



GOVERNMENT ORDINANCE No 92/2003
on the Fiscal Procedure Code
(republished in the Official Gazette of Romania no 513 of July 31, 2007)

Amended and completed by Government Ordinance no 47/2007 concerning the regulation of some fiscal-financial measures, published in the Official Gazette of Romania no 603 of August 31, 2007 and by Government Emergency Ordinance no 19/2008 for the modification and completion of Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania, no 163 of March 3, 2008.

TITLE I
General provisions

CHAPTER 1
Scope of the Fiscal Procedure Code

ARTICLE 1
Scope of the Fiscal Procedure Code

(1) This code regulates the rights and obligations of the parties within the fiscal and legal relations concerning the administration of taxes and fees payable to the State and local budgets as provided by the Fiscal Code¹.

(2) This Code also applies for the customs rights administration as well as for the administration of the receivables generated by the contributions, fines and other amounts constituting revenues of the general consolidated budget, according to the law, if not otherwise provided by the law.

(3) The administration of the taxes, fees, contributions and other amounts owed to the general consolidated budget shall mean the totality of the activities performed by the fiscal bodies related to:

- a) tax registration;
- b) declaration, determination, check and collection of the taxes, fees, contributions and other amounts owed to the general consolidated budget;
- c) solving of the claims against the tax administration documents.

ARTICLE 2
The relation between the Fiscal Procedure Code and other legal acts

(1) The administration of taxes, fees, contributions and other amounts owed to the general consolidated budget as provided in art. 1 is to be enforced according to the provisions of the Fiscal Procedure Code, Fiscal Code and other regulations adopted for their implementation.

¹ Law no 571/2003 concerning the Fiscal Code was published in the Official Gazette of Romania, Part I, no 927 on 23rd December 2003.

(2) This code constitutes the common right procedure for the administration of the taxes, fees, contributions and other amounts owed to the general consolidated budget.

(3) Where this code cannot be applied, the provisions of the Civil Procedure Code are to be applied.

ARTICLE 3

Modification and completion of the Fiscal Procedure Code

(1) This code is to be modified and completed only by law, promoted, as a rule, 6 months before the date of its entry into force.

(2) Any modification or completion to this code shall enter into force starting with the first day of the year next to the year of its adopting by law.

ARTICLE 4

Setting up and functioning of the Fiscal Procedure Commission

(1) Within the National Agency for Fiscal Administration shall be set up the Fiscal Procedure Commission having the responsibility to make decisions concerning the unitary application of this code and of the laws from the competence scope of the National Agency for Fiscal Administration, unless otherwise provided by law.

(2) The rules of organization and operation of the Fiscal Procedure Commission shall be approved by Order of the President of the National Agency for Fiscal Administration, which shall be published in the Official Gazette of Romania, Part I.

(3) The Fiscal Procedure Commission shall be coordinated by the President of the National Agency for Fiscal Administration.

(4) The decisions of the Fiscal Procedure Commission shall be approved by Order of the President of the National Agency for Fiscal Administration, and shall be published in the Official Gazette of Romania, Part I.

(5) The uniform solutions adopted by the decisions of the Fiscal Procedure Commission and approved by Order of the President of the National Agency for Fiscal Administration shall be applicable starting with the date of the publishing of the relevant decisions according to par. (4).

(6) The uniform solutions provided in par. (5) shall be applicable also to the procedures in progress.

CHAPTER 2

General conduct principles in the administration of the taxes, fees, contributions and other amounts owed to the general consolidated budget

ARTICLE 5

Consistent application of the legislation

The tax body shall have the obligation to consistently apply the provisions of the fiscal law on the Romanian territory, aiming the correct determination of the taxes, fees, contributions and other amounts owed to the general consolidated budget.

ARTICLE 6

Exercise of the assessment right

The fiscal body shall be entitled to assess, in the limits of its attributions and competences, the relevance of tax state of facts and to adopt the solution admitted by the law, based on complete findings concerning all the edifying circumstances in case.

ARTICLE 7

Active role

(1) The tax body advises the taxpayer on his rights and obligations during the procedure development, according to the fiscal law.

(2) The fiscal body is to be entitled to examine ex officio the actual state of fact, to obtain and use all information and documents that are necessary for a correct assessment of the taxpayer's tax state of fact. The analysis performed by the fiscal body is to identify and consider all relevant circumstances of each case.

(3) The tax body is to have the obligation to objectively examine the tax state of fact and also to advise the taxpayers in the declarations and other documents submission and correction, each time this is necessary.

(4) The tax body is to decide upon the nature and volume of examinations, according to circumstances special to each of the cases and within the limits provided by the law.

(5) The fiscal body is to guide the taxpayer in the application of the provisions of the fiscal law. Assistance is to be provided either upon the taxpayer requests or upon the initiative of the fiscal body.

ARTICLE 8

Official language in the fiscal administration

(1) The official language in the fiscal administration is Romanian language.

(2) If to the fiscal bodies are submitted petitions, justifying documents, certificates or other writs in a foreign language, the fiscal bodies shall request to be accompanied by their translations into Romanian, certified by authorized translators.

(3) The legal provisions concerning the use of the national minorities' language is to be applied accordingly.

ARTICLE 9

Right to be listened to

(1) Before taking the decision, the tax body is to have the obligation to assure to the taxpayer the possibility to express his point of view regarding the facts and circumstances relevant for the decision making.

(2) The fiscal body is not have the obligation to apply the provisions of par. (1) in the following cases:

a) the delay in the decision taking endangers the real tax state of fact related findings concerning the obligations fulfillment by the taxpayer or the adoption of other measures provided by the law;

b) the tax state of fact presented shall be modified insignificantly concerning the amount of the tax receivables;

- c) the information presented by the taxpayer, given by this one in a declaration or application, is accepted;
- d) measures of mandatory execution are to be undertaken.

ARTICLE 10

Obligation to cooperate

(1) The taxpayer is to have the obligation to cooperate with the tax bodies in view of determination of the tax state of fact, by presenting the facts known by this one, as a whole, according to reality, and by indicating the proving means which he knows.

(2) The taxpayer is to have the obligation to undertake measures in view of obtaining the necessary proving means, by using all the available legal and effective possibilities.

ARTICLE 11

Fiscal secret

(1) The public officers within the tax body, including the persons not having anymore this capacity, are to have the obligation, according to the law, to keep the secret on the information they have following to the exercise of their job attributions.

(2) The information regarding the taxes, fees, contributions and other amounts owed to the general consolidated budget may be transmitted only:

a) to the public authorities, with the aim of fulfilling the obligations provided by the law;

b) to the tax authorities of other countries, in conditions of reciprocity on the basis of certain conventions;

c) to the competent legal authorities, according to the law;

d) in other cases provided by law.

(3) The authority receiving tax information is to have the obligation to keep the secret regarding the information received.

(4) The transmission of fiscal information in other cases than those under par. (2), is to be allowed only after ensuring that no identity of any individual or legal person is thus disclosed.

(4¹) By derogation from the provisions of par. (4), the cases of inobservance of the fiscal-financial law may be disclosed through mass-media.

(5) Not respecting the obligation of keeping the fiscal secret results in liability according to the law.

ARTICLE 12

Good faith

The relations between the taxpayers and the tax bodies should be founded on good faith, in view of performing the legal requests.

CHAPTER 3

Applying of the fiscal law provisions

ARTICLE 13

Law interpretation

The tax regulation interpretation should respect the legislator will as expressed by the law.

ARTICLE 14

Economic criteria

The revenues, other benefits and property values are to be subject to the fiscal law regardless if they are obtained or not from activities observing or not the requirements of other legal provisions.

ARTICLE 15

Elusion of the fiscal law

(1) If, by eluding the goal of the fiscal law, the tax liability has not been determined or has not been correlated with the real tax basis, the due obligation, and, respectively, the correlative tax receivable are the ones legally determined.

(2) In cases provided in par. (1) are to apply the provisions of art. 23.

CHAPTER 4

Tax legal relation

ARTICLE 16

Content of the tax procedural law relation

The tax procedural law relation contains the rights and obligations of the parties, according to the law, for the fulfillment of the modalities provided for the determination, exercise and extinction of the rights and obligations of the parties from the tax material law relation.

ARTICLE 17

Subjects of the fiscal legal relation

(1) The subjects of the tax legal relation are the State, the territorial-administrative units, the taxpayer, as well as other persons obtaining rights and obligations within this relation.

(2) The taxpayer is any individual or legal person or any other entity without legal personality who owes taxes, fees, contributions, and other amounts to the general consolidated budget, according to the law.

(3) The State is represented by the Ministry of Economy and Finances through the National Agency for Fiscal Administration and its subordinated units with legal personality.

(4) The territorial-administrative units are represented by the local public administration authorities, as well as by their specialty departments, within the limits of their attributions, mandated by the relevant authorities.

(5) The National Agency for Fiscal Administration, its territorial subordinated units as well as the specialized departments of the local public administration authorities are designated in this code as tax bodies.

ARTICLE 18

Empowered parties

(1) The taxpayer may be represented by an empowered person in the relations with fiscal bodies. The content and limits of the representation are the ones contained in the empowerment or established according to the law, as the case may be. The designation of an empowered person shall not stop the taxpayer to personally fulfill his tax obligations, even if he did not revoke the empowerment according to par. (2).

(2) The empowered person is to have the obligation to register at the fiscal body the power of attorney in authenticated form, and under the legal provisions. The revocation of the empowerment becomes effective with the fiscal body as of the registration date of the revocation document.

(3) If the tax payers are represented in relation with the tax bodies by a lawyer, the form and content of the empowerment are the ones referred to by the legal provisions on the lawyer's job organization and exercise.

(4) The tax payer with no fiscal residence in Romania, who has the obligation of submitting tax declarations to the tax bodies, should designate an empowered person, with tax residence in Romania, which should fulfill, on behalf of and from the taxpayer's wealth, the taxpayer's obligations against the tax body.

(5) The provisions of this article are also applicable to the tax representatives designated according to the Fiscal Code, unless otherwise provided by the law.

ARTICLE 19

Tax trustee appointment

(1) If there is no empowered person according to art. 18, the tax body is to request, according to the law, to the competent court to appoint a fiscal trustee for an absent taxpayer whose fiscal domicile is unknown or who, due to illness, infirmity, old age or handicap of any kind cannot personally exercise or fulfill his rights and obligations under the law.

(2) For his activity, the fiscal trustee shall be paid according to the judgment, all the expenditure referring to this representation being in the charge of the person represented.

ARTICLE 20

Duly representatives' obligations

(1) The duly representative of the natural and legal persons as well as the ones of the associations with no legal personality should fulfill the tax obligations of the represented persons, on behalf of them and from their wealth.

(2) In case, due to any reason, the tax obligations of the associations without legal personality are not fulfilled as provided in par. (1), then partners are to be jointly liable for their fulfillment.

TITLE II

General dispositions concerning the tax material right relation

CHAPTER 1

General provisions

ARTICLE 21
Tax receivables

(1) Tax receivables represent patrimony rights which, according to the law, are generated by the tax material law relations.

(2) Legal fiscal relations provided in par. (1) generate both the content and the amount of tax receivables, representing determined rights consisting of:

a) the right to collect taxes, fees, contributions and other amounts representing revenues to the general consolidated budget, the right to the refunding of the value added tax, the right to the refunding of taxes, fees, contributions and other amounts representing revenues to the general consolidated budget, according to par. (4), hereinafter called main tax receivables;

b) the right of collection of the delay increments, under legal conditions, hereinafter called ancillary tax receivables.

(3) In the cases provided for by the law, the fiscal body is entitled to request to the person having the obligation to fulfill the relevant obligation on behalf of the debtor, to settle the relevant obligation.

(4) To the extent to which it is found out that the payment of the amounts representing taxes, fees, contributions and other revenues to the general consolidated budget was made without legal base, the person who made such a payment is entitled to have that specific amount reimbursed.

ARTICLE 22
Tax obligations

Tax obligations in the meaning of this code, are:

a) the obligation to declare the taxable goods and revenues, or, the taxes, fees, contributions and other amounts due to the general consolidated budget, as the case may be;

b) the obligation to compute and record in the accounting and tax evidences the taxes, fees, contributions and other amounts due to the general consolidated budget;

c) the obligation to pay at the legal deadlines the taxes, fees, contributions and other amounts due to the general consolidated budget;

d) the obligation to pay penalties related to deferred payments of the taxes, fees, contributions and other amounts due to the general consolidated budget, called ancillary tax obligations;

e) the obligation to compute, retain and record in the accounting and payment records, at the legal deadlines, the taxes and contributions which are paid by withholding the them at source;

f) to fulfill any other obligations incumbent on taxpayers, natural or legal persons, following the application of the tax laws.

ARTICLE 23
Origin of tax obligations and receivables

(1) Unless otherwise provided by the law, the right of tax receivable and the correlative tax obligation appear when, according to the law, the tax base generating them is constituted.

(2) According to par. (1) the right of the fiscal body to determine and assess the due tax obligation is to arise.

ARTICLE 24

Settlement of tax receivables

Tax receivables shall be settled by collection, offset, mandatory execution, exemption, cancellation, statute of limitation and by other methods provided by law.

ARTICLE 25

Creditors and debtors

(1) In the relations of material fiscal law, creditors are the persons holding certain rights on tax receivables as provided in art. 21, while debtors are those persons that by law have the related obligation to pay such rights.

(2) In case the debtor failed to satisfy the payment obligation, the following shall become debtors by law:

- a) the heir that accepted the succession of the debtor taxpayer;
- b) the person that takes over, either fully or partially, the rights and obligations of the debtor subject to division, merger or legal reorganization, as the case may be;
- c) the person whose liability was determined according to the legal provisions regarding bankruptcy;
- d) the person that takes over the debtor's payment obligation through a payment commitment or through another act concluded in an authenticated form, ensuring the payment obligation by a proper guarantee;
- e) the legal person, for the tax obligations due by its secondary offices;
- f) other persons as provided by law.

ARTICLE 26

Payer

(1) Payer of the tax obligation shall be the debtor or the person who, on behalf of the debtor, by law, has the obligation to pay or withhold and pay, as the case may be, taxes, fees, contributions and other amounts owed to the general consolidated budget.

(2) For legal persons with location in Romania, that have secondary offices, the payer of tax obligations shall be the legal person, except for the tax on salary income, for which the tax payment is made by law, by the secondary offices of the legal person.

