

Translation from Romanian into English according to the copy

GOVERNMENT EMERGENCY ORDINANCE no. 117 from 23 December 2010

for the amendment and completion of the Law no 571/2003 on the Fiscal Code and for regulating some financial and fiscal measures

Text in force starting from 22 November 2013

Basic document

#B: *The Government Ordinance number 117/2010*

Modifying documents

#M1: *Law number 303/2013*

The amendments and completions performed by the modifying document are written with italic font. In front of every amendment or completion it is specified the respective enactment or completion, under the form #M1.

#CIN

NOTE:

The Government Ordinance number 117/2010 has been approved with the completions through Law no.303/2013 (#MI).

#B

In order to comply with the commitments undertaken by the Government of Romania, by enforcing the measure to abrogate the minimum tax system and in compliance with the lines of action of the Governing Programme 2009-2012, which aims to simplify the legislative frame and the enforcement of the new policies frame of the European Committee on the field of small and medium enterprises, it is imposed to implement a simplified tax system of the micro enterprises. Considering the need to ensure a non-discriminatory treatment between the resident and non-resident legal entities on imposing the incomes from dividends, and also to maintain on 2011 the limit for the deduction of expenditure on fuel, in some cases, to the calculation of the tax basis for the corporate tax, and for the income tax, as it is imposed to revise the actual system regarding the income taxation earned by individuals in basis of the income regulations, in order to answer the demands on the efficient administering of the fiscal system, considering the need to improve the administering of the tax income, owed by individuals, in order to eliminate some technical difficulties occurred on enforcing the tax provisions, considering the obligation to pass and publish until 1 January 2011, the laws on transposing into national legislation :

- the DIRECTIVE 2009/162/EU of the Council, from 22 December 2009 for amending some provisions of the Directive 2006/112/EC on the common system of the value added tax ;
- the provisions of art 3 from the Directive 2008/8/EC of the Council, from 12 February 2008, for amending the Directive 2006/112/EC , on the place for providing the services;
- the Directive 2010/12/EU of the Council, from 16 February 2010, for amending the Directives 92/79/EEC , 92/80/EEC, 95/59/EC , on the structure and levels of the excises applied to the processed tobacco and of the Directive 2008/118/EC ,

considering, also, the obligation of the state member to notify without delay to the European Committee the texts of the enactments, together with the tables of compliance, towards the provisions of the new Directive on the VAT and the regime of excises for the processed tobacco considering also the need for continuous improvement, of the fiscal legislation, the current economic circumstance, the main features of the Romanian budget policy for the next period, which shall be subordinated to the supporting objectives of the economic growth, and also the need to promote some amendments as a consequence of the demands from the business environment,

considering the fact that, according to the Directive 2010/23/EU of the Council, from 16 March 2010, for amending the Directive 2006/112/EC on the common system of the value added tax, regarding the optional and temporary enforcement of reverse charge mechanism, for providing some services, which represents fraud risk, the state members can enforce until 30 June 2015 and for a minimum period of two years the reverse charge for the transfer of certificates for greenhouse gases emissions, as they are defined by article 3, from the Directive 2003/87/EC, of the European Parliament, and of the Council, from 13 October 2003, to establish a marketing system of the quotas of greenhouse gases emissions, within the Community, and to modify the Directive 96/61/EC, of the Council, transferable in compliance with art 12, from the Directive, and also for the transfer of other units that can be used by operators in compliance with the same Directive,

considering the significance of acquiring some data, imperatively necessary to calculate the VAT basis for the own community resources,

considering the fact that the parliamentary procedures for passing some laws do not allow the passing in due time, as a draft law, the transposing of the European directives,

considering the fact that the non passing and non publishing until 31 December 2010, of the laws, regarding the transposing into national legislation, of the Directives specified lead to:

- the triggering of the infringement procedure by the European Committee against Romania for non transposing within the legal term of the provisions of the fiscal Directives , effective from 1 January 2011;
- the impossibility for the economic operators to fulfill the obligations which result from the new legal provisions, as a consequence of amending the community directives;
- the impossibility to prepare in due time the secondary legislation, with negative consequences over the business environment, regarding the financial management and the business plan;

being given the context in which it is necessary, on one hand, implementing some measures to extend the calculation basis for the social contributions, and improving the collection through the stoppage-at-source method, including over some incomes such as the ones resulted from copyrights, and agreements/ civil conventions, and , on the other hand, the linking of the social insurance benefits to the amounts paid by the contributors for the mandatory social insurances, in compliance with the principle of social solidarity

considering the need to enforce the sole statement for the tax income and the social contributions starting with the fiscal year 2011,

in basis of art 115, para (4) from the Romanian Constitution, republished,

The Government of Romania passes this Emergency Ordinance.

ART I

Law number 571/2003 on the Fiscal Code, republished, in the Official Romanian Gazette, Part I, number 927, from 23 December, 2003 with the subsequent additions and completions, shall be amended and completed as it follows:

1. Art 1, para(1) shall be modified and shall have the following content:

“ART 1

(1) This code establishes the legal frame for the taxes, fees and mandatory social contributions provided on art 2, which represent incomes to the state budget, local budget, state social insurance budget, the National Fund budget for health insurance, the unemployment insurance fund and guarantee fund for the payment of the incomes receivables, specify the contributors who have the obligation to pay these taxes, fees and social contributions, and also the manner for calculating and paying them. This Code includes the procedure for amending these taxes, fees and social contributions. Also, it is certified by the Ministry of Public Finances to prepare methodological regulations, instructions and orders, in enforcing this Code, and of the conventions to evade the double taxation”.

(2) Art 2 shall be modified and shall have the following content:

“ART 2

The taxes, fees and social contributions regulated by the Fiscal Code

(1) The taxes and fees regulated by this Code are the following:

- a) corporate tax;
- b) income tax;
- c) micro enterprises' income tax;
- d) tax on income earned by non-residents in Romania;
- e) tax on agencies;
- f) value added tax;
- g) excises;
- h) local taxes and fees.

(2) The social contributions regulated by this Code are the following:

- a) the individual contribution of social insurances and the contribution owed by the employer to the state budget of social insurances;
- b) the individual contribution for the social health insurances and the contribution owed by the employer to the budget of the Unique National Fund of health insurances;
- c) the contributions for holidays , health insurance benefits, owed by the employer to the budget of the Unique National Fund of health insurances;
- d) the individual contribution to the Unemployment Insurance Fund and the contribution owed by the employer to the Unemployment Insurance Fund;
- e) the insurance contribution for work accidents and occupational diseases, owed by the employer to the state social insurances budget;
- f) the contribution to the Guarantee Fund for the payment of the wage receivables owed by the individuals and legal entities who have the position of employers according to Law 200/2006, on constituting and using the Guarantee Fund for the payment of the wage receivables with the subsequent additions and completions.”

(3) On art 7 para (1) , after point 5, a new point is introduced, point 5¹, with the following content:

“5¹. central fiscal authority – Ministry of Public Finances, institution which aims to coordinate the unitary enforcement of the provisions of fiscal legislation;”.

(4) On art 11, para (1¹) and (1²) , shall be modified and shall have the following content:

"(1¹) The fiscal authorities shall not consider a transaction performed by a contributor, stated as inactive, through order of the president of National Agency of Fiscal Administration , except the deliveries of goods performed within the procedure of forced execution.

(1²) Also, there shall not be considered by the fiscal authorities the transactions performed with a contributor stated as inactive through order of the president of National Agency of Fiscal Administration, except the procurements of goods performed within the procedure of forced execution. The procedure of certifying the inactive contributors shall be established through order of the president of National Agency of Fiscal Administration. The order and the list of the inactive contributors shall be notified to the respective contributors and to the interested parties, by posting them on the webpage of the Agency for Fiscal Administration".

(5) On art 15, para (1), after letter b) there shall be introduced a new letter, b¹) , with the following content:

"b¹) the Romanian legal entities who pay tax on the microenterprises' incomes, in compliance with the provisions included in title IV¹;"

6) The art 21 , para (4) , letter t) shall be modified and shall have the following content:

"t) in the period 1 January 2011 - 31 December 2011 inclusive, the expenditures on fuel for road vehicles that are intended exclusively for road passenger transport, with a maximum authorized weight that shall not exceed 3500 kg and which have no more than 9 seats, including the chair of the driver, owned or used by the taxpayer, unless the vehicles are registered in any of the following categories:

1. vehicles used exclusively for intervention, repair, security and protection, courier, staff transport to and from the place of performing the activity, and also vehicles specially adapted for use as reportage carts, used by sales agents and agents for labor recruitment;
2. vehicles used for the transport of persons, with payment, including taxi activities;
3. vehicles used for rental to others, including for developing training activities at the drivers' schools. "

7. Article 34 para (18) shall be modified as it follows:

"(18) Fiscal loss recorded during the two periods related to 2010 is recovered according to Art. 26, period 1 October to 31 December 2010, being considered fiscal year in terms of the 7 consecutive years."

8. Article 36, para (4) shall be modified and shall have the following content:

"(4) The provisions of this article shall not apply to dividends paid by a Romanian legal entity to another Romanian legal entity if the beneficiary of the dividends owns , at the date of dividends' payment, minimum 10% of the equity investments of the other legal entity, for a period of 2 years fulfilled until the date of their payment thereof. "

9. Article 36, after paragraph (4) there shall be introduced a new paragraph (4¹), as it follows:

"(4¹) The provisions of this article shall not apply to dividends distributed / paid by a Romanian legal entity:

- a) voluntary pension funds, namely private pension funds;
- b) the entities of the public administration which exercise, by law, rights and obligations that result from the position of state shareholder to those Romanian legal entities. "

10. Article 41, letter i) shall be changed as it follows:

"i) incomes from other sources, as defined by art. 78 and 79¹."

11. Article 42, letter e) shall be abrogated.

12. Article 48, para (7), letter 1¹) shall be changed as it follows:

"1¹) in the period 1 January 2011 - 31 December 2011 inclusive, the expenditures on fuel for road powered vehicles that are intended exclusively for road passenger transport, with a maximum authorized weight that shall not exceed 3500 kg, and which have no more than 9

seats, including the driver seat, unless the vehicles are registered in any of the following categories:

1. vehicles used exclusively for intervention, repair, security and protection, courier, staff transport to and from the place of performing the activity, and the vehicles specially adapted for use as reportage carts , the vehicles used by sales agents and agents for labor recruitment;
2. vehicles used for the transport of persons, with payment, including taxi activities;
3. vehicles used for rental to others, including for developing training activities at the drivers' schools

13. The title of Article 49 is modified as it follows:

"Establishing the annual net income based on the income standards"

14. Article 49 para (1), (2 ^ 1), (3), (4), (5) and (6) shall be changed as it follows:

"Art. 49

(1) In case of taxpayers with commercial incomes defined by art. 46 para. (2), the annual net income is determined based on the income standards from the place of performing the activity.

.....

(2 ^ 1) The standard income for each activity independent developed by the taxpayer which generates commercial income can not be less than the national minimum basic gross salary guaranteed for payment, in force at the time of its establishment, multiplied by 12 . The provisions of this paragraph shall apply also if the activities are developed within an association without legal personality, the standard income being established for each associated member.

(3) For determining the annual standard incomes , the income limit determined by multiplying by 12 of the the national minimum gross salary guaranteed for payment is the annual net income before applying the criteria. The criteria for determining the standard incomes by the general directorates of the territorial public finances and of the Bucharest Municipality shall be the ones provided by the methodological regulations.

(4) Where a taxpayer develops an independent activity that generates commercial revenues, for periods less than a calendar year, the standard income concerning those activity shall be corrected as to reflect the period of the calendar year in which the respective activity has been developed.

(5) If a taxpayer develops two or more activities that generate commercial revenues, the net income from these activities is established by cumulating the standard incomes level appropriate to each activity.

(6) Where a taxpayer develops an activity described by para (2) and another independent activity, the annual net income is determined based on the single-entry bookkeeping, according to art. 48. "

15. On Article 52 para (1), after letter e) there shall be inserted a new letter e ^ 1), as it follows:

"e ^ 1) the income earned by an individual from an association with a legal entity taxpayer under Title IV^1, which does not generate a legal entity; "

16. On Article 52 para (2) after letter a) there shall be inserted a new letter, a ^ 1), as it follows:

"a ^ 1) in case of incomes provided by para. (1) e ^ 1), applying the tax rate provided for micro enterprises' income tax to the revenue accruing to the individual from association;".

17. Article 52 para (3) shall be modified as it follows:

"(3) tax to be withheld is transferred to the state budget until 25th inclusive of the following month to the one in which the income was paid, except for the income tax provided by par. (1) e ^ 1), for which the steering period is regulated by title IV^1. "

18. Article 52, paragraph (4) shall be abrogated.

19. After Article 52 there shall be inserted a new article 52 ^ 1, as it follows:

"Art. 52 ^ 1

The option for setting the final tax for certain incomes from independent activities

(1) Taxpayers that earn incomes from the activities mentioned in art. 52 para. (1) a) - e) may choose to establish the income tax as a final tax. The option for the gross income tax is exercised in writing when concluding each legal relationship / contract and is applicable to the revenues earned, as a consequence of the activity developed on that basis.

(2) The income tax is calculated by withholding at the time of paying the revenues by the incomes payers by applying the rate of 16% on the gross income.

(3) The tax calculated and withheld represents final tax.

(4) The tax withheld therein shall be transferred to the state budget until the 25th inclusive of the following month to the one in which he was detained. "

20. Article 53 is modified as it follows:

"Art. 53

Prepayments of the income tax from independent activities

Taxpayers who earn incomes from independent activities are obliged to make prepayments on the account of the annual tax due to the state budget, according to art. 82, except for the incomes specified by Art. 52, for which the advance payment is made by withholding or for which the tax is final according to art. 52 ^ 1. "

21. Article 66 (5 ^ 1) shall be modified as it follows:

"(5 ^ 1) The annual net profit / net annual loss from trading securities, other than shares and securities in case of closed companies, are determined as difference between the gains and losses recorded during the respective fiscal year cumulated from the beginning of the year, and is equal to the net profit determined * / net loss determined by the end of the fourth quarter of the fiscal year. The annual net profit/ annual net loss is determined by the taxpayer, based on the income statement filed pursuant to Art. 83. "

22. Article 66 para (7) i will be modified as it follows:

"(7) The revenues obtained as profits from operations of purchasing foreign currency on tem in basis of contracts based, and any other such operations represent the favorable exchange differences resulting from these operations, on the moment of concluding the operation and emphasizing the client's account. The net annual profit shall be determined as the difference between the profits and losses recorded during that year from such operations. The annual net profit is determined by the taxpayer on the income statement, filed according to Art. 83. For the transactions from the fiscal year, each intermediate or income tax payer, by case has the following obligations:

a) calculating the annual profit / annual loss for the transactions performed during that year for each taxpayer;

b) sending information regarding the annual profit/ annual loss, and the tax calculated and withhold as prepayment in writing by him, until the last day of February of the following year to which the calculation is made. "

23. On Article 67 para (3), point a) is modified as it follows:

"a) the annual profit determined at the end of each quarter from the transfer of securities other than shares and the real assets in case of closed companies, are taxed with a 16% share. The

obligation to calculate the tax representing the quarterly prepayment in the account of the taxable income lies with the taxpayer based on quarterly tax statement filed until the 25th inclusive of the month following each quarter. The reporting also represents the tax payment term, representing the quarterly pre payment to the state budget. The reporting and tax payment obligation lies with the taxpayer. The tax payment representing the quarterly prepayment, namely the quarterly tax refunded is calculated as the difference between the tax owed on the net profit cumulated from the beginning of the year, until the end of the reporting period and the tax owed on the net profit cumulated from the beginning of the year, until the end of the previous reporting period;".

