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## **ORDER 1802 dated 29 December 2014 to approve Accounting Regulations on annual financial statements and consolidated annual financial statements (Official Gazette 963/2014)**

The Order repeals OMFP 3055/2009 and OMFP 2239/2011, becoming the main accounting framework in Romania, alongside Accounting Law 82/1991. Provisions of this Order apply starting the 1<sup>st</sup> of January 2015, except for legal entities which have opted for a different financial year than the calendar year. Those entities will apply the new provisions at the beginning of their new financial year (subsequent to 1<sup>st</sup> of January 2015).

The new provisions introduce the following aspects:

- Implementation of simplified financial reporting system specific to micro-enterprises. This system was briefly presented in edition no. 10/2014 of our newsletter.
- The categories of reporting enterprises are redefined by redefining size criteria. Thus, there are 3 new size categories: micro-enterprises, small enterprises, medium and large enterprises.
- The presentation format of financial statements and provisions related to elements introduced in financial statements, including information that should be mentioned in the disclosure notes, which vary according to the size of the enterprise.
- Revise of accounting treatment to assure consistency in relation with IFRS treatment, regarding:
  - Accounting policies;
  - Evaluation and bookkeeping of advances in foreign currency;
  - Introduction of different accounts in order to emphasize the income and expenses following revaluation;
  - Highlighting retained earnings representing realized excess/surplus from revaluation reserves;
  - Provisions for decommissioning assets;
  - Equity method of consolidation for jointly-controlled enterprises is introduced;
- Completion of certain provisions and accounting treatment linked to:
  - Recognition of intangible assets;
  - Commercial discounts received/granted;
  - Positive goodwill;
  - Currency exchange differences;
  - Provisions;
  - Bookkeeping for titles gained following in-kind contribution to share capital of a company;
  - Accounting for income obtained from customer loyalty programs.
- Provisions and accounting treatment for balance sheet items and operations that were not explicitly regulated previously:
  - Tangible and intangible assets for exploration and evaluation of mineral resources;
  - Land stripping cost recognized as assets;
  - Real-estate investments;
  - Productive biological assets (animals);
  - Incentives granted upon conclusion or re-negotiation of certain contracts;
  - Professional fees and bank commissions paid in order to obtain long-term loans;
  - The possibility to use the European Central Bank's exchange rate for registration of currency operation made by enterprises that belong to a group and the parent company applies the ECB rate when accounting for operations. This is possible only with the performance of periodic regularization, taking into consideration the NBR exchange rate;
  - Accounting for operations carried out in accordance with fiduciary contracts.

The Chart of accounts has undergone changes. Certain accounts had their names changed and new accounts were introduced.

The list of accounts with a change in name (in Romanian) may be accessed at the following link: [http://www.apex-team.ro/PDFs/Denumiri\\_noi\\_Plan\\_conturi\\_2015.pdf](http://www.apex-team.ro/PDFs/Denumiri_noi_Plan_conturi_2015.pdf) and the list of newly introduced accounts at (in Romanian): [http://www.apex-team.ro/PDFs/Conturi\\_noi\\_Plan\\_conturi\\_2015.pdf](http://www.apex-team.ro/PDFs/Conturi_noi_Plan_conturi_2015.pdf)

We will return with more information regarding the new provisions introduced to the Romanian accounting system in subsequent editions.

## **EMERGENCY ORDINANCE 79 dated 10 December 2014 to amend and complement Accounting Law 82/1991 (Official Gazette 902/2014)**

The Ordinance amends Accounting Law 82/1991, the new provisions effective the 1<sup>st</sup> of January 2015.

The main amendments are mentioned below:

### **Double-entry bookkeeping – optional applicability for authorized self-employed persons (PFA)**

Natural persons, who carry out activities with the purpose of obtaining income, have the obligation to conduct their bookkeeping according to accounting rules valid for single-entry bookkeeping or, **at their option**, abiding by accounting rules valid for double-entry bookkeeping, except for the situation when fiscal legislation provides the opposite.

Specific rules in this regard will be issued within 60 days.

### **Simplified accounting system**

The simplified accounting system is repealed. The system was introduced in 2011 for legal entities which, during the previous financial year, registered net turnover and total assets of less than EUR 35,000.

### **Accounting organization**

Accounting is usually organized and conducted in various compartments, managed by a CFO, chief accountant or by another person who is empowered to perform this task. These persons should have a higher economic education.

The new rules clarify the notion of persons empowered to be CFO or chief accountant, this person being employed according to law and has responsibilities on leading the entity's accounting function.

### **Consolidated financial statements**

When an entity also has the obligation to prepare consolidated annual financial statements, in addition to stand-alone annual financial statements, audit reports on both sets of financial statements may be presented as a single report.

This situation is also valid for entities which should prepare a consolidated management report, in addition to that prepared for stand-alone annual financial statements. Thus, both reports may be presented as a single report.

The deadline to submit consolidated annual financial statements is redefined. Therefore, they should be submitted to territorial units of the Ministry of Public Finance within 15 days from approval but not later than 8 months from closure of the financial year by the parent-company.

Annual financial statements related to the 2014 financial year should be prepared according to legal provisions which apply until Emergency Ordinance 79/2014 comes into force on the 1<sup>st</sup> of January 2015.

### **Financial year**

Art. 27 of Accounting Law regarding the financial year is redefined.

The possibility to opt for a different financial year than the calendar year is extended to all Romanian legal entities and Romanian branches of non-resident entities.

Entities that should not apply for a different financial year than the calendar year are the following: loan institutions, non-banking financial institutions, payment institutions, institutions issuing electronic money and authorized entities, regulated and verified by the Financial Supervisory Authority.

Newly-established entities, which are not included in the above-mentioned categories, may opt for a different financial year than the calendar year at inception.

Entities opting for a different financial year than the calendar year have the following obligations:

- To prepare and submit annual accounting reports to territorial units of the Ministry of Public Finance;
- To send a written notification to territorial unit of the Ministry of Public Finance regarding the financial year-end selected. This notification should be sent at least 30 days before the beginning of the financial year chosen. Newly-established entities send the notification within 30 days from inception.

According to law, the date chosen for preparation of annual financial statements may not be modified from one financial year to another, except for situations in which the foreign legal entity or parent-company changes its reporting date or performs various re-organization operations.

### **Adjustment of errors**

It is forbidden to submit several sets of annual financial statements for the same financial year.

Errors found after submitting annual financial statements are adjusted on the date of discovery.

The note explaining the foundation of this draft emergency ordinance states *"This provision should eliminate situations in which, by breaking the law, different versions of annual financial situations were electronically submitted and afterwards used in an illegal manner in order to create various advantages"*.

### **EMERGENCY ORDINANCE 91 dated 23 December 2014 to amend and complement Government Emergency Ordinance 28/1999 on the obligation of economic operators to use fiscal electronic cash registers (Official Gazette 966/2014)**

The Ordinance amends regulations regarding cash registers, the main novelty being introduction of the legal framework to perform the transition from paper cash registers to electronic journal cash registers. The aim is to increase control of the Ministry of Public Finance and to decrease tax evasion, given the fact that Romania is the only country in Europe which continues to use paper cash registers.

Conversion to electronic cash registers (electronic journal) will be phased in, as follows:

- 1 October 2015 – only electronic cash registers will be authorized;
- 1 January 2016 – activation of paper cash registers for commercial use will be forbidden;
- 1 April 2016 – large-size taxpayers will have the obligation to only use electronic cash registers;
- 1 July 2016 – medium-size taxpayers will have the obligation to only use electronic cash registers;
- 1 November 2016 – small-size taxpayers will have the obligation to only use electronic cash registers.

In order to ensure surveillance and monitoring of electronic cash registers, economic operators have the obligation to assure the distance connection ability of cash registers in order to send fiscal data to ANAF. In this respect, ANAF will issue, by the 1<sup>st</sup> of February 2017, methodological Norms on the Procedure to



**Any company may opt for a financial year different than calendar year**



connect electronic cash registers to a national surveillance and monitoring fiscal information system.

