

Helesteului Str. 15-17, District 1
Bucharest - 011986

Phone: +40 (0)31 809 2739

+40 (0)74 520 2739

Fax: +40 (0)31 805 7739

E-mail: office@apex-team.ro

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Order 1855/2022 on the procedure for applying provisions of art. 146 para. (5⁷) letter e) of Law 227/2015 on the Fiscal Code (Official Gazette 807/2022)

As we presented in the previous issue of our newsletter, through GO 16/2022, starting with August 2022 it was introduced a minimum threshold for calculating social security contribution (CAS), as well as health contribution (CASS), due in the case of natural persons employed based on an individual full-time or part-time employment contract. This threshold cannot be below the level of the minimum gross basic salary per country in force in the month for which it is due (a measure extensively debated and known as "overtax of part-time individual labour contracts").

The provisions of art. 146 para. (5⁷) of the Fiscal Code refer to the exceptions to this rule, namely:

- a) students up to 26 years;
- b) apprentices up to 18 years;
- c) persons who can legally work less than 8 hours;
- d) pensioners/retirees;
- e) persons who concluded several part-time contracts, based on which the cumulated monthly income exceeds a minimum gross basic salary.

In order to apply the exception to letter e), it was necessary the issue of the present procedure, which provides that the employee must submit to each employer / income payer a **declaration on his own responsibility/affidavit**, showing that he earns income from salaries or assimilated to salaries on the basis of two or more individual employment contracts, and the monthly cumulative calculation base related to them is at least equal to the minimum gross salary per country guaranteed in payment.

By way of exception, if at one of the employers / payers of income, the monthly calculation base of CAS and CASS related to the income obtained from salaries and assimilated to salaries, corresponding to the number of days worked in the month, is at least equal to the minimum gross wage per country guaranteed in payment, the employee is not required to submit the declaration to the respective employer / payer.

The declaration shall be submitted monthly, until the 5th of the month following the one for which the salary rights are earned.

If the **affidavit** is **not** submitted, each employer / income payer to which the calculation base related to the realized income, determined according to the rules specific to each contribution, is below the level of the minimum gross monthly salary per country guaranteed in payment, establishes CAS and CASS at the level of the minimum gross salary per country corresponding to the number of working days in the month in which the contract was active. In this case, the contributions are withheld from the employee at the level of the calculation base related to the earned income, determined according to the rules specific to each contribution, and each employer / income payer bears the difference of contributions calculated at the level of the minimum gross salary per country guaranteed in payment.

The procedure also presents explanatory situations for various scenarios that may occur in practice.

Order 1/2022 amending and supplementing NBR Order 27/2010 for the approval of accounting regulations in accordance with International Financial Reporting Standards, applicable to credit institutions (Official Gazette 772/2022)

This order enters into force on January 1, 2023, and it updates the accounting regulations in accordance with the International Financial Reporting Standards (IFRS).

We present some of the most important changes brought by this order:

- The list of institutions to which these regulations apply is extended, adding non-banking financial institutions. We present below the updated list:

1. Credit institutions:

- a. banks, Romanian legal entities;
- b. cooperative credit organizations;
- c. saving and housing finance banks;
- d. mortgage banks;
- e. branches in Romania of foreign credit institutions;
- f. branches from abroad of credit institutions, Romanian legal entities;

2. Non-banking financial institutions:

- g. non-banking financial institutions registered in the General Register according to Law 93/2009 on non-banking financial institutions, with subsequent amendments and completions, including payment institutions, within the meaning of Law 209/2019 on payment services and for amending certain normative acts, and electronic money institutions, within the meaning of Law 210/2019 on the activity of electronic money issuance;
 - h. branches in Romania of financial institutions, foreign legal persons, registered in the General Register according to Law 93/2009 on non-banking financial institutions, with subsequent amendments and completions;
 - i. branches from abroad of the institutions referred to in letter g), Romanian legal persons.
- In addition to institutions which were already categorized as public-interest entities (those referred to in points (a) to (d)), the institutions referred to in point (g) are added to this category;
 - In the application of accounting regulations in accordance with IFRS, it is introduced the obligation for institutions to develop their own accounting policies, which are approved by the administrators/directors, or, if the institutions do not have administrators, by the persons in charge with the management of the respective institution;
 - Starting with the financial year 2023, non-banking financial institutions will also submit to the territorial units of the Ministry of Finance an annual report drawn up based on the data generated from the accounting records. The standardized format, content, and deadline for submitting this report will be established by regulations issued by the National Bank of Romania (NBR);
 - The order presents the statements to be drafted and submitted by non-banking financial institutions as of December 31, 2022, on the occasion of transposing the accounts balances from the trial balance as of December 31, 2022, prepared based on the accounting regulations in accordance with the European directives, approved by the NBR Order 6/2015, to the opening accounts of the financial year 2023, when they will switch to IFRS.