24. On article 67 para (3), point a ^ 1) is abrogated.

25. On Article 67 para (3), point c) is modified as it follows:

"c) the profit from operations of purchasing of foreign currency on term, in basis of contract, and also from any other such operations, other than the ones with financial instruments traded on markets authorized and supervised by the National securities committee are taxed with a rate of 16% on every transaction, the tax withheld being a prepayment to the account of the due annual tax. The obligation to calculate, withhold and remit the tax lies with the intermediaries or with other income payers income, by case. The tax calculated and withheld representing prepayment, shall be transferred until the 25th of the month following the month in which he was detained. "

26. On article 67 para (5), (9) and (10) shall be abrogated.

27. After Article 67 ^ 1 there shall be inserted a new article, 67 ^ 2, as it follows:

"Art. 67 ^ 2

The taxation of the annual taxable net profit / annual net profit.

The annual net taxable profit resulted from the securities transfer, other than shares and real assets, in case of closed companies, and the annual net profit from operations of purchasing foreign currency on term in basis of contract and any other such operations of this kind are taxed as per Chapter X of this title. "

28. On Article 78 para (1), letter e) shall be abrogated

29. After Article 79 there shall be inserted a new article 79 ^ 1, as it follows:

"ART. 79 ^ 1

Defining and taxing the incomes of whose source was not identified.

Any revenue recorded by the tax authorities, under the Fiscal Procedure Code, whose source was not identified are taxed with a 16% share, which shall be applied to the taxable adjusted basis in basis of the indirect methods and procedures for constituting incomes or expenses. Through the notice of assessment, the tax authorities will determine the amount of tax and of the accessories. "

30. On Article 80 para (1) and (3 ^ 1) will be modified as it follows:

"Art. 80

(1) The annual taxable income is set up for each source of the income categories mentioned in art. 41 letter. a), c) and f) by deducting the tax loss reported from the net annual income.

.....

(3^1) the losses from the income categories mentioned in art. 41 letter. a), c) and f) from abroad are reported and set off by revenues of the same source and type, earned abroad by each country, registered within the next 5 fiscal years. "

31. After Article 80 there shall be inserted a new Article 80 ^ 1, as it follows:

"Art. 80 ^ 1

Establishing the annual net taxable profit:

(1) The annual net taxable profit from transfer of securities other than shares and real assets in case of closed companies, shall be determined as the difference between the annual net profit and the losses reported from the previous fiscal years.

(2) the net annual loss from trading securities, other than shares and real assets in case of closed companies, established through the income statement, is recovered from the annual net gains obtained during the next 7 consecutive fiscal years.

(3) The rules for reporting the losses are the following:

a) the report is performed chronologically, according to the loss seniority in the next 7 consecutive years;

b) The right to report is personal and non-transferable ;

c) the loss reported, uncompensated, after expiring the period stipulated by letter a) represents the definitive loss of the taxpayer.

(4) the annual net losses from trading securities, other than shares and real assets in case of closed companies from abroad is reported and is set off by revenues of the same source and type earned abroad by each country and recorded in the next 7 fiscal years."

32. On Article 81 para (3) will be modified as it follows:

"(3) Taxpayers who recorded loss during the previous year and those who have earned incomes for periods of less than the fiscal year, such as those who, for objective reasons, expect to achieve revenues which differ by at least 20% than the previous fiscal year, shall submit once with the income statement, the statement of estimated income . "

33. On Article 82 para (2), (3) and (5) will be modified as it follows:

"(2) Prepayments shall be determined by the competent tax authority for each source of income, taking as a calculation basis the estimated annual income or the net income recorded in the previous year, by case, by issuing a decision that shall be notified to the taxpayers under the terms of the law . In case of taxations performed after expiring the payment deadlines stipulated by par. (3), taxpayers are required to make prepayments at the level of the amount due for the last payment term of the previous year. The difference between the computed annual tax net income of the previous year and the amount representing prepayments owed by the taxpayer in the fourth quarter of the previous year shall be distributed during the following payment terms from the fiscal year. For the estimated income statements submitted in December there shall not to be determined prepayments, the net income for the period until the of the year being the subject for taxation under the tax decision issued based on the income statement. Prepayments for the incomes from properties' rental, except the incomes from rent are determined by the tax entity as it follows:

a) in basis of the contract concluded between the parties; and

b) based on the income determined according to data from the simple entry bookkeeping, according to the option. If, under the contractual provisions, the income from rental property is the RON equivalent of an amount in foreign currency, the estimated annual income is determined in basis of the exchange rate of the currency market, notified by the National Bank of Romania, from the previous day to the one when the taxation is performed.

(3) Prepayments are performed in four equal installments, until the 15th inclusive of the last month of each quarter, except for income tax farming, for which the tax payment is made according to the tax decision issued based on the income statement . Taxpayers who determine the net income from agricultural activities, according to art. 72 and 73, owe prepayments to the state budget for the tax related to this income, in two equal installments, as it follows: 50% of tax until 1 September inclusive and 50% of the tax until 15 November inclusive.

.....

(5) In order to establish prepayments, the tax entity shall take as calculation basis the estimated annual income in all situations in which it was filed a statement of the estimated income for the current year, or the net income from the income statement for the previous fiscal year, by case. On establishing the prepayments, there shall be used the tax rate of 16% provided by art 43 para (1).

34. On Article 82, after paragraph (7) there shall be introduced two new paragraphs (8) and (9) as it follows:

"(8) Taxpayers who earn incomes from independent activities and / or incomes from agricultural activities and who, during the fiscal year ends their activity and also those who enter in temporary suspension of activity, according to the relevant legislation, must submit a statement to the tax authorities, accompanied by supporting documents within 15 days after the event, to recalculate the prepayments.

(9) The procedure for implementing the provisions of par. (8) is established through order of the National Agency for Fiscal Administration, in accordance with Government Ordinance no. 92/2003, republished, with the subsequent additions and completions."

35. The title of Article 83 is modified as it follows:

"The income statement"

36. On Article 83 para (1), (1¹), (2) and (3) will be modified as it follows:

"Art. 83

(1) Taxpayers who earn individually or in a form of association, incomes from independent activities, incomes from rental property, incomes from agricultural activities, determined in real system are required to submit a statement on the income earned to the competent fiscal entity, for each fiscal year, until 15 May inclusive of the year following the year the income was earned. The income statement is completed for each category and source. For earnings in a form of association, the declared income is the net income / loss distributed in association.

(1¹) The statement on income is also completed for the taxpayers stipulated in art. 63 para. (2), in which case the tax prepayments will be taken into account in determining the due annual tax, for the situations when there occur changes of the contractual terms, except art. 82 para. (7).

(2) the income statement is completed and shall be submitted to the competent tax for each fiscal year until May 15 of the following year to the one in which the annual net profit / annual net loss generated by:

a) transfer of securities, other than the shares and the real assets in case of closed companies;
b) operations of purchasing foreign currency on term in basis of and any other such operations of this type

(3) There shall not be submitted income statements for the following income categories:

a) net incomes determined based on standards incomes, except for taxpayers who have filed statements of income estimated in December and for which no prepayments were established by law;

b) incomes from activities provided by art. 52 para. (1) letter a) - e), whose tax is final according to art. 52¹;

c) incomes from rental property specified in Art. 63 para. (2) whose taxation is final, except for taxpayers who have filed statements of income estimated in December and for which no prepayments were established by law;

d) incomes in the form of wages and similar incomes for which the information included in the tax sheets which have tax regime and tax statements filed by taxpayers referred to in art. 60;

e) incomes from investments, except those provided by par. (2), and incomes from prizes and gambling, whose tax is final;

f) incomes from pensions;

- g) incomes from agricultural activities, whose tax is final according to Art. 74 para. (4);
- h) incomes from transfer of real estate;
- i) incomes from other sources. "

37. The title of Article 84 is modified as follows:

"Setting and payment of the due annual tax "

38. On Article 84 para (1) will be modified as it follows:

"Art. 84

(1) The due annual tax shall be determined by the competent tax authority based on the income statement by applying the rate of 16% on each of the following:

- a) the annual due income;
- b) the annual net taxable income from the transfer of securities, other than shares and real assets in case of closed companies;
- c) the annual income from operations of purchasing foreign currency on term in basis of contracts, and any other such operations . "

39. On Article 84, paragraph (1¹) is abrogated .

40. On Article 84, after paragraph (6) there shall be inserted two new paragraphs (7) and (8) as it follows:

"(7) The fiscal body establishes the annual tax due on the income statement and issue a decision to tax, on term and in the manner established by order of the president of National Agency for Fiscal Administration.

(8) The tax differences remaining payable under the annual tax decision shall be paid no later than 60 days from the date of communicating the notice of assessment , period for which there shall not be calculated and due the amounts set according to the regulations in matter concerning the budgetary receivables.

41. On Article 86 para (1), after the last dash there shall be inserted a new line, as it follows:

"- the associations without legal status, if one of the associate members earns incomes established under Art. 49."

42. On Article 86, after paragraph (8) there shall be inserted two new paragraphs (9) and (10), as it follows:

"(9) income due to an individual from an association with a Romanian legal entity, a micro company that does not generate a legal entity, determined with the rules laid down in Title IVA¹ is assimilated, in order to tax on the individual, the income from independent activities, from which there shall be deducted the mandatory contributions to obtain the annual net income.

(10) The tax withheld by the legal entity to the account of the individual for revenues from an association with a Romanian legal entity that does not generate a legal person, represents the prepayment to the account of the annual income tax. The obligation to calculate, withhold and remit the tax determined according to the methodology set out in legislation on enterprises' income tax lies with the Romanian legal entity. "

43. On Article 90 para (3) will be modified as it follows:

"(3) Taxpayers who earn income from abroad according to para. (1) must declare them, under specific statement, until 15 May of the year following the year when the income was earned."

44. On Article 90, after paragraph (5) there shall be introduced two new paragraphs (6) and (7) as it follows:

"(6) The fiscal body establishes the annual tax due and shall issue a tax decision, between for the period and in the form established by order of the president of the National Agency for Fiscal Administration.

(7) The tax differences remaining payable as determined by the annual tax shall be paid within a term of no more than 60 days from the date of communicating the tax decision, period for

which there shall not be calculated and owed the amounts set according to the regulations in matter on collecting the budgetary receivables. "

45. On Article 94, after paragraph (6) there shall be introduced a new paragraph (7) as it follows: "(7) The annual net income, the taxable annual net income from the transfer of securities other than shares and real assets in case of closed companies, as well as the annual net income from purchasing foreign currency on term in basis of contracts, * and any other such operations conducted by individuals in 2010, shall be stated in the income statement and tax setting and payment are performed based on the tax decision. "

46. After Title IV there shall be inserted a new title, IV¹ " The tax on the micro enterprises' income', comprising Articles 112¹-112¹¹ as follows:

"TITLE IV¹

Tax on microenterprises incomes

ART. 112¹

Definition of the microenterprise

In the meaning of this title, a microenterprise is a Romanian legal person meeting cumulatively the following conditions, on December 31st of the previous tax year:

- a. Achieves incomes, others than provided in art. 112¹ paragraph (6);
- b. Has from 1 to 9 employees;
- c. Achieved incomes which did not exceed the equivalent in lei of the amount of 100.000 euros;
- d. Its share capital is owned by other persons than the state and local authorities.

ART. 112²

The option to pay tax on microenterprise incomes

(1) The tax regulated by this title is optional.

(2) Microenterprises paying corporate tax can choose to pay the tax regulated by this title starting with the next tax year, if they meet the conditions provided by art. 112¹ and if they have not been microenterprise incomes tax payers, according to the provisions of this title.

(3) For 2011, Romanian legal persons can choose to pay the tax regulated by this title if they meet, on December 31st 2010, the conditions provided by art. 112¹.

(4) A newly incorporated Romanian legal person can choose to pay tax on microenterprise incomes starting with the first tax year if the condition provided by art. 112¹ letter d) is met at the date of registration in the trade registry and the condition provided in art. 112¹ letter b) is met within 60 days from the registration date.

(5) Microenterprises do not apply this taxation system starting with the tax year following the year when they no longer meet one of the conditions provided in art. 112¹.

(6) The taxation system regulated by this title cannot be chosen by the Romanian legal persons who:

- a) perform activities in the banking area;
- b) perform activities in the area of insurance and reinsurance, of the capital market, except legal persons who perform intermediation activities in these areas;
- c) perform activities in the area of games of chance, consultancy and management;
- d) have a capital held by a shareholder legal person with more than 250 employees.

(7) Microenterprises can choose to pay the corporate tax starting with the following tax year. The option is exercised by January 31st of the tax year following the one for which microenterprise income tax was due.

ART. 112³

Tax scope

The tax set by this title, named microenterprise incomes tax, is applicable on the incomes from any source, except those provided in art. 112⁷.

ART. 112⁴

Tax year

(1) The tax year of a microenterprise is the calendar year.

(2) In case of a microenterprise which is incorporated or ends its existence, the tax year is the period in the calendar year when the legal person existed.

ART. 112⁵

Taxation rate

The taxation rate on the microenterprise incomes is 3%.

ART. 112⁶

Taxation of microenterprises achieving incomes higher than 100.000 euros

By means of exemption from the provisions of art. 112² paragraph (5) and of art. 112⁸ paragraphs (2) and (3), if, during a tax year, a microenterprise achieves incomes higher than 100.000 euros, it shall pay corporate tax considering the incomes and expenses achieved at the beginning of the tax year, with no possibility to take advantage, for the following period, of the provisions of this title. The due corporate tax represents the difference between the corporate tax calculated from the beginning of the tax year until the end of the reporting period and the microenterprise incomes tax due during the respective year.

ART. 112⁷

Taxable base

(1) The taxable base of the microenterprise incomes tax consists on incomes from any source, from which there are subtracted:

- a) incomes corresponding to the products stock expenses;
- b) incomes corresponding to the services in progress;
- c) incomes from the production of tangible and intangible assets;
- d) incomes from exploitation subsidies;
- e) incomes from provisions and adjustments for depreciation or value loss;
- f) incomes from refunding or cancelling some delay interest and/or penalties, which were non – deductible expenses in the calculation of taxable profit;
- g) incomes from compensations, from the insurance/reinsurance companies, for damages caused to the goods such as own stocks or tangible assets.

(2) If a microenterprise purchases cash registers, their procurement value is deduced from the taxable base, in accordance with the supportive document, in the quarter when they were taken into service, according to the law.

ART. 112⁸

Option declaration procedure

(1) Romanian legal persons paying corporate tax communicate to the territorial fiscal bodies the option for the payment of microenterprise incomes tax, according to the provisions of art. 112², by submitting the amended return for legal persons, family businesses and associations with no legal personality, until January 31st of the year for which the microenterprise incomes tax is paid.

(2) Legal persons incorporated during a tax year mention the option on the registration application at the trade register. The option is definitive for the respective tax year.

(3) If, during the tax year, one of the enforced conditions is no longer met, the microenterprise has the obligation to keep this taxation system for the respective tax year, with no possibility to take advantage of the provisions of this title for the following period, even if it subsequently meets the provisions in art. 112¹.

ART. 112⁹

Tax payment and tax returns submission

(1) The microenterprise incomes tax is calculated and paid quarterly, until the 25th of the month following the quarter for which the tax is calculated.

(2) Microenterprises have the obligation to submit, until the tax payment due date, the microenterprise incomes tax return.

(3) The fiscal obligation regulated by this title represents an income to the state budget.

ART. 112¹⁰

Taxation of legal persons associated with a microenterprise

In case of an association with no legal personality between a microenterprise and a natural person, resident or non – resident, the microenterprise has the obligation to calculate, withhold, declare and pay to the state budget the tax set by applying the 3% rate to the incomes pertaining to it from the association, until the 25th of the month following the quarter for which the tax is calculated.

