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LAW 168 dated 29 May, 2013 approving Government Ordinance 8/2013 on amending and supplementing Law 571/2003 on Fiscal Code and to establish financial and fiscal measures (Official Gazette 310/2013)

The law approves Government Ordinance 8/2013 which amended the Fiscal Code starting with 1 February, 2013 and also brings significant amendments to the initial Ordinance and directly to the Fiscal Code.

PROFIT TAX

Permanent establishments

- Consolidation of revenue and expenses pertaining to permanent establishments in Romania of the same foreign legal entity is allowed. From this point of view, one of the permanent establishments must be designated to fulfill reporting obligations to ANAF. The article relating to reporting (carry-forward) fiscal losses to allow consolidation of losses of permanent establishments of the same foreign legal entity, after 1 July, 2013, also changed;
- Permanent establishments which will apply the new provisions should close the taxable period through 30 June, 2013, inclusive. The calculation, payment and reporting of profit tax due for taxable profits earned by each permanent establishment during the period of January 1, 2013 – June 30, 2013 shall be carried out by 25 July, 2013 inclusive, by exception to the provisions of art. 34 and 35;
- It is necessary to use transfer price rules to establish the market price for a transfer made between the foreign legal entity and its permanent establishment. When the permanent establishment does not hold an invoice for expenses allocated by its head office, other supporting documents must include justification of the effective costs supported by the head office and the reasonable allocation of these costs to the permanent establishment by using transfer price rules;
- Non-resident taxpayers who perform activities in Romania through one or more permanent establishments that are tax registered before 30 June, 2013 are obliged to submit the declaration of tax registration during the period of 1 to 31 July, 2013. Procedural aspects that should be fulfilled are specified.

Other profit tax provisions

- The type of services provided by non-residents abroad that are considered as being obtained from Romania (those already established by amendments to Norms of the Fiscal Code) are clearly specified.
- Expenses for daily allowances paid to employees for a business trip in Romania and abroad, within the limit of 2.5 times the threshold for public institutions are removed from the category of expenses with limited deductibility (article 21, paragraph (3) (b)). Elimination was needed to allow full deduction of daily allowance expenses granted to employees, irrespective of the amount, considering that according to provisions of the income tax section, any amount in excess of the threshold shall be treated as benefits in kind and taxed at the level of wage income;
- Depreciation methods for the net book value of depreciable fixed assets decommissioned for specific cases as per Accounting Regulations in conformity with IFRS are specified (fixed assets specific to activities of exploration and production of oil and gas resources and other minerals);
- Exceptions to the deduction limitation of depreciation expenses of motor vehicles having maximum capacity of 9 passengers, including the driver's seat, are introduced. These expenses were limited to a deduction of RON 1,500/month/vehicle since 1 February 2013. The depreciation expenses are exempted from this limitation on such vehicles:
 - o vehicles used exclusively for emergency services, guard and protection services and mail services;
 - o vehicles used by sales and procurement agents, as well as for test drives and demonstrations;
 - o vehicles used for the transport of persons for a fee, including taxis;
 - o vehicles used for providing services for a fee, including rental to other persons, the usage right given under operational lease agreements, and driver's education vehicles.

INCOME TAX

- A unitary tax treatment applicable to rights granted for delegation and secondment periods in Romania for employees who have established work relationships with non-resident employers is established, for the purposes of taxation of the portion exceeding the threshold established for public institutions in the country of residence of the employer, which would benefit the staff of Romanian public institutions if they are detached to that country;

Contents:

- Fiscal Code Amendments
- Reporting fiscal bills issued which meet conditions of a simplified invoice in Statement 394
- Minimum amount necessary to capitalize fixed assets
- New ANAF public service: SMS
- Amendments to calculating contribution for work accidents
- Increase in value of luncheon and nursery vouchers
- Forms and documents used for inspection of fiscal position of individuals
- Suspension of tax inspection
- Fiscal cash register regime
- New scheme for granting de minimis assistance for SMEs
- Deadline extension for submission of form D221 on income from agricultural activities
- Law project on amendments of new laws
- Communication of settled fiscal liabilities
- Disclosure of annual financial statements
- Statement 222
- Determination of tax residence in Romania by individuals
- Checking the status of a company at Trade Register
- Exchange rates to use for valuation at the end of May 2013
- June 2013 – AGENDA
- Social Indicators



- The tax treatment for daily allowances and other similar taxable amounts received by employees during delegation and secondment in Romania or abroad, for business purposes, which exceeds 2.5 times the amount set for public institutions is clarified. The provisions shall also apply to employees of Representative Offices opened in Romania by foreign legal entities;
- The tax treatment applicable to rights granted to employees with special status provided by law during the delegation/secondment period is clarified, meaning exemption of this revenue from taxation.
- For daily allowances and other similar taxable amounts received by employees during delegation and secondment to another location, in Romania or abroad, the tax shall be calculated and withheld for each payment. The tax payment to the State Budget shall be made monthly or quarterly, as appropriate.