ARTICLE 27

Joint liability

(1) For outstanding payment obligations of the debtor that was declared insolvent under the conditions of this Code, the following persons shall be jointly liable with such debtor:

- a) individuals or legal persons that, during the 3 year period prior to the date of the declaration of insolvency, in bad faith, acquired goods, by any means, from debtors that, in this manner, caused their insolvency;

b) administrators, associates, shareholders and any other persons that caused insolvency of the debtor legal person by alienating of, or by hiding in bad faith, in any manner, movable or immovable goods property of the debtor.

(2) The legal person shall be jointly liable with the debtor declared insolvent under this code or declared insolvent if, directly or indirectly controls, is controlled or is under joint control with the debtor, if actually carries out the same activity or the same activities as the debtor and if at least one of the following conditions is met:

a) it acquires, with any title, the right of ownership on tangible assets of the debtor and the accounting value of these assets represents at least half from the net accounting value of all tangible assets of the acquirer;

b) it has commercial contractual relationships with customers and/or suppliers other than those for utilities, at least half of them having had or having contractual relationships with the debtor;

c) it has work or civil relations of provision of services with at least half from the debtor's employees or service providers.

(3) For purposes of par. (2), the following terms and expressions shall have the following meaning:

a) control - a majority of voting rights, either in a general meeting of the associates of a trading company or of an association or foundation, or in the board of administration of a trading company or in the board of directors of an association or foundation;

b) indirect control - activity through which a person exercises control through one or more persons.

ARTICLE 28

Special provisions regarding determination of liability

(1) Persons' liability provided in art. 27 shall be established according to the provisions of this article.

(2) For the purpose provided in par. (1), the fiscal body is to prepare a decision to include the reasons de facto and de jure for which the liability of the person in question is engaged. This decision shall be submitted to the fiscal body management in order to be approved.

(3) The decision approved according to par. (2) is to be a tax receivable title regarding the payment obligation of the person responsible according to art. 27 and is to include, besides the elements provided in art. 43 par. (2), also the following:

a) the tax identification code of the responsible person having the obligation to pay the debtor main tax obligation, as well as any other identification data;

b) the main debtor's surname and forename or denomination; the tax identification code; the residence or location of this one, as well as any other identification data;

c) the quantum and the nature of the amounts due;

d) the deadline within which the liable person should pay the obligation of the main debtor;

e) the legal grounds and actual reasons for the commitment of liability.

(4) The liability shall be determined both for the main tax obligation and for its ancillary tax obligations.

(5) The receivable title provided in par. (3) shall be communicated to the person having the obligation to pay it, being specified that such person is to make the payment at the determined deadline.

(6) The receivable title communicated according to par. (5) may be contested according to the legal provisions.

ARTICLE 29

Rights and obligations of successors

(1) Rights and obligations derived from the tax legal relation shall be taken over by the successors of the debtor, under the conditions of common law.

(2) Provisions in par. (1) are not to apply in the case of payment obligation of the amounts representing fines applied to the debtor that is an individual, by law.

ARTICLE 30

Provisions regarding the transfer of taxpayers' tax receivables

(1) Main or ancillary tax receivables regarding taxpayers' reimbursement or refund rights, as well as amounts intended for the guarantee of the execution of a tax obligation can be transferred only after their assessment by law.

(2) The transfer shall become effective for the competent tax body only as of the date when such body was notified on the transfer.

(3) The cancellation of the transfer or the ascertainment of its severance subsequent to the settlement of the tax obligation is not to be opposable to the tax body.

CHAPTER 2

Tax domicile

ARTICLE 31

Tax domicile

(1) In the case of tax receivables administered by the Ministry of Economy and Public Finances through the National Agency for Fiscal Administration, tax domicile shall have the following meanings:

a) for individuals, the address of domicile, by law, or the address where they actually live, if such address differs from the domicile one;

b) for legal persons independently developing economic activities or exercising liberal professions, the registered office or the office where the main activity develops effectively;

c) for legal persons, the registered office or the office where the administrative management and business management develop effectively, if they are not performed in the declared registered office;

d) for associations and other entities without legal personality, their registered offices or offices where they actually carry out the main activity.

(2) The address where they actually live means, to the purpose of par. (1) letter a), the address of the residence that a person uses on a continuous basis

for more than 183 days in a calendar year, short-term interruptions being neglected. If the purpose of the stay is exclusively a visit, a leave, a treatment or other similar personal purposes and does not exceed a one-year period, such residence is not to be considered the address where such person actually lives.

(3) In case the fiscal domicile cannot be determined based on par. (1) letters c) and d), the fiscal domicile is to be the place where the majority of the assets are located.

(4) In the case of other tax receivables to the general consolidated budget, the tax domicile shall be considered the domicile regulated upon according to common law or the registered office by law.

TITLE III

General procedural provisions

CHAPTER 1

Competence of the fiscal body

ARTICLE 32

General competence

(1) Fiscal bodies have a general competence as regards the administration of tax receivables, carrying out of the audit and the issuance of norms for the application of the legal provisions on tax matters.

(2) In case of income tax, an additional special administration competence can be established by a Government decision.

(3) Taxes, fees and other amounts payable in customs by law shall be administered by the customs bodies.

(4) Assistance and guidance of taxpayers concerning the uniform application of the legal provisions concerning the taxes, fees, contributions and other amounts due to the budget, administered by the National Agency for Fiscal Administration shall be performed by this Agency and its subordinated units according to the procedures established by order of the President of the National Agency for Fiscal Administration.

ARTICLE 33

Territorial competence

(1) For the administration of taxes, fees, contributions and other amounts owed to the general consolidated budget, the competence shall stay with the county, local or Bucharest fiscal body established by order of the President of the National Agency for Fiscal Administration, within whose territorial jurisdiction the tax domicile of the taxpayer or the revenue payer, in case of taxes and contributions withheld at source according to the law, is located.

(2) In case of non-resident taxpayers that carry out activities within the territory of Romania through one or more permanent offices, the competence shall stay with the fiscal body within whose jurisdiction each of the permanent offices is located. In case the activity of a permanent office deploys under the territorial

jurisdiction of more than one fiscal body, the competent shall stay with that fiscal body under which territorial jurisdiction the relevant permanent office begins its activity.

(3) The competence for the administration of tax receivables payable by large taxpayers, including by their secondary offices, by the fiscal bodies subordinated to the National Agency for Fiscal Administration may be determined in charge of fiscal bodies other than those provided in par. (1), by order of the President of the National Agency for Fiscal Administration.

ARTICLE 34

Competence in case of secondary offices

In case the taxpayer has by law payment obligations for secondary offices, then the territorial competence for the administration thereof shall stay with the fiscal body within whose territorial jurisdiction such secondary offices are located.

ARTICLE 35

Territorial competence of specialist departments of the local public administration authorities

Specialist departments of the local public administration authorities shall be competent for the administration of taxes, fees and other amounts owed to local budgets of territorial-administrative units.

ARTICLE 36

Special competence

(1) In case the taxpayer has no tax domicile, the territorial competence shall stay with the fiscal body within whose jurisdiction the act or fact that is subject to legal tax provisions is ascertained.

(2) Provisions in par. (1) are also to apply to legal emergency measures required in cases of disappearance of identification elements of the actual taxation base, as well as in case of forced execution.

(3) For administration by the fiscal bodies subordinated to the National Agency for Fiscal Administration of the tax receivables owed by non-resident taxpayers who do not have in Romania a permanent office, the jurisdiction lies with the fiscal body established by the Order of the Minister of Economy and Finance, upon the proposal of the President of the National Agency for Fiscal Administration.

ARTICLE 37

Conflict of competence

(1) A conflict of competence is when two or more fiscal bodies declare that they are all of them either competent or incompetent. In this case, the fiscal body that vested itself competent the first or declared itself incompetent the last is to continue the undergoing procedure and is to apply to the common higher hierarchical body to decide on the conflict.

(2) In case the fiscal bodies between which the conflict of competence occurs are not subordinated to a common higher hierarchical body, the conflict of competence arisen shall be solved by the Central Fiscal Committee within the Ministry of Economy and Finance.

(3) In the case of local budgets, the Central Fiscal Committee shall be completed by a representative of the Association of Communes in Romania, the Association of Towns in Romania, the Association of Municipalities in Romania, the National Union of County Councils in Romania and the Ministry of Interior and Administrative Reform.

ARTICLE 38

Agreement on competence

Upon the approval of the fiscal body that according to this Code holds the territorial competence, as well as upon the approval of the taxpayer in question, another fiscal body may take over the activity of administration of such taxpayer.

ARTICLE 39

Conflict of interest

The civil servant within the fiscal body involved in a tax administration procedure is in a conflict of interest if:

a) within such procedure, such civil servant is a taxpayer, a spouse of a taxpayer, a relative up to the third degree inclusively of the taxpayer, or is a representative of an empowered person of such taxpayer;

b) within such procedure the civil servant may acquire a benefit or suffer a direct disadvantage;

c) there is a conflict between the civil servant, his/her spouse, relatives up to the 3rd degree inclusively, by one hand and one of the parties or the spouse, relatives of the party up to the 3rd degree inclusively, by the other hand;

d) in other cases provided by law.

ARTICLE 40

Abstention and challenge

(1) The civil servant that is aware being in one of the cases provided in art. 39 shall have the obligation to inform the head of the fiscal body and to refrain from carrying out the procedure.

(2) Where conflict of interest concerns the head of the fiscal body, it shall have the obligation to notify the hierarchically higher body.

(3) Abstention shall be proposed by the public officer and shall be decided immediately by the head of the fiscal body or by the hierarchically higher body.

(4) The taxpayer involved in the ongoing procedure may ask the challenge of the public officer in conflict of interest.

(5) The challenge of the public officer is to be immediately decided upon by the head of the fiscal body or by the higher hierarchical body. The decision to reject the request of challenge may be appealed to the competent court. The application for challenge does not suspend the administrative procedure in progress.

CHAPTER 2
Documents issued by the fiscal bodies

ARTICLE 41
Concept of tax administration document

For the purposes of this Code, the Tax Administration Document is issued by the fiscal body competent in applying of the law concerning the establishment, modification or extinguishing of the tax rights and obligations.

ARTICLE 42
Anticipated individualized tax solution and Advance pricing agreement

(1) The anticipated individualized tax solution is the administrative document issued by the National Agency for Fiscal Administration in order to solve a request from the taxpayer concerning the regulation of future tax state of facts.

(2) The advance pricing agreement is an administrative document issued by the National Agency for Fiscal Administration in order to solve a request of the taxpayer concerning the establishment of the conditions and methods for the determination, during a determined period of time, of the transfer prices for transactions between affiliates, as defined in the Fiscal Code.

(3) The anticipated individualized tax solution or the advance pricing agreement shall be communicated only to the taxpayer for whom they are intended.

(4) The anticipated individualized tax solution and the advance pricing agreement are binding and enforceable against the issuing fiscal bodies only provided that their terms and conditions have been observed by the taxpayer.

(5) The taxpayer shall propose the contents of the anticipated individualized tax solution or of the advance pricing agreement, as may be the case, by submitting an application in this regard.

(6) The solution for the taxpayer's application shall represent the anticipated individualized tax solution or the advance pricing agreement. In case the taxpayer does not agree to the issued anticipated individualized tax solution or advance pricing agreement, he/she shall notify the issuing fiscal body, in writing, in term of 15 days from the relevant document receipt date. The anticipated individualized tax solution or the advance pricing agreement in relation to which the taxpayer has notified the issuing fiscal body shall have no legal effect.

(7) The taxpayer, titular of an advance pricing agreement, shall have the obligation to submit an annual report regarding the manner in which has observed the terms and conditions of the agreement during the fiscal year, to the issuing fiscal body. The report shall be submitted by the deadline provided by law for the submission of the annual financial statements.

(8) The anticipated individualized tax solution and the advance pricing agreement shall be no longer valid if the legal provisions of the tax material law on which basis the decision has been taken, are modified.

(9) The issuing of an anticipated individualized tax solution, as well as the issuing or change of an advance pricing agreement are subject to fees cashed by the issuer and established by Government Decision.

(10) The applicant taxpayer shall be entitled to a refund of the tariff paid in case the competent fiscal body repelled the issuing/change of the anticipated individualized tax solution or of the advance pricing agreement or in case the issuing procedures are interrupted, under circumstances approved by Government Decision.

(11) The deadline for issuing the advance pricing agreement shall be of 12 months for unilateral advance pricing agreements and of 18 months for bilateral or multilateral advance pricing agreements, as the case may be. The deadline for issuing of the anticipated individualized tax solution shall be of 45 days. Provisions of art. 70 are to apply correspondingly.

(12) The issuing procedure for the anticipated individualized tax solution and the advance pricing agreement shall be approved by Government Decision.

ARTICLE 43

Content and grounding of the tax administrative document

- (1) The tax administrative document shall be issued only in writing.
- (2) The tax administrative document shall include the following elements:
 - a) designation of the issuing fiscal body;
 - b) the date of issuance and the date when it becomes effective;
 - c) identification data for the taxpayer or the person empowered by the taxpayer, as the case may be;
 - d) the object of the tax administrative document;
 - e) de facto reasons;
 - f) legal grounds;
 - g) the name and the signature of the persons empowered by the fiscal body, by law;
 - h) the stamp of the issuing fiscal body;
 - i) the possibility of appeal, the appeal submission deadline and the fiscal body where the appeal shall be submitted;
 - j) specifications concerning the hearing of the taxpayer.
- (3) The fiscal administrative document issued under par. (2) through information technology means is to be still valid, even if it does not bear the signature of empowered persons of the fiscal body as per law or the stamp of the issuing body, provide that it met the legal requirements applicable on such matters.
- (4) The categories of tax administrative documents to be issued under the provisions of paragraph (3) shall be established by an order of the Minister for Economy and Finances. (3).

ARTICLE 44

Communication of the tax administrative document

- (1) The tax administrative document should be communicated to the taxpayer to whom it is intended. In case of taxpayers without fiscal domicile in Romania,

who appointed their empowered persons according to art. 18 par. (4), and in case of appointment of a fiscal trustee under art. 19, the tax administrative document shall be communicated to the relevant empowered person or fiscal trustee, as the case may be.