ART. 112¹¹

Fiscal provisions referring to amortisation

Microenterprises have the obligation to keep records of the fiscal amortisation, according to art. 24 of title II.”

47. In article 115 paragraph (2), the opening and letter e) are modified and shall have the following content:

“(2) The following taxable incomes obtained in Romania are not taxable according to the this chapter and are taxed according to title II, III or IV¹, as the case may be:

.....

(e) incomes obtained by non – residents from an association incorporated in Romania, including from the association of a non – resident person with a microenterprise.”

48. In article 116 paragraph (2), letter b) is abrogated.

49. In article 118, paragraph (4) is modified and shall have the following content:

“(4) The model of the tax residence certificate for resident persons in Romania, as well as the due date to submit, by non – residents, the tax residence documents, issued by the authority in their residence state, are set by standards.”

50. In art. 125² paragraph (1), point 7 is modified and shall have the following content:

“7. The excisable products are energy products, alcohol and alcoholic beverages, as well as processed tobacco, as defined in title VII of this law, except the gas supplied through a natural gas system on Community territory, or though any network connected to such system.”

51. In article 128 paragraph (8), letters e) and f) are modified and shall have the following content:

“e) gratuitous granting of goods for advertising purpose or in order to stimulate sales or, more generally, for purposes connected to economic activities performance, under the conditions set by standards;

f) granting small value goods, gratuitously, within the actions of sponsorship, patronage, protocol/representation, under the conditions set by standards.”

52. In article 128 paragraph (12), letter e) is modified and shall have the following content:

“e) gas supply through a natural gas system on Community territory, or though any network connected to such system, electricity supply, thermal energy or refrigerant supply through the heating or cooling networks, in accordance with the conditions provided in art. 132 paragraph (1) letters e) and f) on the place of supply of these goods;”

53. In article 129, paragraphs (4) and (5) are modified and shall have the following content:

“(4) The following are assimilated with the services provided by payment:

a) use of goods which are part of the assets used within the economic activity of the taxable person for own profit or by its personnel or in order to be made available for the free use of other

persons, for other purposes than performing its economic activity, if the tax for the respective goods was totally or partially deduced;

b) services provided gratuitously by a taxable person for own profit or for its personnel or for the use of other persons, for other purposes than performing its economic activity.

(5) Operations such as the following are not services provided by payment in the meaning of paragraph (4), without limitation to:

a) use of goods which are part of the assets used within the economic activity of the taxable person or gratuitous provision of services, within the actions of sponsorship, patronage or protocol, under the conditions set by standards;

b) services which are part of the economic activity of the taxable person, provided gratuitously, for advertising purpose or in order to stimulate sales;

c) gratuitously provided services, during the guarantee period, by the person initially performing the delivery of goods or the provision of services.”

54. In article 132 paragraph (1), letters e) and f) are modified and shall have the following content:

“e) in case of gas supply through a natural gas system on Community territory, or though any network connected to such system, of electricity supply, thermal energy supply or of a refrigerant supply through the heating or cooling networks, by a trader who is a taxable person, the place of supply is considered to be the place where that trader who is a taxable person has the registered office of its economic activity or a fixed establishment for which the goods are supplied, or, in the absence of such establishment, the place where it is its known domicile or its usual residence. The trader who is a taxable person represents the taxable person whose main activity, concerning gas, electricity and thermal energy or refrigerant purchases represent the resale of such products and whose continuous consumption of such products is negligible;

f) in case of gas supply through a natural gas system on Community territory, or though any network connected to such system, of electricity supply, thermal energy supply or of a refrigerant supply through the heating or cooling networks, if letter e) is not applicable to such situation, the place of supply is the place where the buyer actually uses and consumes the goods. When the buyer does not actually consume the gas, electricity, thermal energy or refrigerant or it consumes them only partially, it is considered that the unconsumed goods in question were used and consumed at the place where the buyer has the economic activity registered office or a fixed establishment for which the goods are delivered. In the absence of such office, it is considered that it used and consumed the goods in the place where its regular domicile or residence are.”

55. In article 132 paragraph (4), letter d) is modified and shall have the following content:

“d) of gas through a natural gas system on Community territory, or though any network connected to such system, of electricity supply, thermal energy supply or of a refrigerant supply through the heating or cooling networks;”.

56. In article 132 paragraph (7), letter d) is modified and shall have the following content:

“d) of gas through a natural gas system on Community territory, or though any network connected to such system, of electricity supply, thermal energy supply or of a refrigerant supply through the heating or cooling networks;”.

57. In article 133 paragraph (4), letter c) is abrogated.

58. In article 133 paragraph (5) letter e), point 8 is modified and shall have the following content:

“8. Granting the access to a natural gas system on Community territory, or to a network connected to such system, to the electricity network or to the heating or cooling networks, the transport and distribution through these systems or networks, as well as other service provisions directly connected to them;”.

59. In article 133 paragraph (5), after letter e) a new letter is inserted, letter f), with the following content:

“f) the place where the activities are actually performed, in case of main and auxiliary services connected with cultural, artistic, sports, scientific, educational, entertainment or similar activities, such as fairs and exhibitions, including in case of services provided by the organizers of such activities, provided by non – taxable persons;”.

60. In article 133 paragraph (7) is modified and shall have the following content:

“(7) By means of exemption from the provisions of paragraph (2), the place of the following services is considered to be:

a) in Romania, for services consisting in activities auxiliary to transport, such as loading, unloading, handling and similar, services consisting on works on tangible assets and assessment of tangible assets, services of transport of goods carried out in Romania, when these services are provided by a taxable person non – resident on Community territory, if the actual use and exploitation of the services are carried out in Romania;

b) the place where the activities are actually performed, for services connected with granting of access to cultural, artistic, sports, scientific, educational, entertainment or similar activities, such as fairs and exhibitions, as well as for auxiliary services connected with granting this access, provided to a taxable person.”

61. In article 133, after paragraph (7) a new paragraph is inserted, paragraph (8), with the following content:

“(8) by means of exemption from the provisions of paragraph (2), for services of transport of goods carried out outside the Community, when these services are carried out by a taxable person residing in Romania, the place of provision is considered to be outside the Community, the actual use and exploitation of the services are carried out outside the Community. When applying this paragraph, the services of transport of goods carried out outside the Community are the services of transport which departure and arrival points are outside the Community, being considered actually used and exploited outside the Community.”

62. In article 134², paragraph (3) is modified and shall have the following content:

“(3) The tax is exigible when any of the events mentioned in art. 138 intervene. Nevertheless, the taxation regime, the applicable rates and the exchange rate are the same as of the base operation which generated these events.”

63. In article 134³, paragraph (2) is modified and shall have the following content:

“(2) By means of exemption from provisions of paragraph (1), the tax exigibility intervenes when the invoice provided in art. 155 paragraph (1) is issued or, as the case may be, when the self invoice provided in art. 155 paragraph (4) is issued, if the invoice or self invoice is issued before the 15th day of the month following the one when the generating act intervened.”

64. In article 135, paragraph (3) is modified and shall have the following content:

“(3) By means of exemption from provisions of paragraph (2), the tax exigibility intervenes when the invoice provided in the legislation on another member state in the article equivalent to art. 155 paragraph (1), r, as the case may be, when the self invoice provided in art. 155 paragraph (4) is issued, if the invoice or self invoice is issued before the 15th day of the month following the one when the generating act intervened.”

65. In article 142 paragraph (1), after letter e) a new letter is inserted, letter e¹), with the following content:

“e¹) import of goods by the European Community, the European Atomic Energy Community, the Central European Bank, the European Bank for Investments or by the incorporated bodies of the Community to which the Protocol from April 8th 1965 on privileges and immunities of the European Union is applicable, under the limits and conditions established by the respective protocol and by the

agreements for the application of the respective protocol or by the headquarters agreements, to the extent to which they do not lead to the deformation of competition.”

66. In article 142 paragraph (1), letter f) is modified and shall have the following content:

“import of goods carried out in Romania by the international bodies, others than mentioned in letter e¹), acknowledged as such by the public authorities in Romania, as well as their members, under the limits and conditions set by the international conventions for these bodies set up or the headquarter agreements;”.

67. In article 142 paragraph (1), letter k) is modified and shall have the following content:

“k) import of gas through a natural gas system or through any network connected to such system or the import of gas introduced from a ship transporting gas in a natural gas system of in a network of pipes with upstream feeding, the import of electricity, the import of thermal energy or refrigerant through the heating or cooling networks;”.

68. In article 143 paragraph (1), after letter j) a new letter is inserted, letter j¹), with the following content:

”j¹) import of goods or provision of services to the European Community, the European Atomic Energy Community, the Central European Bank, the European Bank for Investments or to the incorporated bodies to which the Protocol from April 8th 1965 on privileges and immunities of the European Union is applicable, under the limits and conditions established by the respective protocol and by the agreements for the application of the respective protocol or by the headquarters agreements, to the extent to which they do not lead to the deformation of competition.”

69. In article 143 paragraph (1), letter k) is modified and shall have the following content:

“deliveries of goods and provisions of services in favour of the international bodies, others than mentioned in letter j¹), acknowledged as such by the public authorities in Romania, as well as their members, under the limits and conditions set by the international conventions for these bodies set up or the headquarter agreements;”.

70. In article 143 paragraph (1), letters l) and m) are modified and shall have the following content:

“l) deliveries of goods not transported outside Romania and/or provisions of services carried out in Romania, intended either for the armed forces of the other NATO member states in order to be used by the forces in question or by the civilian personnel attending them, or in order to supply their messes or their canteens, when the respective forces attend a mutual defence action;

m) deliveries of goods and/or provisions of services to another state than Romania, intended for the armed forces of another NATO member state, other than the destination state, in order to be used by the forces in question or by the civilian personnel attending them, or in order to supply their messes or their canteens, when the respective forces attend a mutual defence action; delivery of goods or provision of services for the armed forces of the United Kingdom stationed in the island of Cyprus, as a result of the Treaty concerning the establishment of the Republic of Cyprus, from August 16th 1960, which are intended to be used by these forces or by the civilian personnel attending them or in order to supply their messes or their canteens;”.

71. In article 145, after paragraph (4) a new paragraph is inserted, paragraph (4¹), with the following content:

“(4¹) Under the conditions set by standards, the right is granted to deduct the tax for purchases carried out in the foreclosure procedure by a taxable person from a taxpayer declared inactive by order of the president of the National Agency for Fiscal Administration, according to art. 11 or from a taxable person in temporary inactivity, registered in the trade registry, according to the law;”.

72. In article 145¹, paragraph (4) is modified and shall have the following content:

“(4) The provisions of this paragraph are applicable until December 31st 2011.”

73. In article 147³, paragraphs (3) – (5) is modified and shall have the following content:

“(3) The negative amount of the tax, cumulated, is determined by adding to the negative amount of the tax, resulted in the reporting fiscal period, of the balance of the negative amount of the tax, carried over from the expense statement of the previous fiscal period, if it was not requested to no reimbursed and the negative differences of VAT set by the fiscal inspection bodies by decisions communicated until the date the expense statement is submitted.

(4) The cumulated tax to be paid is determined in the reporting fiscal period by adding the amounts unpaid to the state budget to the tax to be paid from the reporting fiscal period, until the date of submitting the tax return provided in article 156², from the balance of the tax to be paid of the previous fiscal period and the amount unpaid to the state budget until the date of submitting the return from the VAT differences to be paid, set by the fiscal inspection bodies communicated until the date the expense statement is submitted.

(5) By the tax return provided in article 156², the taxable persons shall determine the differences between the amounts provided in paragraphs (3) and (4), representing the tax adjustments and the setting of the balance of the tax to be paid or the balance of the negative amount of the tax. If the cumulated tax to be paid is higher than the negative amount of the cumulated tax, results a balance of the tax to be paid during the reporting fiscal period. If the negative amount of the cumulated tax is higher than the cumulated tax to be paid, results a balance of the negative amount of the tax during the reporting fiscal period.”

74. In article 151², paragraph (1), the opening is modified and shall have the following content:

“ART. 151²

(1) The beneficiary is held jointly and severally liable for the tax payment, if the person obligated to pay the tax is the supplier or the provider, according to art. 150 paragraph (1), if the invoice provided in art. 155 paragraph (5):”.

75. In article 152, paragraphs (1), (2), (5) – (7) are modified and shall have the following content:

“ART. 152

(1) The taxable person residing in Romania according to article 125¹ paragraph (2) letter a), whose annual turnover, declared or achieved, is lower than the 35.000 euros limit, the equivalent of which in lei is set at the exchange rate communicated by the national Bank of Romania at the adherence date and is rounded to the next thousand, can apply the tax exemption, hereinafter called special exemption regime, for the operations provided in art. 126 paragraph (1), except the intra-community deliveries of new means of transport, exempted according to art. 143 paragraph (2) letter b).

(2) The turnover serving as reference for the application of paragraph (1) is made of the total value, excluding the tax for the situation provided in paragraph (7) and (7¹), of the deliveries of goods and provisions of services carried out by the taxable person during a calendar year, taxable or, as the case may be, which can be taxable if they were not carried out by a small enterprise, of the operations resulted from economic activities for which the place of delivery/provision is considered as being abroad, if the tax were deductible, in case these operations were carried out in Romania according to art. 145 paragraph (2) letter b), of the exempted operations with right of deduction and of those exempted with no right of deduction, provided in art. 141 paragraph (2) letters a), b), e) and f), if they are not auxiliary to the main activity, except the following:

a) deliveries of fixed tangible or intangible assets, as defined in art. 125¹ paragraph (1) point 3, carried out by the taxable person;

b) intra-community deliveries of new transport means, exempted according to art. 143 paragraph (2) letter b).

.....

(5) For the newly incorporated taxable person who starts an economic activity during a calendar year, the exemption limit provided in paragraph (1) is determined proportional with the period left from incorporation until the end of the year, the month fraction being considered a full month.

(6) The taxable person that applies the special exemption regime and whose turnover, provided in paragraph (2) is higher or equal with the exemption limit provided in paragraph (1) or, as the case may be, in paragraph (5), shall request the registration for VAT purposes, according to art. 153, within 10 days from the date the limit is reached or exceeded. The special exemption regime is applied until the date of the registration for VAT purposes, according to art. 153. If the taxable person does not request the registration or requests it with delay, the relevant fiscal bodies have the right to set obligations concerning the tax to be paid and the corresponding accessories, from the date it should have been registered for tax purposes, according to art. 153.

(7) The taxable person registered for VAT purposes according to art. 153 who, during a calendar year, does not exceed the exemption limit provided in paragraph (1) or, as the case may be, the limit set according to paragraph (5), can request until January 20th of the following year to be removed from the records of persons registered for VAT purposes according to art. 153 in order to apply the special exemption regime. The cancellation of the registration for VAT purposes shall be valid from the first day of the month following the one when the removal from records was requested, respectively February 1st. Based on the information in the sales books corresponding to the operations carried out during a calendar year, the taxable persons establish if the turnover determined according to paragraph (2) is lower than the exemption limit. Until the cancellation of the registration for VAT purposes, the taxable person has all the rights and obligations of the persons registered for VAT purposes according to art. 153. The taxable person that requested the removal from records within the time period set by this paragraph has the obligation to submit the tax return provided in art. 156² for the operations carried out in January, until February 25th. In the last return submitted, the taxable person has the obligation to highlight the value resulted following all tax adjustments, according to this title.”

76. In article 152, after paragraph (7) two new paragraphs are inserted, paragraphs (7¹) and (7²), with the following content:

“(7¹) If, after the removal from the records of persons registered for VAT purposes, according to art. 153, in accordance with paragraph (7), the taxable person achieves during a calendar year a turnover, determined according to paragraph (2), higher or equal with the exemption limit provided in paragraph (1), has the obligation to comply with the provisions of this article and, after the registration for tax purposes according to art. 153, has the right to carry out the tax adjustments according to this article. The adjustments shall be reflected in the first tax return submitted after the registration for VAT purposes according to art. 153 of the taxable person or, as the case may be, in a subsequent return.

