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EMERGENCY ORDINANCE 22 dated 30 March 2010 to amend and complement Law 571/2003 – Fiscal Code (Official Gazette 201/2010)

The most significant issue of this Ordinance is that payment of tax on profit in quarterly advance payments is postponed to 2012 except for banks. Therefore, the regime prevailing in 2009 is reintroduced: tax on profit is to be paid each quarter as per realized current taxable profit.

In accordance with provisions of this Ordinance, taxpayers subject to article 34 point 1 letter b) of the Fiscal Code must compare profit tax to the minimum tax for Quarter I through Quarter III in accordance with article 34 point 3, adequately reassessed for the respective quarter by dividing the annual minimum tax by 12 and by multiplying by 3 months per the quarter for which the determination of the tax to be paid is made.

In case the taxable period starts or ends during a quarter, the minimum tax set according to point 3 is calculated according to the number of days within the quarter. For computing the final tax on profit, a comparison is made between the annual tax on profit and the annual minimum tax set per point 3. In case the taxable period starts or ends during the year, to compute the final tax on profit, a comparison is made between profit tax related to the respective period and the annual minimum tax set at point 3 adequately reassessed for the same period.

By exception to provisions of article 34, point 6, taxpayers subject to point 1 letter a), set up during the previous year which did not have to pay the minimum tax and also posted a tax loss at the end of the set up year, must pay quarterly advance profit tax payments of 25% of the minimum tax adequately reassessed for the taxable period with respect to the year when they were set up.

The Ordinance applies starting 1st January 2010.

ORDER 263 dated 22 February 2010 to approve Procedures for processing applications for VAT refunds (Official Gazette 131/2010)

This Order approves the Procedure for processing applications for VAT refunds. This procedure applies starting with February 2010 VAT returns.

Applications for VAT refunds less than RON 10,000 are deemed to present a low fiscal risk.

Applications for VAT refunds which are assessed to present a high fiscal risk are transmitted to the bodies in charge of tax inspection.

For large and middle size taxpayers as well as for the taxable persons who carry out export operations and/or EU supplies of goods exempted from VAT (referred to as „exporters”), refund is granted with a further tax inspect except for cases considered with a high fiscal risk when the tax inspection occurs before refund.

Taxable persons who meet all the following conditions qualify as exporters who benefit from the special regime for processing application for VAT refunds:

- All the tax returns which were due for the past 12 months have been submitted as well as informative statements "Recapitulative statement of EU Supplies/acquisitions/services" form 390 (VIES) and "Informative Statement on domestic supplies/services rendered and acquisitions" (form 394);
- Export (in its own name or in commission) and/or EU supplies of goods exempted from VAT have been realized the previous year for at least 75% of the transactions disclosed at the caption clients (4111) on the trial balance but for an amount of at least the equivalent in RON of Euro 1,000,000 calculated at the National Bank of Romania exchange rate prevailing on 31 December of the year prior to the one for which special regime is applicable;
- Exports are not made in the following fields of activity:
 - o "Retail trade of cereals, seeds, fodder and raw tobacco", code 4621;
 - o "Retail trade of fruits and vegetables", code 4631;
 - o "Retail trade of solid, liquid and gas combustibles and of their derived products", code 4671;
 - o "Retail trade of wood and building materials and sanitary equipment", code 4673;
 - o "Retail trade of wastes and residues", code 4677;
- The taxpayer has a clean fiscal file;
- No insolvency procedure has been introduced against the taxpayer or a voluntary liquidation procedure initiated.

Large and middle size taxpayers do not fall into the category of exporters.

Upon entry in force of the present procedures, the exporters who meet the above mentioned conditions will submit at the tax authorities an application for benefiting of the special VAT refund regime accompanied by:

- trial balance as at 31 December of the previous year;
- ledger of clients 4111;
- a statement under own responsibility to affirm that export and/or EU supplies of goods exempted from VAT were not made in the above mentioned fields of activity and that the 75% export criteria is met at application date.