(2) The tax administrative document shall be communicated as follows:

a) by the presence of the taxpayer at the offices of the issuing fiscal body and the receipt of the tax administrative document by him/herself against signature, in which case the date of communication is the date on which the document is handed over against signature;

b) by remittance of the tax administrative document against signature by the persons authorized according to the law by the fiscal body, in which case the date of communication is the date of remittance against signature of the document;

c) by mail, using registered letter with confirmation of receipt, sent to the fiscal domicile of the taxpayer, as well as by other means such as facsimile, e-mail, provided that the transmission of the text of the tax administrative document and the confirmation of its receipt are ensured;

d) by advertising.

(3) Communication by advertising shall be carried out by means of posting a notice mentioning the fact that the tax administrative document has been issued to the taxpayer, both at the offices of the issuing fiscal body and on the website of the National Agency for Fiscal Administration. In case of tax administrative documents issued by the fiscal bodies provided in art. 35, posting shall be performed simultaneously on their offices and on the homepage of the relevant local public administration authority. In case the local public administration authority does not own a website, the information shall be posted on the website of the county council. In all the above cases, it is considered that the tax administrative document has been communicated in 15 days from the date of posting of the notice.

(4) The provisions of the Civil Procedure Code regarding the communication of procedural documents shall be adequately applied.

ARTICLE 45

Binding of the tax administrative document

The tax administrative document shall become effective as of the moment when it is communicated to the taxpayer or on a subsequent date, as mentioned in the communicated administrative document, under the law.

ARTICLE 46

Nullity of the tax administrative document

The lack of any of the elements of the tax administrative document referring to the surname, forename and capacity of the empowered person of the fiscal body, to the taxpayer's surname and forename or designation, to the subject of the tax administrative document or to the signature of the empowered person of the fiscal body, with the exception provided by art. 43 par. (3) is to trigger such tax administrative act nullity. Nullity may be ascertained upon request or ex officio.

ARTICLE 47

Cancellation or modification of tax administrative documents

(1) The tax administrative document may be modified or cancelled in accordance with the provisions of this Code.

(2) The total or partial cancellation, by law, of the tax administrative documents by which main tax receivables have been established, shall lead the total or partial cancellation of the tax administrative documents by which have been established the ancillary tax receivables related to the cancelled main tax receivables.

ARTICLE 48

Correction of material errors

The fiscal body may correct material errors in the tax administrative document ex officio or upon the taxpayer's request. The corrected tax administrative document is to be communicated to the taxpayer, by law.

CHAPTER 3

Administration and assessment of evidence

SECTION 1

General provisions

ARTICLE 49

Means of evidence

(1) In order to determine the tax state of fact, the fiscal body manages means of evidence under the law and may resort to the following:

- a) requesting of information of any kind from the taxpayer and from third parties;
- b) requesting of expert's reports;
- c) the use of writs;
- d) carrying out of on-site investigations.

(2) The evidence administered shall be corroborated and assessed by taking into account their proving force as recognized by the law.

ARTICLE 50

The right of the fiscal body to request the taxpayer's presence at its registered office

The fiscal body may request the taxpayer's presence at its registered office in order to provide information and clarifications necessary for the determination of his/her actual tax state of fact. The request shall be accompanied when necessary by a list of documents, drafted by the fiscal body, to be presented mandatory by the taxpayer.

ARTICLE 51

Communication of information among fiscal bodies

If during a certain fiscal procedure, facts that may be relevant to other fiscal legal relations are ascertained, the fiscal bodies shall communicate to each other the information they possess.

SECTION 2
Information and expert's reports

ARTICLE 52
Obligation to provide information

(1) The taxpayer or other person empowered by this one shall have the obligation to provide the fiscal body with information as necessary for the determination of the tax state of fact. In the same purpose, the fiscal body shall have the right to request information also to other persons with whom the taxpayer had or have economic or legal relations. Information provided by other persons are to be taken into account only to the extent that they are also confirmed by other means of evidence.

(2) The application for information shall be presented in writing and it shall also specify the nature of the information requested to determine the tax state of fact, as well as a list of documents required to support the information provided.

(3) The declaration of persons having the obligation, according to par. (1) to provide information, is to be done either orally or in writing, as the case may be.

(4) In case the person compelled to provide information in writing is unable to write for reasons independent of his/her will, the fiscal body shall draw up a report in this regard.

ARTICLE 53
Periodically providing of information

(1) Taxpayers are to have the obligation to provide the fiscal bodies periodically with information regarding their activities.

(2) Providing of information set forth in par. (1) shall be made by filling in of a declaration on own liability.

(3) The nature of information to be provided, the periods when it shall be provided, as well as the model for statutory declarations shall be established by order of the President of the National Agency for Fiscal Administration.

ARTICLE 54
Obligation of banks to provide information

(1) Banks are required to communicate to fiscal bodies the list of individuals, legal persons or any other entities without legal personality that open or close accounts, such persons' legal status and domicile or registered office. The information shall be provided twice a month, concerning the accounts opened or closed during the period prior to the communication, to the Ministry of Economy and Finance.

(2) The Ministry of Economy and Finance together with the National Bank of Romania shall prepare the procedures regarding the transmission of information under paragraph (1).

(3) Upon the justified request of central and local public authorities, the Ministry of Economy and Finance is to transmit to such authorities information held, on the basis of par. (1), to the purpose of the achievement by those authorities of their responsibilities by law.

ARTICLE 55

Expert's report

(1) Whenever deemed necessary, the fiscal body has the right to resort to services of an expert in order to prepare an expert report. The fiscal body shall have the obligation to communicate the expert's name to the taxpayer.

(2) The taxpayer may appoint an expert at his/her own expense.

(3) Experts are obliged to keep the fiscal secret concerning the data and information that they acquire.

(4) Expert reports shall be made in writing.

(5) Fees charged for the expert studies carried out under the provisions of this article shall be paid from the budgets of the tax authorities that requested the expert's services, as the case may be.

SECTION 3

Verification of writs and on-site investigations

ARTICLE 56

Producing writs

(1) For the determination of the tax state of fact, taxpayers are to make available to the fiscal body registers, records, business documents, and any other writs. In the same purpose, the fiscal body shall have the right to request writs also to other persons with whom the taxpayer had or have economic or legal relations.

(2) The tax authority may request that writs be made available at their office or at the fiscal domicile of the person obliged to present such writs.

(3) The fiscal body has the right to keep, for the purpose of protection against disposal or destruction, documents, acts, written documents, registers and financial-accounting documents or any material element that proves the assessment, record and payment of tax obligations by the taxpayer, for a period of maximum 30 days. In exceptional cases, with the approval of the fiscal body, the period of keeping such documents may be prolonged by maximum 90 days.

ARTICLE 57

On-site investigation

(1) The fiscal body may carry out an on-site investigation under the provisions of the law, and it shall make a report in this respect.

(2) Taxpayers shall have the obligation to allow the officers empowered by the fiscal body to carry out an on-site investigation and the experts employed in such actions to access on the lands, rooms and any other premises, to the extent that this is deemed necessary in order to ascertain tax related facts.

(3) Owners of such lands or premises are to be informed in due time about the investigation, except for cases provided in art. 97 par. (1) letter b). Individuals are to be informed of their right to refuse access to their domicile or residence.

(4) In case of denial of this access, the access to the domicile or residence of the individual shall take place with a warrant issued by the competent court, and in such cases the provisions in the presidential ordinance in the Civil Procedure Code apply.

(5) Upon request of the fiscal body, the police, military police and other public order forces shall have the obligation to provide support for the enforcement of the provisions in this article.

SECTION 4

The right to deny access to evidence

ARTICLE 58

The right of relatives to refuse to supply information, produce writs and allow expert to carry out reports.

(1) The wife/husband as well as relatives of the taxpayer up to the third degree inclusively shall have the right to refuse to supply information, produce writs and allow expert to carry out reports.

(2) Persons provided in par. (1) are to be advised about such right.

ARTICLE 59

The right of other persons to refuse to supply information

(1) Priests, lawyers, public notaries, tax advisors, court executors, auditors, chartered accountants, physicians and psychotherapists may refuse to supply information concerning the data they became aware of during their professional activity, except information concerning the fulfillment of tax obligations established by law to be their responsibility.

(2) Nurses as well as persons that participate in their professional activity are to be assimilated to persons under par. (1).

(3) Persons provided in par. (1), except for priests, may provide information, upon the consent of the person about whom the information was requested.

(4) By derogation from the provisions of par. (1) - (3), in order to clarify and establish the tax state of fact of the taxpayers, the specialized departments of the local public administration authorities are entitled to request information and tax-relevant documents or documents that help identify taxpayers or taxable material, as the case may be, and public notaries, lawyers, court executors, police, customs authorities, public community services issuing drivers' licenses and vehicle registration, public community services issuing simple passports, as well as any other entity in possession of information or documents concerning taxable goods or taxpayer capacity, shall have the obligation to supply such information free of charge.

SECTION 5

Collaboration among public authorities

ARTICLE 60

The obligation of public authorities and institutions to supply information and to produce documents

(1) Public authorities, public institutions and institutions of public interest, central and local, as well as decentralized departments of the central public authorities are to supply information and documents to fiscal bodies, upon their request.

(2) For the achievement of the purpose of this Code, the fiscal bodies may access online the database of the institution provided in par. (1), to obtain information established on the basis of a protocol.

ARTICLE 61

Collaboration among public authorities, public institutions or institutions of public interest

(1) Public authorities, public institutions or institutions of public interest are obliged to collaborate for the purpose of carrying out the provisions of this Code.

(2) Actions carried out by authorities in par. (1), in accordance with their competence by law are not to be deemed as collaboration.

(3) The tax authority requesting collaboration is responsible for the legality of such requests, and the authority to which the request was sent is responsible for the data provided.

ARTICLE 62

Conditions and limits of collaboration

(1) The collaboration between public authorities, public institutions and institutions of public interest shall be carried out within the limits of their respective competence by law.

(2) If the public authority, the public institution or the institution of public interest refuses the collaboration, the public authority that is higher than both bodies is to decide upon. If such authority does not exist, then the decision is to be made by the authority higher than that whose collaboration was requested.

ARTICLE 63

Interstate collaboration among public authorities

(1) Fiscal bodies shall collaborate with fiscal bodies authorities from other States based on international conventions.

(2) In the absence of a convention, fiscal bodies may grant or request the collaboration of another fiscal body from another State, based on reciprocity.

SECTION 6

Weight of evidence

ARTICLE 64

Weight of evidence of justifying documents and accounting records

The taxpayer's justifying documents and accounting records are to constitute evidence when assessing the taxation base. In case there are other supporting documents as well, such documents are to be taken into account for the determination of the taxation base.

ARTICLE 65

Weight of evidence in proving the tax state of fact

(1) The taxpayer has the obligation to prove the documents and facts that grounded his/her declarations and any application submitted to the fiscal body.

(2) The fiscal body has the obligation to justify the assessment decision based on evidence or on own findings.

ARTICLE 66

Proving the titular of the ownership right for taxation purposes

(1) If certain goods, income or other valuables that by law are included in the taxable base are found as being held by persons that continuously benefit of gains or by any regular benefits derived from them and such persons declare in writing that they are not owners of such goods, income or valuables in question without showing who is the titular of such ownership right, then the fiscal body shall resort to the temporary assessment of the adequate tax obligation on the burden of the such persons.

(2) Under the law, the tax obligation regarding the taxable base in par. (1) may be determined as being in charge of the titular of the ownership right. Similarly, such titular is to owe damages to the persons that made the payment for the settlement of the obligation assessed according to par. (1).

ARTICLE 67

Estimation of the taxation base

(1) If the fiscal body cannot assess the taxation base, then such fiscal body is to estimate it. In such case, all data and documents relevant for the estimate shall be taken into account. The estimate consists in the identification of amounts that are closest to that tax state of fact.

(2) In cases that under the law, fiscal bodies are entitled to estimate the taxation base, such fiscal bodies shall take into account the market price of the taxable transaction or good, as defined in the Fiscal Code.

CHAPTER 4

Deadlines

ARTICLE 68

Computation of deadlines

Deadlines of any type as regards the exercise of rights and the satisfaction of obligations provided in the Fiscal Procedure Code as well as by other legal provisions applicable on the matter, unless the tax law provides different, shall be computed according to the provisions of the Civil Procedure Code.

ARTICLE 69

Extension of deadlines

Deadlines for the submission of fiscal declarations and deadlines established by a fiscal body by law may be extended under well-grounded circumstances, according to the competence as determined by an order of the Minister of Economy and Finance.

ARTICLE 70

The deadline for settling taxpayers' applications.

(1) Applications submitted by the taxpayer under this code shall be settled by the fiscal body in 45 days from the application registration date.

(2) In situations in which for the resolution of request there are necessary additional information relevant to the decision, this deadline shall be extended by the period between the date of application and the date of the receipt of the requested information.

ARTICLE 71

Force Majeure event and fortuitous event

(1) The deadlines provided by law to fulfill tax obligations, as appropriate, shall not begin to run or shall be suspended if the fulfillment of these obligations has been hindered by the occurrence of a Force Majeure event or a fortuitous event.

(2) Tax obligations shall be deemed to be fulfilled in time without charging the delay penalties or applying other sanctions provided by law, if they are fulfilled in term of 60 days of the date of ceasing of the events referred to in par. (1).

TITLE IV

Fiscal registration and accounting and fiscal records

ARTICLE 72

Fiscal registration obligation

(1) Any person or entity that is subject to a fiscal legal relation is to register from a fiscal point of view and is to receive a fiscal identification code. The fiscal identification code is to be as follows:

a) for legal persons, except for traders, and for associations and other entities without legal personality, the fiscal registration code as granted by the competent fiscal body in the subordination of the National Agency for Fiscal Administration;

b) for individuals, the personal identification number as granted under special laws;

c) for individuals that do not have a personal identification number, the fiscal identification number as granted by the competent fiscal body in the subordination of the National Agency for Fiscal Administration;

d) for traders, including subsidiaries of traders whose main trade location is abroad, the single registration code as granted under special laws;

e) for individuals that develop independently economic activities or exercise liberal professions, the fiscal registration code as granted by the competent fiscal body in the subordination of the National Agency for Fiscal Administration.

(2) Persons provided in par. (1) letter d) are to register from fiscal point of view according to the special relevant procedure.

(3) For purposes of granting the fiscal identification code, persons provided in par. (1) letters a), c) and e) shall have the obligation to submit a fiscal registration declaration.

(4) Persons under par. (1), letter b) that have the capacity of employers are also to have the obligation to fill in a fiscal registration declaration.