(7²) The taxable person that requests, according to paragraph (7), the removal from the taxable persons registered for VAT purposes, according to art. 153, but has the obligation to register for tax purposes, according to art. 153¹, must request the registration for VAT purposes, according to art. 153³, at the same time with the request for removal from the records of taxable persons registered for VAT purposes, according to art. 153. The registration for VAT purposes, according to art. 153¹, shall be valid starting with February 1st of the respective year. The provisions of this paragraph are applicable also if the taxable person chooses the registration for VAT purposes according to art. 153¹, at the same time with the request for removal from the records of taxable persons registered for VAT purposes, according to art. 153.”

77. In article 153, paragraphs (7) and (9) are modified and shall have the following content:

“(7) The relevant bodies shall register for VAT purposes, according to this article, all persons who, according to the provisions of this title, have the obligation to request the registration, according to paragraphs (1), (2), (4) or (5). By order of the minister of public finances, criteria can be set based on

which the registration for VAT purposes of the taxable person can be conditioned. The relevant fiscal bodies establish based on these criteria, if the taxable person justifies the intention and has the capacity to carry out an economic activity, in order to be registered for VAT purposes.

.....
(9) The relevant fiscal bodies can cancel the registration of a person for VAT purposes, according to this article, if, according to the provisions of this title, the person did not have the obligation to request the registration or did not have the right to request the registration for VAT purposes, according to this article. Also, the relevant fiscal bodies can cancel ex officio a person's registration for VAT purposes, according to this article, in case of taxable persons which figure in the list of taxpayers declared inactive according to art. 11, as well as the taxable persons in temporary inactivity, registered at the trade registry, according to the law. The removal from records procedure is set by the procedural standards in force. After cancelling the registration for VAT purposes, they have the obligation to request the relevant fiscal bodies the registration for VAT purposes if the situation that lead to the removal from records ceases, without being applicable the provisions relating to the exemption limit for small enterprises provided in art. 152 in the respective calendar year."

78. In article 153, after paragraph (9) a new paragraph is inserted, paragraph (9¹), with the following content:

"(9¹) The relevant fiscal bodies cancel the registration of a person for VAT purposes, according to this article, in the situation provided in art. 153 paragraph (7)."

79. In article 155¹, after paragraph (9) a new paragraph is inserted, paragraph (9¹), with the following content:

"(9¹) In case of goods delivered as consignment or for stocks made available to the client by a taxable person non – resident in Romania, the taxable person which is the recipient of the goods in Romania shall issue the documents provided in paragraphs (8) and (9) only if simplification measures are applied."

80. In article 156¹, paragraph (6) is modified and shall have the following content:

"(6) The taxable person who, according to paragraphs (2) and (5) has the obligation to submit the quarterly returns, shall submit to the relevant fiscal bodies, until January 25, an amended return with the turnover achieved or, as the case may be, recalculated, for the previous year and a mention regarding the fact that it did not carry out intra-community purchases of goods in the previous year. Exemption from the provisions of this paragraph are the taxable persons who, in accordance with the provisions of art. 152 paragraph (7), request the removal from records of persons registered for VAT purposes, according to art. 153, in order to apply the special exemption regime."

81. In article 156³, paragraphs (2) – (5) are modified and shall have the following content:

"(2) The special tax return shall be drawn up according to the model set by the order of the president of the National Agency of Fiscal Administration and is submitted until the 25th of the month following the one in which the exigibility of the operations mentioned in paragraph (1) arises. The special tax return shall be submitted only for the periods when the tax exigibility arises. By means of exemption, the persons who are not registered for VAT purposes, according to art. 153, regardless if they are registered or not according to art. 153¹, have the obligation to submit the special tax return for the intra-community purchases of new means of transport, before their registration in Romania, but not later than the 25th of the month following the one when the exigibility of the tax corresponding to the respective intra-community purchase arises. Also, the persons registered for VAT purposes, according to art. 153¹ and who have the obligation to pay the tax for intra-community purchases of means of transport that are not considered new, according to art. 125¹ paragraph (3), have the obligation to submit the special tax return for the respective intra-community purchases before registering the means of transport in Romania, but no later than the 25th of the month following the one when the exigibility of the tax corresponding to the respective intra-community purchase arises.

(3) When applying the paragraph (2), the fiscal bodies competent to administer the persons provided in paragraph (1) letter b), respectively of the persons who are not registered and who do not have to register according to art. 153, regardless if they are registered or not according to art. 153¹, shall issue, in order to register the new means of transportation, a certificate which certifies the tax payment, which model and contents shall be set by the order of the president of National Agency of Fiscal Administration. In case of intra-community purchases of means of transport which are not new, in the meaning of art. 125¹, in order to register them, the relevant fiscal bodies shall issue a certificate which certifies the tax payment in Romania or from which to arise the fact that the tax is not due in Romania, in accordance with the legal provisions.

(4) The taxable persons registered for VAT purposes, according to art. 153, whose annual turnover, as defined in art. 152 paragraph (2), achieved at the end of a calendar year, is lower than the amount of 35.000 euros, calculated at the exchange rate communicated by the national Bank of Romania at the adherence date and rounded to the next thousand, shall communicate by a written notice to the local fiscal bodies, until February 25th of the next year, the following information:

a) total amount of goods deliveries and services provision by persons registered for VAT purposes, according to art. 153, as well as the corresponding tax;

b) total amount of goods deliveries and services provision by persons not registered for VAT purposes, according to art. 153, as well as the corresponding tax;

(5) Taxable persons not registered for VAT purposes, according to art. 153, whose turnover, as provided in art. 152, but excluding the incomes obtained from selling passenger international road transportation tickets, achieved at the end of a calendar year, is lower than the amount of 35.000 euros, calculated at the exchange rate communicated by the national Bank of Romania at the adherence date and rounded to the next thousand, shall communicate by a written notice to the local fiscal bodies, until February 25th of the next year, the following information:

a) total amount of goods deliveries and services provision by persons registered for VAT purposes, according to art. 153;

b) total amount of goods deliveries and services provision by persons not registered for VAT purposes, according to art. 153;

c) total amount and tax corresponding to the purchases from persons registered for VAT purposes, according to art. 153;

d) total amount of purchases from persons not registered for VAT purposes, according to art. 153.”

82. In article 156³, after paragraph (7) a new paragraph is inserted, paragraph (8), with the following content:

“(8) The taxable person who is a beneficiary of the assets transfer provided in art. 128 paragraph (7), who is not registered for VAT purposes, according to art. 153 and shall not register for VAT purposes as a result of the transfer, shall submit, until the 25th of the month following the one when the transfer was carried out, a return on the amounts resulted following the adjustments of the value added tax carried out according to art. 128 paragraph (4), art. 148, 149 or 161.”

83. In article 157, paragraph (6) is modified and shall have the following content:

“(6) If the taxable person is not residing in Romania and is exempted, under the conditions of art. 154 paragraph (3), from registration, according to art. 153, the relevant fiscal bodies shall issue a decision by which to mention the manner of tax payment for the goods deliveries and/or services provision carried out occasionally, for which the taxable person has the obligation to pay the tax.”

84. In article 158², after paragraph (12) a new paragraph is inserted, paragraph (12¹), with the following content:

“(12[^]1) The taxable persons registered in the Registry of intra-community operators maintain this status, in case of modifying the type of registration for VAT purposes, according to art. 153 or 153[^]1, with the adequate update of the information in this register.”

85. In article 160 paragraph (2), after letter c) a new letter is inserted, letter d), with the following content:

“d) the transfer of greenhouse gas emissions certificates, as defined in art. 3 of Directive 2003/87/CE of the European Parliament and the Council as of October 13th 2003 on setting a trading system of the rates of greenhouse gas emissions within the Community and for modification of Directive 96/61/CE of the Council, transferable in accordance with the art. 12 of the directive, as well as the transfer of other units which can be used by operators according to the same directive.”

86. In article 176, paragraph (1) is modified and shall have the following content:

“ART. 176

(1) The level of harmonized excises is the one provided in annex no. 1, which is integral part of this title.”

87. Article 177 is modified and shall have the following content:

“ART. 177

Calculus of the excise for cigarettes

(1) For cigarettes, the excise due is equal with the amount between the specific excise and the ad valorem excise.

(2) The ad valorem excise is calculated by applying the legal percentage on the retail price of cigarettes released for consumption, percentage provided in annex no. 6.

(3) The specific excise mentioned in the equivalent of euros/1.000 cigarettes is determined annually, based on the weighted average retail price, of the legal percentage corresponding to the ad valorem excise and the total excise, which level is provided in annex no. 6. This specific excise is approved by Government Decision, at the suggestion of the Ministry of Public Finances. The Government decision is published in the Official Gazette of Romania, Part I, at least 15 days before the level of the total excise enters into force.

(4) The due excise determined according to paragraph (1) cannot be smaller than the level of the minimum excise expressed in the equivalent of euros/1.000 cigarettes, provided in annex no. 6.

(5) The weighted average retail price is calculated depending on the total value of all cigarettes released for consumption, based on the retail price including all taxes, divided to the total quantity of cigarettes released for consumption. This weighted average retail price is established until March 1st of every year, based on the data concerning the total quantity of cigarettes released for consumption during the previous calendar year.

(6) The retail price for every cigarette brand is set and declared by the person releasing the cigarettes for consumption in Romania or who imports the cigarettes and is brought to public attention in accordance with the requirements provided by the methodological norms.

(7) The selling, by any person, of cigarettes for which retail prices have not been set and declared is prohibited.

(8) The selling, by any person, of cigarettes for a price exceeding the declared retail price is prohibited.

88. In article 206[^]15, paragraphs (3), (5) and (6) are modified and shall have the following content:

“(3) There are considered cigarettes of cigars if, considering their properties and the usual expectations of the customers, they can and have the exclusive role of being smoked as such, as follows:

a) rolls of tobacco with an exterior wrapper made of natural tobacco;

b) rolls of tobacco with mixed grinded filling and exterior wrapper having the usual colour of a cigar, made of reconstituted tobacco, covering the entire product, inclusively, as the case may be, the filter, except the tip in case of cigars with tip, if the unit weight, without including filter or mouthpiece, is not under 2.3 g neither over 10 g and the circumference of at least 1/3 of the length is not under 34 mm;

c) products made partially from other substances than tobacco and which meet the criteria provided in letters a) and b);

.....
 (5) It is considered fine-cut smoking tobacco, intended to be rolled in cigarettes:

a) smoking tobacco, as defined in paragraph (4), for which more than 25% of the weight is represented by particles of tobacco with a cutting width under 1.5 mm;

b) smoking tobacco for which more than 25% of the weight is represented by particles of tobacco with a cutting width over 1.5 mm or more, if the smoking tobacco is sold or intended to be sold for rolling in cigarettes.

6) A tobacco roll provided in paragraph (2) is considered, in order to apply the excise, as two cigarettes, excluding the filter of the mouthpiece, if it has a length of over 8 cm, without exceeding 11 cm, as three cigarettes, excluding the filter of the mouthpiece, if it has a length of over 11 cm, without exceeding 14 cm and so on.”

89. In article 206¹⁵ paragraph (4), letter b) is modified and shall have the following content:

“b) tobacco wastes released for retail which do not fall within paragraphs (2) and (3) and which can be smoked. In the meaning of this paragraph, tobacco wastes are considered tobacco leaf leftovers and secondary products obtained when processing tobacco or manufacturing tobacco products;”.

90. In article 206¹⁵, after paragraph (6) a new paragraph is inserted, paragraph (7), with the following content:

“(7) All economic operators paying excises for the processed tobacco, according to this chapter, have the obligation to present to the relevant authority lists comprising data relating to the excisable products released for consumption, in accordance with the provisions of the methodological norms.”

91. Article 206⁵⁹ is abrogated.

92. In article 206⁶⁵ paragraph (1), letter b) is modified and shall have the following content:

“b) the types which are not in the nomenclatures provided in letter a) are handed over in the custody of the bodies that proceeded to the confiscation of the warehouse keepers authorised for the production and storage of processed tobacco, including the persons affiliated to them, which market share is over 5%.”

93. In title VII, “Excises and other special taxes”, annex no. 1 is modified and replaced with annex no. 1, which is integral part of this emergency ordinance.

94. In title VII, “Excises and other special taxes”, in annex no. 2, the column corresponding to the excises for 2011 is modified and replaced with column 2 of the table below:

No.	Name of the product or of the products group	Excise euro/tonne
0		2
1.	Green coffee	153
2.	Roasted coffee, including coffee with substitutes	225
3.	Instant coffee	900

95. In title VII, “Excises and other special taxes”, after annex no. 5 a new annex is inserted, annex no. 6, provided in annex no. 2, which is integral part of this emergency ordinance.

96. In article 296¹ paragraph (1), letters b), c), f), i), j) and k) are modified and shall have the following content:

“b) manufacturing of excisable products which fall under the warehousing regime provided in title VII, outside a tax warehouse authorized by the relevant authority;

c) purchase of ethyl alcohol and distilled products in bulk from other suppliers than the warehouse keepers authorised for production or freight forwarders registered for such products, according to title VII;

.....
f) delivery of energy products provided in article 296¹⁶ paragraph (3) letters a) – e) from the tax warehouses to the buyers, legal persons, without the forwarder tax warehouse to hold the payment document which certifies the transfer to the state budget of the value of excise corresponding to the quantity which is to be invoiced;

.....
i) the categorical refuse to allow the access for the relevant authorities with control attributions in order to carry out unannounced inspections in the tax warehouses.

j) delivery of energy product residues for processing in order to obtain excisable products, in other manner than provided in title VII;

k) purchase of energy product residues for processing in order to obtain excisable products, in other manner than provided in title VII;

97. In article 296¹ paragraph (1), letters d), e) and g) are abrogated.

98. In article 296¹ paragraph (1), letter a) is modified and shall have the following content:

“a) with imprisonment from one year to 4 years, those provided in letters c), i), l) and m);”.

99. After title IX¹, a new title is inserted, title IX² “Mandatory social contributions”, comprising articles 296² - 296²⁰, with the following content:

“TITLE IX²

Mandatory social contributions

ART. 296²

Area of the social contributions

In the meaning of this title, the social contributions defined in art. 2 paragraph (2) are mandatory social contributions.