EMERGENCY ORDINANCE 13 dated 23 February 2010 to rule measures to enhance set up of new job positions and to reduce unemployment in 2010 (Official Gazette 136/2010)

Among the main provisions, we mention:

- Employers who in 2010 hire for newly set up job positions persons who have been registered unemployed for at least 3 months before hiring and employ them at least 12 months benefit for a period of 6 months starting hiring date from an exemption of social insurance (*pension*) contributions for these persons.
- Exemption from social insurance contributions is granted from the month following hiring. In case the labour contract enters in force on the 1st of the month, **employer social insurance contribution exemption** is granted from the same day.
- By social insurance contributions is meant contribution to social insurance (*pension*), unemployment contribution, contribution to work accident and occupational disease fund, contribution to fund to guarantee payment of salary liabilities, health insurance contribution including medical leave contribution and health insurance allowance due by employers as par law.
- In case the labour contracts with the persons hired as per the present Ordinance are terminated before expiry of the 12 months period, as per article 55 letter b) or article 65 of Law 53/2003 – Labour Code, employers have to pay the amounts from which they were exempted in respect of social insurance contribution they owe for the duration of employment of each hired person as per the provisions of this Ordinance.
- Employers who benefited from social insurance contribution exemption and who, in the time lapse between the date the present Ordinance enters in force and the expiry date of 12 months, make redundant employees for reasons which do not depend on them, must pay the social insurance contributions they were exempted from.
- The contribution exemption period represents for the employee a valid contribution period although employer contribution is not paid.

Social insurance contribution exemption is not granted to:

- Employers who, for the last 6 months prior hiring, had no employees.
- Employers who hire for positions which have become vacant further to labour contract termination during the last 6 months before the inception date of the new labour contracts.

LAW 49 dated 19 March 2010 regarding measures in the field of labour and social insurance (Official Gazette 195/2010)

This Law introduces amendments to Law 19/2000 regarding the public pension regime and other rights from social insurance regarding conditions to retire and to Law 53/2003 – Labour Code. Thus, insured persons who meet conditions to retire due to seniority set by this Law, except for anticipated retirements and partially anticipated retirements, can continue to work only

with employer approval in accordance with conditions of the law.

Application for retirement accompanied by documents which prove that conditions set by law are met is submitted by the applicant or by his/her employer at the pension house of the applicant's domicile within the 30 calendar days prior to the date when the conditions for retirement set by law are met.

As for article 56 of Law 53/2003 – Labour Code regarding termination by law of a labour contract, letter d) is amended in such a manner that the labour contract lawfully ceases at the date when conditions of standard seniority and minimum contribution period for retirement are both met. This article is complemented with a new point which refers to cases of termination by law of a labour contract for which the termination notice of a labour contract case is made within 5 working days of its occurrence, in writing by decision of the employer and is communicated to the persons involved in the case within 5 working days. Article 61 letter e) stating that the employer can decide to dismiss a person of retirement age without cause if the employee meets conditions of standard seniority and contribution period and applies to waive retirement under the conditions of law, is abrogated.

INSTRUCTION 8 dated 1st March regarding the reference interest rate of the National Bank of Romania (NBR) for the month of March 2010 (Official Gazette 136/2010)

For the month of March 2010, the NBR reference interest rate is 7.25% per annum.

ORDER 291 dated 26 February 2010 to establish and approve the components of the Commission to license the operators of excisable products as well as its organisation and operating regulations (Official Gazette 141/2010)

Until 1st April 2010, the activity of the Commission is carried out by the Directorate for licensing within the National Customs Authority. After this date, licensing is under control of the General Directorate in charge of management of specifically regulated fields within the Ministry of Public Finance with right to use the system for EU exchange data (SEED).

ORDER 13 dated 10 March 2010 to approve Instructions 1/2010 to amend and complement Instructions 2/2007 regarding preparation and submission of annual financial statements by National Securities Commission (CNVM) licensed, regulated and monitored entities (Official Gazette 173/2010)

ORDER 768 dated 11 March 2010 to amend Norms to determine, withhold and pay tax on capital gain made by individuals upon transfer of securities, approved by Ministry of Finance and CNVM President Orders 3483/144/2008 (Official Gazette 175/2010)

Gain from the transfer of derivate financial instruments is determined at the falling due date of the derivate financial instrument and at liquidation date in case the derivate financial instrument has not a falling due date. It represents the gain realized by the individual as per the margin statement of account kept by the intermediary.

