



TAX BRIEFING



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Summary of New Tax and Accounting Obligations in 2010

1. Prepayment on income tax account due for 2010

According to Article 34, sections a) and b) of Law no. 571/2003 of Tax Code ("the Tax Code"), as of 2010 all taxpayers must apply the prepay system for income tax.

Thus as of 2010, taxpayers are liable for quarterly income tax payments, based upon the income tax liable for previous year, adjusted with the inflation index (December over December of the previous year), estimated when making the initial budget of the year for which prepayments are made. Due date is the 25th day of the month following the quarter for which the payment is made.

Income tax for the previous year, based on which prepayments are determined, is the income tax payable according to the annual income tax statement for the previous year, without taking into account the advance payments made during that year.

2. Regularization of income tax due for 2009

In accordance to Article 34, paragraphs (10) and (11) of the Tax Code, taxpayers (other than banking institutions, Romanian legal entities and branches of banks in Romania, foreign legal entities) must declare and pay for the fourth quarter of 2009 an amount equal to the tax calculated and highlighted for the third quarter of the same tax year, following that the final payment of income tax for the tax year to be made until the deadline for submitting the income tax statement provided in Article 35 paragraph (1) until April 25, 2010.

By exception, taxpayers who prepare final financial statements of 2009 until February 25, 2010, submit income tax annual statement and pay income tax for the previous year, until February 25 of the next year, without declaring income tax for payment in the quarterly statement related to the 4th quarter of 2009.

3. Certification of annual tax return by a tax consultant

According to Article 83, paragraph (5) of Ordinance 92 / 2003 on Tax Procedure Code ("The Tax Procedure Code"), the annual tax statements of legal entities taxpayers will be certified by a tax consultant, except those for which audit is mandatory.

The compliance with the request of certification by a tax consultant of the

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annually tax return is obligatory starting with tax declarations related to 2009, as per instructions of Ministry of Finance.

The certification rule does not apply to those taxpayers who, even though are not obliged by Romanian law to be audited, have opted for auditing their financial statements.

4. Monthly submission of recapitulative statement

According to the Tax Code, Article 156⁴ (as amended by Government Emergency Ordinance no. 109/2009), starting with 2010, the recapitulative statement on intra-community deliveries/acquisitions of goods and rendering/receiving of services (390 VIES) must be drafted and submitted by any taxable person registered for VAT purposes according to Article 153 or Article 153¹ of the Tax Code, until the 15th day of the following month. The recapitulative statement must include:

- Intra-community supplies and acquisitions, according to the regulations in force until 2010;
- Procurement of services for which the place of taxation is in the beneficiary's Member State, starting with 2010. Excluded from this category are service supplies that are exempt from VAT in the Member State in which they are taxable.

5. Other procedural obligations for the beginning of 2010

- , until January 25, 2010 a reference statement in which the turnover for the previous year is included should be submitted to tax authorities. The turnover should be obtained or adjusted as appropriate, and also a reference regarding the fact that the company has not made intra-community acquisitions of goods in the previous year, if in 2010 the company has to submit quarterly VAT returns (Tax Code, Article 156¹, paragraph (6)). Declaration 094 must be completed.
- Submission to tax authorities, until January 8 (5 working days from the end of December 2009) of the reference statement code "092" on changing the tax period for VAT reporting, in case that in 2009 the company had the obligation to declare the VAT quarterly and in December 2009 had at least one taxable intra-community acquisition in Romania (Tax Code, Article 156¹, paragraph (6¹)).
- Communication to tax authority the pro-rata applicable for 2010 and the way of calculating it by taxable persons with mixed regime, until January 25, 2010 (Tax Code, Article 147, paragraph (9)).
- Submitting until February 25, 2010, the notifications provided by Article 156³, paragraph (5) and (6).
- Application from non-resident beneficiaries of incomes for which withholding tax is due in Romania, the tax residence certificate issued by the competent authority of its state of residence, valid for 2010 and, where appropriate, a statement on own responsibility which indicates that the conditions for being a beneficiary are met, for the application of double taxation treaties, namely for implementing the European Union legislation (Tax Code, Article 118, paragraph (2), as amended by Government Emergency Ordinance no. 109/2009).
- Submitting the informative statement regarding the income from interest payments made to individuals resident in EU Member

States, until February 28, 2010 (Tax Code, Art. 119). In terms of annual statement regarding the withholding tax at source on non-residents income, it will be submitted until June 30, 2010.

- Submitting the tax files with information about the calculation of income tax from wages, until February 28, 2010 (Tax Code, Art. 59).

6. Accounting obligations

- Issuing the written internal decision by the responsible accountants regarding the procedure of invoicing for 2010, according to provisions of the Order 2226/2006, Annex 4.
- General inventory of the assets and liabilities at December 31, 2009 and the registration of results is being made according to the rules and time limits stipulated by the Order of the Ministry of Public Finance no. 2861/2009 for the approval of Norms regarding the organization and inventory of assets, liabilities and equities, published in Official Gazette no. 704 of October 20, 2009, which repealed the Order of the Ministry of Public Finance no. 1753/2004.
- The Order no 3055 of October 29, 2009 applies from January 1, 2010 for the approval of Accounting Regulations in accordance with European Directives replacing Order 1752/2005.
- One of the main changes of the Order 3055 refers to the monthly foreign currency revaluation of receivables, cash in hand and banks and liabilities in foreign currency (or receivables and liabilities expressed in lei but foreign currency denominated), at the exchange rate of the currency market, communicated by National Bank of Romania on the last banking day of the month.

7. Registration of employment contracts – new deadlines

The Government has decided, at the request of the European Commission and the World Bank, to amend the labour legislation, by introducing new rules requiring companies to register employment contracts faster, one day prior to the commencement of activity (previously: 20 days from employment date).

Thus, companies will be obliged to include in the general register of employees' evidence identification details of the employee the latest on the day preceding the commencement of activity and to announce the termination of an individual employment contract at the termination date of labour relations. Also, companies have to send the register in 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 an employment contract will be fined with 1,500 RON for each unregistered individual employment contract, without the cumulated value of the fine, determined by the actual number of such contracts, to exceed the amount of 20,000 RON. For filling the general register of employees' evidence with inaccurate data, employers will be fined with an amount between 3,500 and 5,000 RON.

The provisions of the Decision approved on 15th of January 2010 by the Government will enter into force within ten days after the publication of the normative act in the Official Gazette of Romania.

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