TAX ON MICRO-ENTERPRISE REVENUE

- A new requirement for a company to be considered a micro-enterprise is introduced: to not be in process of liquidation, registered with Trade Register or with the Court;
- For the application of the micro-enterprise tax regime upon company set-up, two exceptions are introduced:
 - o if the new company **intends** to perform one of the activities excluded from the micro-enterprise regime (banking activities, insurance, capital market, gambling, consultancy and management);
 - o if the new company has a subscribed share capital representing a minimum of the RON equivalent of Euro 25,000, it may opt for application of the profit tax regime. The option is final, with the condition of maintaining the value of share capital from the registration date for the entire period of existence of the concerned legal entity. If this condition is not met, the legal entity shall apply the micro-enterprise tax regime starting with the fiscal year following the year in which the share capital drops below the value representing the RON equivalent of Euro 25,000 at the date of registration, if the remaining conditions for micro-enterprises are met.
- Non-application of the micro-enterprises regime for companies which perform exempted activities is clarified, replacing the words "They are not obliged to apply ..." with the text "They are not subject to provisions of this title ..."

WITHHOLDING TAX (WHT) FOR NON RESIDENT INCOME

- Clarifications are brought for application of the increased tax rate of 50%. Only transactions qualified as artificial in accordance with article 11 paragraph (1) are subject to the increased tax rate.

VAT

- The application of reverse taxation for cereal is extended until 31 May 2014.

Fiscal bills meeting conditions of a simplified invoice should be reported on Statement 394

INFO - REPORTING FISCAL BILLS MEETING CONDITIONS OF SIMPLIFIED INVOICE ON STATEMENT 394

ANAF issued a press release concerning reporting fiscal bills meeting conditions of a simplified invoice on Statement 394.

In accordance with provisions of point 17, Chapter E, Title VI, "Value added tax", of Norms of the Fiscal Code, **for acquisitions of goods and services based on fiscal bills, VAT deduction can be exercised from fiscal bills which meet the conditions of a simplified invoice in accordance with provisions of art. 155, para. (11), (12) and (20) of the Fiscal Code, provided that the supplier/provider indicated the registration code of the beneficiary on the bill, using a fiscal electronic cash register.**

Statement 394, "Informative Statement on domestic supply/services rendered and acquisitions", is filed and submitted by taxable entities registered under the scope of VAT in Romania according to art. 153 of the Fiscal Code which are obliged to pay the tax according to art. 150 point (1) and (7) of the Fiscal Code for chargeable operations in Romania according to art. 126 point (1) and taxable at the applicable rates as per the law.

The statement is submitted for any taxable operation for which an invoice is issued, including advances, as well as for operations which are subject to the VAT cash accounting scheme by taxable entities registered under the scope of VAT in Romania according to art. 153 of the Fiscal Code, which carry out acquisitions of goods and services from taxable entities registered under the scope of VAT in Romania, taxable at the applicable rates as per law.

The statement must contain all invoices issued/received during the reporting period, including those marked "reverse tax" or "VAT Cash Accounting Scheme", as well as fiscal bills with values below Euro 100 which meet conditions of a simplified invoice for which the beneficiary has asked to include its VAT registration code.

The statement should not contain self-invoices.

ORDER 504 dated 26 April, 2013 for the approval of Procedure to access public information by Short Message Service – SMS (Official Gazette 252/2013)

This order establishes a public service to allow access to fiscal public information about any taxpayer by SMS.

What number should be used to send the SMS? 1300

What to include in the message? Fiscal identification code of the economic operator in which public information is requested.

What information is available?

- a) Fiscal identification code;
- b) Name of economic operator;
- c) Economic operators which are or are not VAT registered;
- d) Fiscal inactivity of economic operators;
- e) VAT cash accounting scheme applicability;

f) Security code attached to each response message from ANAF.