### Other changes brought by introduction of electronic cash registers

The fiscal bill issued by electronic cash registers should contain, alongside current information, the following items:

- Unit of measurement
- Beneficiary's registration code under the scope of VAT (upon request)

The fiscal report issued by electronic cash registers, at the end of the day, should contain, alongside current information, the following data:

- number of fiscal bills with beneficiary registration code under the scope of VAT noted;
- their total amount;
- total related VAT;
- electronic journal identifier;
- number and value of discounts, cancelations, opening cash, as well as total amounts for each payment modality used;

The opening cash represents the amount of money used for giving change to customers, available to the individual operating the electronic cash register from the beginning of a work day. These amounts are found in the petty cash balance and also in the end-of-day balance.

The electronic journal issued by electronic cash registers is a set of electronic and secured files, existent on a memory device, containing all information on fiscal bills, as well as all operations from the registration regime. The electronic journal is kept on a memory device, in the archives of economic operators, for five years from the financial year-end during which it was issued/prepared.

Disabled electronic cash registers may only be sold to authorized distributors or to economic operators which are directly involved in the collection, treatment, recycling, scrapping and ecological elimination of electrical and electronic equipment waste. Fiscal data in storage memory, however, should be kept and archived during the period, as provided by Government Emergency Ordinance 28/1999.

Technical approval of electronic cash registers, their authorization as well as their activation for commercial use will be possible after approval of methodological Norms and after issuance of a joint order given by the Minister of Public Finance and the Minister for Information Society on the procedure for technical approval.

The change to electronic cash registers implies supplementary costs for all entities. In addition to implementation costs, there will also be costs to assure communication with the Ministry of Public Finance.

### Other changes introduced into legislation regarding cash registers

Economic operators collecting - integrally or partially, with cash or via credit/debit card or other cash substitutes - the value of goods sold, as well as for services provided directly to the population are obliged to use electronic cash registers.

In case the cash register does not work, the obligation to issue fiscal invoices is changed with the obligation to issue receipts, until reinstatement of the cash register. At the customer's request, the issuance of an invoice is mandatory.

Situations in which replacing of fiscal memory of the electronic cash register is not mandatory are provided, the available memory being usable until it is full. Such situations are:

- change in fiscal attribute of the user's fiscal identification code;
- change in the company's legal form without changing its name;
- change in the company's name and/or address, but maintaining its fiscal identification code;
- relocation of a work point belonging to the user from one stand to another, within a mall situated at the same address;
- change in the name of the street address where the electronic cash registers are installed;
- in case of temporary user inactivity, with notification to fiscal authorities, according to law;
- in case of any errors discovered after fiscal registration regarding information provided on the fiscal bill header.

Users of electronic cash registers have a new obligation. They should prepare supporting documents for all amounts introduced into/extracted from the cash register drawer, amounts other than those obtained from cashing the value of goods sold and services performed to population or used to give change to customers.

### EMERGENCY ORDINANCE 80 dated 10 December 2014 to amend and complement Law 571/2003 on Fiscal Code and other normative acts (Official Gazette 906/2014)

The Ordinance amends the Fiscal Code. The main amendments are mentioned below:

#### TAX ON PROFIT

- Introduction of the double-entry bookkeeping option for authorized self-employed persons in the Accounting Law generated the necessity to change paragraphs of Fiscal Code in which the expression "on the basis of single-entry bookkeeping" was used. This expression was changed to "on the basis of bookkeeping data".
- Taxpayers who determine their annual income on a real basis have the obligation to maintain a Tax Evidence Register in order to set annual net income. There is no obligation regarding completion of the Journal Register and Inventory Register due to introduction of the obligation regarding **Tax Evidence Registers**.
- A template for the Register will be approved by an Order of the Minister of Public Finance. Not to be confused with Tax Evidence Registers used by legal entities which apply to tax on profit.
- Persons who obtain income from transfer of ownership right and persons who obtain income from agricultural activities, who have opted to determine their annual income on the basis of income quo-




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**Electronic Cash Registers, connected online to ANAF, will be introduced gradually by November 1, 2016**

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ta, as well as other persons who obtain income from other sources do not have the obligation to complete a Tax Evidence Register.

- ☑ Taxpayers who carry out activities for which the net income is determined on the basis of income quota have the obligation to fill in the revenue portion of the Tax Evidence Register and they have no obligations regarding bookkeeping.

**VAT**

- ☑ Radio and television broadcasting services which are covered by the "mini one-stop-shop" regime (starting the 1<sup>st</sup> of January 2015) are defined by the Emergency Ordinance. More details on these services are presented in a separate section of this newsletter.
- ☑ Special VAT returns and payment of the VAT amount related to the "mini one-stop-shop" regime (applicable starting the 1<sup>st</sup> of January 2015) will be prepared and performed in Euro. In the case in which the service provision is paid in a different currency, when preparing the VAT return, the currency exchange rate available on the last day of the reporting period should be used. The currency exchange rates used are those published by the European Central Bank for that certain date or published the subsequent day (if not published on the same day).
- ☑ Taxable entities should justify their intention and capacity to carry out economic activities in order to register and also avoid cancellation of the registration code under the scope of VAT.
- ☑ Not taking into consideration the cause of cancellation of registration code under the scope of VAT, re-registration may be performed by fiscal authorities only at the express request of the taxable entity and only if the taxable entity can justify its intention and capacity to carry out economic activities.
- ☑ Reverse charge mechanism for electric energy supply may only be applied by providers whose beneficiaries are mentioned in the "List of taxable entities which have submitted affidavits on meeting the condition provided by art. 160 para. (2) letter E) point 2 of the Fiscal Code".

**EXCISE DUTIES**

- ☑ Excise duties and the tax on oil from domestic production for 2015 will be maintained at the same level (the equivalent in RON) from 2014.
- ☑ Starting 2016, the level of excise duties and tax on oil from domestic production will be updated annually taking into consideration the increase of consumer prices for the previous 12 months, calculated during the month of September of the year that precedes the one during which the level will be applied.

**INFORMATION - New VAT regime for telecommunications, broadcasting, television and electronically supplied services, applicable as of 1<sup>st</sup> January 2015**

The changes bring Romanian law in line with new EU legislation which takes effect starting 1<sup>st</sup> January 2015.

Consequently, beginning 1<sup>st</sup> January 2015, these services will be taxable at the location where the beneficiary is established or where it has its usual residence for services provided to non-taxable persons (i.e. individuals).

In this respect, the VAT rate from the country where the beneficiary is established applies.

In order to avoid VAT registration for suppliers of such services in each Member State where the beneficiary is established, legislation provides the possibility of applying the "mini one-stop-shop" regime. Thus, suppliers established within the Community will collect VAT at the rate applicable in the Member State where the beneficiary is established, without the supplier having to register in that State, with VAT declaration and payment being performed in the Member State where the supplier is established.

Suppliers established outside the Community which provide such services to non-taxable persons within the European Union will be required to register with a single Member State in order to declare and pay the VAT related to these services, at the VAT rate applicable in the Member States where the respective beneficiaries are established.

Providers applying the "mini one-stop-shop" regime are required to submit, on a quarterly basis, a special VAT statement for all services rendered to non-taxable persons established in the European Union.

**ORDER 4019 dated 23 December 2014 to prolong the deadline provided by point 1 letter a) and b) of annex no. 2 of ANAF Presidential Order 3596/2011 on declaration of supply/provision of services and on acquisitions made within the national territory by taxpayers registered under the scope of VAT and to approve template and content of informative declaration regarding domestic supply/provision of services and domestic acquisitions made by taxpayers registered under the scope of VAT (Official Gazette 952/2014)**

The Order prolongs the exception to not declare in form 394 the fiscal bills which have the buyer's fiscal identification code written on them in 2015 and 2016.

In other words, the regime used in 2014 remains applicable throughout 2015 and 2016.

**DECISION 1091 dated 10 December 2014 to set the guaranteed national minimum gross wage with payment guaranteed (Official Gazette 902/2014)**

The Decision sets a minimum gross wage amounting to RON 975/month, for a full work schedule (168 work hours per month on average). This wage is applicable between the 1<sup>st</sup> of January and the 30<sup>th</sup> of June 2015.