ART. 296³

Contributors of the social insurance systems

The contributors of the social insurance systems are, as the case may be:

a) resident natural persons obtaining incomes from carrying out activities based on an employment contract, an employment relation or a special status provided by the law, both during the period when performing the activity, as well as during the period they are provided with medical leaves and health and social insurance indemnities, as well as those obtaining incomes as those provided in art. 55 paragraph (2);

b) non – resident natural persons obtaining the incomes provided in letter a), in compliance with the provisions of the legal international instruments to which Romania is part of;

c) persons obtaining professional incomes, others than salary incomes and for which, according to art. III of the Government Emergency Ordinance no. 58/2010 for the amendment and supplement of the Law no. 571/2003 on the Fiscal Code and other financial – tax measures, as further amended, there is the obligation to pay the individual contribution for social insurance and unemployment insurance systems;

d) pensioners with incomes from pensions that exceed 740 lei;

e) natural and legal persons having the capacity of employers, as well as entities assimilated with the employer having the capacity of payers of incomes from dependent activities, both during the period when the persons provided in letters a) and b) carry out the activity, as well as during the period they are provided with leaves and health and social insurance indemnities;

f) public institutions which calculate, withhold, pay and, as the case may be, bear, according to the legal provisions, mandatory social contributions on behalf of the insured person, respectively:

a. National Employment Agency, for persons provided with unemployment benefit or, as the case may be, other social protection rights or health insurance indemnities granted from the unemployment insurance budget;

b. National Agency for Social Benefits, which administers and manages social benefits granted from the state budget, through the county agencies for social benefits, for persons provided with statutory maternity pay up to 2 years or, in case of disabled children, up to 3 years, according to the Government Emergency Ordinance no. 148/2010 on supporting the family in order to raise the child, approved with amendments and supplements by the Law no. 7/2007, as further amended and supplemented, as well as for persons provided with indemnity for the child with disabilities having the age between 3 and 7 years, according to the Law no. 448/2006 on protection and promotion of the rights of persons with disabilities, republished, as further amended and supplemented;

3. local public administration authorities, for persons provided with social benefit, according to the Law no. 416/2001 on the guaranteed minimum income, as further amended and supplemented;

4. National House of Pensions and Other Social Insurance Rights, through the county houses of pension, for pensioners with incomes exceeding 740 lei;

5. entities paying incomes from pensions, others than those paid by the National House of Pensions and Other Social Insurance Rights, for pensioners with incomes from pensions exceeding 740 lei;

6. Ministry of Justice, for persons serving a sentence with deprivation of freedom or in pre-trial detention, as well as for persons executing the measures provided in art. 105, 113, 114 of the Criminal Code, respectively persons which are in the period of postponement or discontinuance of serving the sentence with deprivation of freedom, if they do not have incomes;

7. Ministry of Administration and Interior, for foreigners in the accommodation centres in order to be returned or expelled, as well as for those who are victims of human trafficking, who are in process of establishing the identity and are accommodated in the specially set up centres according to the law;

8. State Secretariat for Cults, for the monachal personnel of the acknowledged cults, if they do not have incomes from labour, pension or other sources;

9. National Health Insurance Fund, by the subordinate health insurance funds, for persons provided in art. 1 paragraph (2), art. 23 paragraph (2) and art. 32 of the Government Emergency Ordinance no 158/2005 on leaves and health insurance indemnities, approved with amendments and supplements by the Law no. 339/2006, as further amended and supplemented;

10. sending units, for Romanian personnel sent in a permanent mission abroad, for the spouse accompanying the personnel sent in permanent mission abroad and for whom the employment relations are suspended and for the members of the Romanian consular and diplomatic corps, to whom the employment relations are suspended as a result of their participation in courses or other training forms abroad, for a duration exceeding 90 calendar days;

11. local public administration authorities, for persons, Romanian citizen, victims of human trafficking, for a maximum period of 12 months, if they do not have incomes;

g) any salary incomes or assimilated to salaries.

ART. 296⁴

Individual social contributions basis

(1) The monthly basis for the mandatory individual social contributions, in case of persons provided in art. 296³ letters a) and b) is the gross income from dependent activities, in country and abroad, in compliance with the provisions of the legal international instruments to which Romania is part of, which include:

a) incomes from salaries, as defined in art. 55 paragraph (1). In case of Romanian personnel sent in a permanent mission abroad, incomes from salaries comprise the basic salaries corresponding to the positions that the respective persons occupy in the country, to which there are added, as the case may be, increments and bonuses granted according to the law;

b) indemnities from activities carried out as a result of a public position, set according to the law;

c) indemnities from activities carried out as a result of a position chosen within the non – profit legal persons;

d) rights for monthly pays, indemnities, bonuses, awards, increments and other rights of the military personnel, granted according to the law;

e) monthly gross pay, as well as the amount from the net profit, due to the administrators of national companies/enterprises, trading companies to which the state or an authority of the local public administration is major shareholder, as well as of the autonomous administrations;

f) wage obtained by directors based on a mandate agreement, according to the law on trading companies;

g) the amounts received by representatives in the general meeting of the shareholders, in the board of directors, members of the managing board and of the supervisory board, as well as in the board of statutory auditors;

h) amounts received by representatives in tri-party bodies, according to the law;

i) monthly indemnity of the sole shareholder;

j) indemnity of administrators, as well as the amount from the net profit, for the trading companies administrators, according to the articles of incorporation or set by the general meeting of the shareholders;

k) amounts representing salaries or differences of salaries set based on court orders remained final and irrevocable, as well as their update with the inflation index;

l) monthly indemnities paid according to the law by employers during the non – competition period, set according to the employment contract;

m) indemnities received during the delegation and detachment for business purposes in other locality, in country or abroad, granted by non – profit legal persons and other entities that do not pay corporate tax, over the limit of 2.5 times the indemnity granted to employees from public institutions;

n) wage received by the president of the property owners association or by other persons, based on the mandate contract, according to the law on incorporating, organizing and functioning of the property owners associations;

o) any other amounts of salary nature or advantages assimilated to salaries in order to be taxed.

(2) If the total of the incomes provided in paragraph 1 is higher than 5 times the gross average salary income, the individual contribution to the social insurance system is calculated within this limit, for each place where the income is obtained.

(3) The gross average salary income provided in paragraph (2) is the one used for the foundation of the state social insurance system budget and approved by the law on state social insurance system budget.

ART. 296⁵

Basis of the social contributions due by the employers, entities assimilated to the employer and any payer of salary incomes or assimilated to salaries

(1) in the public pension system, in case of contributors provided in art. 296³ letters e) and g), the monthly base is the sum of the gross incomes obtained by the persons provided in art. 296³ letters a) and b). The base cannot be higher than the product between the number of employees for which the employer owes a differentiated contribution depending on the labour conditions, from the month for which this contribution to the budget of the state social insurance system and the value corresponding to 5 times the gross average salary income. If this limit is exceeded, in case of persons provided in art. 296³ letters e) and g) who owe a contribution to the budget of the state social insurance system, differentiated depending on the labour conditions, the base to which this contribution is calculated, corresponding to each labour condition, is set proportionally with the weight, in the total base, of the gross salary incomes obtained in each of the labour conditions.

(2) For the persons provided in art. 296³ letters e) and g), the monthly base for the health insurance contribution and the contribution for leaves and health insurance indemnities is the sum of the gross incomes obtained by the persons provided in art. 296³ letters a) and b). For the contribution for leaves and health insurance indemnities, the monthly base cannot exceed the product between the number of employees from the month for which the contribution is calculated and the corresponding value of 12 guaranteed minimum national gross salaries.

(3) For the persons provided in art. 296³ letters e) and g), the monthly base for the unemployment insurance contribution provided by the law is the sum of gross incomes granted to the persons provided in art. 296³ letters a) and b), for which there is the obligation, according to the law, to pay the individual contribution to the unemployment insurance budget.

(4) For the persons provided in art. 296³ letter e), who can employ manpower based on an employment agreement, under the conditions provided by the Law no. 53/2003 – Labour Code, as further amended and supplemented, who, except the public institutions defined according to the Law no. 500/2002 on public finances, as further amended and supplemented and Law no. 273/2006 on local public finances, as further amended and supplemented, have the obligation to pay monthly the contribution to the Guarantee fund for payment of salary debts, the monthly base for this contribution representing the sum of gross incomes obtained by the employees employed with an employment agreement, according to the law, including by the employees cumulating pension with the salary, under the conditions of the law, except incomes such as provided in art. 296¹⁵.

(5) For the persons provided in art. 296³ letters e) and g), the monthly base for the contribution to the accidents and occupational diseases insurance is the sum of gross incomes obtained monthly by the persons provided in art. 296³ letters a) and b), respectively the guaranteed minimum national gross salary, corresponding to the number of working days from the medical leave, except cases of labour accident or occupational disease.

ART. 296⁶

Base for the social contributions due for the persons provided in art. 296³ letter f) point 1

(1) For the persons provided in art. 296³ letter f) point 1, the monthly base for the social insurance contribution due to the state social insurance budget, respectively the contribution due to the Unique national fund of health insurance, is the quantum of the monthly monies due borne from the unemployment insurance budget, according to the law, respectively the unemployment benefit, except otherwise provided, according to the legal provisions.

(2) For the persons provided in art. 296³ letter f) point 1, the monthly base for the contribution for leaves and health insurance indemnities is the aggregate of rights representing unemployment benefits.

(3) The provisions of art. 296⁴ paragraphs (2) and (3), respectively those of art. 296⁵, on the restriction of the base of health insurance contribution and the contribution for leaves and health insurance indemnities is applicable accordingly also in the case of persons provided in art. 296³ letter f) point 1.

(4) The contribution to the accidents and occupational diseases insurance, in case of unemployed persons, is integrally borne from the unemployment insurance budget, is due during the entire performance of professional practice within the courses held according to the law and is set as a 1% share applied on the quantum of rights granted during the respective period, representing the unemployment benefit.

(5) The social insurance contribution for unemployed persons provided with unemployment benefit is integrally borne from the unemployment insurance budget at the share set for normal labour conditions.

(6) During the period the unemployed persons are provided with medical leaves and health insurance indemnities, except cases of labour accident or occupational disease, the monthly base for the social insurance contribution due to the state social insurance budget is the amount representing 35% of the gross average salary income, provided in art. 296⁴ paragraph (3), corresponding to the number of working days from the medical leave and the social insurance contribution is borne at the share set for normal labour conditions.

(7) The social insurance contribution for persons provided with compensations granted according to the law from the unemployment insurance budget is borne from the unemployment insurance budget, according to the law, at the share of the individual social insurance contribution, except otherwise provided, according to the legal provisions.

ART. 296⁷

Base for the social contributions due for the persons provided in art. 296³ letter f) point 2

For the persons provided in art. 296³ letter f) point 2, the monthly base for the health insurance contribution due to the Unique national fund of health insurance is the statutory maternity pay. The contribution is borne from the state budget.

ART. 296⁸

Base for the social contributions due for the persons provided in art. 296³ letter f) point 3

For the persons provided in art. 296³ letter f) point 3, the monthly base for the health insurance contribution due to the Unique national fund of health insurance is set on the granted social benefit. The contribution is borne from the state budget.

ART. 296⁹

Base for the social contributions due for the persons provided in art. 296³ letter f) points 4 and

5

For the persons provided in art. 296³ letter f) points 4 and 5, the monthly base for the health insurance contribution due to the Unique national fund of health insurance is represented by the incomes from pensions exceeding 740 lei. The monthly contribution is due on these incomes and, by applying the contribution share, a net pension lower than 740 lei cannot result.

ART. 296¹⁰

Base for the social contributions due for the persons provided in art. 296³ letter f) points 6, 7, and 8

For the persons provided in art. 296³ letter f) points 6, 7, and 8, the monthly base for the health insurance contribution due to the Unique national fund of health insurance is represented by the value of two national minimum gross salaries. The contribution is borne from the state budget.

ART. 296¹¹

Base for the social contributions for incomes in the form of health insurance indemnities

During the period the provided in art. 296³ letters a) and b), as well as those provided in art. 1 paragraph (2), art. 23 paragraph (2) and art. 32 of the Government Emergency Ordinance no 158/2005 on leaves and health insurance indemnities, approved with amendments and supplements by the Law no. 339/2006, as further amended and supplemented, are provided with medical leaves and health insurance indemnities, except cases of labour accident or occupational disease, the monthly base for

the social insurance contribution due to the state social insurance budget is the amount representing 35% of the gross average salary income, provided in art. 296⁴ paragraph (3), corresponding to the number of working days from the medical leave.

ART. 296¹²

Base for the social contributions due for the persons provided in art. 296³ letter f) point 10

(1) For the persons provided in art. 296³ letter f) point 10, the monthly base for the social insurance individual contribution due to the state social insurance budget is:

a) the monthly gross salary income in lei, corresponding to the position in the country of the Romanian personnel sent in a permanent mission abroad, by legal persons in Romania;

b) the last salary before leaving, which cannot exceed the limit of 3 national minimum basic salaries, for the spouse accompanying the personnel sent in permanent mission abroad and for whom the employment relations are suspended;

c) the aggregate of salary rights corresponding to the position in case of members of the Romanian consular and diplomatic corps, to whom the employment relations are suspended as a result of their participation in courses or other training forms abroad, for a duration exceeding 90 calendar days;

(2) For the persons provided in art. 296³ letter f) point 10, the monthly base for the social contribution due by the employer to the state social insurance budget is the aggregate of the amounts representing the base of the social insurance individual contribution, as provided in letters a) – c). The provisions of art. 296⁴ paragraphs (2) and (3), respectively those of art. 296⁵ paragraph (1), on the restriction of the health insurance contribution base is applicable also in the case of persons provided in art. 296³ letter f) point 10, except the spouse accompanying the personnel sent in permanent mission abroad, for which the limit of the social insurance contribution base is 3 national minimum basic salaries.

ART. 296¹³

Base for the social contributions due for the persons provided in art. 296³ letter f) point 11

For the persons provided in art. 296³ letter f) point 11, the monthly base for the health insurance contribution due to the Unique national fund of health insurance is the value of two national minimum gross salaries. The contribution is borne from the state budget.

ART. 296¹⁴

Base for the social contributions due for the persons provided in art. 296³ letter c)

For the persons provided in art. 296³ letter c), the monthly base for the social insurance individual contribution due to the state social insurance budget and for the social contribution due to the unemployment insurance budget is the one set according to art. III of the Government Emergency Ordinance no. 58/2010, as further amended.

ART. 296¹⁴

General exemption

The following are not comprised in the monthly base of the mandatory social contributions, provided in art. 296³:

a) the amounts received by the founding members of the trading companies incorporated by public subscription;

b) funeral grants, grants for losses caused in owned households caused by natural disasters, grants for severe and incurable diseases, grants for childbirth, incomes representing gifts for underage children of the employees, gifts offered to the women employees, counter value of the employee transportation to and from the workplace, cost of the services for treatment and relaxation, including transportation for own employees and their family members, granted by the employer for own employees or for other persons, as provided in the employment contract. The gifts offered by the employers for the underage children of the employees, for Easter, June 1st, Christmas and similar

holidays of other religious cults, as well as gifts offered to women employees for March 8th, are not considered in the base, to the extent in which the value of the gift offered to each person, for any of the above mentioned occasions, does not exceed 150 lei;

c) counter value for using the company housing or the housing within the unit premises, according to the company assignment, designation according to the law or activity specificity by the normative framework specific to the activity field, rent compensation for the personnel in the national defence, public order and national security sector, as well as the compensation of the rent difference, borne by the natural person, according to the special laws;

d) accommodation and rent counter value for the housings made available to the public officials, the consular and diplomatic employees and working abroad, in accordance with the legislation in force;

e) counter value of the technical equipment, of the individual protection and work equipment, of the special meals or drinks necessitated by exceptional working conditions, medications and hygienic and sanitary materials, of other labour protection rights, as well as the mandatory uniforms and equipment rights, granted according to the legislation in force;

f) counter value of the travel expenses for the transportation between the locality where the employees reside and the locality where their workplace is, as a monthly pass, for the situations when no accommodation or no rent counter value is provided, according to the law;

g) amounts received by employees to cover the transportation and accommodation expenses, as well as the pay received during the delegation and detachment in other locality, in the country or abroad, for business purpose, within the limit of 2.5 times the indemnity granted to employees from public institutions;

h) amounts received, according to the legal provisions, to cover the expenses for relocation for business purpose;

i) installation indemnities, which are granted only once, at the employment in a unit situated in another locality than the residence locality, in the first year of activity after finishing school, within the limit of a basic salary, as well as the installation and relocation indemnities granted, according to the law, to the personnel from public institutions and to those establishing the domicile in localities from disadvantaged areas, according to the law, where their workplace is;

j) amounts or advantages received by the resident natural persons from dependent activities carried out in a foreign country, in compliance with the provisions of the legal international instruments to which Romania is part of;

k) expenses of an employer with the professional training and improvement of the employer connected with the activity carried out by him/her for the employer;

l) cost of the telephone subscriptions and calls, including the telephone cards, made in order to fulfil the work tasks;

m) advantages in the form of the right to the stock options plan, at the moment of its granting and exercising;

n) favourable difference between the preferential interest set by negotiation and the interest practiced on the market, for credits and deposits;

o) food vouchers, holiday vouchers, gift vouchers and childcare vouchers, granted according to the law;

p) advantages received relating to a dependent activity, without being limited to:

1. use of any asset, including any type of vehicle, from the business patrimony, for personal purpose, except the in-out transportation from the residence to the workplace;

2. accommodation, food, clothing, personnel for household works, as well as other goods and services provided gratuitously or for a lower price than the market price;

3. subscriptions and cost of telephone calls, including the telephone cards, for personal use;

4. travel bonuses paid by the bearer for own employees or other beneficiary of incomes from salaries, when paying the respective bonus, others than the mandatory ones.

