



TAX BRIEFING



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TAX BRIEFING FOR ROMANIA: JANUARY 2010

- **Circular no. 1 of January 4, 2010 on the reference interest rate of National Bank of Romania (NBR) for January 2010.** For January 2010, the reference interest rate of NBR is 8.00% per year. (*Official Gazette No. 2 of January 4, 2010*)

- **Law no. 9 of January 14, 2010 on empowerment of Government to issue ordinances.** The law provides the empowerment to the Government (from the date of entering into force of this Law and only until the first regular session of the Parliament in 2010) to issue ordinances in the following areas: public finance and economy, justice, health, transport, environment, extension or modification of terms set out in regulatory normative acts, public administration and internal affairs. (*Official Gazette No. 30 of January 14, 2010*)

- **Order no. 29 of January 8, 2010 for approval of the Romanian standards List which adopts the harmonized European standards on cars.** The Romanian standards List, adopting the harmonized European standards on cars - published in the Official Journal of the European Union C 214/01 of September 8, 2009, has been approved.

On the date of this order's publication the Order of the Minister of Labor, Family and Equal Opportunities No. 164/2008 is being revoked. (*Official Gazette No. 29 of January 14, 2010*)

- **Decision no. 1 of January 14, 2010 for approval of revenue and expenditure budget of the National Securities Commission for the year 2010.** Revenue and expenditure budget of the National Securities Commission for the year 2010, funded entirely from extra-budgetary revenue, is set at 41.325 thousand lei - current income and balance of the previous year and 41.325 thousand lei - total expenses. (*Official Gazette number 33 dated January 15, 2010*)

- **Order no. 7 of January 4, 2010 for the approval of the form and content of some registration forms for value added tax.** The form and content of the following statements has been approved:

- a) "Tax registration statement / Statement of claims for non-resident taxpayers established in the Community, which is registered directly (090)";
- b) "Registration statement for VAT / Statement of claims for other persons that make intra-community acquisitions or services (091)";
- c) "Registration statement for VAT / Statement of claims for taxable persons with established business outside Romania, but with fixed establishments in Romania(093)";
- d) "Declaration on turnover for taxable persons for which the fiscal period is the calendar quarter and who have not made intra-community acquisitions of goods in the previous year (094)". (*Official Gazette No. 32 of January 15, 2010*)

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- **Procedure of January 4, 2010 for the approval of the biannual/annual tax period for taxable persons registered for VAT.** Tax authorities may approve the use of a tax period other than a month or a quarter, at the request of the taxable person registered for VAT purposes, namely:

- Calendar semester - if the taxpayer makes taxable transactions only up to 3 months in a semester;
- Calendar year - if the taxpayer makes taxable transactions only up to 6 months in a period of one calendar year.

In order to use the semester or calendar year as fiscal periods, the taxpayer must submit a request to the competent tax authority, not later than February 25 of the year for which the option is exercised.

The Procedure is approved by Order no. 6 of January 4, 2010. (*Official Gazette number 32 of January 15, 2010*)

- **Procedure of January 4, 2010 for settlement of applications of VAT repayment made by taxable persons not registered for VAT in Romania, established outside the Community.** In order to benefit from VAT reimbursement, the taxpayer must appoint a representative in Romania to deal with the reimbursement. The representative demands VAT reimbursement by completing and submitting Form 313. The code for tax registration given to the representative will be used only for VAT reimbursement by the represented person established outside the Community.

Based on the observations contained in the analysis report and, where appropriate, in the minutes prepared as a result of research, the authorities prepare "the Decision for VAT reimbursement for unregistered taxable persons and which are not obliged to be registered for VAT in Romania, established outside the Community"

The requests for reimbursement shall be decided upon within 6 months from the date of submitting the application to the tax authorities, along with the necessary documentation.