Starting the 1<sup>st</sup> of July 2015, the minimum gross wage will be RON 1,050/month, for an average of 168 work hours.

Establishing wages below the above-mentioned level for employees hired by labour contract represents an offense/contravention and is punishable by a fine of between RON 1,000-RON 2,000.



**New VAT regime for telecommunication, radio-TV and electronic services**



### **ORDER 3998 dated 18 December 2014 to amend and complement ANAF Presidential Order 5/2010 to approve Procedure for processing VAT refund claims from taxable entities established outside the Community and which are not registered under the scope of VAT in Romania (Official Gazette 942/2014)**

The Order amends Procedure for processing VAT refund claims from taxable entities established outside the Community and which are not registered under the scope of VAT in Romania. This change applies to above-mentioned taxable entities which use the special regime for electronic, telecommunications, radio and television broadcasting services provided by taxable entities established outside the European Union, as per art. 152<sup>o</sup> of Fiscal Code.

Provisions of this Order are applicable starting the 1<sup>st</sup> of January 2015.

### **ORDER 567 dated 11 November 2014 regarding INTRASTAT threshold to provide data for INTRASTAT statistics on the commerce of goods within the European Union in 2015 (Official Gazette 841/2014)**

We return with several updates regarding provisions of Order 567/2014. The Order was presented in the last month's edition of our newsletter.

We would like to add that starting 2015, the INTRASTAT statement will contain two new fields regarding the flow of supply of goods within the European Union:

- Fiscal identification code of the EU trading partner to which the goods are physically shipped to;
- Country of origin for supply of goods within the Community.

The Combined Nomenclature for 2015 contains 21 new codes at the level of 8 numbers, while 14 codes from 2014 at the same level were eliminated.

Starting the 1<sup>st</sup> of January 2015, return of goods, which did not undergo any processing and which were returned to their owner, are included at nature of transaction code no. 5 (previously introduced at nature of transaction code no. 4).

### **ORDER 1728 dated 12 December 2014 to repeal art. 3 of Order of the Minister of Public Finance 1154/2014 on Procedure for electronic communication between ANAF and individuals (Official Gazette 911/2014)**

The Order extends the application of Procedure for electronic communication between ANAF and individuals to national level, starting the 15<sup>th</sup> of December 2014.

### **LAW 186 dated 29 December 2014 on the State budget for the year of 2015 (Official Gazette 960/2014)**

### **LAW 187 dated 29 December 2014 on the State social insurance budget for the year of 2015 (Official Gazette 961/2014)**

From the Law of the State social insurance budget for the year of 2015 we selected the following indicators:

- Medium gross wage that will be used as the basis for the State social insurance budget for the year of 2015 is RON 2,415.
- The death indemnity is set, according to law, as follows:
  - o For the insured person or a pensioner/retired person – RON 2,415;
  - o For a family member of the insured person or retired person – RON 1,208
- In 2015, the value of one pension point earned is RON 830.20.

There are no changes regarding quotas for social contributions, health and unemployment insurance.

The reduction of the employers' contributions to social insurance by 5%, applicable since the 1<sup>st</sup> of October 2014, is maintained.

### **DECISION 6 dated 30 July 2014 to approve Certification Norms for taxable entity tax returns (Official Gazette 883/2014)**

The Decision approves Certification Norms for taxable entity tax returns (individuals or legal entities), starting with those which have their submission deadline subsequent to the present Decision coming into force (the 4<sup>th</sup> of December 2014).

Certification of tax returns is optional and may only be performed by fiscal consultants who are active members of the Register of fiscal consultants and fiscal consultant companies and have the right to carry out this activity.

#### **What does a certification of tax returns mean?**

Certification represents an assessment performed in order to confirm information introduced in the tax returns regarding the taxpayers' fiscal situation. The information should be introduced according to legal provisions and on the basis of financial accounting and fiscal documents and data required by the fiscal consultant and provided by the taxpayer, information which is reflected in the accounting and fiscal records of the taxpayer.

#### **Which tax returns may be submitted for certification?**

All tax returns, as they are defined by the Fiscal Procedure Code, may be submitted for certification. The published Procedure refers in particular to certification of the annual tax profit return, VAT returns, excise duties return and income tax return.

#### **What are obligations of the fiscal consultant?**

The fiscal consultant has the obligations to respect the confidential nature of the information and to properly apply professional and ethical norms.



**New information added to INTRASTAT statement regarding supply of goods**





## Certification of tax returns - an actual topic

If requested by fiscal or judicial authorities, the fiscal consultant should present information from the taxpayer's file, working papers, as well as from the certification report, in order to clarify and/or establish the fiscal situation of the taxpayer, according to law in force.

### What are obligations of the taxpayer?

The taxpayer prepares the tax return in order to certify it and, according to law, is held responsible for bookkeeping, accuracy of bookkeeping, preparation and accuracy of tax returns, of accounting and tax ledgers and of other documents and/or information that were used for preparing the tax return that was delivered to the fiscal consultant in order to be certified.

In order to have the tax returns certified, the taxpayer makes an affidavit through which the entity will assume all responsibility regarding the correctness of the data, bookkeeping, internal work procedures and accounting policies.

The taxpayer provides the fiscal consultant with documents and information in order to verify the elements introduced in the tax returns submitted to certification.

The taxpayer has the obligation to provide the fiscal consultant, at his request, with the tax record when preparing working papers.

### Certification procedure

Before proceeding with certification of the first tax return, the fiscal consultant prepares the taxpayer's file, which, depending on the case, will be updated by certifying the following tax returns.

The taxpayer's file contains data and information on the company's history from its creation until the date of certification.

On the basis of the taxpayer's affidavit, the data provided and the assessment of data found in public registers (as Trade Register, Bulletin of Insolvency Proceedings, ANAF's databases published on its website, land registry and real estate advertising services, etc.), the taxpayer's file contains the following information on its history:

- a) Name, fiscal identification code, Trade Register registration number, depending on the case;
- b) Fiscal domicile, secondary establishments, the modality of ownership over the spaces used as headquarters and secondary establishments, the validity period for headquarters and secondary establishments, the place (places) where the effective administrative and business management took place;
- c) Shareholders, managers;
- d) Fields of activity;
- e) Turnover;
- f) Business partners, affiliated persons;
- g) Transfer of shares;
- h) The moment when the transfer of ownership right for goods is performed and its implications over VAT chargeability, income registration and setting the tax result.

In all cases, in order to certify the tax return, the fiscal consultant performs a random verification of documents based on materiality level and prepares working papers, in which he/she records, depending on the case, the following information (related to the certification period):

- a) Modality of managing ledgers, supporting and accounting documents, as well as tax records;
- b) Modality of respecting legal provisions on general inventory of assets and liabilities;
- c) Existence of certain measures disposed of through acts prepared by fiscal or other authorities applicable in the tax field, which were not met by the taxpayer;
- d) Identification of business partners with whom the taxpayer has a significant share of its activity;
- e) Modalities to perform expense reimbursements, following organization and keeping the analytical record of debtors and creditors;
- f) Debts that do not come from purchase/delivery of goods or provision of services;
- g) Supporting documents regarding payment of debts by issuing payments in behalf of other persons than the creditors, and existence of the creditors' approval to do so;
- h) Compensations between several parties or bilateral;
- i) Abiding by the rules regarding the issuance of invoices;
- j) Offenses registered on the taxpayer's tax record.

The taxpayer's file and working papers are kept by the fiscal consultant who certifies the tax return through the prescribed date for the right to set fiscal liabilities. The taxpayer's file and working papers may also be kept in electronic format, according to law.

The taxpayer's file and working papers may be checked by control authorities of the Romanian Chamber of Fiscal Consultants during their periodic quality inspections.

### Establishment of tax treatment and materiality level

Tax treatment for economic operations which are reflected in financial accounting documents and are introduced in the tax return that will be submitted for certification is randomly verified, according to the materiality level set by the fiscal consultant.