296¹⁴

Specific exemptions

(1) The amount due for the employees participation to the profit, according to the law, is not comprised in the monthly base for the social insurance contribution, respectively to the labour accidents and occupational diseases insurance contribution.

(2) The labour accidents and occupational diseases insurance contribution, as well as the rights due from this insurance is not applicable to the military and civilian personnel employed on an employment agreement basis and the personnel insured in the system of the Ministry of National Defence, Ministry of Administration and Interior, Romanian Intelligence Service, Foreign Intelligence Service, Protection and Guard Service, Special Telecommunications Service, as well as in the system of the Ministry of Justice – National Penitentiaries Administration and General Directorate of Protection and Anticorruption.

(3) The following incomes are exempted from the payment of the contribution for leaves and health insurance indemnities:

a) rights for monthly pays, indemnities, bonuses, awards, increments and other rights of the active militaries and of the public servants with special status, granted according to the law;

b) incomes provided in art. 296⁴ paragraph (1) letters g), h), i), l), m), n), as well as letter j), except the indemnities received by administrators;

c) incomes representing compensations borne by employers, according to the collective employment agreement, obtained by persons provided in art. 296³ letters a) and b), which no longer have legal relations with the persons provided in art. 296³ letters e) and g);

d) meeting indemnities received by local and county councillors.

(4) Unemployment insurance contributions provided in art. 2 paragraph (2) letter d) is not due for the period when the business or labour relations of the persons concluding such relations are suspended according to the law, as well as for:

a) incomes in money and or in kind, provided in art. 296⁴, granted for the persons provided in art. 296³ letters a) and b), having the capacity of pensioners;

b) the income in cash provided at art. 296⁴ par. (1) letter d), e), i), j), l) and n), as well as letter g), except the remuneration received by the members of the directorate;

c) the compensations given according to the law or collective or individual work contracts to the persons dismissed from reasons that do not depend on them or who are put reserve status or retirement according to the law;

d) the income obtained by the persons provided at art. 296³ letter a) and b) which no longer have legal relations with the persons provided at art. 296³ letter e) and g) but collect income following the fact that they had legal relations and the respective income is given after the end of the legal relations according to the law, except the amounts representing the salaries, differences of salaries, income similar to salaries or differences of income similar to salaries, on which exists the obligation to pay the unemployment insurance contribution established based on the final and irrevocable court orders, as well as their update with the inflation index;

e) the services paid from the budget of social health insurance, Unique National Fund of Health Insurances, including those given for work accidents and occupational diseases;

f) the income given according to the legal provisions as profit-sharing of employees;

g) the amounts received by the representatives within the administration boards, advisory boards and commissions established according to the law;

h) meeting compensations for the local and county counsellors.

(5) The social contributions provided at art. 2 par. (2) letter a) and e) are not paid for:

- a) meeting compensations for the local and county counsellors;
- b) advantages under the form of payment by the employer of the contributions paid to optional pension funds, in the deductibility limits established according to the law;
- c) income in cash provided at art. 296⁴ par. (1) letter e) and j).

(6) The services paid from the state social insurance budget, including those for work accidents and occupational diseases are exempted from the payment of social insurance contribution and insurance contribution for work accidents and occupational diseases.

(7) For the persons provided at art. 296³ letter c), the income payer similar to the employer under the conditions of art. 296¹⁸ par. (2) does not have to pay the social insurance contribution and the contribution to the unemployment insurance budget as employer.

(8) The persons provided at art. 296³ letter c) do not have to pay the individual social insurance contribution and the individual contribution to the unemployment insurance budget for the professional income, other than the salary one defined according to art. III par. (2) from the Government Emergency Ordinance no. 58/2010, with subsequent amendments, under the conditions in which they fall within the situation provided at art. III par. (5), (6) or (15) from the same emergency ordinance.

ART. 296¹⁷

Other amounts for which the social health insurance contribution is calculated and withheld

(1) The social health insurance contribution is paid and withheld for the benefits for temporary incapacity to work given after a work accident or an occupational disease.

(2) The social health insurance contribution provided at par. (1) is paid by the employer or from the insurance fund for work accidents and occupational diseases established according to the law.

ART. 296¹⁸

The calculation, withhold and transfer of social contributions

(1) The natural and legal persons that have the quality of employer, as well as the entities provided at art. 296³ letter f) and g) have the obligation to calculate, withhold and transfer monthly the mandatory social health insurance contributions.

(2) In point of the calculation, withhold and payment of individual social insurance contributions and the individual contribution to the unemployment insurance budget, in the situation of persons provided at art. 296³ letter c), the income payer is similar to the employer.

(3) The rates of the mandatory social contributions are the following:

a) for the social health insurance contribution:

a¹) 31.3% for normal work conditions, of which 10.5% for the individual contribution and 20.8% for the contribution owed by the employer;

a²) 36.3% for special work conditions, of which 10.5% for the individual contribution and 25.8% for the contribution owed by the employer;

a³) 41.3% for special work conditions, of which 10.5% for the individual contribution and 30.8% for the contribution owed by the employer;

b) for the social health insurance contribution:

b¹) 5.5% for the individual contribution;

b²) 5.2% for the contribution owed by the employer;

c) 0.85% for the contribution for leaves and social health insurance benefits;

d) for the contribution to the unemployment insurance budget:

d¹) 0.5% for the individual contribution;

d²) 0.5% for the contribution owed by the employer;

e) 0.15% - 0.85% for the insurance contribution for work accidents and occupational diseases, differentiated depending on risk class, according to the law, owed by the employer;
f) 0.25% for the contribution to the guarantee fund for the payment of salary debts, owed by the employer.

(4) The rates provided at par. (3) can be modified through the law of the state social insurance budget and through the law of the state budget, depending on the case, except the rate of the insurance contribution for work accidents and occupational diseases in the case of unemployed, provided at art. 296⁶, which is fully paid from the unemployment insurance budget and is due for the entire period of the professional practice within the courses organized according to the law, according to the provisions of art. 80 par. (2) from Law no. 346/2002 related to the insurance for work accidents and occupational diseases, republished.

(5) The calculation of the individual social contributions is carried out by applying the rates provided at par. (3) on the monthly calculation basis provided at art. 296⁴, corrected with the income specific to each and every contribution, with the exceptions provided at art. 296¹⁵ and art. 296¹⁶ depending on the case.

(6) If from the calculation results a calculation basis higher than the value of 5 times the average gross salary, provided at art. 296⁴ par. (3), the rate of the individual social insurance contribution will be applied on the equivalent of 5 times the average gross salary, for each place for obtaining the income.

(7) In the situation of the persons provided at art. 296³ letter c), the calculation of the individual social insurance contribution and of the individual contribution to the unemployment insurance budget are carried out by applying the rates of the respective individual social contributions, provided at par. (3) on the calculation basis established according to art. III from the Government Emergency Ordinance no. 58/2010, with subsequent amendments.

(8) The calculation of the social contributions owed by the employer and entities provided at art. 296³ letter f) and g) is carried out by applying the rates provided at par. (3) on the calculation basis provided at art. 296⁵ – 296¹³, depending on the case.

(9) The individual social contributions are withheld and transferred to the budgets and funds to which they belong until the 25th inclusively of the month following that for which they are due, together with the contribution of the employer or of the persons similar to the employer due according to the law.

ART. 296¹⁹

Submission of statements

(1) The natural and legal persons provided at art. 296³ letter e) to which the persons provided at art. 296³ letter a) and b) and the entities provided at art. 296³ letter f) and g) perform their activity or are in medical leave, have the obligation to monthly submit until the 25th inclusively of the month following that for which the contributions are due, the Statement on the payment obligations of social contributions, income tax and nominal records of insured persons.

(2) In the case of persons provided at art. 296³ letter c), the declaration of the individual social insurance contributions is made by the income payer, which in this case is similar to the employer, by submitting the statement provided at par. (1) until the 25th inclusively of the month following that in which the income was paid.

(3) The income payers do not have the obligation to submit the statement in the case of persons for which, according to the provisions of art. III from the Government Emergency Ordinance no. 58/2010, with subsequent amendments, there is no obligation to declare, calculate, withhold and pay the individual contributions of unemployment insurance and social insurance, corresponding to the professional income paid to these persons.

(4) The statement provided at par. (1) is submitted through electronic means of remote expedition, on the portal e-Romania.

(5) By exception from the provisions of par. (4), until July 1st 2011, the statement provided at par. (1) can be submitted to the competent fiscal body or to the offices certified by the Ministry of Public Finances, on paper, signed and stamped, according to the law, accompanied by the electronic statement on an electronic medium.

(6) The responsibility for managing the information from the statement provided at par. (1), the model, content, submission and management mode, as well as the certification conditions of the offices provided at par. (5) are approved through Government Decision, which will be subjected for approval to the Government until December 31st 2010.

(7) The records of the payment obligations of social contributions owed by employers and those similar to them is kept based on the fiscal identification number and that related to the individual social contributions based on the personal identification number.

(8) The statement provided at par. (1) will include at least:

- a) the personal identification number;
- b) name and first name;
- c) data related to the insured quality;
- d) data related to the work relations and performed activity;
- e) data related to the work conditions;
- f) data related to income/benefits/services;
- g) identification data of the natural or legal person that submits the statement.

(9) The personal data included in the statement provided at par. (1) is processed under the conditions provided by Law no. 677/2011 for the protection of persons concerning the personal data processing and their free circulation, with subsequent amendments and completions.

(10) The Ministry of Administration and Interior, through the competent structures, provides free of charge personal updated data necessary for applying the title herein for the Romanian citizens, European Union citizens and those of member states of the Economic European Area, Switzerland and for the foreigners that have their residence/stay registered in Romania.

(11) The content, modalities and deadlines for transmitting the information provided at par. (9) are established through protocols concluded between their beneficiaries and the Directorate for Personal Records and Database Management or the Romanian Immigration Office, depending on the case.

ART. 296[^]20

Special provisions

(1) The natural and legal persons provided at art. 296[^]3 letter e) and g), as well as the public institution provided at art. 296[^]3 letter f) point 1 have the obligation to submit to the health insurance funds until February 15th 2011 the Inventory-statement related to the contribution for leaves and social health insurance benefits in the balance on December 31st 2010 and unpaid until January 31st 2011, including the associated accessories, per fiscal years.

(2) The statement provided at par. (1) will also include the balance of the amounts to be recovered from the budget of the Unique national fund of social health insurances for which have been submitted refund requests within the specified time and which were not refunded until January 31st 2011.

(3) The model and content of the statement provided at par. (1) will be approved through the common order of the minister of health and of the president of the National Health Insurance Fund.

(4) The provisions of the title herein related to the taxpayers provided at art. 296³ letter c) and the payment obligations of the individual contributions of unemployment insurance and social insurance, corresponding to the professional income, other than the salary one, paid to these persons, are completed with the provisions of art. III from the Government Emergency Ordinance no. 58/2010, with subsequent amendments.

ART. II

Government Emergency Ordinance no. 58/2010 for the amendment and completion of Law no. 571/2003 concerning the Fiscal code and other fiscal-financial measures, published in the Official Gazette of Romania, Part I, no. 431 from June 28th 2010, with subsequent amendments, is amended as follows:

1. Article II will have the following content:

“ART. II

At the calculation of the net income and its income tax in the case of transfer of securities, others than the company shares and transferable securities for closed down companies, the following rules apply for 2010:

1. For the period January 1st 2010 – June 30th 2010, the net profit/net loss associated to this period is determined depending on the withholding period and it is assimilated to the annual net profit/annual net loss. The tax is determined by applying the taxation rates of 1% and 16% to the net profit associated to the period, assimilated to the annual net profit.

2. The net loss related to the period January 1st 2010 – June 30th 2010 assimilated to the annual net loss is compensated with the net profit assimilated to the annual net profit related to the period July 1st 2010 – December 31st 2010.

If a loss results after the compensation, this is only carried forward on the annual net profit associated to the year 2011.

3. For the period July 1st 2010 – December 31st 2010, the net profit/net loss associated to this period is determined and it is assimilated to the annual net profit/annual net loss.

The tax related to the period is determined by applying the rate of 16% to the net profit related to the period, assimilated to the annual net profit from which the net loss related to the period January 1st 2010 – June 30th 2010 is deducted.

The net loss related to the period July 1st 2010 – December 31st 2010 is assimilated to the annual net loss and reported according to the provisions of art. 80¹ par. (2) and (3).”

2. The paragraphs (13) and (27) of article III will have the following content:

“(13) The income payers, in order to declare the nominal records of persons that obtain professional income, other than the salary one and the individual contributions of social insurance and unemployment insurance corresponding to the respective income, have the obligation to submit monthly until the 25th of the month following that in which the professional income was paid, the statement on the payment obligations of the social contributions and the nominal records of the insured persons provided at art. 296¹⁹ from Law no. 571/2003, with subsequent amendments and completions.

.....

(27) The amounts representing the contributions paid in addition to the fiscal obligation, those paid following a calculation error, as well as those paid following the erroneous application of the legal provisions are refunded or compensated, at the request of the insured, according to the provisions of the Government Emergency Ordinance no. 92/2003 concerning the Fiscal procedure code, republished, with subsequent amendments and completions.”

3. The phrase “5 times the average gross salary used to establish the budget of state social insurance and approved through the law of the state social insurance budget” from the art. III of the Government Emergency Ordinance no. 58/2010 for the amendment and completion of Law

no. 571/2003 concerning the Fiscal code and other fiscal-financial measures, published in the Official Gazette of Romania, Part I, no. 431 from June 28th 2010, with subsequent amendments, is replaced with the phrase “5 times the average gross profit used to establish the budget of state social insurance and approved through the law of the state social insurance budget”.

ART. III

Government Emergency Ordinance no. 77/2009 concerning the organization and used of gambling, published in the Official Gazette of Romania, Part I, no. 439 from June 26th 2009, approved with amendments and completions through Law no. 246/2010, is amended and completed as follows:

1. At art. 13, paragraph (3) is amended and will have the following content:

“(3) The fees charges for obtaining the license for gambling organization and the authorization to use gambling, as well as the access fee provided at par. (4) is income for the state budget. 5% from these fees are allocated annually through the law of state budget as follows: 1.5% to the Cinematic fund and 3.5% to the National Program for Restoration of Historical Monuments. The amounts are monthly transferred from the budget at the level of collections.”

2. At art. 13, after the paragraph (3) are introduced four new paragraphs, the paragraphs (4) – (7) with the following content:

“(4) The organizers of gambling specific to the activity of casinos allow the access in the authorized locations only based on admission ticket valid for 24 hours between 8.00 a.m. – 8.00 a.m. for each person and the organizers of slot-machine gambling collect the admission ticket only from the players.

(5) For casinos, the admission ticket is issued and collected at reception for each person who enters the casino, regardless if he/she participates or not to gambling.

(6) The persons to whom was issued an admission ticket have the obligation to keep it during the entire stay in the premises in which such tickets are issued.

(7) The admission tickets will be issued under the conditions established through the order of the minister of public finances.”