LAW 22 dated 2 March 2010 to complement Law 571/2003 – Fiscal Code (Official Gazette 144/2010)

This Law amends article 701 of the Fiscal Code by ruling that "the provisions regarding withholding income tax on pensions do not apply to the pensions received by the persons with a major or severe disability."

DIVIDENDS

RECEIVING DIVIDENDS

Dividends received by a Romanian legal entity are recorded in the beneficiary accounting records as financial income and are not taxable income for determination of corporate tax.

Fiscal regime for dividends received from European Union (EU) member States

After Romania joined the EU, the following are no longer taxable:

- dividends received by a Romanian legal entity, which is also the parent company, from a subsidiary located in a member State if the Romanian legal entity fulfils all the following conditions:
 - o is liable for corporate tax without possibility of option or exemption;
 - o holds at least a 15% ownership interest (10% starting 1st January 2009);
 - o has held the ownership interest for 2 consecutive years as of the dividend receipt date.

Dividends received by a Romanian legal entity through its permanent establishment located in a member State are not taxable income if the Romanian legal entity fulfils all the above mentioned conditions.

- dividends received by permanent establishments in Romania of foreign legal entities from other member States, where the parent company located in other member States receives dividends distributed by subsidiaries, if the foreign legal entity fulfils all the following conditions:
 - o in accordance with fiscal legislation of the member State, it is considered to be resident in this country and as per dispositions of the treaty to avoid double taxation concluded with a third country, it is not considered to have a fiscal establishment outside the EU;
 - o is subject, in accordance with fiscal legislation of a member State, to corporate tax or to a similar tax without the possibility of option or exemption;
 - o holds at least 15% of the share capital of the subsidiary located in a member State, 10% starting 1st January 2009;
 - o has held the minimum interest set above in the subsidiary for 2 consecutive years as of the date the dividends were recorded by the permanent establishment in Romania.

The above mentioned provisions do not apply to profits distributed to Romanian legal entities, permanent establishment in Romania of foreign legal entities from another member State which result from liquidation of a subsidiary located in a member State.

DISTRIBUTION OF DIVIDENDS

Dividends attributed to a shareholder are usually in proportion to the percentage of interest held. However, it could be otherwise if the limited liability company ("SRL") constitutive act expressly states another allocation of the profit. Romanian legislation does not permit payment of dividends in advance.

The decision to distribute dividends is decided at the Shareholders General Meeting (SGM) where the financial statements of the financial year then ended are examined. It is worth mentioning that profit distributable to shareholders is the profit after allocation to the legal reserve (5% of gross profit until the legal reserve amounts to 5% of share capital) and after covering losses carried forward, if any.

Resolutions of shareholders are drafted in the SGM minutes. An extract of the Minutes disclosing the decision to distribute dividends to shareholders is also usually drafted to avoid to having to providing the bank with the full Minutes.

Effective payment of dividends may be made once or in several disbursements depending on cash position of the company.

Payment of dividends by a Romanian legal entity to a shareholder, non-resident natural person or legal entity:

- Is made in foreign currency and not in local currency at the prevailing exchange rate for the dividend payment (**not at the exchange rate as at 31 December or as at SGM date**);
- Is made upon presentation of the SGM Minutes or extracts of the Minutes to the bank which the bank annotates with the successive disbursements, if any;
- Some banks request presentation of the tax residence certificate before making dividend payments;
- Implies that the tax on shareholder dividends, if any, is paid in RON to the Romanian State Budget by the 25th of the following month. In case dividends afferent to 2009 are allocated but not paid before 31 December 2010, the Romanian legal entity must pay tax on dividends by 25 January 2011 at the latest.

Tax on dividends

- The tax rate applicable to dividends distributed to **resident natural persons** is **16%** in accordance with article 67 of the Fiscal Code.
- The tax rate applicable to dividends distributed to **resident legal entities** is **10%** in accordance with article 36 of the Fiscal Code.