The Procedure is approved by Order no. 5 of January 4, 2010. (*Official Gazette No. 32 of January 15, 2010*)

- **Regulation no. 1 of January 12, 2010 for amending the Statute of National Bank of Romania no. 18/2009 on the management of credit institutions, the internal process for assessing the adequacy of capital to risks and the requirements for outsourcing their activities.** Article 112 paragraph 5 will stipulate that on the occasion of first classification after the restructuring operations and/or credit refinancing, at the framing of credits in classification categories, the credit institutions shall consider the financial performance of the debtor under more stringent conditions, by reviewing relevant quantitative and/or qualitative factors, based on updated information on the date of those operations. (*Official Gazette No. 39 of January 18, 2010*)

- **Order no. 14 of January 5, 2010 on terms and conditions for suspending the tax inspection.** The tax inspection may be suspended by the competent authorities when one of the following conditions is fulfilled and only if its failure does not allow the completion of tax inspection:

- a) to perform one or more cross-checks;
- b) to remedy the deficiencies found during a tax inspection;

c) to issue a decision of central tax Commission;
d) to carry out an expertise under the Tax Procedure Code;
e) to carry out specific research to identify individuals or establish the truth of some transactions;
f) at the written request of the taxpayer following the occurrence of an objective situation, which leads to the impossibility of continuing the tax inspection, confirmed by the tax inspection team. During a tax inspection the taxpayer may request its suspension only once;
g) to request further information from similar tax authorities of other EU Member States or from countries with which Romania has concluded international agreements to exchange information for tax purposes;
h) to prepare and show the price transfer file in case of taxpayers which conduct transactions with affiliated persons;
i) at the proposal of General Direction of NAFA which coordinates the activity of tax inspection, for the recovery of information from other tax inspection, received from other state institutions or third parties. (*Official Gazette No. 40 of January 19, 2010*)

- **Decision no. 37 of January 15, 2010 amending and completing Government Decision no. 161/2006 on preparation and filling of the general register of employees' evidence.** Companies must register labour contracts one day prior to the commencement of activity (previously the deadline was 20 days from employment date) and to announce the termination of an individual labour contract on the day of the termination of labour relations. In addition, companies have to send the register in an electronic format to the Labour Inspectorate the latest on the previous working day before the employee starts the activity.

Employers who do not meet the deadline for registration of a labour contract will be fined with an amount ranging between 1,500 and 20,000 RON. For filling the general register of employees' evidence with inaccurate data, employers will be fined with an amount ranging between 3,500 and 5,000 RON. (*Official Gazette No. 45 of January 20, 2010*)

- **Law no. 10 of January 19, 2010 to ratify the Agreement between the Government of Romania and the Government of the Republic of Moldova regarding the low level of border traffic, signed at Bucharest on November 13, 2009** the Agreement between the Government of Romania and the Government of the Republic of Moldova signed was signed on November 13, 2009. According to the Agreement, the citizens legally residing for at least one year in the border area will be able to enter and remain in the border area of the neighboring state for an uninterrupted period of 3 months. Cross-border access will be based on a valid passport and permit of low level of border traffic, which will be valid between 2 and 5 years. (*Official Gazette No. 52 of January 22, 2010*)

- **Ordinance no. 1 of January 20, 2010 amending the deadline for establishing insolvency sections.** The insolvency sections stipulated in Article 6 of Law no. 85/2006 on insolvency proceeding will be established within one year from the entry into force of this Ordinance. (*Official Gazette No. 54 of January 25, 2010*)

- **State Budget Law for the year 2010 no. 11/2010** (*Official Gazette No. 60, of January 27, 2010*), and **Social Security State Budget Law for the year 2010 no. 12/2010** (*Official Gazette, No. 61 of January 27, 2010*).

According to the social security budget, the contributions remain

unchanged, at the level of 2009 and are applicable starting with the revenues for January.

The social security state budget sets the contribution rates of employees and employers, which will apply starting with the revenues for January, for which the deadline for declaration and payment is 25th February 2009.

According to the budget project, the pension is set at 732.8 RON and applies from January 1st, 2010. In addition, the gross average salary used to substantiate the social security state budget for 2010 is 1836 RON.

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