Example for message received: 16938224; APEX TEAM INTERNATIONAL S.R.L.; INACTIVE: NO; VAT: YES, VAT cash accounting scheme: NO, 123456789

What is the cost of the service? The price charged is set by the mobile operator and the remuneration paid is only for the operator. **ANAF does not charge any fee for this service.** After sending the message with the fiscal identification code to the number, 1300, the operator will ask to confirm acceptance of fee with a message like: "The price charged by the mobile operator for Data Access via SMS is 0.15 EUR + VAT. Phone for taxpayer assistance: 0314039160. Send YES to confirm.

Which mobile operator offers this service? Orange and Vodafone

DECISION 276 dated 21 May, 2013 on the minimum capitalization value of a fixed asset (Official Gazette 313/2013)

Starting 1 July, 2013, the minimum value of a fixed asset entry is RON 2,500 (previously RON 1,800). The net book value of fixed assets having an entry value of between RON 1,800 and RON 2,500, which exist in patrimony as at 1 July 2013, should be recovered over the remaining useful life of the assets.

DECISION 225 dated 30 April, 2013 to amend and supplement Methodological Norms on methodology to compute contribution to work accident and occupational disease fund, approved by Government Decision 144/2008 (Official Gazette 275/2013)

This decision amends Methodological Norms for determination of methodology to compute the contribution to the work accident and occupational disease fund.

The decision amends, for all sectors of the economy, the percentages used to calculate the contribution to the work accident and occupational disease fund

The new percentages are detailed in annex 2 depending on the RISK RATE of the economic sectors of the national economy or CAEN classification.

The decision also has specific provisions for some CAEN group classifications:

- Space transport (CAEN code 5122), the risk rate for this activity is assimilated to the rate for the 5110 CAEN code
- The risk rate for CAEN code 9700 is assimilated to CAEN code 9609, while the risk rate for CAEN code 9900 is assimilated to CAEN code 8421.

The decision updates annex 1 containing the risk levels for all branches of activity of the national economy, calculated based on frequency indices and data from the years 2009, 2010, 2011.

The decision enters into force starting 1 June, 2013.

ORDER 883 dated 14 May, 2013 to set the indexed monthly amount which may be granted for nursery vouchers for first half of 2013 (Official Gazette 276/2013)

The Order sets that starting May 2013, the monthly amount which may be granted in the form of nursery vouchers is RON 420 (previously RON 400).

ORDER 882 dated 14 May, 2013 to set the face value of a luncheon voucher for first half of 2013 (Official Gazette 276/2013)

The Order sets that starting with May 2013 the face value of a luncheon voucher at the value of RON 9.35 (previously RON 9).

ORDER 393 dated 5 April, 2013 to approve model and content of forms and documents used for inspection of fiscal position of individuals (Official Gazette 255/2013)

The order approves the model and content of the forms, reports and decisions prepared when auditing the fiscal position of individuals.

- Fiscal inspection notice
- Service order
- Explanation note
- Minutes of the meeting
- Notification to repeat the tax inspection
- Decision for suspension of tax inspection
- Decision to discontinue tax inspection
- Decision to levy additional tax liabilities further to tax inspection
- Report of prior fiscal inspection on the basis of documents
- Fiscal inspection report
- Invitation
- Minutes
- Minutes for taking/return of documents

ORDER 467 dated 22 April, 2013 on conditions and procedures to suspend a tax inspection in progress (Official Gazette 254/2013)

The Order abrogates the previous Order 14/2010 regarding conditions and procedures to suspend tax inspection, the main changes brought by this order presented below:

- The suspension shall only be made for one of the reasons specified in the order, whenever it is justified ;



**Starting 1 July
2013, the minimum
amount necessary
to capitalize fixed
assets become
RON 2,500**



- The date when the inspection is resumed for any reason for suspension should be specified;
- Both the suspension and resumption of the inspection date will be communicated in writing to the taxpayer.

Reasons for suspension of a tax inspection are:

- a) To ask other tax authorities to reconcile suspicious data identified in connection with taxable transactions and documents of the taxpayer subject to tax inspection;
- b) To remedy deficiencies that were disclosed and determined by the tax inspection body in order to undertake « Measures »;
- c) To issue a resolution from the Central Tax Commission;
- d) To carry out an expert evaluation in accordance with the Fiscal Procedure Code;
- e) To carry out specific investigations to identify natural persons or to clarify the reality of transactions;
- f) The taxpayer can ask for suspension of the tax inspection for objective reasons which prevent the performance of the tax inspection. When the tax inspection is in progress, the taxpayer can only apply for suspension once, in a written form;
- g) To request further information from similar tax authorities in other EU Member States or in countries with which Romania has signed international conventions regarding exchange of information for tax purposes;
- h) To draft and present the transfer price file or transaction file, as applicable;
- i) Upon proposal of the ANAF general inspectorate which coordinates tax inspection activities, for use of information from the following documents:
 1. results of other actions of tax inspection;
 2. received from other State institutions;
 3. obtained from third parties.
- j) Processing challenges against a tax administrative act previously issued, for the same taxpayer, that may influence the results of a tax inspection in progress;
- k) For request of information or documents from other institutions or third parties, in connection with the subject of tax inspection or to complete the other actions of the same taxpayer that may influence results of the tax inspection in progress;
- l) Where, on the date set for the start of the tax inspection, the legal representative of the taxpayer is not present at the venue of the tax inspection or did not appoint an empowered person to represent the taxpayer in relations with tax authorities;
- m) When completing the tax inspection depends, in whole or in part, on final pronouncement of a judicial decision as a result of appealing the decision of a challenged resolution which will cancel the tax administrative act;
- n) Concerning an administrative act previously issued, for the same taxpayer, which may influence the tax inspection results;
- o) For carrying out fiscal inspection at other members of the Fiscal Group, as defined by the Fiscal Code.



Do you know the reasons for suspension of a tax inspection?

INFO – Fiscal cash register regime

Obligation

Economic operators which carry out the supply of goods, as well as provision of services directly to the population are required to equip and use fiscal cash registers.

Important! Supply of goods in the retail system and provision of services to the population means activities on a permanent basis. Any occasional delivery of goods or provision of services directly to individuals by economic operators other than retailers does not fall into this category.

Economic operators that use fiscal cash registers have the obligation to issue fiscal bills and give them to customers. They will also issue an invoice upon customer request.

Until restoring the fiscal cash register, economic operators must record in a special register - prepared for this purpose, all operations carried out and to issue invoices for the requested client transactions.

Fiscal bills issued by foreign exchange offices shall be signed and stamped by the issuer.

Where supply of goods in retail system and provision of services for which use the fiscal cash register is mandatory and supply of goods or provision of services for which there is no such obligation occurs in the same location and both are carried out by the seller, a fiscal bill for all goods supplied and/or services provided can be issued.

The obligation of economic operators, which carry out supply of goods as well as provision of services directly to the population, to use fiscal cash registers begins on the commencement date of commercial activities carried out at each location.

When users of fiscal cash registers cease their activities, as well as in the case of fiscal cash registers confiscated according to law, or by banks, as result of late payment of loans, their disposal must only be performed through authorized distributors.

Exempt activities

Economic operators carrying out the following activities do not have the obligation of using fiscal cash registers:

- Occasional sales of local agricultural products carried out by authorised individual producers in markets, fairs, or other public places, supply of goods through vendor machines, car park services whose value is collected through payment machines, as well as gambling activities carried out with technical means that works on the basis of slot machines;
- Catering services in the public transport system;
- The sale of newspapers and magazines through specialized distributors;
- Local public transportation tickets or passes according to the law, as well as for the subway;



- ☑ Activities for which collection will be performed on the basis of fixed value vouchers printed according to law - access tickets for shows, museums, exhibitions, fairs, zoos and botanical gardens, libraries, parking spaces for motor vehicles, tickets to gambling and other similar activities;
- ☑ Insurance and pension services, and financial intermediation activities, including additional activities. Foreign exchange activities in cash and cash substitutes for individuals other than operations carried out by the exchange offices of the credit institutions, as well as those made at automatic teller machines (ATMs) are not exempt;
- ☑ Individuals who derive income from a profession which does not involve set-up of a company;
- ☑ Sale of religious objects and religious services provided by religious institutions;
- ☑ Retailing through sales people, and by correspondence, with the exception of supply of goods by shops and public catering, on the basis of an order;
- ☑ Services of installation, repair and maintenance of goods carried out at client premises;
- ☑ The sale of service packages or partial packages by travel agencies, which are defined according to the law;
- ☑ The supply of electricity and heat, gas, water, telephone services, including mobile, courier mail, television, including cable, and internet to client residences;
- ☑ Carrying out construction work, repairs, and maintenance of housing facilities;
- ☑ Medical services provided at home or in the workplace of the client;
- ☑ Public rail transport services of passengers domestically and internationally, provided by commercial company legal entities.

Source: DGFP Vâlcea



ORDER 1 dated 15 May, 2013 on approving Instruction 1/2013 for the amendment of Instruction 6/2011 on IFRS application by authorised entities, regulated and supervised by the National Securities Commission (CNVM), approved by CNVM Presidential Order 116/2011 (Official Gazette 297/2013)

DECISION 274 dated 15 May, 2013 granting de minimis aid for investments by Small and Medium size Enterprises (SMEs) (Official Gazette 305/2013)

The decision sets a new State assistance scheme which aims to grant de minimis aid to SMEs in pursuit of investment through the creation of new jobs.