(5) Taxpayers that obtain incomes from independent activities for which anticipatory payments are made by withholding by payers of incomes, are required to submit the fiscal registration declaration to the competent fiscal body, for registration purposes.

(6) The registration declaration shall be submitted within 30 days as of:

a) the date of establishment by law, in case of legal persons, associations and other entities without legal personality;

b) the date of issuance of the legal functioning authorization, of inception of activity, of obtaining the first income or acquiring the employer status, as applicable, in case of individuals.

ARTICLE 73

Obligation to mark the fiscal identification code on documents

Payers of taxes, fees, contributions and other amounts owed to the general consolidated budget are required to mark the own fiscal identification code on invoices, letters, offers, orders or any other documents issued by them.

ARTICLE 74

Declaration of subsidiaries and secondary offices

(1) Taxpayers are required to declare to the competent fiscal body in the subordination of the National Agency for Fiscal Administration the establishment of secondary offices within 30 days.

(2) Taxpayers that have the fiscal domicile in Romania are required to declare the establishment of subsidiaries and secondary offices abroad within 30 days as of the establishment date.

ARTICLE 75

Form and content of the fiscal registration declaration

(1) The fiscal registration declaration shall be prepared by the completion of a standard form made available for free by the fiscal body in the subordination of the National Agency for Fiscal Administration and shall be accompanied by proofing documents for the information included in such declaration.

(2) The fiscal registration declaration is to include: the taxpayer's identification data, categories of payment obligations due according to the Fiscal Code, data about the secondary offices, identification data of the empowered person, data regarding the taxpayer's legal status, as well as any information necessary for the administration of taxes, fees, contributions and other amounts due to the general consolidated budget.

ARTICLE 76

Fiscal registration certificate

(1) Based on the fiscal registration declaration, submitted according to art. 72 par. (3), the competent fiscal body in the subordination of the National Agency for Fiscal Administration is to issue the fiscal registration certificate, within 15 days as of the date of submission of such declaration. The fiscal identification code must be included in the fiscal registration certificate.

(2) The issuance of fiscal registration certificates is not to be subject to stamp fees.

(3) Taxpayers that obtain incomes from trade activities or supplies of services to public are required to post the fiscal registration certificate in places where they carry out activity.

(4) In case of loss, theft or destruction of the fiscal registration certificate, the fiscal body shall issue a duplicate of it based on the taxpayers' application and on the proof of the publication regarding such loss, theft or destruction in the Official Gazette of Romania, Part III.

ARTICLE 77

Subsequent modifications to fiscal registration

(1) Subsequent modifications of data included in the fiscal registration declaration must be informed to the competent fiscal body in the subordination of the National Agency for Fiscal Administration within 30 days as of their occurrence, by the completion and the submission of the declaration of specifications.

(2) When conditions that led to the fiscal registration no longer exist, taxpayers are required to submit the fiscal registration certificate together with the declaration of specifications to the fiscal bodies, for cancellation purposes.

ARTICLE 78

Taxpayers Register

(1) The competent fiscal body in the subordination of the National Agency for Fiscal Administration shall organize the records of payers of taxes, fees, contributions and other amounts owed to the state budget, social insurance budget, the budget of the single fund of health social insurance, unemployment insurance budget in the taxpayers register, that includes:

a) the taxpayer's identification data;

b) categories of declaration tax obligations according to the law, hereinafter called fiscal vector; the categories of tax obligations part of the fiscal vector shall be determined by order of the Minister of Economy and Finance;

c) other information necessary for the administration of tax obligations.

(2) Data provided in par. (1) are to be completed based on the information communicated by taxpayers, by the Trade Register Office, by the department of population records, by other authorities and institutions and according to own findings of the fiscal body as well.

(3) Data in the taxpayers register may be modified ex officio whenever there is found that they do not correspond to the actual state of fact and such modifications shall be informed to taxpayers.

(4) The ex officio modification of the fiscal domicile based on findings made according to par. (3) are to be made by a decision issued by the competent fiscal body after the taxpayer's prior hearing according to art. 9.

(5) The taxpayer, legal persons or any other entities without legal personality not fulfilling their tax declaration obligations for two consecutive declaration deadlines, and related to whom the competent fiscal body does not approved a measure for the fulfillment of their tax obligations, upon their request, shall be deemed as inactive, following to be applied to them the provisions of art. 11 par. (1¹) and (1²) from Law no 571/2003 on the Fiscal Code, as subsequently amended and completed.

ARTICLE 79

Obligation to keep fiscal records

(1) In order to determine the actual tax state of fact and the tax obligations owed, taxpayers are required to keep fiscal records according to the normative acts in force.

(2) In order to establish transfer prices, taxpayers engaged in transactions with affiliated persons shall prepare and submit at the request of the competent fiscal body, at the deadlines set by it, the file of transfer prices. The contents of the transfer prices file shall be approved by the order of the President of the National Agency for Fiscal Administration.

ARTICLE 80

Rules for keeping of the accounting and fiscal records

(1) Accounting and fiscal records shall be kept at the taxpayer's fiscal domicile or the secondary offices, as the case may be, including on electronic support or may be entrusted to be kept to a company authorized by law to provide services for archiving.

(2) By way of derogation from provisions of par. (1), accounting and tax records of the current financial year shall be stored, as appropriate, at the tax domicile of taxpayers, at their secondary offices or, in the 1st-25th of the following month, at the headquarters of the natural or legal person authorized for processing them in order to draw up the fiscal declarations.

(3) Legal provisions on the accounting records keeping, archiving and language used for, are applicable to tax records as well.

(4) In case that accounting and fiscal records are kept by means of electronic management systems, besides data archived in electronic form, the taxpayers are also required to keep and explain the IT applications by the aid of which they have generated such records.

(5) Taxpayers are required to record the income realized and expenses incurred from the activities carried out, by preparing registers or any other documents as provided by law.

(6) For the activity carried out, taxpayers are required to use primary documents and accounting record documents as provided by law, purchased only from units determined through legal norms in force and to integrally complete the forms boxes according to operations recorded.

(7) The fiscal body may take into account any records maintained by taxpayers that are relevant for taxation purposes.

TITLE V **Fiscal declaration**

ARTICLE 81

Obligation to submit fiscal declarations

(1) The fiscal declaration shall be submitted by the persons compelled to do so, according to the Fiscal Code, at the deadlines provided by such Fiscal Code.

(2) In case the Fiscal Code does not include any provision in this regard, the Ministry of Economy and Finance shall determine the deadline for the submission of the fiscal declarations.

(3) The obligation to submit the fiscal declaration is still valid in cases when:

- a) the tax obligation was paid;
- b) such tax obligation is exempt from payment, according to legal regulations;
- c) the fiscal body assessed ex officio the taxation base as well as the due tax obligation;
- d) for the tax obligation there are no due payment amounts in the reporting period, but there is a statement obligation, according to the law.

(4) In case of temporary inactivity or in case of obligations to declare certain incomes that are exempt from the payment of income tax under the law, the competent fiscal body may approve, upon the taxpayer's application, other deadlines or conditions for the submission of fiscal declarations, depending on the needs of the administration of tax obligations. As regards the deadlines and conditions, the fiscal body shall decide, according to its competences as approved by an order of the Minister of Economy and Finance.

ARTICLE 82

Form and content of fiscal declaration

(1) The fiscal declaration shall be prepared by filling in a standard form that is made available for free by the fiscal body.

(2) The taxpayer shall compute the amount of the tax obligation in the fiscal declaration, if so provided by law.

(3) The taxpayer shall have the obligation to fill in the fiscal declaration by specifying the information required in the form according to his/her fiscal status, of a correct, complete manner and in good faith. The fiscal declaration is to be signed by the taxpayer or by his/her empowered person.

(4) The obligation of signing a fiscal declaration is considered to be fulfilled in the following situations:

- a) in the case of transmission of fiscal declaration via electronic payment system. The date of submission of the fiscal declaration is considered to be the date of debiting of the payer's account under its basis;

b) in the case of transmission of fiscal declaration by electronic systems with remote transmission according to the art. 83 par. (1).

(5) The fiscal declaration shall be accompanied by the documentation as required by legal provisions.

(6) For certain tax obligation categories as provided by an order of the Minister of Economy and Finance, the fiscal body may send the declaration forms for taxes, fees, contributions and other amounts owed to the general consolidated budget, instructions for filling in, other useful information and self-addressed envelopes to taxpayers. In such case, the mailing cost is to be borne by the fiscal body.

ARTICLE 83²

Submission of fiscal declarations

(1) The fiscal declaration is to be submitted to the registration office of the competent fiscal body, or by mail, through a registered letter. The fiscal declaration may be transmitted by electronic means or by remote transmission systems, according to the procedure provided by an order of the Minister of Economy and Finance.

(2) Fiscal declarations may be prepared by the fiscal body in form of minutes, provided that the taxpayer is unable to write for reasons beyond his/her will.

(3) The date of submission of fiscal declaration is the date of such fiscal declaration registration at the fiscal body or the date of its submission to the post office, as the case may be. In case the fiscal declaration is submitted by remote transmission electronic systems, the date of its submission is the date of its recording on the website of the fiscal body as result from the electronic message for confirming the receipt of the declaration.

(4) Failure to submit the fiscal declaration shall give to the fiscal body the right to proceed to the ex officio assessment of the taxes, fees, contributions and other amounts due to the general consolidated budget. The ex-officio assessment of tax obligations may not be performed before the end of a 15 day period after the taxpayer's information as regards the failure to observe the legal deadline for the submission of the fiscal declaration. In case of taxpayers having the obligation to declare the taxable goods or incomes, the assessment ex-officio of the tax obligations shall be made by estimating their taxation base according to art. 67. The ex-officio tax decision shall not be made in case of inactive taxpayers or taxpayers from special registers as long as they are in this condition.

(5) The taxpayers' annual fiscal declarations in case of legal persons shall be certified by a tax advisor according to the law, except those taxpayers for which the audit carrying out is mandatory.

ARTICLE 84

Correction of fiscal declarations

Fiscal declarations may be corrected by the taxpayer on own initiative.

² According to art. II par. (2) from the Government Emergency Ordinance no 19/2008 , the application of the provisions of art. 83 par. (5) of the Government Ordinance no 92/2003 on the Fiscal Procedure Code, republished, as subsequently amended and completed, shall be suspended until January 1, 2010.

TITLE VI
**Assessment of taxes, fees, contributions and other amounts owed to the
general consolidated budget**

CHAPTER 1
General provisions

ARTICLE 85
**Assessment of taxes, fees, contributions and other amounts owed to the
general consolidated budget**

(1) Taxes, fees, contributions and other amounts owed to the general consolidated budget shall be assessed as follows:

a) by a fiscal declaration, under the conditions of art. 82 par. (2) and art. 86 par. (4);

b) by a decision issued by the fiscal body, for the rest of cases.

(2) Provisions in par. (1) are to apply also in cases that taxes, fees, contributions and other amounts owed to the general consolidated budget are exempted from payment, according to legal regulations, as well as in case of a value-added tax refund.

ARTICLE 86
Tax decision

(1) The tax decision is to be issued by the competent fiscal body. The fiscal body is to issue a tax decision whenever it modifies the taxation base.

(2) For tax receivables administered by the Ministry of Economy and Finance through the National Agency for Fiscal Administration, other competences for the issuance of tax decisions as a result of the tax audit may be established as well, by an order of the Minister of Economy and Finance.

(3) The tax decision is to be issued, if necessary, also in case that no decision has not been issued regarding the taxation base as per art. 89.

(4) The fiscal declaration prepared according to art. 82 par. (2) is assimilated with a tax decision under the reserve of its subsequent verification, and has the legal effects of a payment notification starting with the date of its submission.

(5) In case the law does not provide for the obligation to re-compute the tax, the fiscal declaration shall be assimilated to a decision referring to the taxation base.

(6) The tax decision and the decision referring to ancillary tax obligations are also payment notifications as of the date of communication thereof, in case payment amounts are established.

(7) Before 1 July 2005, the amounts of taxes, fees, contributions and other amounts due to the general consolidated budget, included in tax decisions, in the tax administrative documents assimilated with tax decisions and in the fiscal declarations shall be rounded to 1,000 lei by reduction when the amount to be rounded is less than 500 lei and by increase when it is higher than 500 lei³.

³ Amounts are expressed in ROL.

ARTICLE 87

Form and content of the tax decision

The tax decision should meet the conditions provided in art. 43. The tax decision should contain, besides the elements provided in art. 43 par. (2), also the category of tax, fee, contribution or other amount due to the general consolidated budget, the taxation base as well as the due tax obligation amount, separately for each taxable period.

ARTICLE 88

Tax administrative documents assimilated to tax decisions

The following tax administrative documents shall be assimilated to tax decisions:

- a) decisions regarding value-added tax refunds and decisions regarding refunds of taxes, fees, contributions and other amounts due to the general consolidated budget;
- b. decisions referring to the taxation bases;
- c) decisions as regards ancillary tax obligations to be paid;
- d) the minutes provided in art. 142 par. (6) and art. 168 par. (2);
- e) decisions not to modify the taxation base.

ARTICLE 89

Decisions referring to taxation bases

Taxation bases shall be determined separately, by a decision regarding taxation bases in the following cases:

- a) when the taxable income is obtained by several persons. The decision is to include also the distribution of the taxable income per each person that participated in the realization of such income;
- b) when the source of the taxable income is located within the jurisdiction of a fiscal body, different from the competent territorial one. In such case, the competence to determine the taxation base is to stay with the fiscal body within whose jurisdiction the income source is located.

(2) In case the taxable income is obtained by several persons, then such persons may appoint a jointly empowered person to carry out the relation with the fiscal body.

ARTICLE 90

Determination of tax obligations under the reserve of further verification

(1) The amount of fiscal obligations shall be determined under the reserve of further verifications.

(2) The tax decision under the reserve of further verification may be cancelled or amended upon the initiative of the fiscal body or upon the taxpayer's application, based on the findings of the competent fiscal body.

(3) The reserve of further verification shall be cancelled only after the end of the statute of limitation or as a result of the tax audit carried out within such limitation period.

CHAPTER 2

Limitation of the right to assess tax obligations

ARTICLE 91

Object, deadline and beginning of the statute of limitation of the right to assess tax obligations

(1) The fiscal body right to determine tax obligations is limited to five years, unless otherwise provided by law.

(2) The statute of limitation of the right provided in par. (1) is to begin as of 1st January of the year following the year when the tax receivable arose according to art. 23, unless otherwise provided by law.