3. At art. 14, par. (1) is amended and will have the following content:

“ART. 14

(1) The level of the fees for the issuance of licenses for gambling organization, the authorizations to use gambling and the access fee provided at art. 13 par. (4), as well as the minimum level of the share capital subscribed and paid-in by the economic operators that organize gambling are provided in the annex which is part of the emergency ordinance herein and can be amended through Government Decision, at the proposal of the Ministry of Public Finances.”

4. At art. 14 paragraph (2), after letter c) is introduced a new letter, letter d), with the following content:

“d) the amounts collected by the gambling organizers from the access fee provided at art. 13 par. (4) are transferred in full to the state budget until the 25th inclusively of the following month, for the previous month.”

5. At art. 17, paragraph (3) is amended and will have the following content:

“(3) The Commission can decide for a period of maximum 6 months the measure to suspend the license for gambling organization for the repeated non-compliance by the organizer with the provisions of art. 13 par. (4), (5), (6) and (7), for the non-compliance with the game regulations that were the object of the approval, having as result the prejudice of the participants to that gamble or the authorization to use gambling in the cases in which the measure to suspend the authorization, depending on the case, was provided through the norms of applying the emergency ordinance herein.”

6. After art. 26 is introduced a new article, art. 26¹, with the following content:

“ART. 26¹

The failure to comply with the provisions of art. 13 par. (4), (5), (6) and (7) is a contravention and is punished with fine between 200 and 500 lei for natural persons and fine from 2.000 to 5.000 lei for legal persons.”

7. At the annex, after point 3 is introduced a new point, point 4, with the following content:

“4. The access fee for gambling specific to the activity of casinos and for slot-machine gambling:

A. for gambling specific to the activity of casinos: 20 lei;

B. for slot-machine gambling: 5 lei.”

ART. IV

The Government Ordinance no. 92/2003 concerning the Fiscal procedure code, republished in the Official Gazette of Romania, Part I, no. 513 from July 31st 2007, with subsequent amendments and completions, is amended and completed as follows:

1. At art. 26, par. (2) is amended and will have the following content:

“(2) For the taxpayers that have secondary registered offices, the taxpayer is the payer of fiscal obligations, including for the tax on income from salaries owed by the employees who perform their activity at the secondary registered offices registered fiscally according to the law as payer of salaries and income similar to salaries.”

2. Art. 34 is amended and will have the following content:

“ART. 34

Competence in case of secondary registered offices

The competence for the fiscal registration of secondary registered offices as payers of salaries and income similar to salaries, according to the law, belongs to the fiscal body in the territorial jurisdiction of which are these situated.”

3. At art. 97, par. (4) is amended and will have the following content:

“(4) In case in which the fiscal inspection bodies notice that the accounting or fiscal records or the fiscal statements or the documents and information presented during the fiscal inspection/verification of personal fiscal situation are incorrect, incomplete, false, as well as in case in which these do not exist or are not made available, the inspection bodies will adjust the taxable base and will establish the fiscal obligation using the indirect methods to reconstitute the income or expenses, regulated according to the law.”

4. After article 109 is introduced a new chapter, chapter III “Special provisions on the verification of natural persons subjected to the income tax”, including the articles 109¹ – 109⁴, with the following content:

“CHAPTER III

Special provisions on the verification of natural persons subjected to the income tax

ART. 109¹

Rules on the verification of natural persons

(1) The fiscal body has the right to carry out a preliminary documentary fiscal verification of the total personal fiscal situation of the natural persons concerning the income tax regulated by the title III from the Fiscal code, under the conditions of the new code, which applies accordingly.

(2) Personal fiscal situation means the totality of patrimonial rights and obligations, treasury flows and other elements that determine the real factual fiscal state of the taxpayer for the verified period.

(3) The verification provided at par. (1) consists in the comparison between the income declared by the taxpayer or by the income payers on the one hand and the personal fiscal situation of the taxpayer on the other hand.

(4) If the fiscal body notices a significant difference between the income declared by the taxpayer or by the income payers on the one hand and the personal fiscal situation of the taxpayer on the other hand, it continues the verification provided at par. (1) by communicating the verification notice and establishes the adjusted taxable base using the indirect methods provided at par. (6). The difference is significant if between the estimated income calculated based on the personal fiscal situation and the income declared by the taxpayers or by the income payers is a difference higher than 10% but less than 50.000 lei.

(5) If the fiscal body notices significant differences according to par. (4), it requests the taxpayer to present within maximum 60 days from the communication of the verification notice, under the penalty of preclusion, supporting documents or other clarifications relevant for its fiscal situation. The period can be extended with 30 days only once at the justified request of the taxpayer, with the consent of the fiscal body.

(6) The indirect methods to establish the adjusted taxable base are the following:

a) method of fund source and spending. The method consists in comparing the expenses made with the income declared in the verified period;

b) method of treasury flows. The method consists in analyzing the bank accounts and cash flows in order to establish the movements of the cash in hand and their association with the income sources and their use;

c) method of patrimony. The method consists in determining the taxable income based on the increase of the net patrimony value of a taxpayer during one fiscal year. The increase or decrease of the net patrimony value is determined by comparing the value of the net patrimony at the beginning of the period with that at the end of the period.

(7) The procedure to apply the indirect methods provided at par. (6) is approved through Government decision.

(8) The obligation to keep the fiscal confidentiality provided at art. 11 is applied to public officials involved in the procedure of verification of the personal fiscal situation.

ART. 109²

The verification is carried out at the registered office of the fiscal body or at the request of the verified person, at his/her domicile or at the domicile/registered office of the person who provides assistance according to art. 106 par. (3) from the code herein.

ART. 109³

The verification notice

The verification notice provided at art. 109¹ par. (4) will include the:

a) legal grounds of the verification;

b) date of beginning the verification;

c) period to be verified;

d) possibility to request the postponement of the date for beginning the verification. The postponement can be requested only once, for justified reasons;

e) request of information and documents relevant for the verification.

ART. 109⁴

The verification report and the taxation decision

The verification report will be recorded in a written report in which will be presented the findings from factual and legal point of view. The report will underlie the issuance of the taxation decision or a decision to end the verification procedure if the taxable base is not adjusted, depending on the case.”

5. At art. 111, par. (7) – (9) are abrogated.

ART. V

(1) The provisions of art. I are applied starting with January 1st 2011, except the points 11, 18 – 28, 30, 31, 35 – 40 and 43 – 45, which enter into force at the publishing date of the Official Gazette of Romania, Part I.

(2) The provisions of art. I point 99 are applied starting with the income related to January 2011.

(3) The provisions of art. I point 29 and of art. IV are applied for the income obtained starting with the fiscal year 2011.

ART. VI

The Law no. 571/2003 related to the Fiscal code, published in the Official Gazette of Romania, Part I, no. 927 from December 23rd 2003, with subsequent amendments and completions, as well as those brought through the emergency ordinance herein will be republished in the Official Gazette of Romania, Part I, after its approval by the law, giving the texts a new numbering.

ART. VII

Starting with January 1st 2011 are abrogated:

a) art. 14 from the Methodological norms for applying the Law no. 76/2002 related to the unemployment insurance system and employment stimulation, approved through the Government Decision no. 174/2002, published in the Official Gazette of Romania, Part I, no. 181 from March 18th 2002, with subsequent amendments and completions;

b) art. 1 par. (1) and art. 2 par. (1) from the Methodological norms for applying the Law no. 200/2006 concerning the creation and use of the Guarantee fund for the payment of salary debts, approved through the Government Decision no. 1850/2006, published in the Official Gazette of Romania, Part I, no. 1038 from December 28th 2006, with subsequent amendments and completions;

c) art. 85 and 89 from the Law no. 346/2002 on the insurance for work accidents and occupational diseases, republished in the Official Gazette of Romania, Part I, no. 772 from November 12th 2009;

d) art. III par. (14) from the Government Emergency Ordinance no. 58/2010 for the amendment and completion of Law no. 571/2003 concerning the Fiscal code and other fiscal-financial measures, published in the Official Gazette of Romania, Part I, no. 431 from June 28th 2010, with subsequent amendments.

ART. VIII

The law no. 95/2006 on the health reform, published in the Official Gazette of Romania, Part I, no. 372 from April 28th 2006, with subsequent amendments and completions, is amended as follows:

1. At art. 213 par. (2), letters c), d), f), i) and j) will have the following content:

“c) is in leave and statutory maternity pay until the age of 2 and in the case of a child with a handicap until the age of 3 or is in leave and statutory maternity pay for a child with handicap with the age between 3 and 7;

d) serves a punishment that involves the deprivation of liberty or is in pre-trial detention, as well as those who serve the measures provided at art. 105, 113 and 114 from the Criminal Code, respectively those that are in the delay or interruption period of the punishment that involves the deprivation of liberty, if they do not have any income;

.....

f) the foreigners from accommodation centres for return or expulsion, as well as those that are the victims of human trafficking, during the procedures necessary to establish the identity and are accommodated in the centres specially designated according to the law;

.....
i) the Romanian citizens who are victims of human trafficking for a period of maximum 12 months, if they do not have any income;

j) the monastic personnel of recognized cults in the records of the State Secretariat for Cults, if they do not obtain any income, pension or from other sources.”

2. Art. 215 will have the following content:

“ART. 215

(1) The obligation to transfer the contribution for social health insurance belongs to the legal or natural persons that have the employer quality, the legal or natural persons similar to the employer, as well as the natural persons, depending on the case.

(2) The legal or natural persons that have the employer quality, as well as the persons similar to the employers have the obligation to submit monthly the statement on the payment obligations of social contributions and the nominal records of the insured persons.

(3) The natural persons that obtain income from independent activities, income from agriculture and forestry, income from rental and leasing activities, from dividends and interest, from intellectual property rights or other income that is subjected to the income tax have the obligation to submit statements on the fund obligations to the health insurance funds with which they concluded the insurance contract.”

3. At art. 257 par. (2), letter a) will have the following content:

“a) income from salaries or similar to salaries, as well as any other income obtained from performing dependent activities;”

4. At art. 257, par. (2¹) is abrogated.

5. At art. 257 par. (5), letter a) will have the following content:

“a) monthly, for those provided at par. (2) letters a) and d);”.

6. Art. 258 will have the following content:

“ART. 258

(1) The legal or natural persons that have the employer quality have the obligation to calculate and transfer to the fund the contribution established by the law for the health insurance of the personnel from that unit.

(2) The failure to comply with the provisions of art. 257 par. (1) leads to the reduction of the basic service package, according to the provisions of art. 220. The reduction of the basic service package takes place after 3 months from the last payment of the contribution.

(3) For the period in which the employers pay the compensation for temporary incapacity to work, they have the obligation to pay the contribution established by law for the employees in this situation.”

ART. IX

Government Emergency Ordinance no. 158/2005 on the leaves and benefits of social health insurance, published in the Official Gazette of Romania, Part I, no. 1074 from November 29th 2005, approved with amendments and completions through Law no. 399/2006, with subsequent amendments and completions, is amended and completed as follows:

1. At art. 1 par. (1), letter A is amended and will have the following content:

“A. performs activities based on an individual work contract or based on the employment relationship, as well as any other dependent activities;”.

2. At art. 1 par. (2), letter b) is abrogated.

3. At art. 6, par. (3) and (4) are amended and will have the following content:

“(3) The persons provided at art. 5 letters a) and b) have the obligation to monthly submit the statement on the payment obligations of social contributions and the nominal records of the insured persons.

(4) The persons provided at art. 5 letters a) and b) have the obligation to make available to the control bodies of the health insurance funds supporting documents and records necessary to establish the obligation at the Unique national fund of social health insurances.”

4. At art. 6, after par. (3) is introduced a new paragraph, paragraph (3¹) with the following content:

“(3¹) The persons provided at art. 5 letters a) and b) have the obligation to submit to the social health insurance funds in the administrative-territorial jurisdiction of which they have their registered office, respectively domicile, the copy 2 of the medical leave certificates only if it is requested the refund of the amounts representing the benefits paid to the insured persons, which exceed the amount of contributions owed to the budget of the Unique national fund of social health insurances.”

5. At art. 32, par. (2) is amended and will have the following content:

“(2) The provisions of par. (1) are applied if the period for which the individual work contract, administration or management contract expired, if the period for which the public position was exercised expired or if the mandate based on which he/she performed the activity in elective functions or functions appointed within the executive, legislative or judicial authority expired.”

6. At art. 38, par. (2) is amended and will have the following content:

“(2) The amounts representing benefits paid by the employers to the insured persons that exceed the amount of the contributions owed by them in that month are recovered from the budget of the Unique national fund of social health insurances from the budget credits provided for this purpose, under the conditions regulated through the norms for applying the emergency ordinance herein. These amounts cannot be recovered from the amounts representing the social health insurance contributions.”

ART. X

Law no. 76/2002 on the system of unemployment insurance and the employment stimulation, published in the Official Gazette of Romania, Part I, no. 103 from February 6th 2002, with subsequent amendments and completions, is amended as follows:

1. At art. 19, letter f) will have the following content:

“f) other persons that obtain income from activities performed according to the law and that are not found in one of the situations provided at letters a) – e), in the conditions in which these persons have the obligation according to the law to pay the unemployment insurance contribution for that income.”

2. Art. 21 will have the following content:

“ART. 21

The employers to which the persons provided at art. 19 perform their activity have the obligation to submit, according to the legal provisions, until the 25th inclusively of the month following that for which the income is owed to those persons, the statement on the payment obligations of social contributions and the nominal records of the insured persons, provided by the law.”

3. At art. 22, par. (2) will have the following content:

“(2) The monthly income for which the persons provided at art. 20 are insured cannot be lower than the guaranteed national minimum gross salary, established by the law and higher than the equivalent of 5 times the gross average salary, established by the law, in force in the month for which the unemployment insurance contribution is paid.”

4. At art. 24 par. (1), letter a) will have the following content:

“a) the contributions of the employers and of the persons similar to the employer at which the insured persons provided at art. 19 letters b) – f) perform their activity, according to the law;”.

5. Art. 26 will have the following content:

“ART. 26

The employers have the obligation to calculate and pay monthly a contribution to the budget of unemployment insurance, the rate of which provided by law is applied on the calculation basis of the contribution owed by the employer to the budget of unemployment insurance, established by law, in the case of the compulsory insured persons, by operation of law, provided at art. 19.”

6. Art. 27 will have the following content:

“ART. 27

(1) The employers have the obligation to calculate, withhold and transfer monthly, according to the law, the individual contribution to the unemployment insurance budget, the rate of which provided by law is applied on the calculation basis of the individual contribution to the budget of unemployment insurance, established by law, in the case of the compulsory insured persons, by operation of law, provided at art. 19.

(2) The provisions of par. (1) do not apply for the period in which the work or employment relationships of the compulsory insured persons, by operation of law, provided at art. 19, are suspended according to the law, except the period of temporary incapacity to work in which the benefit payment is made by the unit, according to the law.”

7. Art. 29 will have the following content:

“ART. 29

The rates of the contributions provided at art. 26 and 27, established according to the provisions of Law no. 571/2003 on the Fiscal code, with subsequent amendments and completions, as well as the rate of the contribution provided at art. 28, established through the law of the state social insurance budget, can be modified depending on the need of resources for covering the expenses of the unemployment insurance budget, through the law of the state social insurance budget.”

8. At art. 31, par. (1) will have the following content:

“ART. 31

(1) The deadline for submitting the statement on the payment obligations of social contributions and the nominal records of the insured persons, provided by law, is also the payment deadline of the contributions provided at art. 26 and 27.”

9. At art. 34 par. (1[^]1), letter a) will have the following content:

“a) the period for suspending the work or employment relationships, except the period of temporary incapacity to work in which the benefit payment is made by the unit, according to the law;”.