The maximum budget for the program is RON 400 million, while timing for funding approval is 2013-2014, with the possibility of extension, and payment of de minimis aid shall be in the 2014-2016 period, subject to the annual budget allocated to the scheme.

The de minimis aid will be granted to SMEs in the form of non-refundable amounts as a percentage of 100% of the total eligible costs approved for funding, up to the maximum amount of Euro 200,000 in the RON equivalent, or Euro 100,000, in the case of companies which carry out activity in the field of road transport, for a period of 3 consecutive fiscal years.

In addition, provisions contained in the Government Decision introduce the condition to create, pending completion of the investment, and maintain for a period of no less than three years of the investment's completion:

- ☑ Five job positions, of which at least two jobs are for people who had no employment contract during the previous 3 months, in the case of de minimis aid of up to Euro 100,000, inclusive;
- ☑ Seven job positions, of which at least three jobs for people who had no employment contract during the previous 3 months in the case of de minimis aid from Euro 100,000 to Euro 200,000, inclusive.

The aid shall be paid after the payment of eligible expenses approved by funding agreements and verification of eligible expenses incurred by MPF representatives.

The Decision presents eligibility conditions which must be cumulatively fulfilled in order to benefit from this State aid scheme.

INFO – Income from agricultural activities: Deadline for submission of statement D221 extended

In order to ensure optimal conditions for filing form D221, "Statement regarding agricultural income taxed on income quota", and to allow taxpayers to familiarize themselves with their new obligations, ANAF has extended the deadline to 25 June, 2013.

Source: DGFP Vâlcea

PROJECT ORDER – the publication of the new act amending other acts should be followed by its republication

A draft order relating to the amendment of other acts has been published on the website of the Romanian Government. The Emergency Ordinance proposes that the publication of an act amending another act be followed by the republication of the initial act, at the same moment and irrespective of the length of the changes brought to the initial act. For special cases, such as Codes and other complex laws, the Ordinance allows the republication to be realised within 60 days from publication date of the modifying act.

INFO – COMMUNICATION OF SETTLEMENT OF FISCAL LIABILITIES

Starting 1 June, 2013, ANAF will test a new service offered to taxpayers, where the "Notification of settlement of fiscal liabilities" will be sent by secure email transmission.

Supply of goods and provision of services to the population – the recurrence of these activities brings the obligation to use fiscal cash registers



The testing period is four months, and then, using experience gained, ANAF will harmonise the legal framework for transmission of other documents via this service. Pending harmonisation of the legal framework, the current issuance of the printed documents will continue.

The "Secured electronic mail" service aims at improving communication with taxpayers, facilitating access to verified information held by ANAF, through a standardized and secure electronic channel, eliminating costs and time spent printing and transmitting information on paper.

Access to this service is provided to all taxpayers possessing a qualified digital certificate, registered with ANAF.



IMPORTANT – Publication of annual financial statements

We emphasize provisions of article 185, paragraphs 1 and 4 of Law 31/1990 regarding commercial companies:

"(1) In the conditions set at Accountancy Law 82/1991, republished, the Board of Directors or the Supervisory Board, must submit annual financial statements and, if applicable, the report issued by "cenzori" or auditors to territorial offices of the Ministry of Public Finance, both in paper and electronic format or only in electronic format to which an extended electronic signature is attached,.

"(4) Commercial companies with an annual turnover greater than RON 10 million must publish an announcement in the Official Gazette of Romania, Part IV-a, by which submission of documents set at paragraph (1) is confirmed."

In previous years, this announcement was published upon submission of financial statements to the Trade Register. Due to the fact that 2012 financial statements are only submitted to tax authorities, this publication obligation lays with the taxpayer.

To comply with this obligation, we recommend submission of the following documents to the Official Gazette:

- an accompanying letter which may be downloaded from
- http://www.monitoruloficial.ro/docs/159_cerere%20publicare%20PIV.pdf;
- the announcement prepared on computer, signed and stamped by the legal representative of the company. A model may be downloaded from http://www.monitoruloficial.ro/docs/373_anunt.pdf;
- an appendix disclosing the number of characters in the announcement;
- a power of attorney for the person who will submit the document for publication;
- the document which proves payment of the fee for publication;
- details of the company (contact person, phone number).