(3) The right to assess tax obligations shall be limited to 10 years, provided that such obligations result from a criminal law violation committed as provided by criminal law.

(4) The deadline in par. (3) is to begin as of the date of committing the fact that is a criminal law violation and is to be sanctioned as such by a final court decision.

ARTICLE 92

Interruption and suspension of statute of limitation for the right to assess tax obligations

(1) The deadline provided in art. 91 is to be interrupted and suspended in cases and circumstances provided by law for the interruption and suspension of the statutes of limitation of the right to act according to the common law.

(2) The statute of limitation of the right to assess the tax obligation shall be suspended for the period between the moment of beginning the tax audit and the moment of issuance of the tax decision, as a result of carrying out the tax audit.

ARTICLE 93

Effect of the expiry of statute of limitation of the right to assess tax obligations

If the fiscal body ascertains that the statute of limitation of the right to assess tax obligations expired, such fiscal body shall proceed to the cease of the procedure of issuing the tax receivable title.

TITLE VII

Tax audit

CHAPTER 1

Scope of the tax audit

ARTICLE 94

Tax audit object and functions

(1) The object of tax audits shall be the verification of the legality and the conformity of tax declarations, the accuracy and exactness of the taxpayers' compliance with obligations, the observance of the accounting and fiscal legislation provisions, as well as the verification or assessment, as the case may be, of the taxation bases and the determination of differences related the main and ancillary tax obligations.

(2) The tax audit shall have the following tasks:

a) to fiscally ascertain and investigate all documents and facts that result from the activity of the taxpayer that is subject to the audit or of other persons as regards the legality and conformity of fiscal declarations, the accuracy and exactness of the compliance with tax obligations, in order to discover new elements that are relevant for the application of fiscal provisions;

b) to analyze and assess fiscal data in order to compare fiscal declarations with the own information or information obtained from other sources;

c) to sanction the facts ascertained, according to law, and to enforce measures for the prevention and fight against deviations from the fiscal legislation.

(3) In order to comply with tasks under par. (2) the tax audit body is to carry out the following:

a) to examine documents in the taxpayer's fiscal file;

b) to verify the concordance between data in fiscal declarations and data in the taxpayer's accounting records;

c) to discuss findings and to request explanations in writing from the legal representatives of taxpayers or their empowered persons, as the case may be;

d) to request information from third parties;

e) to determine the correct taxation base, of differences due in plus or minus, as appropriate, compared to the tax receivable declared and/or assessed, as appropriate, at the time of commencement of the tax audit;

f) to assess differences related to the main and ancillary tax obligations;

g) to verify places where activities that generate taxable incomes are carried out;

h) to decide precautionary measures, under the law;

i) to carry out tax investigations, according to par. (2) letter a);

j) to apply sanctions, according to legal provisions;

k) to apply seals on assets, preparing a report in this regard.

(4) The tax audit has no competence to carry out technical-scientific findings or any other verifications requested by the criminal investigative bodies to clarify certain facts or circumstances of the cases on the docket in these institutions.

ARTICLE 95

Persons subject to tax audit

The tax audit shall be carried out in respect to all persons, irrespective of their organization form, having the obligation to assess, withhold and pay taxes, fees, contributions and other amounts due to the general consolidated budget, as provided by law.

ARTICLE 96

Forms and extend of tax audit

(1) Forms of the tax audit shall be as follows:

a) general tax audit, which is the activity of verification of all categories of a taxpayer's tax obligations for a determined period.

b) partial tax audit, which is the activity of verification of one or more than one tax obligations for a determined period.

(2) The tax audit can be extended over all relations that are relevant for taxation purposes, provided that such relations are of interest for the application of the fiscal law.

ARTICLE 97

Tax audit procedures and methods

(1) In carrying out its functions, the tax audit may apply the following audit procedures:

a) unannounced audit, which consists in the activity of verification of facts and documents mainly as a result to an information note regarding the existence of certain violations of fiscal legislation, without previously notifying the taxpayer;

b) crossed audit, which consists in the verification of documents and taxable operations of the taxpayer in correlation to those held by other persons; the crossed audit may also be an unannounced audit.

(2) At the end of the unannounced audit, a report shall be concluded.

(3) In carrying out its duties, tax audit can apply the following auditing methods:

a) audit by sampling, which lies in the activity of selective verification of documents and significant operations, which are reflected in the calculation of prominence and the payment of the tax liability due to the general consolidated budget;

b) electronic audit, which consists of checking accounts and their sources, processed electronically, using methods of analysis, evaluation and testing assisted by computer specialized tools.

ARTICLE 98

Period subject to tax audit

(1) The tax audit shall be carried out within the statute of limitation for the right to assess tax obligations.

(2) For large taxpayers, the period subject to tax audit is to begin as of the end of the period which was previously audited, in compliance with par. (1).

(3) For the other categories of taxpayers, the tax audit is to be carried out upon the receivables arisen within the last three fiscal years for which there is an obligation to submit tax declarations. The tax audit can be extended over the statute of limitation of the right to assess tax obligations provided that at least one of the following circumstances is identified:

a) there are indications as regards diminishing taxes, fees, contributions and other amounts owed to the general consolidated budget;

b) no fiscal declarations have been submitted within the period of of limitation of the right to assess tax obligations;

c) obligations of payment of taxes, fees, contributions and other amounts due to the general consolidated budget have not been satisfied.

CHAPTER 2

Carrying out of the tax audit

ARTICLE 99

Competence

(1) The tax audit shall be carried out exclusively, directly and with no limitations throughout the National Agency for Fiscal Administration or, as the case may be, by specialist departments of authorities of local public administration, according to provisions of this title or by other authorities that are competent by law to administer taxes, fees, contributions and other amounts due to the general consolidated budget.

(2) The competence to exercise the tax audit of the National Agency for Fiscal Administration and of its subordinated units shall be established by an order of the President of the National Agency for Fiscal Administration. The tax audit bodies within the central organization of the National Agency for Fiscal Administration shall have competence in carrying out of the tax audit on the entire territory of the country.

(3) Competence regarding carrying out of tax audits may be delegated to a different fiscal body. Within the National Agency for Fiscal Administration the conditions under which this delegation may be performed are established by an order of the President of the National Agency for Fiscal Administration.

ARTICLE 100

Taxpayers selection for tax audit purposes

(1) The competent fiscal body shall be in charge with the selection of taxpayers to be subject to tax audits.

(2) The taxpayer cannot object as regards the selection procedure used.

ARTICLE 101

Notification of tax audit

(1) Prior to carrying out a tax audit, the fiscal body shall have the obligation to inform taxpayers about the intended action, by a notification of tax audit.

(2) The notification of tax audit shall include the following:

a) the tax audit legal grounds;

b) the date when the tax audit is likely to commence;

c) the tax obligations and periods that are subject to the tax audit.

d) the possibility to apply for a postponement of the date of beginning the tax audit. The postponement of the tax audit date can only be applied for once, based on well-grounded reasons.

ARTICLE 102

Communication of the tax audit notification

(1) The tax audit notification shall be communicated to the taxpayer in writing, before the beginning of the tax audit, as follows:

- a) 30 days before, for large taxpayers;
- b) 15 days before, in the other cases.

(2) The communication of the tax audit notification is not required in the following cases:

- a) for the solution of certain taxpayer's applications;
- b) for actions that are carried out further to the request from other authorities, under the law;
- c) in case of unannounced audit and cross audit;
- d) in case of control restore following a provision of review contained in the decision delivered for the appeal.

(3) During a tax audit for settlement of a taxpayer's claim, the audit body may decide to conduct a general or partial audit. In this case, following an exception from the provisions of par. (1), the tax audit notification shall be communicated to the taxpayer even during the audit carried out in order to solve the application.

ARTICLE 103

Place and period of carrying out tax audit

(1) A tax audit is to be generally carried out at the taxpayer's business premises. The taxpayer has to make available an adequate room and the logistics required for the performance of the audit.

(2) In the absence of an adequate work place for the performance of the audit, the audit activity can be carried out at the location of the fiscal body or in any location as mutually agreed upon with the taxpayer.

(3) Irrespective of the place where the tax audit is carried out, the fiscal body has the right to inspect the places where activity is carried out, in the presence of the taxpayer or of a person designated by him/her.

(4) As a rule, the tax audit is to take place during the taxpayer's working hours. The tax audit may also be carried out outside the taxpayer's working hours, with the taxpayer's written acceptance and with the approval of the head of the fiscal body.

ARTICLE 104

Duration of carrying out of a tax audit

(1) The duration of carrying out a tax audit shall be determined by the tax audit bodies or, as the case may be, by specialist departments of authorities of local public administration, depending on the objectives of the audit and it cannot exceed 3 months.

(2) In case of large taxpayers or taxpayers that have secondary offices, the audit duration cannot exceed 6 months.

(3) Periods in which the conduct of tax audit is suspended are not included in the computing of tax audit period, according to the provisions of par. (1) and (2).

(4) The competent head of tax audit may decide to suspend a tax audit whenever there are justified reasons in this respect.

(5) The terms and conditions of suspension of a tax audit shall be established by Order of the President of the National Agency for Fiscal Administration, respectively joint order of the Minister of Economy and Finance and of the Minister of Interior and Administrative Reform, in case of tax audits conducted by the fiscal bodies provided for in art. 35, to be published in the Official Gazette of Romania, Part I.

ARTICLE 105

Rules as regards the tax audit

(1) The tax audit shall have in view the examination of all facts and legal relations that are relevant for taxation purposes.

(2) The tax audit shall be carried out so as to have a minimum impact on the current activity of the taxpayers and to use efficiently the time scheduled for the audit.

(3) The tax audit is to be carried out only once for each tax, fee, contribution and other amount due to the general consolidated budget and for each period that is subject to taxation. By way of derogation, the head of the competent tax audit body may decide to re-verify facts and documents within a certain period provided that, as of the date of completion of the tax audit and until the expiry of the statute of limitation, additional information, which tax auditors were not aware of upon the audit or errors of computation arise, which may influence such results.

(4) *** Abrogated

(5) The tax audit shall be carried out based on principles of independence, singleness, autonomy, hierarchical approach, territoriality and decentralization.

(6) The tax audit activity shall be organized and carried out based on certain annual, quarterly and monthly schedules, which shall be approved in accordance with an order of the president of the National Agency for Tax Administration, or by acts of authorities of local public administration, as the case may be.

(7) Upon the initiation of tax audits, the auditor is required to show his/her audit identity card as well as the duty order, signed by the head of the fiscal bodies, to the taxpayer. The beginning of the tax audit is to be recorded in the sole audit register.

(8) Upon the completion of tax audit, the taxpayer is obliged to prepare a written statement on own liability, to show that all documents and information required for the tax audit were made available. The statement is also to include the specification that all requested documents that were made available were returned to such taxpayer.

(9) The taxpayer is obliged to comply with the measures provided in the document prepared upon the tax audit, within the deadlines and conditions as determined by the tax audit bodies.

ARTICLE 106

The taxpayer's obligation to collaborate

(1) The taxpayer has the obligation to collaborate in ascertaining the actual tax state of fact. He/she is to provide information, to make available all documents at the audit location, and to provide any other information as necessary for the clarification of actual facts that are relevant for taxation purposes.

(2) Upon the beginning of the tax audit, the taxpayer is to be informed that he/she may designate persons to provide information. Provided that the information provided by the taxpayer or by the person appointed by him/her is insufficient, the tax auditor may contact other persons as well to obtain information.

(3) During the entire duration of carrying out the tax audit, taxpayers that are subject to such tax audit have the right to benefit from specialist or legal assistance.

ARTICLE 107

Taxpayer's right to be informed

(1) The taxpayer shall be informed during the tax audit on significant findings resulted from the tax audit.

(2) Upon the completion of the tax audit, the fiscal body are to present its findings and their fiscal consequences to the taxpayer, and are to allow such taxpayer the possibility to express his/her point of view according to art. 9 par. (1), in this code, except for the case when the taxation bases suffered no modification following the tax audit or for the case when the taxpayer waives such right and notifies the tax audit bodies on such decision.

(3) The date, the time and the place of presentation of conclusions shall be communicated to the taxpayer in due time.

(4) The taxpayer has the right to present in writing his/her point of view regarding the findings of the tax audit.

ARTICLE 108

Informing prosecution bodies

(1) Fiscal bodies shall notify the criminal investigation bodies of findings during the tax audit, which might meet the constitutive elements of a criminal law violation, under the conditions provided by the Criminal Law.

(2) In cases provided in par. (1) fiscal bodies are required to prepare a minutes signed by the taxpayer that is subject to the audit, with or without explanations or objections from the taxpayer. In case the taxpayer that is subject to the audit refuses to sign such minutes, the tax audit body shall record such fact in the minutes. In all cases, the minutes is to be communicated to the taxpayer.

ARTICLE 109

Report on the result of a tax audit

(1) The result of a tax audit shall be mentioned in a written report that includes findings of the audit from both a factual and a legal point of view.

(2) At the end of the tax audit, the report drawn shall be the basis for issuing the tax decision that shall include also up or down differences, as the case may

be, compared to the tax receivable existing at the time of tax audit commencement. In the event that the taxation base does not change, this fact shall be determined by a decision on non-changing the taxation base.

(3) Decisions provided in par. (2) are to be communicated in term of 7 days from the date of the completion of the tax audit report.

TITLE VIII **Collection of tax receivables**

CHAPTER 1 **General provisions**

ARTICLE 110 **Collection of tax receivables**

(1) For purposes of this title, the collection consists in carrying out actions in view of the settlement of tax receivables.

(2) The collection of tax receivables shall be carried out based on a receivable title or based on an execution title, as the case may be.

(3) The receivable title is the document that determines and specifies the tax receivable, which is prepared by the competent bodies or by persons authorized by law.

ARTICLE 111⁴ **Payment deadlines**

(1) Tax receivables shall become outstanding upon the expiry of the deadlines provided in the Fiscal Code or in other regulating laws.

(2) For the differences of main and ancillary tax obligations as determined by law, the payment deadline shall be determined depending on the communication date, as follows:

a) if the communication date is between the 1st and the 15th day of the month, the payment deadline shall be on or before the 5th day of the following month;

b) if the communication date is between the 16th and the 31st of the month, the payment deadline shall be on or before the 20th of the following month;

(3) For fiscal obligations with scheduled or deferred payment, as well as for ancillaries thereof, the deadline shall be established by the document by which such payment incentive is granted.