In accordance with article 36 of the Fiscal Code, tax on dividends paid by a Romanian legal entity to another Romanian legal entity is nil, if the beneficiary of the dividends holds at least a 15% ownership interest (10% starting 2009) in the entity which pays the dividend at the date of payment and has held it for 2 consecutive years as of the dividend payment date.

In the Implementation Norms of the Fiscal Code, dividends distributed and paid after 1st January 2007 enter under the incidence of these provisions, even if they come from pre-2007 profits carried forward, as long as the beneficiary meets the requirements.

Starting 2009, dividends which are reinvested in the scope of maintaining and creating new work positions to develop the operations of dividend generating legal entities in their field of activity as per their registration at the Trade Register are exempted from tax on dividends.

Dividends which are invested in the share capital of other Romanian legal entities in the scope of creating new work positions to develop operations in the field of activity as the Trade Register are also exempted from tax on dividends.

- The tax rate applicable to dividends distributed to **non-resident natural persons and legal entities** is 16% unless the **tax rate set by the treaty to avoid double taxation signed by Romania and the State of residence** applies.

Application of treaties to avoid double taxation

To benefit from provisions of the treaty to avoid double taxation, the shareholder must provide the Romanian legal entity with its tax residence certificate.

Most of the conventions to avoid double taxation set a rate for tax on dividends which is below 16%. Under these circumstances, it is crucial for the shareholder to be in a position to benefit from the dispositions of the treaty to avoid double taxation. The tax residence certificate is obtained from tax authorities of the country of residence. The certificate must mention the period for which it is issued and the country it is directed to. If the Romanian legal entity does not hold the residence tax certificate at the dividend payment date, tax on dividends at the standard rate of 16% will be withheld from dividends. An application to recover excess taxes on dividends withheld is possible but laborious. It is therefore of utmost importance for non-resident entities to have provided a valid tax residence certificate at dividend payment date.

Application of the reduced rate of tax on dividends set by article 116 (1) b of the Fiscal Code

The reduced rate of 10% applies to dividends allocated by an enterprise who is a Romanian legal entity or a legal entity having its registered headquarters in Romania set up in accordance with European legislation to legal entities who are resident in one of the EU State members or in one of the EFTA State members, i.e. Switzerland, Iceland, Liechtenstein, Norway.

Tax on dividend exemption

As per article 117 h) of the Fiscal Code, dividends paid by an enterprise who is a Romanian legal entity or a legal entity having its registered headquarters in Romania set up in accordance with European legislation to legal entities who are resident in one of the EU State members or in one of the EFTA State members **are exempted from tax on dividend** if the foreign legal entity who receives the dividends meets all the following conditions:

- has one of the form of legal structures set at article 20¹ point 4 of the Fiscal Code;
- is considered a resident in this State in accordance with the fiscal legislation of the State of residence (EU or EFTA) and as per the provisions of the treaties to avoid double taxation is not considered resident outside EU or EFTA in respect of taxation;
- is subject, in accordance with fiscal legislation of a State of residence (EU or EFTA) to corporate tax or to a similar tax without the possibility of option or exemption;
- holds at least 10% of the share capital of the Romanian legal entity for 2 consecutive years as of the date the dividends are paid.

To grant these exemptions, the Romanian legal entity who pays the dividends must meet the following 2 conditions:

- to be set up in accordance with Romanian law and to have one of the following legal structures: "stock company", "partnership limited by shares", "limited liability company";
- to be liable to tax on profit as per the provisions of Title II of the Fiscal Code without the possibility of option or exemption.

To grant these exemptions, the legal entity having its registered headquarters in Romania set up in accordance with European legislation who pays the dividends must be liable to tax on profit as per the provisions of Title II of the Fiscal Code without the possibility of option or exemption.

Other contributions based on dividends

Individuals who receive dividends must pay a contribution to **health** insurance of **5.5 %** on these dividends to the State health insurance regime if they are not insured by other means. This contribution based on the amount of dividends must be withheld by the dividend payer and transferred to the Romanian State Budget on by the 25th of the month following the month of dividend payment at the latest.