In order to set the materiality level required to verify the calculation of tax, fiscal consultants will base their decision on professional reasoning, as well as on analytical procedures and on an overall understanding of the taxpayer and the economic environment of its activity.

To set the materiality level, the fiscal consultant applies a percentage from a reference value.

### Certification result

The result of the certification is recorded in a certification report. On the basis of this report, a certification note is submitted with the fiscal authority.

The certification note mentions whether the certification was made with or without reserves. The certification note represents the certification document as per art. 83<sup>1</sup> para. (3) of the Fiscal Procedure Code.

The certification note should contain the fiscal consultant's identification data, as well as information regarding the value and nature of the declared tax.



**CERTIFIED**

In the case in which an adjusted tax return is certified, the certification note should mention reasons that determined the adjustment.

In the case in which a tax return with reserves is certified, the certification note should mention the motivation for such reserves.

Certification Norms present special verification requirements for all four categories of the above-mentioned tax returns in detail.

**ORDER 1620 dated 27 November 2014 to approve Procedure of submitting certification document prepared by fiscal consultant to the fiscal authority, as well as Procedure on the information exchange between ANAF and the Romanian Chamber of Fiscal Consultants (Official Gazette 881/2014)**

The Order approves Procedure for submitting the certification document prepared by the fiscal consultant to the fiscal authority and Procedure on information exchange between ANAF and the Romanian Chamber of Fiscal Consultants.

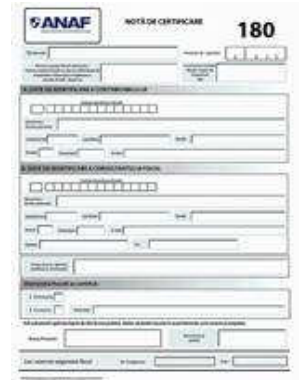
**Submission of certification document prepared by the fiscal consultant**

The procedure applies to taxpayers which opted for certification by a fiscal consultant for its tax returns, including the adjusted returns, prior to their submission to the fiscal authority.

Subsequent to the certification process, the fiscal consultant prepares a certification note (electronic format – Form 180) which is submitted by the fiscal consultant to the fiscal authority, on the basis of the agreement concluded with the taxpayer for which the tax return was certified.

The certification note is submitted to the fiscal authority managing the owed fiscal liabilities, along with the certified tax return or subsequent to its submission.

The certification note is prepared using the program available on the ANAF website and it is transmitted in electronic format.



**ORDER 4018 dated 23 December 2014 to amend ANAF Presidential Order 52/2012 to approve template and content of certain forms provided by Title III of Law 571/2003 on the Fiscal Code (Official Gazette 952/2014)**

The Order repeals the older version of form 230 – “Application regarding destination of amount representing 2% donation of annual income tax and application to apply for deduction of expenses for the purpose of realizing collective savings in the rental field”. This form is replaced with the new form 230, “Application regarding destination of amount representing 2% donation of annual tax on income”.

The new form will be used starting with the income obtained in 2014.

The form is completed and submitted by individuals who obtain income in the following situations:

- During the reporting year, they have incurred expenses to grant private scholarships according to Law 376/2004 on private scholarship and they request reimbursement;
- They opt to transfer the amount representing 2% of annual tax in order to support non-profit entities which are created and function according to law.

Taxpayers who express this option may request the transfer of this amount to a single non-profit entity or cult unit.

Deadline for submission: annually, until the 25<sup>th</sup> of May of the year following the one during which the income was obtained.

**EMERGENCY ORDINANCE 92 dated 29 December 2014 to regulate certain fiscal and budgetary measures and to amend certain normative acts (Official Gazette 957/2014)**

The Ordinance amends the legal framework on gambling, discussing the following aspects:

- Adjustment of compatibility issues regarding European legislation;
- Update of authorization taxes for gambling activities;
- Improvement of legal framework in the field of gambling.

**ORDER 1228 dated 17 October 2014 to approve the de minimis aid scheme for actions undertaken within the Export Promotion Programme during the period between the 1st of January and the 30th of June 2015 (Official Gazette 904/2014)**

For actions undertaken within the Export Promotion Programme, managed by the Ministry of Economy, the Order approves the establishment of the following de minimis aid schemes:

- Participation of economic operators at international fairs and exhibitions abroad
- Organization of economic missions and export promotion actions abroad
- Execution of market and products research, including complex objectives

De minimis aid schemes are applicable between the 1<sup>st</sup> of January and the 30<sup>th</sup> of June 2015.

**ORDER 3743 dated 9 December 2014 to approve the standard form “Minutes on finding and sanctioning offenses” used by personnel empowered by ANAF in the field of fiscal inspection (Official Gazette 959/2014)**

The Order approves the standard form of “Minutes on finding and sanctioning offenses”, code 14.13.22.99, used by personnel empowered by ANAF in the field of fiscal inspection.

**ORDER 4023 dated 23 December 2014 to approve Procedure to register taxpayers in order to use one of the special regimes for electronic, telecommunications, radio and television broadcasting services, as well as for declaring VAT, according to art. 1524 and art. 1525 of Fiscal Code, in the situation in which Romania is a registration Member State (Official Gazette 963/2014)**

**New legislation on gambling**



### **LAW 171 dated 16 December 2014 to declare the 24th of January – the Unification of the Romanian Principalities – as a national holiday (Official Gazette 922/2014)**

The 24<sup>th</sup> of January – the day of the Unification of the Romanian Principalities – is declared national holiday.

### **DECISION 1090 dated 10 December 2014 to set certain work days as holidays (Official Gazette 901/2014)**

The Decision sets the 24<sup>th</sup> and 31<sup>st</sup> of December 2014 as holidays for public service employees, setting a recovery period for these days off.



### **INFORMATION – HOLIDAYS IN 2015**

In 2015, there will be 13 days declared as holidays by Labour Code. 8 of them will be during the week and 5 will be during the week-end (the ones underlined below)

- 1 January, 2 January (New Year)
- 24 January (Unification of the Romanian Principalities)
- 12 April, 13 April (Easter)
- 1 May (Labour Day)
- 31 May, 1 June (Pentecost)
- 15 August (Assumption of Mary)
- 30 November (Saint Andrew)
- 1 December (National Day)
- 25 December, 26 December (Christmas)

### **ORDER 561 dated 24 November 2014 to apply Rules on Procedure to observe and sanction unfair competitive practices (Official Gazette 918/2014)**

The Order approves Procedure to observe and sanction unfair competitive practices.

### **ORDER 10 dated 9 December 2014 to amend NBR Order 5/2014 to approve methodological Norms on preparation of periodic reports containing statistical financial accounting information, applicable to branches of credit institutions from other Member States located in Romania, and NBR Order 6/2014 to approve methodological Norms to prepare FINREP stand-alone financial statements, in accordance with International Financial Reporting Standards (IFRS), applicable to credit institutions to ensure that prudence is practiced (Official Gazette 914/2014)**

### **DECISION 1053 dated 18 November 2014 to approve application Norms for Government Emergency Ordinance 66/2014 to approve Programme to stimulate purchases of new automobiles/vehicles, with its subsequent amendments and complements (Official Gazette 891/2014)**

### **ORDER 1798 dated 29 December 2014 to amend and complement methodological Norms on using and preparing the payment order for State Treasury (OPT), approved by Order of the Minister of Public Finance 246/2005 (Official Gazette 967/2014)**

### **ORDER 1800 dated 29 December 2014 to amend and complement methodological Norms on using and preparing multiple payment orders for salaries (OPTM), approved by Order of Deputy Prime Minister, Minister of Public Finance and Minister Delegate for Budget 136/2014 (Official Gazette 967/2014)**

### **INFO - VAT Cash Accounting Scheme**

The scheme may continue to be applied or may be chosen to be applied by taxable entities whose turnover for the previous calendar year does not exceed the threshold of RON 2,250,000.

Turnover for the calculation of the threshold is determined as the total value of delivery of goods and services performed which are taxable and/or exempted and the total value of operations resulting from business activities where location of delivery/performance is considered to be outside Romania, in accordance with art. 132 and 133 of Fiscal Code, performed during the calendar year.