The appendix disclosing the number of characters of the announcement may be obtained from a text editor and, for instance, if drafted using Microsoft Word:

- select the full text to be published (Ctrl - A);
- select Word Count on the bottom left bar (Tools);
- copy the displayed window by pressing Alt-Print Screen at the same time;
- copy the selected image with the "paste" command by pressing Ctrl - V at the same time, and print.

Where and how may the fee for publication be paid?

- at the cashier's desk located in the centre for public inquiries at the Official Gazette;
- by payment order upon receipt of the invoice which is issued for documents transmitted by fax. The invoice for RON 28.80 also includes the price of one copy of the Official Gazette.

How to obtain the Official Gazette of Romania, Part IV-a?

- at the library located in the centre for public inquiries at the Official Gazette;
- by e-mail for subscribers, at the date of publication, in electronic format of the Official Gazette, Part IV-a;
- by mail or, in case of documents transmitted by fax, after printing.

Do not forget the obligation to publish an announcement regarding the submission of annual financial statements



INFORMATION - Statement 222 – Informative statement regarding inception/termination of activity of individuals who carry out their activity in Romania and who obtain salary income abroad

Any entity in Romania where individuals carry out their activity for which they receive a salary abroad must complete the form, "Informative statement regarding inception/termination of activity of individuals who carry out their activity in Romania and who obtain salary income abroad," code 14.13.01.13/5i.

Obligation

The category of entities which must submit the informative statement include representative offices in Romania of foreign companies, associations, foundations or organisations where headquarters are located abroad as well as international organisations and organisms which operate in Romania.

The statement is completed with 2 original copies:

- the original is submitted to the tax authority office administering the individual or legal entity where the individual carries out his/her activity;
- a copy is kept by the individual or legal entity where the individual carries out his/her activity.

For each individual who obtains salary income abroad for activity carried out in Romania, an informative statement is completed and submitted.

Deadline for submission of form 222

The form is submitted to the appropriate tax authority or sent by registered mail, and, each time events regarding inception/termination of activities supported by documents which rule labour relationship occur, within 15 days starting date of occurrence of the event.

Legal basis: ANAF President Order 52/2012 to approve model and content of forms set at Title III of Law

571/2003 – Fiscal Code, with its further amendments and complements.
Source: DGFP Vâlcea

INFORMATION – Assessment of the fiscal residence in Romania of individuals

Issues which support fiscal residence in Romania

The main issues which will be taken into account for determination of the fiscal residence of an individual in Romania are the following:

- the domicile in Romania;
- the permanent address in Romania of the individual, lodgings which may be his/her property or rented, but remains at his/her disposal or at his/her family's disposal at all times;
- the centre of vital interest is located in Romania;
- the individual is present in Romania for one or several periods which exceed a total of 183 days during any period of 12 consecutive months which ends in the concerned calendar year.

Assessment of fiscal residence

The non resident individual must submit with tax authorities the form, "Questionnaire to determine the fiscal residence of individuals upon arrival in Romania," within 30 days after occurrence of the 183 days of stay in Romania.

The non resident individual will attach the following to the form:

- copy of passport, in its validity period and, for European Union citizens, copy of passport or national identity card with its validity period;
- certificate of fiscal residence issued by the authority in charge of the State with whom Romania has concluded an agreement to avoid double taxation or another document issued by an authority other than tax authorities with attributions in the field of certification of fiscal residence as per domestic legislation of this State, in original or legalised copy, accompanied by an authorized translation in Romanian, the certificate/document being valid for the year/years for which it is issued;
- documents which prove the existence of lodgings in Romania of the individual, lodgings which may be his/her property or rented, but remains at to his/her disposal or at his/her family's disposal at all times.

Tax authorities will assess whether residence conditions are met in function of the actual position of the individual, taking into consideration provisions of the treaties to avoid double taxation and provisions of the Fiscal Code, if applicable, as well as the file submitted, and will establish whether the non resident individual keeps fiscal residence in the other State as per the treaty to avoid double taxation or will be a fiscal resident in Romania.

Within 30 days starting date of submission of the form, tax authorities will notify the individual whether he/she is subject to full fiscal obligations in Romania or he/she will only be taxed on income obtained in Romania. In case of full fiscal obligations, the resident individual will be subject to income tax upon income irrespective of its source he/she obtains in Romania and outside Romania.

If applicable, in respect of the file submitted by the individual for assessment of his/her fiscal residence in Romania, if modifications occur vs. data disclosed in the notification issued by tax authorities, a new notification will be issued to cancel the former and to correct the fiscal obligations laying with the individual in Romania considering new information provided.