Filing obligations

- The Romanian legal entity must disclose on its monthly form 100 "State consolidated budget liability return" the tax on dividends withheld from individuals and legal entities and to submit it on by the 25th of the month following the month of dividend payment at the latest.
- For the dividends paid to resident natural persons, the Romanian legal entity must submit form 205 "Informative statement on income under the withholding tax regime, per beneficiary of income", code 14.13.01.13/l:
 - o This statement is to be filed by the Romanian legal entity which is obliged to compute, withhold and pay tax on dividends;
 - o This statement is to be submitted by 30 June for the dividends paid during the previous fiscal year at the latest.

- For dividends paid to non-resident natural persons and legal entities, the Romanian legal entity must submit the "Informative statement on tax withheld and paid on income under the withholding regime/exempted income, per non-resident income beneficiary" :
 - o This statement is to be filed by the Romanian legal entity which is obliged to compute, withhold and pay tax on dividends;
 - o This statement is to be submitted by 30 June for the dividends paid during the previous year at the latest.

Regarding other formalities with Romanian tax authorities

Formalities are to be performed to obtain a statement of the amounts which were withheld on dividends paid to non-resident shareholders from the Romanian tax authorities so the shareholders may use the tax credit when paying tax in their country of residence.

PARTICIPATION OF EMPLOYEES IN PROFIT

"Participation of employees in profit" does not represent a distribution of company profit to the employees as the employees have no right to profit appropriation but to bonuses subject to the standard taxation regime of revenue assimilated to salaries. The regulation afferent to "participation of employees in profit" refers to national companies and State owned commercial companies or where the State holds the majority of interest as well as the "regii autonome" but the regulation does not exclude the possibility of other companies from granting bonuses in correlation with performance of the enterprise in making profit. Irrespective the nature of share capital of commercial companies and in accordance with the provisions of IAS 19 – Employee benefits as well as OMFP 1752/2005, recognition of bonuses representing participation of employees in profit is made by the way of provisions for risks and expenses. In the subsequent year, after approval of the financial statements at the SGM, payroll expenses and related contributions are recorded and therefore this "participation of employees in profit" only affects the accounting profit for the year it relates to, the impact on the accounting profit of the subsequent year being nil.

INFORMATION – Personal numeric code ("CNP") should not be requested when shopping on Internet or elsewhere

The 2008 annual report of the Authority for the protection of personal data includes the following:

"During investigations in the field of on-line trade, it was found that some of operators collect and process the personal numeric code of their clients who are individuals on the phone and/or on-line, invoking provisions of the Fiscal Code and requests from ANAF which would make mandatory the collection of CNP to draft fiscal invoices starting 1st January 2007. On the other hand, some operators do not collect the CNP in any manner in order to draft fiscal invoices, arguing that there is no legal or administrative provision basis.

Having in view provisions of Law 677/2001 and considering that no provision of the Fiscal Code regarding the obligation to collect the CNP of the beneficiary of goods or services for the purpose of issuing fiscal invoices has been identified, the Monitoring Authority has requested for the sake of insuring compliance with legislation regarding protection of data with personal features, the Ministry of Economy and Finance (MEF) to express its position regarding the existence of express legal provisions regarding collection of CNP in the scope of drafting fiscal invoices."

The answer received from MEF is as follows: "From a VAT point of view, the content of an invoice is ruled by article 155 point 5 of Title VI of the Fiscal Code which transposes article 226 of Directive 112/2006/CE regarding the common VAT re-

gime. Among mandatory information mentioned at this article, the individual's CNP is not disclosed. Furthermore, regarding other taxes established by the Fiscal Code, meaning profit tax, local taxes, tax on the income of non residents, tax on representative offices and excises, we communicate that there is no provision whereby collection of CNP for the purpose of drafting fiscal invoices is stipulated."

In conclusion, there are no legal grounds in the tax legislation which would allow online providers as well as others to ask its client to provide his/her personal numeric code. Moreover, if such a database including CNP existed, it ought to be permanently deleted.