#### **How does the scheme work?**

VAT is deducted at the moment of payment of supplier invoice for goods/services and output VAT is due when the sales invoice is collected.

#### **How long should the scheme be applied?**

The taxable entity which opts for application of the VAT Cash Accounting Scheme is required to apply the scheme at least until the end of the calendar year during which it elects to follow the scheme, except for the situation in which turnover exceeds the threshold of RON 2,250,000. In this case, the scheme is applied through the end of the fiscal period that follows the period when the threshold was exceeded.

#### **Who cannot apply the scheme?**

The following taxable entities are not eligible for application of the VAT Cash Accounting Scheme:

- Taxable entities which are part of a fiscal group according to provisions of art. 127 para. (8) of the Fiscal Code;
- Taxable entities which are not established in Romania according to art. 125<sup>1</sup> para. (2) letter a) of the Fiscal Code;

13 legal holidays in 2015, out of which 8 are during the week





- ☑ Taxable entities which exceeded the threshold of RON 2,250,000 during the previous year;
- ☑ Taxable entities which register under the scope of VAT during the year according to art. 153 of the Fiscal Code and which exceeded the threshold of RON 2,250,000 during the previous year or the current year, the threshold being calculated as operations performed throughout the period when the respective taxable entity had a valid VAT code according to art. 153 of the Fiscal Code.

### What operations are within the scope of the scheme?

Taxable entities which opt for application of the VAT Cash Accounting Scheme may apply the system exclusively to operations where the place of delivery/provision of services is considered to be in Romania but they do not apply the scheme for the following operations which fall under general chargeability rules:

- ☑ Delivery of goods/provision of services for which the beneficiary is obliged to pay the tax according to art. 150 para. (2) – (6), art. 152<sup>^</sup>3 para. (10) or art. 160 of the Fiscal Code;
- ☑ Delivery of goods/provision of services which are exempt from VAT;
- ☑ Operations which are subject to special regimes provided by art. 152<sup>^</sup>1 – 152<sup>^</sup>3 of the Fiscal Code;
- ☑ Delivery of goods/provision of services for which the beneficiary is an affiliated entity to the supplier/provider according to art. 7 para. (1) point 21 of the Fiscal Code.

### Formalities

The taxable entity which opts for application of the VAT Cash Accounting Scheme must submit a notification to competent fiscal authorities, by the 25<sup>th</sup> of January (inclusive), stating that the turnover from previous year does not exceed the threshold of RON 2,250,000 and also that the entity decided to apply the VAT Cash Accounting Scheme. The taxpayer is deemed to have tacitly opted to continue to apply the VAT Cash Accounting Scheme if it applied the VAT Cash Accounting System in the previous year, and its turnover has exceeded the threshold of RON 2,250,000, not being required to submit the notification.

### INFO – Tax on Representative Offices (Rep. Office)

Any foreign legal entity, which has a Rep. Office authorized to operate in Romania, has the obligation to pay an annual tax in accordance with provisions of art. 122 of Fiscal Code.

The tax on Rep. Offices for a fiscal year is equal to the equivalent in lei of EUR 4,000, determined for a full fiscal year, based on the exchange rate of the foreign exchange market, communicated by the National Bank of Romania and valid on the date when payment of the tax to the State Budget is made. The foreign legal entity has the obligation to pay the tax on Rep. Offices to the State budget, in two equal instalments, by 25 June and 21 December, inclusive.

In the case of a foreign legal entity which, during a fiscal year, terminates or establishes a Rep. Office in Romania, the tax due is calculated pro-rata on the basis of the number of months in operation in the respective fiscal year.

The foreign legal entity which owes the tax on Rep. Offices has the obligation to submit an annual statement to the competent fiscal authority by 28 or 29 February of the taxation year.

Foreign legal entities, through their Rep. Offices established in Romania, are not allowed to carry out trade operations; as such, Rep. Offices are not legal entities. Rep. Offices are required to keep accounting records according to Romanian legislation.

### INFO – Fiscal regime for gift vouchers offered by employers to employees

According to provisions of Law no. 193/2006 on granting gift and nursery vouchers, as subsequently amended and complemented, gift vouchers are procured by employers from voucher issuing units and may be used for marketing campaigns, market research, promotion on existing or new markets, protocol, advertising and promotion expenses, as well as for social expenses.

#### Gift vouchers

According to provisions of item 70 letter i) for application of art. 55 para. (3) of the Fiscal Code, gift vouchers offered in accordance with the law, irrespective of whether they are granted for the purposes and amounts provided for under art. 55 para. (4) letter a) of the Fiscal Code (gifts offered by employers for the benefit of underage children of employees, for Easter, 1 June, Christmas and similar holidays of other religions, as well as gifts offered to female employees for 8 March, within the limit of RON 150), are considered benefits received by the individual.

According to art. 55 of the Fiscal Code, “salary income comprises all income in cash and/or in kind obtained by a natural person who carries out activity under an individual labour agreement or under a special status provided by law, irrespective of the period they regard, the name of the income or the form of granting thereof”.

When determining personal income taxes, these benefits are included in gross monthly salary and taxed at 16%.

Gift vouchers are not included in the monthly base amount for calculation of compulsory social contributions in accordance with art. 296<sup>5</sup> letter o) of the Fiscal Code.

#### Gifts of money and in kind

Gifts offered by employers for the benefit of underage children of employees, for Easter, 1 June, Christmas and similar holidays of other religions, as well as gifts offered to female employees for 8 March, to the extent the value of the gift offered to each person, on each of the above occasions, does not exceed RON 150, are not included as salary and are not taxable for income tax purposes. The threshold established for gifts offered by employers (in money or in kind) to underage children of employees on the above mentioned occasions is applied to each underage child of each employee. These gifts in money and in kind are not included in the monthly base amount for calculation of the compulsory social contributions according to art. 296<sup>5</sup> letter o) of Fiscal Code.



**25 January is the deadline to submit the option to apply the VAT Cash Accounting Scheme**



Gifts of money or in kind given on the above-mentioned occasions which exceed RON 150, as well as gifts offered on other occasions are subject to income tax and compulsory social contributions.

Important! For the employer, in respect of the profit tax, these gift expenses in money or in kind are deductible when calculating profit tax, as social expenses, within the limit of 2% of salary expense, according to Law no. 53/2003 – the Labour Code.

Gift vouchers given to individuals other than employees and assimilated employees are subject to the personal income tax rate of 16%, according to art. 78 of the Fiscal Code.



### INFO - Quarterly advance profit tax payments

Starting 1<sup>st</sup> January 2013 it is enforced the possibility to opt for application of advance profit tax payments system.

The first two years of application of this system are already passed. Those who opted a year ago to apply the system are required to maintain it in 2015 (the system is mandatory on 2 consecutive fiscal years). But for those who have opted to apply the system two years ago or those who have not chosen the system yet it is time to make a new opportunity analysis to apply for this system.

The main advantage of this regime is to cancel mandatory computation of profit tax at each quarter end, which means applying regulations for computing fiscal profit starting from accounting profit every quarter. As per the regime on paying profit tax through quarterly advance payments, a preliminary amount continues to be paid quarterly but this amount is based on prior year fiscal profit adjusted for inflation. Annual adjustment occurs upon preparation of the annual profit tax return and is the only time during the respective year that computation of fiscal profit starts from accounting profit, the outcome being profit tax to be paid after deduction of quarterly advance payments.

The profit tax payment regime of quarterly advance payments will consist of:

- an option to enter or exit the quarterly advance payment regime at inception of the fiscal year, by 31 January;
- the option is made for at least 2 consecutive fiscal years;
- taxpayers under the regime of profit tax payment through quarterly advance payments which post a fiscal loss for the first year of the mandatory 2 year period, pay quarterly advance payments on profit tax by applying the tax rate to the applicable current year quarterly accounting profit;
- taxpayers under the regime of profit tax payment through quarterly advance payments which benefited from profit tax exemption the previous year as per law and no longer benefit from these fiscal facilities for the year when quarterly payments must be determined and disbursed, will determine quarterly advance payments based on profit tax disclosed on the previous year profit tax return even if they were actually then exempted from its payment.