(4) For tax receivables that are administered by the Ministry of Economy and Finance for the payment of which no deadlines are provided, such deadlines shall be established by an order of the Minister of Economy and Finance.

⁴ According to art. I par. 9 and art. II par. (1) from the Government Emergency Ordinance no 19/2008 , starting with July 1, 2008, article 111 paragraph (7), letter a) shall modify and shall have the following contents:

"a) quarterly, until on 25 of the next month of the quarter, inclusively, by the taxpayer legal persons payers of the tax on the incomes of the micro-enterprises, the associations without legal personality established by individuals as well as by the individuals having the capacity of employer;"

(4¹) For the tax receivables assessed on the basis of the fiscal declarations to which are applied the provisions of art. 114 par. (2¹) and which have the payment deadline other than 25 of the month, this deadline shall be replaced by the day of 25 of the month provided in the normative act regulating them.

(5) For fiscal receivables to the local budgets that have no payment deadlines provided, such deadlines shall be established by a joint order of the Minister of Interior and Administrative Reform and Minister of Economy and Finance.

(6) Social contributions administered by the Ministry of Economy and Finance, after their computation and withholding according to the relevant legal provisions, shall be transferred on or before the 25th day of the month following the month for which the wages are paid.

(7) By derogation from the laws in force on payment deadlines, taxes and contributions related to the income from wages as well as the tax withheld at source according to art. 52 par. (1) letter d) from Law no 571/2003 on the Fiscal Code, as subsequently amended and completed, shall be paid as follows:

a) quarterly, until on the 25th day of the next month of the quarter, inclusively, by the taxpayer legal persons payers of the tax on the incomes of the micro-enterprises, the associations without legal personality established by individuals as well as by the individuals developing independent activities;

b) each semester until 25th inclusive of the next month of the semester by associations, foundations or other entities without a patrimonial purpose, except public institutions.

(8) Taxpayers provided in par. (7) shall have the obligation to declare the taxes and contributions related to their incomes from wages until the payment deadline.

(9) The secondary offices, payers of tax obligations according to the law shall fulfill the payment and declaration obligations at the same deadlines with those applicable in case of the entity in which structure act.

ARTICLE 112

Fiscal attestation certificate

(1) The fiscal attestation certificate shall be issued by the competent fiscal body, upon the taxpayer's request.

(2) The fiscal attestation certificate shall be issued based on data contained in the records kept on taxpayer by the competent fiscal body and shall include due tax receivables existing in the balance on the last day of the month preceding the application submission date, referred to as the reference month.

(3) Within the first 5 working days of the month fiscal attestation certificates shall be issued mentioning the due tax receivables existing in the balance at the end of the month preceding the reference month.

(4) The fiscal attestation certificate shall be issued in term of 5 working days from the date of application submission by the taxpayer and may be used by the taxpayer for a period of up to 30 days from the date of its issue. In the case of individuals, the period during which it may be used is up to 90 days from the date of issue. During its validity period, the certificate may be submitted by the taxpayer, in original or authenticated copy, to any requiring person.

(5) In case, according to art. 116 par. (3), there are compensation applications in due term of settlement, the fiscal certificate shall be issued with the specification "Compensation application for the amount of.....with the settlement in progress".

ARTICLE 113

The fiscal attestation certificate issued by the authorities of local public administration

(1) The fiscal attestation certificate shall be issued by the competent fiscal body of the local public administration authority, upon the taxpayer's request.

(2) The fiscal attestation certificate shall be issued based on data contained in the records kept on taxpayers by the competent fiscal body and shall include the due tax receivables existing in the balance in the first day of the month following the application submission date, considered as the reference month.

(3) The fiscal attestation certificate shall mention tax receivables due, with payment deadline expired before the 1st day of the month following its issue month.

(4) The fiscal attestation certificate shall be issued not later than two working days from the date of application submission by the taxpayer and can be used by the taxpayer during the month in which it is issued. The fiscal attestation certificate issued within 25th - the end of the month is valid during the entire month following its issue month. During its validity period, the certificate may be submitted by the taxpayer, in original or authenticated copy, to any requiring person.

(5) For alienation of ownership on buildings, lands and means of transportation, taxpayers should submit fiscal attestation certificates certifying the payment of all tax obligations owed to the local public administration under whose jurisdiction the property that is alienated is registered. Documents by which buildings, lands and transportation means are alienated, following the violation of the provisions of this paragraph, shall be rightfully null and void.

(5¹) Provisions of par. (5) and of art. 254 par. (7), art. 259 par. (6¹) and art. 264 par. (5) of the Law no. 571/2003, as subsequently amended and completed, shall not be applicable in case of the forced execution procedure, insolvency procedure and liquidation procedures.

(6) In case, according to art. 116 par. (3), there are compensation applications in due term of settlement, the fiscal certificate shall be issued with the specification "Compensation application for the amount of.....with the settlement in progress".

CHAPTER 2

Settlement of tax receivables through payment, off-set and refund

ARTICLE 114

Provisions concerning payment performing

(1) Payments to fiscal bodies shall be performed through banks, treasuries and other institutions that are authorized to carry out payment operations.

(2) *** Abrogated

(2¹) Debtors shall pay the taxes, fees, contributions and other amounts due to the general consolidated budget provided by order of the President of the National Agency for Fiscal Administration in a sole account, by using a payment order in benefit of the State Treasury for the tax obligations due to the State budget and a payment order in benefit of the State Treasury for the other payment obligations.

(2²) The amounts collected in the sole account shall be distributed by the competent fiscal body, separately for each budget or fund, as the case may be, proportionally with the due obligations.

(2³) In case the amount paid does not cover the tax obligations due, the distribution on budgets and funds, for each type of tax, contribution or other amount representing tax receivable shall be made firstly for the taxes and contributions withheld at source and then for the other tax obligations, proportionally with the due obligations.

(2⁴) The methodology for the distribution of the amounts paid into the sole account and for the settlement of the tax obligations shall be approved by order of the President of the National Agency for Fiscal Administration.

(2⁵) Payment of the tax obligations other than those provided in par. (2¹), shall be made by the debtors distinctly on each type of tax, contribution and other amount due to the general consolidated budget.

(2⁶) In case the payment shall be made by a person other than the debtor, the provisions of art. 1093 from the Civil Code shall be applied accordingly.

(2⁷) By exception from the provisions of par. (2²), in case the debtors benefit from payment facilities according to the legal regulations in force or they are under the Law no 85/2006 concerning the insolvency procedure, as further amended, or they are within forced execution and making payments after the servicing of the summons, the distribution of the amounts paid into the sole account shall be made by the competent fiscal body according to the order provided in art. 115 par. (1) or par. (3) or art. 169, as the case may be, regardless the tax receivable type.

(3) In case of settlement through the payment of tax obligations, the moment of payment shall be as follows:

a) for cash payments, the date recorded on the payment document issued by the bodies or persons authorized by the fiscal body;

b) for payments performed through a postal order, the post office date, as mentioned on such postal order;

c) for payments performed by bank disbursement, the date when banks debit the account of the payer based on specific disbursement instruments, as confirmed by the electronic payment message communicated by the banking institution initiating the operation, according to the regulations in force, except the case provided in art. 121, the date being possible to be proved with the account statement of the taxpayer;

c¹) in case of the payments made by bank cards, the date of the transaction performing is as confirmed by the related authorized procedure; the procedure and the categories of taxes, fees, contributions and other amounts due to the

general consolidated budget which may be paid by bank cards shall be approved by order of the President of the National Agency for Fiscal Administration;

d) for tax obligations that are settled by cancellation of mobile tax stamps, the date of registration at the competent body of the document or the act for which the stamps due by law were submitted and cancelled.

(4) For tax receivables administered by the National Agency for Fiscal Administration and subordinated units, the fiscal body, at the debtor's request, shall perform the correction of errors in the payment documents he made and shall consider valid the payment from its performance, in the amount and from the debtor's account entered in the payment document, provided debiting this one account and crediting a budgetary account.

(5) Provisions of par. (4) shall be also applied accordingly by the other public authorities that according to the law, administer tax receivables.

(6) The application may be filled in term of one year from the date of payment, under penalty of its revocation.

(7) The procedure for correcting the errors shall be approved by Order of the Minister of Economy and Finance.

ARTICLE 115

Sequence of debts settlement

(1) If a taxpayer owes several types of taxes, fees, contributions and other amounts that are tax receivables as provided in art. 21 par. (2) letter a), and the amount paid is not sufficient to settle all debts, then debts of such type of main tax receivables as the taxpayer decides or as distributed according to the provisions of art. 114 by the fiscal body, as the case may be, shall be settled rightfully in the following order:

a) the amounts due for the installment of the current month from the tax obligation payment schedule for which a scheduled payment has been approved plus the delay penalty due in the current month of the payment schedule or the deferred payment, together with delay penalties due for the period of deferment in case payment deadline is within the current month, as well as the current tax obligations of which payment depends the maintaining of the validity of the payment facility granted;

b) main tax obligations or related ancillaries, in the sequence of seniority, unless the forced execution was initiated, when applying the provisions of art. 169 accordingly. In case of tax obligations settlement by transferring in public property of a real estate with an amount equivalent with the amount of the due tax obligations, shall be applied the provisions of art. 175 par. (4¹);

c) the amounts due from the following installments from the tax obligation payment schedule for which scheduling was approved, up to the concurrence of the scheduled payment amount or up to the amount paid, as appropriate, and the amount of deferred payment, together with delay penalties due for the deferment period, as the case may be;

d) tax obligations with future payment deadlines, upon the debtor's request.

(2) The seniority of tax obligations shall be established as follows:

a) depending on the payment deadline, for the main tax obligations;

b) depending on the date of communication, for the differences related to the main tax obligations set by the competent bodies, and for the related ancillary tax obligations;

c) according to the submission date of the fiscal declarations rectified to the fiscal body for the differences in the main tax obligations set by the taxpayer.

(3) For debtors under Law no 85/2006 concerning the insolvency procedure, as further amended, the settlement order shall be the following:

a) tax obligations with deadlines after the date of confirmation of the reorganization plan, in sequence corresponding to their seniority;

b) amounts due for the installments existing in the tax obligation schedules which are included in the legal reorganization plan confirmed and the ancillary tax obligations owed for the reorganization period in case in the reorganization plan their computation was provided, too;

c) tax obligations due and not paid, other than those provided in letter b), having their payment deadlines between the date of initiating of the insolvency procedure and the date of the confirmation of the reorganization plan, in sequence corresponding to their seniority.

(4) The competent fiscal body shall communicate to the debtor the manner in which the settlement of the debts provided in par. (1) was made until the next tax obligation payment deadline.

(5) For tax receivables administered by the local public administration authorities, any payment made after communication of the summons within the forced execution procedure shall first extinguish the tax obligations contained in the executory title.

ARTICLE 116

Offset

(1) By offsetting, receivables administered by the Ministry of Economy and Finance shall be settled against the debtor's receivables representing amounts to be reimbursed or refunded from the budget, up to the lower of either amount, when both parties mutually acquire the capacity of a creditor and a debtor, unless otherwise provided by law.

(2) Tax receivables administered by the territorial-administrative units shall be settled by offsetting receivables of the debtor which consist in amounts to be refunded from local budgets down to the lowest amount, when both parties mutually acquire both the capacity of a creditor and a debtor, unless otherwise provided by law.

(3) The offset is to be performed by the competent fiscal body upon the debtor's request or prior to the reimbursement or the refund of the amounts due to such debtor, as the case may be. Provisions of art. 115 on the sequence of settlement of debts shall be applicable accordingly. (4) The fiscal body may carry out an offset ex officio whenever the existence of reciprocal receivables is ascertained, except for the negative amounts from the VAT returns, without option of refund.

(5) In case of offset made by the fiscal body according to par. (4), the debtor's tax receivables shall be offset by the obligations due to the same budget, following that from the difference remained to be proportionally offset the obligations due to other budgets.

(6) Tax receivables generated by legal customs relations shall be offset by the debtor's receivables representing amounts to be refunded of same nature, under art. 115. The possible differences remained shall be offset by other tax obligations of the debtor, in the sequence provided in par. (5). The offset procedure shall be determined by an Order of the Minister of Economy and Finance.

(7) For the other tax receivables, the sequence provided in par. (5) shall be applied by every competent authority for the tax receivables under their administration.

(8) Provisions in par. (5) shall not be applicable in case of local budget receivables.

(9) The competent fiscal body is to notify the debtor in writing about the offsetting measure taken according to par. (3), within 7 days as of the date of carrying out such operation.

ARTICLE 117

Refunds

(1) The following amounts shall be refunded to the debtor upon his/her request:

- a) amounts paid in the absence of a receivable title;
- b) amounts paid in excess to the tax obligation;
- c) amounts paid due to a computation error;
- d) amounts paid due to the erroneous implementation of legal provisions;
- e) amounts to be refunded from the State budget;
- f) amounts established by a decision of legal bodies or other bodies that are competent by law;
- g) amounts remaining after the distribution as provided in art. 170;
- h) amounts resulting from the sale of seized goods, or from withheld amounts due to seizure, as the case may be, based on a final and irrevocable court decision for the enforcement of the cancellation of forced execution.

(2) By way of derogation from provisions of par. (1), amounts to be refunded that are tax differences resulted from the annual adjustment of the income tax that is owed by individuals are to be refunded by competent fiscal bodies ex officio, within not more than 60 days after the tax decision communication date.

(3) Differences in income tax to be refunded that are less than 5 lei shall remain in the tax records to be offset with future debts, and shall be returned when the cumulated amount exceeds the specified limit.

(4) By exception to par. (3), differences of less than 5 lei may be returned in cash only at the taxpayer's request.

(5) In case of refund of foreign currency amounts confiscated, such operation shall be performed by law in ROL at the reference exchange rate for EUR as

communicated by the National Bank of Romania for the date when the court decision enforcing the refund remains final and irrevocable.

(6) If the debtor registers outstanding tax obligations, then amounts in par. (1) and (2) are to be refunded only after the performance of offset according to this Code.

(7) If the amount to be reimbursed or refunded is less than the debtor's outstanding tax obligations, then the offset shall be performed down to the lowest amount to be reimbursed or refunded

(8) If the amount to be reimbursed or refunded exceeds the debtor's outstanding tax obligations, then the offset shall be performed down to the lowest amount of outstanding tax obligations, and the difference resulting thereof shall be refunded to the debtor.