Instruction 22/2022 on National Bank of Romania's reference interest rate level (Official Gazette 783/2023)

As of August 8, 2022, the reference interest rate of the NBR is 5.50% per year (compared to 4.75% previously).

Ordinance 18/2022 on the authorization and operation in Romania of representative offices of foreign companies and economic organizations (Official Gazette 779/2022)

This normative act, which entered into force on August 7, 2022, introduced a new legal and institutional framework necessary for authorization and operation in Romania of the representative offices of foreign companies and economic organizations, which are



Credit institutions IFRS reporting



authorized by the Ministry of Entrepreneurship and Tourism.

The application for opening a representative office (“rep office”) and issuance of the operating authorization shall be filled in electronically through a dedicated electronic platform, which is estimated to become operational within a maximum of 180 days from the date of entry into force of ordinance. Until then, the applications and their settlement will be made using the previous procedure.

The application for registration shall contain the following information:

- a) name, registered address and tax identification number of the foreign entity;
- b) object of activity of the representative office, in accordance with the object of activity of the requesting foreign economic company or organization;
- c) duration of operation of the rep office;
- d) representative of the Representation in relations with third parties;
- e) headquarters of the rep office.

The documents to be attached to the application for registration are:

- a) the document issued by the competent authority of the country in which the foreign company or economic organization has its registered headquarters, showing the identification and registration data of the foreign company or organization, the object of activity and the share capital, and the authorized translation of this document with qualified or advanced electronic signature;
- b) the deeds of incorporation or other supporting documents regarding the form of organization and operation of the foreign company or organization and an authorized translation thereof with a qualified or advanced electronic signature;
- c) the power of attorney concerning the persons appointed to represent the foreign company or economic organization which applied for registration, with a certified translation, as the case may be;
- d) proof of payment of the authorization fee;
- e) a confirmation of the credit worthiness of the bank through which the company or organization carries out its main financial operations;
- f) proof of the headquarters’ existence of representative office on the territory of Romania for a period at least equal to the period of validity of the authorization or to the period for which the extension of the authorization is requested.

Documents drawn up in a foreign language will be accompanied by a certified translation.

To obtain the operating authorization, a fee for authorization in amount of EUR 1,000 / year, the equivalent in RON, at the NBR exchange rate on the date of payment (previously USD 1,200 / year) is paid to the competent central tax authority in the area where the representative office is located.

Operating authorizations shall be issued for a period of at least 1 year, with the possibility of extension for the same period.

The extension of validity of the operating authorization is made only at the request of the representative office, addressed to the Ministry of Entrepreneurship and Tourism, within at least 30 days before the expiration date, by filling in the electronic form within the electronic platform. When the validity of the operating authorization reaches the deadline and no request for an extension has been communicated, the operating authorization shall be withdrawn ex officio, within 30 days of their expiry.

The authorizations of the foreign representative offices issued until the date of entry into force of this Ordinance remain valid according to the normative acts in force on the date of their issuance.

For the activity carried out in Romania, the representative offices are obliged to register for tax purposes in Romania, in accordance with the provisions of Law 207/2015 on the Code of Fiscal Procedure, and to pay the taxes and fees established according to Law 227/2015 on the Fiscal Code, as well as according to other legal provisions. It is expressly mentioned that the rep office is not allowed to carry out economic activities in its own name.

Within 60 days from the date of entry into force of the ordinance, methodological norms on its implementation will be approved by order of the Minister of Agriculture and Tourism.