### Exceptions – Taxpayers not be entitled to opt for payment of profit tax by quarterly advance payments

The categories of taxpayers which will **not be allowed to opt** for payment of profit tax by quarterly advance payments starting 2013 and for which a special regime for declaration and payment is established are the following:

- a) non-profit organisations which must declare and pay profit tax on economic activity annually, by 25th February of the year which follows the year for which profit tax is computed;
- b) taxpayers which obtain most of their income from growing cereal, "technical" plants, tree culture and viticulture which must declare and pay profit tax annually, by 25 February of the subsequent year;
- c) the following taxpayers must declare and pay quarterly profit tax because they are not allowed to exercise the option for quarterly advance payments:
  - o foreign legal entities and non-resident individuals who carry out their activities through an association which is not a legal entity;
  - o foreign legal entities which obtained revenue from or in relation to real estate property located in Romania or from disposal of an ownership interest they held in a Romanian legal entity;
  - o resident individuals associated with Romanian legal entities for revenue obtained both in Romanian and abroad from associations which are not legal entities.

Furthermore, the option will be denied to the categories of taxpayers which were, during the previous year, under one of the circumstances mentioned below, and must compute and pay profit tax each quarter:

- taxpayers which posted a fiscal year loss at the end of the previous fiscal year;
- taxpayers which were subject to tax on the micro enterprise revenue and become subject to profit tax;
- taxpayers which are in temporary inactivity or which declare under own responsibility that no activity is carried out at registered headquarters or secondary establishments, as per legal provisions, with the Trade Register or with the Registry maintained by competent judicial authorities, if applicable
- newly set up taxpayers, but in this respect, taxpayers which register further to reorganisation as per law are not considered new taxpayers.

We want to emphasize the need to perform a careful analysis of the forecasted evolution of the company in the next years, especially for financial results. The opportunity of the decision to opt or not for the new system should be based on this analysis.

As we have already mentioned above, the option is mandatory for at least 2 consecutive fiscal years. This system will not produce positive results for the companies registering decrease in turnover or in profitability and in general in cases of decline in the financial results of the company. The system is opportune especially for the companies registering growth in activity and results, due to advance payments of profit tax (at previous year levels) and deferral of payment of actual profit tax.

**Advanced profit tax payments important decision to opt in or not**



## IMPORTANT – Finalization of 2014 profit tax

Please be reminded that as of 2012, profit tax related to the 4<sup>th</sup> quarter is no longer declared as anticipated at the same level as the 3<sup>rd</sup> quarter, by taxpayers who apply the quarterly calculation of profit tax. Therefore, Form 100 related to December 2014 which should be submitted by 25 January, 2015 should not contain the item “profit tax” (**except for taxpayers who apply the advance profit tax payments system**).

The profit tax reporting and the payment term for 2014 is 25<sup>th</sup> March 2015, except for not-for-profit organizations and taxpayers which generate the majority of income from harvesting grain and technical plants, fruit and vineyards, as they have the obligation to report and pay their annual profit tax by 25<sup>th</sup> February 2015.

## REMINDER – Impairment of receivables

As per provisions of Accounting Regulations in accordance with E.E.C. Directive IV, receivables are presented in financial statements at their probable collection value.

Impairment of receivables recorded in accounts receivables or other debtors is recorded at the time of the annual inventory by recording an impairment expense.

### What fiscal implications does impairment of receivables have?

As per provisions of article 22 of the Fiscal Code, the deductibility of impairment expense is examined upon determination of the fiscal profit/loss:

- Impairment expenses are tax deductible up to 20% starting 1<sup>st</sup> January 2004, 25% starting 1<sup>st</sup> January 2005 and 30% starting 1<sup>st</sup> January 2006, of the value of the client receivables which meet all of the following conditions:
  - o were recorded after 1<sup>st</sup> January 2004;
  - o have not been collected 270 days after due date;
  - o are not guaranteed by a third person;
  - o are owed by a person who is not a related party;
  - o were included in the taxable income of the taxpayer.
- Impairment expenses are fully tax deductible when all the following conditions are met:
  - o were recorded after 1<sup>st</sup> January 2007;
  - o receivable is from a legal entity for which a bankruptcy procedure has been opened based on a judicial decision which proves this situation;
  - o are not guaranteed by a third person;
  - o are owed by a person which is not a related party;
  - o were included in the taxable income of the taxpayer.

As per provisions of article 21, letter n) of the Fiscal Code, the loss recognised by recording a receivable as irrecoverable is tax deductible in the following cases:

- The bankruptcy procedure of the debtor has been finalized by a judicial decision,
- The debtor is deceased and the receivable cannot be collected from his/her heirs,
- The debtor in the case of a limited liability company with a sole shareholder has been dissolved or liquidated without a successor,

The debtor is facing major financial difficulties which jeopardize the entire entity.

From a VAT point of view, we mention that article 138 letter d) of the Fiscal Code states that the tax base is reduced in case the value of the delivered goods or rendered services cannot be collected due to bankruptcy of the beneficiary. Adjustment is allowed starting the announcement date of the judicial decision for wind-down procedures set per Law 85/2006 regarding insolvency procedures, the decision being final and binding.

## REMINDER – Tax regime of the micro enterprise

A micro enterprise is a Romanian legal entity which meets as at 31 December of previous year all of the following conditions:

- obtains revenue from sources other than those mentioned below;
- has annual revenue which does not exceed the amount in RON of Euro 65,000;
- has its share capital held by persons other than the State or local authorities;

it is not under liquidation, registered at the Trade Registry or at the Court, according to the law.

In 2013 micro enterprise system became mandatory for those who fall under the above conditions. The condition on the number of employees was repealed.

The enterprise cannot apply for the micro enterprise taxation regime when:

- it carries out its activities in the banking field;
- it carries out its activities in insurance and reinsurance, in the capital market, with the exception of legal entities which independently carry out the role of intermediary in these domains;

it carries out its activities in the field of gambling, consultancy or management.

Starting 2014, a micro enterprise may have income obtained from consultancy and management that must not exceed 20% of the total value of income.

### Who applies the micro enterprise tax regime in 2015?

Companies that apply the profit tax regime which falls on the 31<sup>st</sup> December 2014 under the conditions mentioned above are required to apply for the micro enterprise tax regime in 2015.

Micro enterprises that continue to meet the conditions above will maintain the micro enterprise tax regime in 2015.

Newly set-up companies will apply the micro enterprise tax regime since incorporation if the condition on holding capital is met upon registration in the Trade Registry. If the company intends to carry out any of



**Tax regime of the  
micro-enterprises  
unchanged in 2015**



the exempted activities, it may not apply micro enterprise tax regime.

A newly established company which at the date of registration in the Trade Registry has subscribed share capital representing at least the equivalent in RON of EUR 25,000 may opt to apply the corporate tax regime.

#### When the micro enterprise tax regime ceases?

- Micro enterprises that start carry out non-allowed activities should apply the profit tax regime starting the quarter when such activities are performed.
- If, during a fiscal year, the micro enterprise obtains revenue of more than Euro 65,000, it will pay profit tax, taking into account revenue and expenses which occurred from inception of the fiscal year. Computation and payment of profit tax is made quarterly when the threshold of Euro 65,000 is exceeded. Tax on profit which is owed represents the difference between: profit tax calculated from the start of the year to the end of the reporting period and micro enterprise revenue tax due during the respective year.

Starting the next fiscal year than the one when any of the remaining conditions are not met.

Change in tax regime during the year or starting a new fiscal year is made by updating the fiscal status (fiscal vector) by the form 010. If the tax regime is changed from 1st January 2015, the form 010 must be submitted by 31 January 2015.

#### Tax rate and tax base

The tax rate applied to micro-enterprise revenue is 3%.

Tax on micro enterprise revenue applies to all revenue irrespective of its source, except for the following:

- changes in inventories (revenue);
- changes in work in progress regarding services (revenue);
- own production of tangible and intangible non-current assets;
- operating subsidies;
- reversing provisions or adjustments for depreciation, impairments and decline in fair value;
- restitution or cancellation of interest and/or penalties for late payment which were disallowed upon determination of taxable profit;
- compensation from insurance/reinsurance companies further to damage to items with the nature of inventories or own tangible assets.