(9) The procedures of reimbursement and refund of amounts from the budget, including the method to grant interests as provided in art. 124, are to be approved by an order of the Minister of Economy and Finance.

ARTICLE 118

Obligation of banks that are subject to special monitoring or administration regime

Banks that are under special monitoring or special administration regime and make payments as ordered within the limit of the daily collection shall prioritize the daily settlement of amounts from tax obligations as included in the payment orders issued by debtors and/or tax receivables included in the collection orders issued by the enforcing bodies.

CHAPTER 3

Delay penalties⁵

ARTICLE 119

General provisions on delay penalties

(1) Failure to pay tax obligations upon the deadline results in the debtor's obligation to pay related delay penalties after the payment deadline.

(2) No delay penalties shall be due for amounts payable as fines of any kind, ancillary tax obligations established by law, expenses with the forced execution, legal expenses, seized amounts as well for amounts representing the equivalent in lei of the goods and amounts seized not found on-site.

(3) Delay penalties shall be revenues to the budget to which the main receivable belongs.

⁵ According to the provisions of art. IV par. (2) of the Law no. 210/2005 for the approval of the Government Ordinance no 20/2005 for the amendment and completion of the Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania, Part I, no 580 of July 5, 2005, the terms of "interests and/or delay penalties" shall be replaced by "delay penalties".

(4) Delay penalties shall be determined by decisions made under conditions approved by Order of the Minister of Economy and Finance, except for the situation provided for in art. 142 par. (6).

ARTICLE 120

Delay penalties

(1) Delay penalties shall be computed per each day of delay, beginning with the day following to the payment deadline and until the date of settlement of the due amount, inclusively.

(2) For additional differences related to tax receivables generated by the correction of the fiscal declarations or by the modification of a tax decision, the related delay penalties shall become due beginning with the day following to the payment deadline for the tax receivable for which the difference has been established and until the date of settlement thereof, inclusively.

(3) If the differences resulting from the correction of fiscal declarations or modification of a tax decision are negative in relation to the amounts initially established, related delay penalties shall be due as from the day immediately following the payment deadline until its settlement date inclusively.

(4) By exception from provisions of par. (1), delay penalties are to be payable as follows:

a) for taxes, fees and contributions that are settled by forced execution, until the date of the preparation of the minutes of distribution, inclusively. In case of payment of the price in installments, delay penalties shall be computed until the date of preparation of the anticipatory payment distribution minute. For the remainder of the payment, delay penalties shall be owed by the buyer;

b) for taxes, fees, contributions and other amounts due to the general consolidated budget by the debtor declared insolvent who does not have pursuable revenues and assets until the date of switching to a separate record, according to art. 176.

(5) The method of computing of delay penalties related to the amounts representing possible differences between the profit tax paid on January 25 of the year following the taxation one and the profit tax due according to the fiscal declaration made on the basis of the annual financial statements shall be regulated by methodological norms approved by Order of the Minister of Economy and Finance.

(6) For the tax obligations not paid on the payment deadline, representing the overall income tax, delay penalties shall be due as follows:

a) for the fiscal year of taxation, delay penalties for anticipatory payments assessed by the fiscal body through tax decisions for anticipatory payments shall be computed until the date of debit payment or until December 31, as the case may be;

b) delay penalties for the amounts unpaid during the taxation year, according to letter a), shall be computed as from January 1 of the following year until their settlement, inclusively;

c) if the income tax set by annual tax decision is lower than that established through tax decisions for anticipatory payments, the delay penalties shall be recalculated, with effect from January 1 of the year following the taxation one, related to the unpaid balance in relation to annual tax set by the annual tax decision, following to undertake accordingly adjustment of the delay penalties.

(7) The delay penalty level is of 0.1% for each day of delay, and can be modified by the annual budget laws.

ARTICLE 121

Delay penalties for payments made by bank disbursement

(1) Failure of banks to settle amounts payable to the general consolidated budget within 3 working days as of the date when the payer account is debited is not to exonerate the payer from the obligation to pay such amounts and is to trigger in charge of this one late delay penalties equal to those provided in art. 120, after the term of 3 days.

(2) For the recovery of amounts payable to the budget that are not settled by banks, as well as for the recovery of the related delay penalties as provided in par. (1), the payer may act against such bank unit.

ARTICLE 122

Delay penalties in case of offset

(1) In case of tax receivables settled by offset, the delay penalties shall be due until the date of their settlement, inclusively, as it follows:

a) for offset on request, the settlement date shall be the date of submission to the competent body of the application for offset;

b) for ex officio offset, the settlement date shall be the date of registration of the offset transaction by the territorial Treasury unit, in accordance with the offset note prepared by the competent body;

c) for offset made following a request for reimbursement or refund to the debtor of the amount due, the settlement date shall be the date of submission of application for reimbursement or refund.

(2) In case that, following the audit or the analysis of the application for offset, the amount to be offset is assessed as being less than the amount mentioned in the application for such offset, then the related delay penalties shall be re-computed for the difference remaining as of the date of registration of the application for offset.

(3) For tax obligations settled by the offset procedures as provided by special normative acts regulating thereof, the date of settlement shall be the date when the offset as provided in the normative act or in the enforcement norms approved by an order of the Minister of Economy and Finance is performed.

ARTICLE 122¹

Delay penalties in case of re-opening of the insolvency procedure

For the tax receivables generated priorly or subsequently to the date of opening of the insolvency procedure, no delay penalties shall be computed and due after this date.

ARTICLE 123

Delay penalties in case of payment facilities

Delay penalties shall be due for the period for which payment facilities have been granted for the outstanding tax obligations.

ARTICLE 124

Interest for amounts to be reimbursed or refunded from the budget

(1) For amounts to be reimbursed or refunded from the budget, taxpayers are entitled to an interest as of the day following to the expiry day of the deadline provided in art. 117 par. (2) or art. 70, as the case may be. The grant of interests is to be performed upon the taxpayers request.

(2) The amount of the due interest shall be at the level of the delay penalty provided by the present Code and shall be borne from the same budget from which amounts requested by payers are reimbursed or refunded, as the case may be.

CHAPTER 4

Payment facilities

ARTICLE 125

Tax obligation payment facilities

(1) At taxpayers' duly justified request, the competent fiscal body may grant payment facilities for unpaid tax obligations, both before the initiation of forced execution, and in its course, in compliance with the law.

(2) At debtors' duly justified request, natural or legal persons, local budgetary creditors by the local public administration authorities administering these budgets, may grant, for unpaid budgetary obligations under their administration, the following payment facilities:

- a) scheduling of the payment of taxes, fees, rents, royalties, contributions and other amounts due to the local budget;
- b) postponement in the payment of taxes, fees, rents, contributions and other amounts due to the local budget;
- c) scheduling of the payment of delay penalties of any kind, except those due for the payment scheduling period;
- d) deferment and/or exemptions or deferment and/or reduction of delay penalties, except those due for the deferment period;
- e) exemptions or reductions of taxes and local fees, according to the law.

(3) The procedure for granting payment facilities for local budgetary receivables shall be established by special acts.

(4) For granting payment facilities, the local budgetary creditors shall require guarantee fees from debtors.

(5) For obligations to the local budget, due and unpaid after 1 July 2003 by individuals, the guarantee is:

a) an amount equal with two average installments from the payment schedule, representing scheduled local budgetary obligations and computed delay penalties, in case of scheduled payment;

b) an amount resulting from the relation between the equivalent value of the deferred debits and the computed delay penalties and the number of months approved for the payment deferment, in case of deferred payments.

(6) For obligations to the local budget, due and unpaid after 1 July 2003 by legal persons, the guarantee is 100% from the total budgetary receivable for which the payment facility was granted.

CHAPTER 5 **Constitution of guarantees**

ARTICLE 126 **Constitution of guarantees**

The fiscal body shall request the constitution of a guarantee for the following:

- a) the suspension of the forced execution according to art. 148 par. (7);
- b) the removal/cancellation of precautionary measures;
- c) taking over of the payment obligation by another person by a payment commitment in compliance with art. 25 par. (2) letter d);
- d) in other cases provided by law.

ARTICLE 127 **Types of guarantees**

By law, guarantees for performing the measures provided in art. 126 may be constituted by:

- a) depositing amounts of money at a State Treasury unit;
- b) a bank guarantee letter;
- c) a mortgage on real estate that is located in Romania;
- d) a pledge on movable goods;
- e) a surety.

ARTICLE 128 **Use of guarantees**

Under the law, the competent body shall use the guarantees deposited if the purpose for which they were requested was not achieved.

CHAPTER 6 **Precautionary measures**

ARTICLE 129 **Precautionary seizure and withholding**

(1) The precautionary measures provided in this chapter shall be complied with through the administrative procedure, by the competent fiscal bodies.

(2) Precautionary measures shall be prescribed in the form of precautionary withholding and seizure on movable and/or immovable property of the debtor and

his revenues when there is a risk that he may avoid, or hide or dissipate his patrimony, jeopardizing or making the collection considerably more difficult.

(3) These measures may be taken before the issuance of the debt security, including in the case of conduct of audits or deciding of the joint liability. Precautionary measures arranged both by the competent fiscal bodies and the courts or other competent bodies, unless eliminated according to the law, shall remain valid during the forced execution without fulfilling other formalities. As the receivable becomes individual and reaches its due date, in the case of non-payment the precautionary measures shall become enforceable measures.

(4) Precautionary measures are to be ordered by a decision issued by the competent fiscal body. The decision is to include the fiscal body's specification to the debtor that such precautionary measures are to be cancelled further to providing a guarantee equal to the receivable assessed or estimated, as the case may be.

(5) The decision establishing the precautionary measures must be justified and signed by the competent fiscal body.

(6) The precautionary measures ordered in compliance with par. (2), as well as measures decided by law courts or by other competent bodies are to be applied in compliance with provisions regarding the forced execution, which are to apply adequately.

(7) Perishable and/or degradable goods seized in a precautionary manner may be valued by the debtor, with the agreement of the enforcing body, the amounts won in such manner being made available for the enforcing body.

(8) In the case of precautionary withholding over property, a copy of the report prepared by the enforcing body shall be notified for registration to the Land Book Office.

(9) The registration is to turn the sequester opposable to all those that acquire any right over such real estate after the registration. The ordering documents which might occur further to the registration in compliance with par. (8) are to become fully null.

(10) If the value of the debtor's assets does not fully cover the tax receivable of the general consolidated budget, the precautionary measures can be also established over the assets held by the debtor in joint ownership with others, for the interests he owns.

(11) The person concerned may appeal the documents by which precautionary measures are ordered and carried out in compliance with provisions of art. 172.

ARTICLE 130

Lifting the precautionary measures

The precautionary measures enforced according to art. 129 are to be cancelled by a grounded decision of tax creditors when reasons for which such precautionary measures were ordered have ceased or upon the establishment of the guarantee provided in art. 127, as the case may be.

CHAPTER 7

Limitation of the right to require forced execution and of the right to ask for offset or refund

ARTICLE 131

Beginning of the limitation period

(1) The right to request forced execution of tax receivables shall be prescribed within 5 years from January 1 of the year following that in which this right emerged.

(2) Statutes of limitation under par. (1) are also to apply to tax receivables resulting from fines due to civil law violations.

ARTICLE 132

Suspension of limitation period

The statute of limitation provided in art. 131 shall be suspended:

- a) in the cases and under the conditions laid down by law for suspending of the limitation period for the right of legal action;
- b) where and when the suspension of execution is required by law or was ordered by the court or other competent body, according to the law;
- c) during the validity of the payment facility granted under the law;
- d) while the debtor evades his income and assets from the forced execution;
- e) in other cases provided by law.

ARTICLE 133

Interruption of the limitation period

The statute of limitation provided in art. 131 shall be interrupted:

- a) in the cases and under the conditions laid down by law for interrupting the limitation period for the right of action;
- b) on debtor's performance, before or during the compulsory execution, of a voluntary action of payment of the obligation under the enforceable title or of debt recognition in any other way;
- c) on the performance, during the forced execution, of a forced execution action;
- d) in other cases provided by law.

ARTICLE 134

Effects of expiration of the limitation period

(1) If the enforcing body finds the expiration of the limitation period of the right to require enforcement of tax receivables, it will proceed to terminate the performance actions and to deduct them from the analytical records kept on taxpayers.

(2) The amounts paid by the debtor in the account of tax receivables after the end of the limitation period shall not be refunded.

ARTICLE 135

Prescription of the right to request offset or refund

Taxpayers' right to request offset or tax receivables refund shall be prescribed within 5 years from January 1 of the year following the one in which the right to offset or refund was issued.

CHAPTER 8
Tax receivable settlement through forced execution

SECTION 1
General provisions

ARTICLE 136
Forced execution enforcing bodies

(1) If the debtor does not voluntarily pay his tax liabilities, the competent fiscal bodies shall proceed with enforcement of forced execution action in order to extinguish them, according to this Code.

(2) Fiscal bodies administering the tax receivables are entitled to take precautionary measures and to carry out the procedure of forced execution.

(3) The budgetary receivables that are received, managed, booked and used by public institutions, derived from own revenues and those resulting from legal contractual relationships and the receivables that are received, managed, booked and used by the Export-Import Bank of Romania EXIMBANK - S.A. coming from funds allocated from the state budget, shall be executed through their own bodies, which are entitled to take precautionary measures and to carry out the procedure of forced execution, according to the provisions of this Code.

(4) Bodies provided in par (2) and (3) are to be hereinafter called forced execution bodies.

(5) The body which is authorized for carrying out the procedure of forced execution is the body under whose territorial jurisdiction the pursuable assets are, and the entire forced execution is coordinated by the enforcing body under whose territorial jurisdiction the debtor or the competent enforcing body appointed under art. 33, as the case may be, has its fiscal domicile. When the forced execution is carried out by withholding, the application of the forced execution measure should be done by the coordinating enforcing body.

(6) In case, according to the law, the liability of the management members has been established according to the provisions of chapter IV from Law no 85/2006 on insolvency procedure, and for the tax receivables have been applied, by derogation from the provisions of art. 142 from the Law no. 85/2006, the forced execution, this shall be carried out by the forced execution enforcing body under the conditions of the present Code.

(7) Whenever a danger of alienation, substitution or refusal from forced execution of debtor's pursuable revenues and assets becomes obvious, the enforcing body within whose territorial jurisdiction the tax domicile of the debtor is located may proceed to freezing and forced execution of such assets, irrespective of their location.