INFORMATION – Company stamp

The obligation (or not) to stamp documents with the company stamp is highly controversial. Recently, we have received an official answer from the National Office of the Trade Register where the following is disclosed "for the purpose of protection of third parties, article 74 of Law 31/1990 states, as a company obligation, the fact that any invoice, offer, order, price list, leaflet and other document used in commerce, issued by a company, must mention the denomination, legal form, registered headquarters, registration number at the Trade Register and tax registration code. Fiscal vouchers generated from fiscal cash tellers are exempt from these obligations."

Furthermore, the National Office of the Trade Register acknowledges and falls in line with provisions of the Fiscal Code which establish the termination of the obligation to sign and stamp invoices (since 1st January 2007).

Moreover, the National Office of the **Trade Register** confirms that the texts of law which rule the conditions of form of documents which are submitted to the Trade Register **do not indicate that the documents issued by commercial companies must be stamped.**

In the same respect, the Ministry of Justice, although disclaiming any competence to express legal advice or interpretations with a general feature, confirms that no legal dispositions which establish the obligation to stamp documents issued by commercial companies have been identified.

However, in practice, these 2 institutions keep requesting that the documents submitted to them bear the stamp of the company which issued them. As usual, habits are difficult to change.

INFORMATION – Transmission of invoices by email

Implementation Norms to the Fiscal Code set at caption 189¹ with respect to article "Conditions to exercise of the right of deduction" include the following:

"(1) justification of the VAT deduction is only made on the basis of original documents set per article 146 point 1 of the Fiscal Code, including invoices transmitted by electronic means in the conditions set by point 73, which must at least contain information set per article 155 point 5 of the Fiscal Code, except for simplified invoices set at point 78.

Invoices transmitted by electronic mail are considered invoices in original."

Considering the above quoted text, we have asked to ANAF to confirm in writing that an invoice received by email can be considered an invoice in original.

The answer received from ANAF (skipping the first part which reproduces in extenso provisions of point 73 of Implementation Norms to the Fiscal Code regarding transmission of invoices by electronic means - art. 155 (8)) is presented below.

"..... In our opinion, the conditions mentioned above (those related to article 155 (8)) refer to entities which wish to issue, transmit and store invoices by electronic means, without having the obligation to also issue invoices in paper format, but only

draft a summary of invoices issued by electronic means.

In the case *when the entity does not want to store invoices by electronic means but only transmit them by email to the beneficiary*, we consider that it is not necessary to meet the conditions set above. To support these affirmations, we remind that it is no longer mandatory to sign and stamp invoices and subsequently, **an invoice received by email and subsequently printed can be considered an original.** We consider that this procedure aims to facilitate making invoices available to the client by the supplier/provider and does not fall within provisions of article 155 point 8 letter c) of the Fiscal Code and its Implementation Norms."

INFORMATION – Project to Amend Fiscal Procedure Code

The Ministry of Finance has a project in progress to amend the Fiscal Procedure Code.

We mention some very significant issues regarding interest and penalties for late payment mentioned in the amendment project:

- Interest for late payment of fiscal liabilities would be reduced from 0.1% to 0.05% per day of delay;
- Penalties for late payment would be reintroduced in addition to interest as follows:
 - o Penalties for late payment would not be due if the fiscal obligations are settled within 30 days following the date due;
 - o **If fiscal liabilities are settled in the subsequent 60 days, penalties would be 5% of the total amount owed;**
 - o **After the aforementioned 60 day period, penalties would be 15% of the total amount owed.**
- Regarding local taxes which are not settled by their due date, interest of 2% per month or fraction of month would be applied. The above mentioned provisions regarding penalties for late payment would also apply to taxes owed to local authorities.

INFORMATION – Project to amend Implementation Norms of the Fiscal Code

The Ministry of Finance intends to amend the upper interest rate limit for deductibility regarding loans in foreign currency. Thus, the ceiling for deductibility of interest set at point 701 of the Implementation Norms of the Fiscal Code would be reduced from 8% to 6% as published on the Ministry of Finance website.