Starting 2014, new rules are applicable regarding the inclusion in the tax base of the commercial discounts and foreign exchange gains. Thus:

- 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 favourable net difference between gains and losses resulting from foreign exchange differences, accumulated from the beginning of the year, is added to the taxable base.

The fiscal year for a micro enterprise is the calendar year. In case of a micro enterprise which is set up during the year or ceased to exist, fiscal year is the calendar year during which the legal entity existed. Reference exchange rate to calculate the threshold is the closing exchange rate from the prior financial year.

In case a micro enterprise purchases an authorized tax cash register, its purchase cost represents a reduction in the taxable base in the quarter when the cash register is commissioned as per law in conformity with the supporting document.

#### Computation and payment

Computation and payment of the tax on micro enterprise revenue is made quarterly by the 25<sup>th</sup> of the month which follows the quarter for which tax is computed.

If there is no legal regime for an association between a micro enterprise and an individual, resident or non-resident, the micro enterprise must calculate, withhold, declare and pay to the State Budget the tax determined by applying 3% to the micro enterprise portion of association revenue by the 25<sup>th</sup> of the month which follows the quarter for which tax is computed.

The micro enterprise must keep evidence of tax depreciation expenses for its intangible and tangible assets as per article 24 of the Fiscal Code.

#### REMINDER – Quarterly settlement of social contributions and withheld income tax/ Quarterly submission of form(s) 112

We emphasize that starting Quarter IV 2011, quarterly submission of the return regarding social contributions, income tax and the nominative list of insured persons (form 112) was introduced for certain categories of taxpayers as well as quarterly payment of employer contributions and withheld employee contributions and income tax.

Quarterly submission consists of filing all three 112 forms which were prepared for each month of the quarter, by the 25<sup>th</sup> of the month after quarter end. The advantage for entities which benefit from this regime is in terms of cash flow.

We highlight that the general rule is to make computations on a monthly basis, withhold income tax at the date when payment of income occurs and transfer it to the State Budget by the 25<sup>th</sup> of the following month. The same rule applies to insured persons' contributions.

Unless the option to remain under the monthly submission and payment regime is exercised, the quarterly regime applies starting October 2011 to the following categories of taxpayers:

- legal entities subject to profit tax which recorded total revenue of up to Euro 100,000 and had average headcount of up to 3 employees (3 excluded) during the previous year;
- legal entities subject to tax on micro enterprise revenue which had, during the previous year, aver-



**Form 112  
monthly or  
quarterly  
submission?**



age headcount of up to 3 employees (3 excluded);

- associations, foundations or other non-profit organisations which are legal entities - except public institutions - which had average headcount of up to 3 employees (3 excluded) during the previous year;
- licensed individuals (PFAs) and individual entrepreneurs as well as individuals who carry out a profession, and associations which are not legal entities formed between individuals which have staff employed on the basis of a labour contract as per law.

Average number of employees and total revenue are determined as per provisions of article 296<sup>19</sup> points (1<sup>3</sup>) and (1<sup>4</sup>) of the Fiscal Code, i.e. the arithmetic average number of employees as per forms 112 submitted each month during the previous year.

The option to apply the monthly regime ought to be submitted with tax authorities in paper format prior to 31 January.

As for newly set-up taxpayers (but not PFAs, individual entrepreneurs and individuals who carry out a profession as well as associations which are not legal entities formed between individuals), they can apply for the quarterly submission and payment regime if, upon tax registration, they declare that their estimated headcount will be less than 3 employees and their estimated turnover will not exceed Euro 100,000.

We remind that when an employee is on medical leave or when a person is no longer an insured person during a quarter, the payer of salary income or of income assimilated to salary must submit form 112 by the 25<sup>th</sup> of the month following the month the person ceased to be insured. Under these circumstances, the form(s) pertaining to the period which remains within the quarter is/are submitted by the 25<sup>th</sup> of the month after quarter end. In cases where the employee's medical leave or termination of the quality of insured person occurs during the second month of the quarter, both the return regarding the first month of the quarter and the return regarding the second month of the quarter will be submitted in the third month and only submission of the return pertaining to the third month remains.

We also remind that the deadline for payment of social contributions and withheld income tax remains quarterly even if, as per the above mentioned provisions, the taxpayer must submit form 112 by anticipation for the first or the second month of the quarter in case of medical leave or of termination of the quality of insured person. To compute the average number of employees, only persons under labour contract must be taken into account, irrespective of whether full time or not.

The form to exercise the option was approved by Order 3154/2011 (Official Gazette 677/2011) and may be downloaded from the ANAF website at

[http://static.anaf.ro/static/10/Anaf/formulare/Decl\\_opt\\_OPANAF\\_3154\\_2011.pdf](http://static.anaf.ro/static/10/Anaf/formulare/Decl_opt_OPANAF_3154_2011.pdf)

#### REMINDER – Attributing numbers to accounting documents

Do not disregard provisions of Order 2226/2006 (Official Gazette 1056/2006):

- An internal procedure for tracking invoice numbers must be established;
- Persons responsible for organizing and maintaining bookkeeping must designate one or several persons who will have among their attributions allocation and management of invoice numbers issued by the enterprise, by written internal resolution,
- The invoice has a number in one or several series. The numbering scheme set by the enterprise must be sequential and measured in order to cover the volume of invoices to be issued by the enterprise;
- Every year, the number of the first invoice of the year will be established.

It is no longer mandatory to sign and stamp invoices, but such procedures contribute to internal control and represent a means to fight fraud.

We also highlight provisions of Order 3512/2008 regarding accounting documents and registers (Official Gazette 870/2008) which were presented in detail in APEX Team Newsletter no. 12\_2008, which makes an internal numbering scheme for financial and accounting documents mandatory.

The internal numbering scheme for financial and accounting documents will thus be ensured:

- Persons responsible for organizing and maintaining bookkeeping must designate, by a written internal resolution one, or several persons who will have among their attributions allocation and management of numbers of the documents issued by the enterprise;
- Each form will have a number or series, which must be sequential. For the allocation of a number, the organisation of the entity in warehouses, secondary establishments, branches, etc. will be taken into account;
- An internal procedure for tracking/allocating numbers or series, if applicable, must be established. Every year, the number of the first document of the year will be established.

**The annual internal decision must set the numbers allocated to invoices, cash receipts, delivery notes as well as to other financial and accounting forms used by the entity (business claims, disbursement notes, collection notes, reception notes - "NIR," stock cards, etc.).**

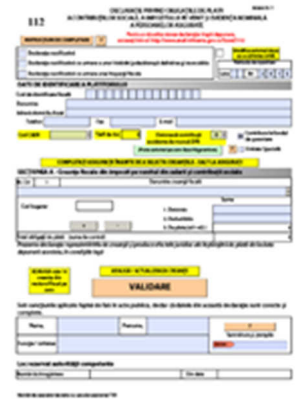
#### REMINDER – Do not forget to request tax residence certificates issued in 2015 from your foreign business partners

The tax residence certificates issued in 2014 are valid for the first 60 days of 2015.

#### Main EXCHANGE RATES FOR FOREIGN CURRENCY at the close of the 2014 financial year

The 2014 closing exchange rates communicated by NBR to value the monetary items (cash on hand, receivables, payables) denominated in foreign currency or pegged to a foreign currency are:

1 EUR = 4.4821 RON; 1 CHF = 3.7273 RON; 1 GBP = 5.7430 RON; 1 USD = 3.6868 RON.



**Do not forget to ask your foreign partners the residency certificates for 2015**



## JANUARY 2015 – 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 7<sup>1</sup> of the Fiscal Code
- To revalue monetary assets and liabilities in foreign currency (cash on hand, assets, liabilities) at the NBR exchange rate in force on the last banking day of the month
- To organise a stock count of inventories if the enterprise does not use a perpetual inventory system
- To issue final invoices for the current month.