**Rep office
registration
procedure update**



VALIDITY

Order 20953/2022 on the approval of the Minimis Aid Scheme for "Improvement / reorientation of employees in companies", associated with the National Recovery and Resilience Plan of Romania 2021-2026, pillar II, component C7, investment 19 (Official Gazette 770/2022)

This normative act approves the minimis aid scheme for "Improvement / reorientation of employees in companies", associated with the National Recovery and Resilience Plan of Romania 2021-2026, pillar II, component C7, investment 19, provided in the annex that is an integral part of the Order. The scheme is addressed to small and medium-sized enterprises intending to improve the skills of their employees, being funded training activities in the following emerging technologies:

- internet of things;
- big data;
- cloud technologies;
- machine learning;
- artificial intelligence;
- automation of robotic processes;
- blockchain;
- cyber-physical systems;
- additive manufacturing.

The conditions and criteria for granting the aid are laid down in the aid scheme approved by that order.

Order 1604/2022 for approval of the standard format of the forms within the Methodological Norms for application of provisions of GEO 124/2021 establishing the institutional and financial framework for the management of European funds allocated to Romania through the Recovery and Resilience Facility, as well as for amending and completing GEO 155/2020 on some measures for elaboration of the National Recovery and Resilience Plan necessary for Romania to access reimbursable and non-reimbursable external funds within the Recovery and Resilience Facility, approved by GD 209/2022 (Official Gazette 769/2022)

This normative act approves the standard format of the reporting forms, this format being provided for in article 32 of the Methodological Norms for application of GEO 124/2021 provisions.

Order 1788/2022 amending the annex to OMFP 3.004/2017 on the approval of the Procedure for solving appeals provided for in art. 366 para. (2), art. 369 para. (5), art. 374 para. (2), art. 377 para. (4), art. 382 para. (2), art. 385 para. (4), art. 390 para. (2) and art. 393 para. (4) of Law 227/2015 on the Fiscal Code (Official Gazette 787/2022)

This normative act updates the procedure for solving appeals against the decisions issued by the specialized structures within the Romanian Customs Authority regarding the authorization of tax warehouses, registered consignees, registered consignors, and authorized importers.

Regulation 13/2022 amending Regulation of the Financial Supervisory Authority 3/2014 on certain aspects related to application of GEO 99/2006 on credit institutions and capital adequacy and Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) 648/2012 (Official Gazette 768/2022)

The Regulation transposes article 62 points 21-23 of Directive (EU) 2019/2.034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU, and 2014/65/EU, published in the Official Journal of the European Union, L series, no. 314 of 5 December 2019.



Minimis Aid Scheme for improvement of employees' competences



Amendment of GO 16/2022 for amending and supplementing Law 227/2015 on the Fiscal Code, repealing certain normative acts and other financial and fiscal measures, published in the Official Gazette of Romania, Part I, no. 716 of 15 July 2022 (Official Gazette 794/2022)

This rectification corrects the expression regarding the term of application of the provisions of GO 16/2022 regarding the establishment of CAS and CASS in the case of part-time contracts and the capping of the salary at a maximum of RON 10,000, for which the fiscal facilities in the field of constructions, agriculture and food are applied.

Order 1779/2022 amending and supplementing OMFP 4.146/2015 for the approval of the Norms on the application of exemption from value added tax provided for in Art. 294 para. (1) lit. j), k), l), m) and n) of Law 227/2015 regarding the Fiscal Code and art. X and XI of the Agreement between Romania and United States of America on the status of the forces of United States of America in Romania, signed in Washington on October 30, 2001, ratified by Law 260/2002 (Official Gazette 795/2022)

By this normative act, the rules for the application of the VAT exemption related to art. 294 lit. j)-n) are updated, being brought additions also for the situations presented in article 294 para. (1) subparagraphs l¹) and l²):

- ☑ letter l¹), namely, the delivery of goods not transported outside Romania and/or the provision of services carried out in Romania, intended either for use by the armed forces of other Member States or by the civilian personnel accompanying them, or for the supply of their canteens, when those armed forces participate in a defense action carried out in order to implement an activity of the European Union within the framework of the common security and defense policy (CSDP);
- ☑ point l²), namely, the supply of goods and/or the provision of services to a Member State other than Romania, intended for the armed forces of any Member State other than the Member State of destination, for use by those armed forces or by the civilian personnel accompanying them, or for the supply of their canteens, when those armed forces participate in a defense action carried out to implement an EU activity under the Common Security and Defense Policy (CSDP).

Order 1831/2022 amending and supplementing OMEF 2.007/2008 on the approval of the composition of the Commission for authorization of economic operators in fields with specific regulations and of the Regulation for its organization and operation, as well as of the Criteria regarding the authorization of operation of the units issuing vouchers (Official Gazette 811/2022)

The Order brings additions to the regulations applicable to the issuing vouchers entities, additions generated by the introduction of social vouchers on electronic support for newborns.