IMPORTANT

Once annual financial statements for 2009 are prepared, all supporting accounting and fiscal documentation regarding 2009 is to be finalized:

- the Tax Evidence Register (to disclose computation of the tax profit/loss from accounting profit/loss) has been completed;
- check that the minutes of the Inventory Committee are duly signed as well as resolutions for writing off
- and discarding assets, as the case may be;
- by archiving supporting documents.

Conservation of documents and accounting registers

- The Order 3512 dated 27 November 2008 regarding accounting documents and registers (Official Gazette 870/2008) discloses the **list of financial and accounting documents** which may be **kept for 5 years** starting the closing date of the financial year during which they were drafted, unless internal company requirements indicate they should be kept longer. Among the most important documents, we mention: Entry Note and minutes of differences ("NIR"), Consumption notes ("BC"), Instructions for delivery, Stock cards, Inventory Lists, Receipts, Disposition

H.R. KEY FIGURES

2010 Contribution	Employer (%)	Employee (%)
Social security contribution	20.8% for normal working conditions 25.8% for particular working conditions 30.8% for special working conditions	10.5%
Medical leave contribution and health insurance allowance	0.85%	
Work accident and occupational disease fund	0.15% - 0.85% depending on CAEN code for main activity	
Unemployment fund	0.5%	0.5%
Contribution to fund to guarantee payment of salary liabilities	0.25%	
Health insurance fund	5.2%	5.5%
Labour office commission	0.25% or 0.75%	
Salary tax		16%
Contributions for non employment of disabled persons (for employers with more than 50 employees)	4 x 50% minimum gross salary (RON 600) for every 100 employees	
Minimum monthly gross salary	RON 600 for unqualified positions RON 720 for positions requiring High School RON 1,200 for positions requiring a University degree	
Luncheon voucher	RON 8.72	
Average monthly gross salary (INSSE January 2009)	1,967 RON	
Per diem (in Romania)		
Employees in the public sector	13.00 RON	
Employees in the private sector (x 2.5)	32.50 RON	

for payment/collection forms for petty cash, Travelling docket (delegation), Bank statements, Journal of sundry operations (for "synthetic" accounts), Account ledger for sundry operations, Cumulative document;

- Payroll statements** are to be kept for **50 years**. **Supporting documents** and registers are to be kept for **10 years** starting the closing date of the financial year during which they were drafted, except as stated below;
- Invoices regarding capital assets, meaning real estate property which were taken into account in determining VAT deductions for taxable persons under a mixed regime and for the persons partially taxable in accordance with Fiscal Code provisions will be kept for the duration set in article 149 paragraph 6 of Law 571/2003 – Fiscal Code, with its further amendments and complements;
- Financial accounting documents which attest the provenance of items with a lifespan of over 10 years will usually be kept for a longer period, i.e. the useful life of the item.
- Mandatory accounting registers**, i.e. the Journal Register (code 14-1-1), Inventory Register (code 14-1-2) and General Ledger (code 14-1-3) **are kept within the enterprise for 10 years**, starting the closing date of the financial year for which they were maintained.

EASTER CELEBRATION

Gratuities can take several forms:

- Bonuses in addition to April gross salaries are subject to withholding of employee contributions and income tax. For the employer, bonuses and related employer contributions are tax allowed expenses;
- Allowances of RON 150 for each under age child of employees. This allowance may also be given as a "Gift Voucher" and represents an expense that can be included in welfare expenses which are tax deductible up to 2.5% of annual payroll together with other categories of welfare

expenses under the Fiscal Code;

- "Easter presents," other than those mentioned previously are considered benefits in kind and taxable to the employee. For the employer, these expenses are tax allowed as long as they are taxable to the employee.

REMINDER – Valuation of monetary items in foreign currency

Do not forget that starting 2010, at the end of each month, monetary items (cash on hand, receivable, payable) denominated in foreign currency are valued at the NBR exchange rate in force on the last banking day of the month.

This procedure also applies to receivables and payables denominated in RON but pegged to a foreign currency for collection/disbursement.