### 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

**DO NOT FORGET to establish the numbers which will be used during this financial year for invoices, petty cash receipts, delivery notes and other accounting documents at the very beginning of 2015 by an internal resolution.**

### During the month - do not forget that

#### Friday 9 January 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 December 2014. Starting January 2015, VAT returns shall be submitted monthly.

#### Monday 12 January is the last day to submit

- Return on collection of hotel tax
- Return for fiscal registration/for mentions (*amendments*) for legal entities, associations and other entities which are not legal entities (form 010) for legal entities which must register under the scope of VAT as their turnover exceeded the legal threshold for exemption (RON 220,000, representing Euro 65,000 at the NBR exchange rate in force at the date when Romania joined UE, i.e. 1 Euro = 3.3817 RON) – as per article 152 (6) of the Fiscal Code**
- Return for fiscal registration/for mentions (*amendments*) for individuals who carry out independent economic activities or carry out a profession (form 070). These persons must register under the scope of VAT as their turnover exceeded the legal threshold for exemption (RON 220,000, representing Euro 65,000 at the NBR exchange rate in force at the date when Romania joined UE, i.e. 1 Euro = 3.3817 RON) – as per article 152 (6) of the Fiscal Code
- Return for fiscal registration/for mentions (*amendments*) for Romanian individuals (form 020) for individuals other than Romanian individuals who carry out independent economic activities or carry out a profession and must register for the scope of VAT as their turnover exceeded the legal threshold for exemption (RON 220,000, representing Euro 65,000 at the NBR exchange rate in force at the date when Romania joined UE, i.e. 1 Euro = 3.3817 RON) – as per article 152 (6) of the Fiscal Code
- 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).

#### Monday 12 January is the last day to pay

- Hotel tax
- Advertising service tax

#### Thursday 15 January is the last day to submit

- INTRASTAT statement for December 2014 (standard or extended submitted on-line)
- a statement of production capacity by beer producers with licensed fiscal warehouse under own responsibility
- "Statement of estimated revenue" form 220 related to 2014 with respect to Qualified rental revenue from independent activities (over 5 rental contracts).

#### Tuesday 20 January is the last day to submit

- Special VAT return (VOES System) for Quarter IV 2014 for non-established taxable entities that rendered electronic services to non-taxable entities

#### Monday 26 January is the last day to submit

- State budget liability return (form 100)\*



January is the month with the greatest number of tax returns, options and notifications



- 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 December 2014
- Informative Statement on domestic supply/services rendered and acquisitions regarding December 2014 (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 (including "ecotax")
- Draft Prorata VAT for the 2015 fiscal year and computation method
- Application for special VAT prorata or notification about the cancellation of application of special VAT prorata approved in prior year
- Return regarding turnover realized in 2014 (or computed *prorata temporis*, if necessary, for newly set up taxpayers) for taxable entities registered under the scope of VAT with a quarterly report period and which have not made EU acquisitions of goods in 2014 (form 094).** Taxable persons as per article 153 of the Fiscal Code which submitted VAT returns in 2014 on a quarterly basis and have exceeded the threshold of Euro 100,000 of turnover must also submit form 010 to enact the change of VAT reporting period from quarterly into monthly. Conversely, if the VAT reporting period was monthly in previous year and 2014 turnover was less than Euro 100,000, form 010 must be submitted to enact the change in VAT reporting period from monthly to quarterly
- Statement regarding the determination of the tax representing quarterly advance payment on gains obtained from disposal of securities other than shares and securities in case of closed companies, during Quarter IV 2014 (form 225)
- Statement of allocation between associates of income and expenses pertaining to Quarter IV 2014 (form 104 to submit by associations which are not legal entities which are formed between taxpayers as set at article 13 letters c) and e) of the Fiscal Code)
- The notification for the application/exit of/from VAT Cash Accounting Scheme (form 097)
- Informative statement regarding income tax derived from transfer of private real estate properties (form 208), related to the previous semester.

#### **Monday 26 January is the last day to pay**

- Excise taxes
- VAT
- Liabilities to the sole account – **State Budget**
  - o Tax on crude oil and natural gas from domestic production
  - o Withholding tax on non-resident income
  - o Tax on the micro enterprise revenue related to Quarter IV 2014
  - 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 December 2013 or on dividends allocated and not paid during 2013**
  - o **Profit tax related to Quarter IV 2014 – by taxpayers applying the advance payment system**
  - 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" included).

#### **Monday 2 February is the last day to submit**

- Form 010 to update the fiscal status (fiscal vector) by entities that change their tax regime from profit tax to microenterprise tax or the reverse case.**
- Option for monthly submission of form 112 regarding social contributions and employees' withheld income tax for entities which meet the criteria for quarterly submission of form 112 and subsequent quarterly payment as of 31 December 2014. Default option is the quarterly regime. Option is exercised through the form 010 (for legal entities) and form 070 (for individuals).**
- Option to change the system of reporting and payment of profit tax (advanced payment system or actual system) – form 012.**



**Do not forget  
the deadline for  
submission of tax  
returns and  
payment of fiscal  
liabilities**





- ☑ "Statement of estimated revenue" form 220 related to 2014 with respect to:
    - Revenue from independent activities: commercial activities, independent professions carried out individually or under a form of association
    - Rental revenue
    - Agricultural revenue for which net revenue is determined on a real basis obtained from single entry bookkeeping data.
  - ☑ "The application to opt for the determination of net income under the real regime" (effective amounts) accompanied by an "self-assessment of income derived from independent activities" (form 220) or the self-assessment of rental income for taxpayers which wish to opt for the determination of their revenue based on effective amounts
  - ☑ "Statement regarding insured income in the public pension scheme" – form 600, by the following categories of taxpayers:
    - entrepreneurs holding individual enterprises;
    - members of family enterprises;
    - persons having the status of Individual authorized to carry-out business activities;
    - freelancers;
    - persons obtaining income from intellectual property rights, for which the income tax is determined based on the data from single-entry bookkeeping system.
  - ☑ The declarations to local public authorities which are used for the computation of tax on land, tax on buildings and tax on means of transport. **The obligation to declare vehicles or buildings held under a financial lease contracts falls with the user**
- Monday 2 February is the last day for**
- ☑ Full payment of vehicle tax by user, foreign natural person or legal entity, which applies for temporary registration in Romania for means of transport in case registration is made for a period which lasts beyond 31 December of the fiscal year when the application is requested, as follows:
    - a) Annual tax if the registration is for the fiscal year
    - b) The tax afferent to the period from 1<sup>st</sup> December and 1<sup>st</sup> January in cases where registration expires during this period

#### 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](http://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

2015 Contributions	Employer and Beneficiary of activities considered dependent activities (% rate)	Employee and provider of dependent activities (% rate)
Social security contribution ( <i>pension</i> )	15.8% for normal working conditions 20.8% for particular working conditions 25.8% for special working conditions (contribution base capped at an amount representing the average amount of insured persons during the month for which the contribution is determined as 5 times the average monthly gross salary) <sup>1</sup> <b>(applicable for income related to October 2014 forward)</b>	10.5% (contribution base per employee capped at 5 average monthly gross salaries according to Budget for public social insurance, i.e. 5 x 2,415 =RON 12,075) <sup>1</sup> (contribution base for a person under civil contract: gross income)
Health insurance fund (based on gross salary)	5.2%	5.5%
Medical leave contribution and health insurance allowance (based on gross salary)	0.85%	
Unemployment fund (based on gross salary)	0.5%	0.5%
Work accident and occupational disease fund (based on gross salary) <sup>2</sup>	0.15% - 0.85% depending on CAEN code for main activity	
Contribution to fund to guarantee payment of salary liabilities (based on gross salary) <sup>3</sup>	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 975) for every 100 employees	
Minimum monthly gross salary as per Government Decision 1091/2014	RON 975 (starting 1 January 2015)	
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 the average monthly gross salary corresponding to the number of business days of medical leave.

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

Note 3: The contribution to 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 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 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 out of the 4 re-qualification criteria mentioned in OUG 82/2010) is disclosed on a separate "Payment statement" and is included on form 112.**

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**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