Assessment of fiscal residence upon departure of individuals from Romania

In the scope of deregistering or maintaining evidence with tax authorities, the resident individual in Romania and the non resident individual, must submit the "Questionnaire to determine fiscal residence of individuals upon departure from Romania" 30 days prior to his/her departure from Romania with tax authorities where the "Questionnaire to determine the fiscal residence of individuals upon arrival in Romania" was submitted, if the person has not communicated his/her change of domicile/permanent address.

Tax authorities will assess whether residence conditions are met in function of the actual position of the individual, taking into consideration provisions of the treaties to avoid double taxation and provisions of the Fiscal Code, if applicable, as well as the file submitted and any other document which may support assessment of the individual's fiscal residence as well as the certificate of fiscal residence issued by the authority in charge of the State with whom Romania has concluded an agreement to avoid double taxation or another document issued by an authority other than tax authorities with attributions in the field of certification of fiscal residence, and will establish whether the resident individual in Romania keeps his/her fiscal residence in Romania as per treaty to avoid double taxation and provisions of the Fiscal Code or will be not a fiscal resident in Romania.

Within 15 days starting date of submission of the form, tax authorities will notify the individual whether he/she continues to be fully subject to Romanian fiscal obligations or whether he/she will be deregistered or maintained in tax authorities' evidence. In case of full fiscal obligations, the resident individual continues to be subject to income tax upon income irrespective of its source he/she obtains in Romania and outside Romania.

If further to submission of the form, the individual resident in Romania, with his/her domicile in Romania, provides the proof of his/her change of residence in a State with whom Romania has concluded a treaty to avoid double taxation, he/she will attach to the above mentioned form the certificate of fiscal residence issued by the authority in charge of the State which considers him/her a fiscal resident or another document issued by an authority other than tax authorities with attributions in the field of certification of fiscal residence in order to apply provisions of the treaty. The individual resident in Romania, with his/her domicile in Romania, will continue to be considered resident in Romania, having in Romania full fiscal obligations through the end of the calendar year when he/she provided proof of change of fiscal residence in another State with whom Romania has concluded a treaty to avoid double taxation.

The individual resident in Romania, with his/her domicile in Romania who departs to a State with which



Assessment of the fiscal residence in Romania of individuals – main steps and formalities





**When you leave
Romania, do not
forget to request
deregistration with
Romanian tax
authorities**

Romania has not concluded a treaty to avoid double taxation completes the form, "Questionnaire to determine the fiscal residence of individuals upon departure from Romania" and continues to be subject to income irrespective of its source in Romania and abroad for the calendar year, the individual departs from Romania as well as for the next 3 calendar years.

The non resident individual who had to complete the form "Questionnaire to determine the fiscal residence of individuals upon arrival in Romania" and has obtained tax residence in Romania for a period of stay in Romania will only complete the form, "Questionnaire to determine the fiscal residence of individuals upon departure from Romania," upon departure from Romania, and will not consider this proof of his/her change of fiscal residence in another State. This individual will be considered a fiscal resident in Romania until the end of the calendar year when he/she departs from Romania also having for this year full fiscal obligations in Romania.

A non resident individual who, during his/her stay in Romania, has proved he/she is tax resident in a State with which Romania has concluded a treaty to avoid double taxation and who had the obligation to complete the form, "Questionnaire to determine the fiscal residence of individuals upon arrival in Romania" will complete the form "Questionnaire to determine the fiscal residence of individuals upon departure from Romania," upon departure from Romania.

Forms

As a summary, forms used for assessment of fiscal residence are the following:

1. "Questionnaire to determine the fiscal residence of individuals upon arrival in Romania." This form is completed by individuals who arrive in Romania or who stay in Romania for one or several periods where the total length of time exceeds 183 days during any period of 12 consecutive months which ends in the calendar year. Completion of this form is not mandatory for foreigners with a diplomatic or consular status in Romania, foreigners who are civil servants or employed by an international and intergovernmental organism registered in Romania, foreigners who are civil servants or employed by a foreign State in Romania, or their family members in compliance with general regulations of international law or provisions of special agreements to which Romania is part.
2. "Questionnaire to determine the fiscal residence of individuals upon departure from Romania." This form is completed by resident individuals in Romania and by non resident individuals who were required to complete the above mentioned questionnaire when they leave Romania and will stay abroad for over 183 days within a calendar year. Filling this form is not mandatory for Romanian citizens who work abroad as civil servant or employed of the Romanian State abroad.
3. "Notification regarding meeting conditions for fiscal residence as per the provisions of articles 7 and 40 paragraph (2)-(6) of Law 571/2003 – Fiscal Code, with its further amendments and complements or the Treaty to avoid double taxation concluded between Romania andfor individuals upon arrival in Romania and who stay more than 183 days."
4. " Notification regarding meeting conditions for fiscal residence as per the provisions of articles 7 and 40 paragraph (2)-(7) of Law 571/2003 – Fiscal Code, with its further amendments and complements or the Treaty to avoid double taxation concluded between Romania andfor individuals upon departure from Romania and who stay abroad more than 183 days."