10. At art. 35, par. (1) will have the following content:

“ART. 35

(1) For the persons who had suspended work or employment relationships, except the period of temporary incapacity to work in which the benefit payment is made by the unit, according to the law, the minimum retirement contribution up to date is carried out by adding the insurance period before the suspension with the insurance period after the activity continuation.”

ART. XI

Law no. 200/2006 on the establishment and use of the Guarantee fund for the payment of salary debts, published in the Official Gazette of Romania, Part I, no. 453 from May 25th 2006, with subsequent amendments, is amended as follows:

1. At art. 4, letter a) will have the following content:

“a) employer – natural or legal person, except public institutions defined according to Law no. 500/2002 on public finances, with subsequent amendments and completions and Law no. 273/2006 on local public finances, with subsequent amendments and completions, which can employ the work force based on individual work contract, under the conditions provided by Law no. 53/2003 – Labour code, with subsequent amendments and completions;”.

2. Art. 7 will have the following content:

“ART. 7

The employers have the obligation to monthly pay a contribution to the Guarantee fund in the rate provided by law, applied on the income that is according to the law the calculation basis of this contribution, obtained by the employees with individual work contract, according to the law, including the employees who add the pension with the salary, under the legal conditions.”

3. At art. 8, par. (3) is abrogated.

ART. XII

Law no. 678/2001 on the prevention and fight against human trafficking, published in the Official Gazette of Romania, Part I, no. 783 from December 11th 2001, with subsequent amendments and completions, is completed as follows:

- At art. 33, after the par. (1) are introduced three new paragraphs, paragraphs (2) – (4), with the following content:

“(2) The payments of the contributions to the social insurance systems for the victims of human trafficking are made by the local public administration authorities from local budgets, from the amounts received for this purpose from the state budget.

(3) The amounts necessary for the payments of the contributions to the social insurance systems for the victims of human trafficking are made by the local public administration authorities are allocated annually and in full through the law of the state budget from some income of the state budget, through the distinct inclusion in the budget of the Ministry of Labour, Family and Social Protection.

(4) The procedure on the transfer to the local budgets of the amounts provided at par. (3), as well as the payment of the contributions to the social insurance systems for the victims of human trafficking to the National Health Insurance Fund is approved through Government Decision.”

ART. XIII

The provisions of art. X are applied starting with January 1st 2011, except points 2, 5, 6, 7 and 8, which apply starting with the income associated to January 2011.

ART. XIV

The periods of temporary incapacity to work provided by art. 34 par. (1[^]1) letter a) and by art. 35 par. (1) from Law no. 76/2002 on the unemployment insurance system and employment stimulation, with subsequent amendments and completions, amended according to art. X points 9 and 10, are subsequent to the date of January 1st 2011.

ART. XV

The provisions of art. XI points 2 and 3 are applied starting with the income associated to January 2011.

ART. XVI

The provisions of par. (13) of art. III from the Government Emergency Ordinance no. 58/2010 for the amendment and completion of Law no. 571/2003 on the Fiscal code and other

fiscal-financial measures, with subsequent amendments, amended according to art. II, are applied starting with the income paid during January 2011.

ART. XVII

The provisions of art. I point 99 and of art. VII do not apply for the calculation, payment and statement of the compulsory social contributions and contribution to the Guarantee fund for the payment of salary debts related to the income of January 2011.

ART. XVIII

Law no. 263/2010 on the unitary system of public pensions, published in the Official Gazette of Romania, Part I, no. 852 from December 20th 2010, is amended and completed as follows:

1. At art. 3 par. (1), letter f) is amended and will have the following content:

“f) nominal insurance declaration – the declaration on the nominal records of insured persons and payment obligations to the budget of state social contributions;”.

2. At art. 6 par. (1), point I, after letter c) is introduced a new letter, letter d) with the following content:

“d) the persons who obtain professional income, other than salary one, from copyrights and associated rights defined according to art. 7 par. (1) point 13^{^1} from Law no. 571/2003 on the Fiscal code, with subsequent amendments and completions, as well as from contracts/civil conventions concluded according to the Civil code*.”

#CIN

**) The old Civil code was abrogated. See Law no. 287/2009 on the Civil code, republished.*

#B

3. At art. 6 par. (1), point VI is abrogated.

4. Art. 7 is amended and will have the following content:

“ART. 7

(1) The legal or natural persons at which the insured persons provided at art. 6 par. (1) points I and II perform their activity, hereinafter called employers, the institutions that make the payment of the unemployment rights for the unemployed provided at art. 6 par. (1) point III, as well as the institutions that make the payment of rights for the persons provided at art. 6 par. (1) point V have the obligation to draw up and submit the nominal insurance declaration.

(2) If errors in the content of the declarations provided at par. (1) are noticed, regardless of their causes and/or modifications of data based on which the retirement contribution up to date and the annual average score of the insured person are established, the legal or natural persons provided at par. (1) have the obligation to draw up and submit the amended nominal insurance declaration.

(3) The deadlines and modes of submitting the declarations provided at par. (1) and (2) are provided in Law no. 571/2003 on the Fiscal code, with subsequent amendments and completions.”

5. At art. 11, par. (5), (6) and (7) are abrogated.

6. At art. 27 par. (1), letters c) and e) are amended and will have the following content:

“c) the legal persons similar to the employer, according to the conditions of the law herein, at which the insured persons provided at art. 6 par. (1) point I letter d) and point II perform their activity;

.....

e) the persons provided at art. 6 par. (1) point IV and par. (2).”

7. At art. 27, par. (3) is amended and will have the following content:

“(3) The rates of social insurance contributions, respectively the rate of the social insurance individual contribution and the rate of the social insurance contribution owed by the employer are provided in Law no. 571/2003 on the Fiscal code, with subsequent amendments and completions. The rates of the social insurance contributions can be modified through the law on the budget of state social insurance.”

8. At art. 31, par. (9) is abrogated.

9. At art. 32, par. (6) is abrogated.

10. Art. 33 is amended and will have the following content:

“ART. 33

The monthly calculation basis of the social insurance individual contribution in case of insured persons provided in Law no. 571/2003, with subsequent amendments and completions.”

11. Art. 34 is amended and will have the following content:

“ART. 34

The monthly calculation basis of the social insurance contribution owed by the employer is provided in Law no. 571/2003, with subsequent amendments and completions.”

12. At art. 35, par. (1) is amended and will have the following content:

“ART. 35

The monthly calculation basis of the social insurance contribution for unemployed is provided in Law no. 571/2003, with subsequent amendments and completions.”

13. Art. 37 is amended and will have the following content:

“ART. 37

(1) The social insurance contribution is not due for the expressly exempted amounts provided in Law no. 571/2003, with subsequent amendments and completions.”

(2) The amounts for which the social insurance contribution is not due are not taken into account when establishing the services from the public system of pensions.”

14. Art. 39 is amended and will have the following content:

“ART. 39

(1) The individual contribution of social insurance provided by law is transferred monthly by the employer to the territorial unit of the State Treasury at which he/she is registered as payer of taxes and fees, together with the social insurance contribution which he/she owes as taxpayer to the budget of state social insurance.

(2) The contribution to the private pension fund which is part of the individual contribution of social insurance owed to the public system of pensions is transmitted by the National Fund of Public Pensions and by the sectorial pension funds to the private pension funds.

(3) The National Fund of Public Pensions and the sectorial pension funds transmit monthly to every administrator the nominal list of amounts transferred to the pension fund that they administer until the 20th of the month following that in which the payers submitted the nominal insurance declaration.

(4) The National Fund of Public Pensions and the sectorial pension funds transfer monthly to every private pension fund from the budget of state social insurance the amount representing the individual contributions owed to these funds until the 20th of the month following that in which the employer submitted the nominal insurance declaration.”

15. Art. 40 is amended and will have the following content:

“ART. 40

(1) In case of insured persons provided at art. 6 par. (1) point IV and par. (2), the payment term of the social insurance contribution is until the 25th of the month following that for which the payment is owed.

(2) For the other insured persons of the public system of pensions, the payment term of the social insurance contribution is provided by Law no. 571/2003, with subsequent amendments and completions.”

16. Art. 42 is amended and will have the following content:

“ART. 42

For the persons provided at art. 6 par. (1) point IV and par. (2), the activity for collecting the contributions is carried out by the National Fund of Public Pensions, through the territorial pension funds and by the sectorial pension funds, depending on the case.”

17. Art. 44 is amended and will have the following content:

“ART. 44

(1) In the case of insured persons provided at art. 6 par. (1) point IV and par. (2), the failure to pay the social insurance contribution within the term provided at art. 40 par. (1) generates the payment of interest and delay penalties calculated for each day of delay until the payment date of the owed amount, inclusively.

(2) The rate of interest and delay penalties provided at par. (1) is established according to the regulations on the execution of budget debts.

(3) The amounts representing interest and delay penalties are income to the budget of state social insurance and are calculated without decimals, by rounding off to leu.

(4) The calculation of the interest and delay penalties is carried out by the territorial pension funds.

(5) The provisions of the law herein related to the non-payment of social insurance contribution are completed with the legal provisions on the execution of budget debts.”

18. At art. 48, par. (1) is amended and will have the following content:

“ART. 48

(1) In the public system of pensions, the retirement contribution up to date is created by adding the periods for which the contribution to the state social insurance budget was owed by the employer or depending on the case was owed and paid by the insured persons provided at art. 6 par. (1) point IV and par. (2).”

19. At art. 98, par. (5) is amended and will have the following content:

“(5) In the case of insured persons provided at art. 6 par. (1) point I letter d), when determining the monthly score, it is used the amount obtained after the application on the income of the relation between the rate of social insurance individual contribution and the rate of social insurance contribution approved for work places in normal conditions, which was the calculation basis of the social insurance individual contribution.”

20. At art. 129 par. (1), letter c) is amended and will have the following content:

“(c) the territorial pension fund, respectively the sectorial pension fund, in the case of the death of the retired or insured person provided at art. 6 par. (1) point IV and par. (2), respectively of a member of his/her family.”

21. Art. 175 is amended and will have the following content:

“ART. 175

(1) The nominal records of insured persons from the reporting month is carried out through the declaration provided at art. 296¹⁹ par. (1).

(2) The model of the nominal insurance declaration, of the social insurance contract, as well as the models of the other documents necessary for the records of rights and obligations of social insurance provided by the law herein are established by the National Fund of Public Pensions, are approved through the order of the minister of labour, family and social protection and are published in the Official Gazette of Romania, Part I.”

*

The Emergency ordinance herein transposes in the national legislation:

- art. 3 from the Directive 2008/8/CE of the Council from February 12th 2008 for amending the Directive 2006/112/CE concerning the place for service delivery, published in Official Journal of the European Union, series L, no. 44 from February 20th 2008;

- Directive 2009/162/CE of the Council from December 22nd 2009 for amending certain provisions of Directive 2006/112/CE on the common system of VAT, published in Official Journal of the European Union, series L, no. 10 from January 15th 2010;

- Directive 2010/23/CE of the Council from March 16th 2010 for amending the Directive 2006/112/CE on the common system of VAT, concerning the optional and temporary application of the reverse charge mechanism for delivering certain services that have high fraud risk, published in Official Journal of the European Union, series L, no. 72 from March 20th 2010; and

- Directive 2010/12/UE of the Council from February 16th 2010 for amending the directives 92/79/CEE, 92/80/CEE and 95/59/CEE concerning the structure and levels of excises applied to the processed tobacco and Directive 2008/118/CE, published in Official Journal of the European Union, series L, no. 50 from February 27th 2010.

ANNEX 1

(Annex no. 1 to the title VII "Excises and other special taxes" from the Fiscal code)

Crt. no.	Name of product or group of products	U.M.	Excise (euro/U.M. equivalent)
0	1	2	3
	Alcohol and alcoholic beverages		
1	Beer of which:	hl/1 degree Plato*1)	0,748
	1.1. Beer produced by small independent producers		0,43
2	Wines	hl of product	0,00
	2.1. Still wines		34,05
	2.2. Sparkling wines		
#M1			
3	Fermented beverages, others than beer and wines	hl of product	
	3.1. still, of which:		10,00
	3.1.1. apple and pear cider with codes NC 2206 00 51 and NC 2206 00 81		0,00
	3.1.2. hydromel with the codes NC 2206 00 59 and NC 2206 00 89 obtained by the fermentation of a solution of honey in water		0,00
	3.2. sparkling		45,00
#B			
4	Intermediary products	hl of product	165,00
5	Ethylic alcohol	hl of pure alcohol*2)	750,00
	5.1. Ethylic alcohol produced by small distilleries		475,00

	Processed tobacco		
6	Cigarettes	1,000 cigarettes	48,50 + 22%*)
7	Cigarettes and cigars	1,000 pieces	64,00
8	Finely-cut smoking tobacco for rolling in cigarettes	kg	81,00
9	Other smoking tobaccos	kg	81,00
	Energy products		
10	Leaded petrol	ton	547,00
		1,000 litres	421,19
11	Unleaded petrol	ton	467,00
		1,000 litres	359,59
12	Diesel fuel	ton	358,00
		1,000 litres	302,51
13	Fuel oil	1,000 kg	
	13.1. used for commercial purposes		15,00
	13.2. used for non-commercial purposes		15,00
14	Liquefied petroleum gas	1,000 kg	
	14.1. used as engine fuel		128,26
	14.2. used as fuel for heating		113,50
	14.3. for household use*3)		0,00
15	Natural gas	GJ	
	15.1. used as engine fuel		2,60
	15.2. used as fuel for heating		
	15.2.1. for commercial purposes		0,17
	15.2.2. for non-commercial purposes		0,32
16	Burning oil (kerosene)*4)		
	16.1. used as engine fuel	ton	469,89
		1,000 litres	375,91
	16.2. used as fuel for heating	ton	469,89
		1,000 litres	375,91
17	Coal and coke	GJ	
	17.1. used for commercial purpose		0,15
	17.2. used for non-commercial purpose		0,30
18	Electric energy	MWh	
	18.1. used for commercial purpose		0,50
	18.2. used for non-commercial purpose		1,00

*) This excise structure is applied until June 30th 2011, inclusively. In the period July 1st 2011 – December 31st 2017, inclusively, the total excise structure will be provided in the Government decision for approving the specific excise applied starting with July 1st of each year.

*1) Plato degree is the weight of sugar expressed in grams, contained in 100 g of solution measured initially at the temperature of 20°/4°C.

*2) Hl of pure alcohol is 100 litres of refined ethylic alcohol with concentration of 100% alcohol in the volume, at the temperature of 20°C, contained in a given quantity of alcoholic product.

*3) Liquefied petroleum gases for household use means the liquefied petroleum gases distributed in cooker gas cylinders. The cooker gas cylinders are those gas cylinders with a capacity of maximum 12,5 kg.

*4) The burning oil used as fuel by the natural persons is not excised.

ANNEX 2

(Annex no. 2 to the title VII "Excises and other special taxes" from the Fiscal code)

Implementation date	2011		2012	2013	2014	2015	2016	2017	2018
	January 1 st	July 1 st	July 1 st	July 1 st	July 1 st	July 1 st	July 1 st	July 1 st	January 1 st
1	2	3	4	5	6	7	8	9	10
Minimum excise (euro/1,000 cigarettes)	73,54	74,00	76,50	79,00	81,50	84,00	86,50	89,00	90,00
Ad valorem excise %	22	21	20	19	18	17	16	15	14
Total excise (euro/1,000 cigarettes)	76,60	76,60	79,19	81,78	84,37	86,96	89,55	92,14	93,18
Specific excise (euro/1,000 cigarettes)	48,50	X*1)	X*1)	X*1)	X*1)	X*1)	X*1)	X*1)	X*1)

*1) It is determined depending on the weighted average retail selling price related to the previous year, ad valorem excise and total excise.
