget for the program is RON 500 million (previously RON 400 million).
- The de minimis assistance will be granted to SMEs in the form of non-refundable amounts at 90% (previously 100%) of total eligible costs approved for funding, up to the maximum amount of the RON equivalent of EUR 100,000 (previously EUR 200,000), for a period of 2 consecutive fiscal years (previously 3 consecutive fiscal years).

Some changes have been made to the eligibility conditions.

Payment of de minimis assistance will be made by the 31st of December, 2015 (previously the date was the end of 2016), within the limit of the annual budget which was granted.

DECISION 2742 dated 24 October 2013 regarding the form and content of the Report on doubtful/suspicious transactions, the Report on cash transactions and the Report of foreign transfers (Official Gazette 679/2013)

ORDER 3449 dated 1 November 2013 regarding seals applied within the activities of the General Directorate to Fight against Fiscal Fraud (Official Gazette 678/2013)

REMINDER – Organization and performance of an inventory of patrimony

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

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

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

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

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

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

INVENTORY COMMITTEE

The inventory of items having the nature of assets, liabilities and equity is performed by an inventory



Inventory of
patrimony
an actual topic

Date: _____				Continut: _____				Pagina: _____	
Măsurători				Loc de organizare					
St. nr.	Descrierea activității	Cat.	Clas. nr.	Valoarea în moneda națională	Valoarea în moneda europeană	Valoarea în moneda națională	Valoarea în moneda europeană	Observații	
1									
2									
3									
Total general									
Tranzacții de genul acesta									
Tranzacții de genul acesta									
Tranzacții de genul acesta									



**Be careful when
drafting inventory
lists!**

committee which is appointed by a written resolution of the company Director. In the designation resolution, it is mandatory to indicate the composition of the committee (name of the President and committee members), mode of performance of the inventory, inventory method used, warehouse subject to inventory, as well as inception and completion date of inventory operations. The warehouse keeper in charge of the warehouse subject to inventory, the accountant who tracks inventory for this warehouse, internal auditors and statutory auditors cannot be appointed members of the inventory committee. In case the entity has no employee, the Director is in charge of performance of the inventory.

ITEMS HELD BY THIRD PARTIES

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

Lease companies must provide lessees/users with inventory lists regarding items representing the object of the contract. Based on information included on these lists, the leasing company can calculate and register adjustments regarding depreciation of assets or financial assets, if applicable.

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

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

CONFIRMATION OF BALANCES

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

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

INVENTORY LISTS

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

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

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

INVENTORY DIFFERENCES – ADJUSTMENTS / ATTRIBUTABLE / BALANCES

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

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

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

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

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

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



Balancing is made for equal quantities between quantities in excess and missing quantities. Equalizing quantities is made starting with the items with the lowest unitary cost and in increasing order. Items which fall in weight/length/volume categories are admissible. In cases of balancing between quantities in excess and missing quantities, decreases are only computed when missing quantities are greater than quantities in excess. In this situation, decreases first apply to items for which missing quantities were found.

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

INVENTORY OUTCOME

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

- date prepared;
- names and surnames of members of the inventory committee;
- number and date of the resolution for appointment of the inventory committee;
- warehouse(s) subject to inventory;
- inception and completion date of inventory operations;
- results of inventory;
- conclusions and proposals of inventory committee regarding causes of quantities in excess and missing quantities found at the time of the inventory and persons liable for losses, as well as proposed corrective measures to be taken;
- volume of impaired inventories, inventory without movement or slow moving stock, items which are difficult to sell, without assured disposition and proposed measures to reintegrate them in the economic circuit;
- proposals to write off tangible and intangible fixed assets;
- proposals to withdraw low inventory balances from use and for impairment of or writing off inventory;
- findings regarding conservation, warehousing, safety, assurance of entirety of items in patrimony as well as other matters related to activities of the warehouses which were subject to inventory.

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

INVENTORY REGISTER

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

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

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

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

REMINDER – REVALUATION OF LAND AND BUILDINGS

The accounting law does not oblige enterprises to revalue land and buildings every 3 years. From an accounting point of view, the European Directive and implicitly IAS 16 rules apply and there is no provision regarding frequency of revaluation except for indications of changes in fair value.

Revaluation every 3 years is based on the following:

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

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

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

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

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

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

Under these circumstances, local tax authorities should be contacted for the increased tax rates in force, by location. Standard tax rates (from 0.25% to 1.50%) and the increased tax rates (from 10% to 40%) for buildings are established at the discretion of each community. A community with a large number of en-



**Revaluation of land
and buildings is
essential in order
to benefit of
reduced local tax
rates**



enterprises and considered prosperous should not have a very aggressive policy regarding the level of local taxes, as it collects income tax for all employees who work in the area. A cost-benefit analysis of appraisal fees compared to the effect of increased taxes should also be taken into account.

Be aware! As per amendments introduced to the Fiscal Code by OG 30/2011 (presented in APEX Team newsletter no. 9_2011), the tax rate for buildings which have not been revalued during the last 3 years increased from 5%-10% to 10%-20% of gross value. For buildings which have not been revalued during the previous 5 years, the tax rate is between 30% and 40%. Only fully depreciated buildings are taxed as per the standard rate of between 0.25% and 1.50% of gross value.