Order 1522/2022 for amending Order of ANAF President 63/2017 on approval of the models of some forms used in the field of tax debt collection, as well as for the amendment of the Order of ANAF President 3.454/2016 for approval of the Enforcement Procedure in the case of debtors who must collect certain, liquid, and due amounts from public authorities or institutions (Official Gazette 818/2022)

The Order updates the model of forms to be used in the field of tax debt collection.

Order 356/2022 for amending the Norms on continuous professional training of financial auditors, approved by the Order 90/2018 of the President of the Authority for Public Supervision of the Statutory Audit Activity (Official Gazette 826/2022)

The normative act updates the rules on the continuous professional training of financial auditors.



Update of the methodological norms for application of VAT exemption



Order 1542/2022 amending and supplementing Order of ANAF President 587/2016 for the approval of the model and content of the forms used for declaring taxes and fees under regime of establishment by self-imposition or withholding at source (Official Gazette 829/2022)

Through this normative act, form 100 is updated with the "Tax for the promotion of gambling activities". Details of this tax can be found in the previous issue (7/2022) of our newsletter.

Other published normative acts

Instruction 2/2022 for amending the Instruction of the Financial Supervisory Authority 2/2016 on preparation and submission of the half-yearly accounting report by the entities authorized, regulated, and supervised by the Financial Supervisory Authority - Financial Instruments and Investments Sector (Official Gazette 845/2022)

Norm 24/2022 for amending the Norm of the Financial Supervisory Authority 4/2018 on the management of operational risks generated by IT systems used by entities authorized / endorsed / registered, regulated and / or supervised by the Financial Supervisory Authority (Official Gazette 845/2022)

Ordinance 29/2022 amending and supplementing Law 672/2002 on public internal audit (Official Gazette 845/2022)

INFO - Valuation of monetary items in foreign currency

The August 2022 closing NBR exchange rates to be use for valuation of monetary items (cash on hand, receivables, payables) denominated in foreign currency, as well as receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement are:

1 EUR = 4,8605 RON; 1 CHF = 4,9747 RON; 1 GBP = 5,6662 RON; 1 USD = 4,8707 RON



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MONTHLY 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 8 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 validity of registration code under the scope of VAT mentioned on invoices received
- Check 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 ledger of goods received
- Maintain ledger of non-transfer of goods
- Maintain non-current assets ledger
- Mention which exchange rate will prevail (NBR, commercial bank or Central European Bank) in contracts with foreign partners

To consult the calendar of tax liabilities, visit the following link from ANAF (in Romanian):

https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Calendar/Calendar_obligatii_fiscale_2022.htm

KEY HR FIGURES

2022 Contributions for dependent activities	Employer and beneficiary (for activities considered dependent) (% share)	Employee and dependent worker (% share)
Social security contribution (pension)	Nothing due for normal working conditions 4% for special work conditions (*) 8% for special work conditions (*)	25% (**)
Contribution to health insurance fund (calculated on gross income)	Not due	10% (***)
Work insurance contribution	2.25% (*)	
Income tax		10% (****)
Disability Fund (for employers with more than 50 employees)	4 x minimum wage for every 100 employees	
The amount of a taxable meal tax in the sense of income tax	maximum 30 lei	
Minimum wage (gross) starting 1 January 2022	2.550 lei 3.000 lei for employees in the construction field	
Diurnal (in the country) For employees of public institutions For private sector employees (* 2.5)	20 lei/day 50 lei/day (from 1 May 2022, capping is added to 3 basic salaries corresponding to the job employed)	

If employers in the construction sector have a turnover of at least 80% of the construction activities defined by law, the following facilities apply:

(*) is not due to CAS by the employer

(**) the social security owed by the employee is reduced to 21.25%

(***) health insurance is not due by the employee

(****) tax on income is not due for gross monthly incomes of up to RON 30,000. (ceiling reduced to RON 10,000 as of August 1, 2022).

These facilities are also applicable for the agricultural sector and the food industry, starting with June 2022 income.

Helesteului Str. 15-17,
District 1
Bucharest - 011986
Romania

Phone: + 40 (0) 31 809 2739
+ 40 (0) 74 520 2739
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