Exchange rates to use for valuation at the end of March 2010:

1 Euro = 4.0958 RON; 1 USD = 3.0422 RON;

1 CHF = 2.8665RON; 1 GBP = 4.6116 RON

APRIL 2010 – 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 the employee electronic registers with information regarding labour contract 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
- 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 complete the fiscal evidence register (*to disclose computation of tax profit/loss from accounting profit/loss*)
 - To organise a stock count of inventories if the enterprise does not use a perpetual inventory system
 - To issue final invoices for the month of April 2010
- To comply with requirements regarding VAT**
- Mention the registration code under the scope of VAT on documents for EU business partners
 - Check the validity of the registration code under the scope of VAT mentioned on invoices received
 - Check the amount of VAT disclosed on invoices received
 - Check references related to VAT (e.g.: "reverse charge," "operation not subject to VAT," etc...)
 - On invoices, write VAT amount received in case of reverse charge
 - Maintain the ledger of goods received
 - Maintain the ledger of non-transfer of goods
 - Mention which exchange rate will prevail (NBR or commercial bank) in contracts with foreign partners
- During the month - do not forget**
- That Monday 5 April is a legal holiday (Monday after Easter)**
- That Thursday 8 April is last day to submit**
- Form 092 (amendments) to change VAT return periods from Quarterly to Monthly in case an EU acquisition occurred in March 2010. Starting April 2010, VAT returns will be submitted monthly.
- That Monday 12 April is the last day to submit**
- Return for collection of hotel tax
- That Monday 12 April is the last day to pay**
- Hotel tax
 - Advertising service tax
- That Thursday 15 April is the last day to submit**
- INTRASTAT statement for March 2010 (submitted on-line)
 - Recapitulative statement of EU Supplies/acquisitions/services (form 390)* for March 2010.
- That Monday 26 April is the last day to submit**
- Annual corporate tax return (form 101) * for the year 2009;
 - State consolidated budget liability return (form 100)*
 - Social insurance and special funds liability return (form 102)*
 - Excise tax return (form 103)*
 - VAT return (form 300)*
 - Social security statement with list of insured persons
 - Social security statement regarding liabilities to the National Fund for health insurance, medical leave and compensation from health insurance
 - List of insured employees and health contribution to social health insurance fund
 - Unemployment fund statement with list of insured persons
 - Tax return for commission due by employers to the Labour Inspectorate (ITM)
 - Statement of 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)
 - Special VAT return for VAT non payers (form 301)*
 - Environment Fund Statement
- Excise taxes
 - Tax on crude oil and natural gas from domestic production
 - Withholding tax on non-resident income
 - VAT
 - Salary tax
 - Tax on income from independent activities, withheld at source
 - Tax on interest income
 - Tax on investment income
 - Tax on pension income
 - Tax on income from prizes and gambling
 - Tax on income from other sources
 - Social security contribution
 - Health insurance contribution
 - Medical leave contribution and health insurance allowance
 - Unemployment contribution
 - Contribution to fund to guarantee payment of salary liabilities
 - Commission to ITM for holding and updating Labour books
 - Contribution to work accident and occupational disease fund
 - Contribution for non employment of disabled persons for employers with headcount over 50
 - Contribution to the Environment Fund
 - Gambling tax.

That Friday 30 April is the last day to submit:

- Financial Statements as at 31.12.2009 for non-profit organisations
- Annual excise tax return (form 120)
- Annual return regarding tax on crude oil from domestic production (form 130).

IMPORTANT

All forms mentioned above as well as guidance on their preparation may be downloaded from the Ministry of Economy and Finance website: www.mfinante.ro or from website ANAF: www.anaf.ro. The tax returns noted with an asterisk (*) can be submitted by remote means of electronic transmission by taxpayers which have opted to file their returns on-line and which hold a digital certificate.

That Monday 26 April is the last day to pay

- Corporate tax – final payment for 2009
- Tax on profit for Quarter I 2010



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ACCOUNTING AND PAYROLL
EXPERT TEAM

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 »**
- Start up services**
- Organization of the accounting function**
- Assistance in implementation of ERP**
- Training**



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