Subsequently, timely revaluation of land and buildings become mandatory.

Another issue regarding revaluation of land and buildings ought to be mentioned as it represents a concern and refers to the obligation to record the outcome of the revaluation in accounting records. Thus, as per provisions of article 253 (5) "In case a building has been revalued in accordance with accounting regulations, the tax base is the accounting value which results from the revaluation as recorded in the accounting records of the owner which is a legal entity." Subsequently, recording the outcome of the revaluation becomes mandatory and, therefore, must be presented in the financial statements.

Order 3055/2009 to approve Accounting Regulations in conformity with EU Directives stipulates that an enterprise can adopt the historical cost method or fair value method to report its tangible assets, the same as provisions of IAS 16.

We observe that although important steps were undertaken to separate accounting issues from tax matters, the Fiscal Code requires that an enterprise using the historical cost asset valuation method must recognize the outcome of revaluations in accordance with the fair value method, this situation can generate breach of company/group accounting policies and alteration of performance comparability.

It ought to be mentioned that in 2012 an exception was allowed for the financial institutions that are required to apply the International Financial Reporting Standards (IFRS) and choose the historical cost asset valuation, in their case the tax base of the land/buildings being the value resulted from the evaluation report issued by an authorized evaluator.

We expect that this exception to become applicable officially for all companies that adopted the historical cost asset valuation for land / buildings to correct the actual discrepancies in the law.

REMINDER – Valuation of monetary items in foreign currency

The November closing NBR exchange rates to use for valuation of monetary items (cash on hand, receivables, payables) denominated in foreign currency, as well as receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement are:

1 EUR = 4.4412 RON; 1 CHF = 3.6071 RON; 1 GBP = 5.3281 RON; 1 USD = 3.2644 RON.

DECEMBER 2013 – 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, 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 organize a stock count of inventories if the enterprise does not use a perpetual inventory system
- To issue final invoices for the month of December 2013.

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 Sunday 1 December is the National Day of Romania

That Friday 6 December is the last day to submit

- Form 092 (amendments) to change VAT return periods from Quarterly to Monthly for EU acquisitions of goods in November 2013. The October–November period will represent a distinct fiscal period for which a VAT return will be submitted, due by 20 December 2013.

That Tuesday 10 December is the last day to submit

- Return on collection of hotel tax



**Do not forget
deadlines to submit
tax returns and to
pay the taxes**



- 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 Tuesday 10 December is the last day to pay

- Hotel tax
- Advertising service tax

That Monday 16 December is the last day to submit

- INTRASTAT statement for November 2013 (standard or extended submitted on-line)
- Statements of acquisitions and supplies in the field of energy in November 2013.

That Monday 16 December is the last day to pay

- advance payment of 50% of the income tax on the income from agricultural activities (second installment) by taxpayers who obtain income from agricultural activities

That Friday 20 December 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 regarding amounts deriving from VAT adjustments (form 307)
- VAT return regarding VAT due by taxable entities which registration code under the scope of VAT was cancelled as per article 153 point (9) letters a)-e) of the Fiscal Code (form 311)
- Recapitulative statement of EU Supply/acquisitions/services (form 390)* for November 2013
- Informative Statement on domestic supply/services rendered and acquisitions regarding November 2013 (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")

That Friday 20 December 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 November 2013
 - 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 ("ecotax" excluded)
- Tax for license regarding organization of gambling in 2014 for gambling operators
- Tax for operation of gambling activities for the next quarter
- Income tax (advance payment) regarding Quarter IV 2013 for taxpayers who obtain income from independent activities, rental revenue and agricultural revenue (as per article 71 of the Fiscal Code).
- Tax on Rep. Offices (2nd and last installment)**
- the health insurance contribution for the 4th quarter due by Taxable entities referred to in Fiscal Code, article 29621 para. (1) let. a) - e), as below:
 - a) individual entrepreneurs;
 - b) members of a family enterprise;
 - c) licensed individuals (PFA)
 - d) freelancers;
 - e) individuals obtaining income from intellectual property rights, on which income tax is calculated on the basis of the information from single entry bookkeeping.



Pay attention!
20 December is the
deadline to submit
the tax returns and
to pay the taxes
and contributions



That Wednesday and Thursday, 25 and 26 December are holidays being the first and second Christmas day

IMPORTANT

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.

KEY HR FIGURES

2013 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 2,223 = RON 11,115) 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) ³	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 800) for every 100 employees	
Minimum monthly gross salary as per Government Decision 23/2013	RON 800 (starting 1 July, 2013)	
Luncheon voucher - employee subject to salary tax starting May 2013	RON 9.35	
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 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: The contribution to the fund to guarantee payment of salary liabilities is also to be calculated for health insurance allowances but only in respect of the first 5 days of temporary incapacity to work supported by the employer as well as for allowances for temporary incapacity to work further to a work accident or occupational disease but only in respect of the first 3 days of temporary incapacity to work supported by the employer.

Be Aware! Income paid to a person who carried out an activity considered dependent activity (example: in-house "captive" PFA or who meets at least 1 of the 4 re-qualification criteria mentioned in OUG 82/2010) is disclosed on a separate "Payment statement" and is included on form 112.

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Our Mission:
Adding Value to Client's Business

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