Submission of forms

Forms are submitted in paper format to the local tax authority office or sent by registered mail.

During 2012, individuals who arrived in Romania after 1st January 2009 and continue to be present in Romania after 1st January 2012 must complete the "Questionnaire to determine the fiscal residence of individuals upon arrival in Romania."

Non resident individuals arriving in Romania before 1st January 2009 and who apply for issuance of the "Certificate of fiscal residence to apply the treaty to avoid double taxation concluded by Romania andfor resident individuals in Romania" must complete the "Questionnaire to determine the fiscal residence of individuals upon arrival in Romania" and must provide proof of payment of income tax for income obtained, whatever its source, in Romania as well as abroad for the categories of income subject to taxation in Romania.

Legal basis: MFP Order 74/2012 to rule issues regarding fiscal residence of individuals in Romania, published at Official Gazette 73 dated 30 January 2012.

Source: DGFP Vâlcea



INFORMATION – Trade Register – Company features, as per article 237 of Law 31/1990

Regarding information published by the Trade Register, checking the following company features is recommended:

- period the title to the registered address is valid;
- duration of the mandate of the Director;
- duration of the mandate of the "cenzori;"
- annual financial statements filed.

The above mentioned information may be checked online <http://www.onrc.ro/romana/semnal.php>

If the company is in compliance, it does not appear on the list.

We emphasize that such concerns disclosed by the Trade Register may lead to rejection of the taxpayer application to register for submitting tax returns online because a public servant with the tax authorities checks taxpayer status by entering into this website address.

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 May 2013:

1 EUR = 4.3794 RON; 1 CHF = 3.5336 RON; 1 GBP = 5.1296 RON; 1 USD = 3.3737 RON.

JUNE 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
- 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 May 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 Friday 7 June 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 May 2013. Starting June 2013, VAT returns shall be submitted monthly.

That Monday 10 June 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 Monday 10 June is the last day to pay

- Hotel tax
- Advertising service tax

That Monday 17 June is the last day to submit

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

That Monday 17 June is the last day to pay

- Tax on billboard advertising (2nd instalment).

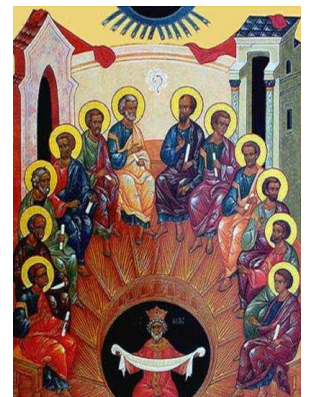
That Monday 24 June is a legal holiday, Pentecost Monday

That Tuesday 25 June 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 May 2013
- Informative Statement on domestic supply/services rendered and acquisitions regarding May 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").



24 June is a legal holiday being Pentecost Monday



That Tuesday 25 June 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 May 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
- Tax on Representative Office (1st instalment – 50% of the lump sum tax of Euro 4,000)
- Annual license fee for gambling operators pertaining to Quarter III 2013
- Income tax (advance payment) for Quarter II 2013 for taxpayers who obtain income from independent activities, rental revenue and agricultural revenue (as per article 71 of the Fiscal Code)
- health insurance contribution for Quarter II 2013 due by taxable entities referred to in Fiscal Code article 296²¹, para. (1), let. a) - e): individual entrepreneurs, members of a family enterprise, licensed individuals (PFA), freelancers, individuals obtaining income from intellectual property rights, on which income tax is calculated on the basis of the information from single entry bookkeeping
- Contribution to Environment Fund ("ecotax" excluded)



Do not forget the deadlines to submit the tax returns or to pay the taxes

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 750) for every 100 employees	
Minimum monthly gross salary as per Government Decision 23/2013	RON 750	
Luncheon voucher - employee subject to salary 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 guaranteed 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 of work supported by the employer as well as for allowances for temporary incapacity of work further to a work accident or occupational disease but only in respect of the first 3 days of temporary incapacity of 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
- T...