(8) The co-coordinating forced execution body is to notify the other bodies in compliance with par. (5), in writing, by communicating the executory title in a

certified copy, as well as the status of the debtor, the account where the amounts collected will be transferred, and any other information that might be necessary for the identification of the debtor and of the traceable goods or incomes.

(9) If the forced execution procedure was initiated for the same revenues or assets of the debtor, both for the realization of enforceable titles regarding tax receivables and for titles which are executed under the conditions provided by other legal provisions, the forced execution shall be carried out, according to the provisions of this Code, by the enforcing bodies as provided by such Code.

(10) Whenever the debtor's tax domicile is ascertained as being within the territorial jurisdiction of a different enforcing body, the executory title together with the enforcement file shall be sent to such enforcing body and if necessary, the body that sent the executory title shall be notified.

ARTICLE 137

Forced execution in case of debtors with joint liability

(1) In case of debtors with joint liability, the coordinating enforcing body is the body within whose territorial jurisdiction the debtor has the tax domicile or related to which there are indications that the debtor holds most of his/her pursuable revenues or assets.

(1¹) The coordination of the forced execution in case the joint liability was decided under art. 27 and 28, shall be carried out by the forced execution body on whose territorial jurisdiction has the fiscal domicile the debtor in insolvency status or the competent forced execution body appointed according to art. 33, as the case may be.

(2) The co-coordinating forced execution body is to record the entire debit in its records and is to take forced execution actions, by communicating the entire debt amount to each forced execution enforcing bodies within whose territorial jurisdictions the other co-debtors fiscal domiciles are located, being applied the provisions of art. 136.

(3) The notified enforcing bodies that were informed of the debt, after recording such debt in an individual record, shall take forced execution actions and communicate to the coordinating enforcing body the amounts made in the debtor's account within 10 days of such realization.

(4) If the coordinating forced execution body that keeps the records of the entire debt ascertains that such debt amount was realized following to forced execution actions that were carried out by itself and by the other bodies informed according to par. (3), such co-coordinating forced execution body is obliged to request in writing to the other bodies to immediately cease the forced execution procedure.

ARTICLE 138

Tax executors

(1) Forced execution is to be carried out by the competent forced execution body through tax executors. Such tax executors should hold a job identity card that they should show during the performance of such activity.

(2) The tax executor shall be empowered as regards the debtor and third parties through the tax executor's identity card and the mandate issued by the forced execution enforcing body.

(3) In carrying out their duties for the application of forced execution procedures, tax executors may act as follows:

a) enter any business premises of the debtor that is a legal person, or other premises where his assets are stored, for the purpose of identification of assets or valuables that may be subject to forced execution, as well as analyze the debtor's accounting records for the purpose of identification of third parties that owe or keep revenues or assets of the debtor;

b) enter all rooms where there are assets or valuables of the debtor that is a natural person, and investigate all places where such debtor stores his goods;

c) request and check any document or material element that can become an evidence in determining the assets that are under the debtor's ownership.

(4) The tax executor may enter all rooms that are within the domicile or residence of a natural person with his/her consent and in case of refusal, the enforcing body shall request the authorization by the competent court in accordance with provisions of the Civil Procedure Code.

(5) The tax executor access to the debtor's residence, business premises or any other room, either an individual or a legal person, may take place between 6.00 a.m. and 8.00 p.m. on any working day. The forced execution procedure started may continue during the same day or during the following days. In cases that are thoroughly grounded by the danger of alienation of certain goods, the access to the debtor's rooms may also take place at hours different from those mentioned before, as well as during non-working days, based on an authorization according to par. (4).

(6) In the absence of the debtor or if such debtor refuses the access to any of the premises according to par. (3), the tax executor may enter such premises, in the presence of a representative of the police or the military police body or of any other public order agent and of an adult witnesses, and provisions of par. (4) and (5).

ARTICLE 139

Forced execution against the general consolidated budget revenues

Taxes, fees, contributions and any other revenues to the general consolidated budget may not be pursued by any creditor for any category of receivables through a forced execution procedure.

ARTICLE 140

Forced execution against an association without legal personality

For purposes of the forced execution of tax receivables that are payable by an association without legal personality, both movable and immovable assets of the association, as well as the personal belongings of the members thereof can be subject to forced execution, even if there is an executory title issued on the name of such association.

ARTICLE 141

Executory title and conditions for the initiation of forced execution

(1) The forced execution of tax receivables shall be performed based on an executory title issued according to the provisions of this Code by the competent enforcing body within whose territorial jurisdiction the debtor has his domicile or based on a written document that is an executory title in compliance with the law.

(1¹) In the executory title issued according the law, the forced execution body provided in par. (1) shall be recorded all the tax receivables not paid on deadline representing taxes, fees, contributions and other amounts due to the general consolidated budget as well as their related ancillaries assessed according to the law.

(2) The debt security shall become an executory title as of the due date of the tax receivable by the expiry of the payment deadline as provided by law or as determined by the competent body or in any other way as provided by law.

(3) Changing of the debt security shall entail the change of executory title accordingly.

(4) The executory title issued according to par. (1) by the competent forced execution body is to include, besides the elements provided in art. 43 par. (2), the following: the fiscal identification code; the fiscal domicile and any other identification data; the amount and the nature of the amounts due and unpaid; the legal grounds of the enforceable power of such title.

(5) For the debtors that are jointly liable to pay tax receivables, a single executory title shall be prepared.

(6) Executory titles issued by other competent bodies as regards tax receivables are to be transmitted no later than 30 days as of the issuance thereof, for forced execution purposes, under the law, to bodies as provided in art. 136.

(7) Failure to transmit the executory titles arising from contravention sanctions, within 90 days after the competent bodies have issued them, shall lead to the annulment of the titles. The manager of the issuing body of the executory title shall be compelled to issue a decision charging the amount of the contravention on the staff responsible for the relevant delay. The 90-day term shall be extended by the period related to the procedure for contesting the contravention ascertainment reports.

(8) In case that the executory titles issued by bodies, other than those provided in art. 33 par. (1) do not include one of the following: the debtor's name and first name or company name, the personal identification number, the single registration code, the domicile or the location, the amount due, legal grounds, the signature of the issuing body and the proof of its communication, the forced execution body is to immediately return the executory titles to the issuing bodies.

(9) If the executory title was sent for execution by another body, such enforcing body shall confirm its receipt within 30 days.

(10) Public institutions which have no own forced execution bodies may transmit the executory titles concerning their own revenues to be enforced by forced execution to the fiscal bodies based on a convention concluded with the

National Agency for Fiscal Administration or with other local public administration authority as the case may be.

(11) To cash the receivables provided in par. (10), the National Agency for Fiscal Administration or the relevant local public administration authority, as the case may be, shall withhold a quote of 15% of the value of the tax receivables settled. The amounts shall be used by the National Agency for Fiscal Administration or by the relevant local public administration authority as own revenues under the law designated to finance the expenses necessary to improve the tax receivable administration activity.

(12) Provisions of par. (11) shall be applied also in case when by special laws are established forced execution competences for the National Agency for Fiscal Administration by its subordinated units also for revenues other than those mentioned in the present Code.

ARTICLE 142

Rules regarding forced execution

(1) Forced execution may concern all revenues and assets under the ownership of the debtor that are pursuable according to the law, and the sale thereof shall be performed only to the extent required for the realization of tax receivables and of execution expenses. Forced execution of the goods property of the debtor traceable according to the law, shall be made as rule in the limit of 150% of the value of the tax receivables including the forced execution expenses.

(1¹) The traceable goods property of the debtor presented by the debtor and/or identified by the forced execution body shall be subject of the seizure and valuation in the following sequence:

a) movable and immovable goods not used directly in the activity representing the main income source;

b) goods that are not directly designated to the development of the activity representing the main income source;

c) movable and immovable goods being temporary held by other persons on the basis of the leasing, rental, concession contracts;

d) group of goods under provisions of art. 158;

e) machines, machineries, raw materials and materials and other movable goods as well as immovable goods serving the activity representing the main income source;

f) finished products."

(1²) The fiscal body may undertake the seizure on the goods from the following category out of those provided in art. (1¹) whenever the valuation is not possible.

(2) Goods that are subject to a special circulation regime can be traced only by observing the conditions provided by law.

(3) During the forced execution procedure, use may be made successively or simultaneously of forced execution methods as provided by this Code.

(4) The forced execution of tax receivables shall not be subject to limitation.

(5) The forced execution shall be performed until the settlement of the tax receivables mentioned in the executory title, including delay penalties or other

amounts due or granted by law through the title, as well as of the forced execution related expenses.

(6) If the executory title specifies delay penalties or other amounts without having determined the amount thereof, they shall be computed by the enforcing body and recorded in a report that shall become an executory title, and which shall be further communicated to the debtor.

(7) A real guarantee as well as other real burdens over goods shall have a priority degree regarding third parties, the state inclusively, which shall be determined as of the moment when they were made public by any of the methods provided by law.

ARTICLE 143

Obligation to inform

In order to initiate the forced execution, the competent forced execution body may use the means of evidence as provided in art. 49, to assess the debtor's fortune and income. Upon the fiscal body's request, the debtor is obliged to provide in writing the information requested, on own responsibility.

ARTICLE 144

Specification of the nature of debit

All forced execution documents should include an indication on the executory title and the nature and the amount of the debt that is subject to the forced execution.

ARTICLE 145

Summons

(1) The forced execution is to commence by the communication of the summons. Unless the debt is paid within 15 days as of the summons communication, forced execution measures shall be carried on. The summons is to be accompanied by a copy of the executory title.

(2) The summons is to include, besides elements provided in art. 43 par. (2), the following: the number of the execution file; the amount for which the forced execution procedure is initiated; the deadline within which the person summoned is to pay the amount specified in the executory title, as well as the indication as regards the consequences of the failure to observe such summon.

ARTICLE 146

Third party rights and obligations

The third party may not oppose to the seizure of a good of the debtor by invoking a pledge, a mortgage right or a privilege. The third party is to participate in the distribution of amounts that resulted from the sale of such goods, in compliance with law.

ARTICLE 147

Valuation of goods that are subject to forced execution

(1) Prior to the sale, such goods are to be subject to valuation. The valuation shall be performed by the forced execution enforcing body through its own valuers or through independent valuers. Independent valuers are appointed under art. 55. Both the forced execution enforcing bodies' valuers and independent valuers shall fulfill their duties, as resulting from this Code, from the act that ordered the expert report and from the act of their appointment.

(2) The enforcing body shall update the valuation price by taking into account the inflation rate.

(3) Whenever considered necessary, the enforcing body shall proceed to a new valuation.

ARTICLE 148

Suspension, interruption or cancellation of the forced execution

(1) The forced execution may be suspended, interrupted or cancelled in the cases provided by this Code.

(2) The forced execution procedure shall be suspended as follows:

a) if the suspension was decided by court or by a creditor, in compliance with the law;

b) upon the date of communication as regards the approval of payment facilities;

c) in the case provided in art. 156;

d) for a period of no more than 6 months, in exceptional cases, and only once for the same debtor, by Government Decision;

e) in other cases provided by law.

(3) The forced execution shall be interrupted in cases expressly provided by law. The forced execution shall not be interrupted during the period in which a taxpayer is declared as being insolvent.

(4) The forced execution procedure shall be cancelled if:

a) the tax obligations provided in the executory title were fully settled, including ancillary payment obligations, as well as forced execution expenses and any other amounts in the debtor's charge, in compliance with the law;

b) the executory title was cancelled;

c) in other cases provided by law.

(5) The forced execution measures imposed under this Code shall be cancelled by decision made within maximum 5 days from the date on which the forced execution ceased, by the enforcing body.

(5¹) In the extent the tax receivables recorded in the executory title are settled by payment, by transfer of a real estate of equivalent value in the state property, by seizure or by any other method provided by the present Code, the seizures applied on the relevant goods in value less or equal with the amount of the tax receivables settled in the above mentioned manner shall be cancelled following a decision prepared by the forced execution body in maximum two days from the debt settlement date.

(6) When the withholdings ordered by the enforcing bodies generate the debtor's impossibility to continue economic activities, with serious social consequences, the tax creditor may order, upon the request of the debtor and

taking into account the reasons mentioned by the debtor, that the forced execution by withholding may be temporarily suspended in part or in all. The suspension may be ordered for maximum 6 months, counting from the date the tax body communicates the suspension to the bank or some other third party withheld.

(7) At the same time with the application for suspension provided in par. (6) the debtor is to indicate all goods that are free of burdens for seizure purposes or other guarantees as provided by law, totalizing an value equivalent with the amount for which the forced execution has been initiated.

(8) Provisions in par. (7) shall not apply when the value of the assets already seized by the tax creditor covers the value of the receivable subject to forced execution by withholding.

SECTION 2 **Forced execution by withholding**

ARTICLE 149

Forced execution of amounts that debtors are entitled to

(1) Any pursuable amount of revenues and cash availability denominated in lei or in foreign currency, securities or other intangible goods that are held and/or due in any form to the debtor by third persons or which such persons shall owe and/or hold in the future, based on existing legal relations shall be subject to forced execution by withholding.

(2) The amounts of non-disbursable credits or funding received from international institutions or organizations to develop programs or projects shall not be subject to forced execution by withholding, if the forced execution procedure was initiated against their beneficiary.

(3) In case of traceable amounts of revenues and cash availabilities in foreign currency, banks are authorized to perform the conversion of the foreign currency amounts into lei, without the consent of the account holder, at the exchange rate posted by such banks for that day.

(4) Amounts consisting of cash income of the debtor that is a natural person obtained as an employee, or pensions of any type, as well as aids or allowances with special destination shall be subject to pursuit only in compliance with the provisions of the Civil Procedure Code.

(5) The seizure of the income of debtors that are individuals or legal persons is to be initiated by the execution body through a paper that is to be sent as a registered letter with confirmation receipt to the third party that is subject to seizure, together with a certified copy of the execution title. The debtor is to also to be informed about the commencement of such seizure.

(6) The withholding shall not be subject to validation.

(7) The withholding that was previously initiated as a precautionary measure shall enter into force through the communication of the certified copy of the executory title to the third party withheld and the debtor's notification in this respect.

(8) The withholding shall be considered commenced when the third party that is withheld confirms the receipt of the setting up notice. In this regard, the third party that is withheld should record both the date and time of receipt of the withholding setting up notice.

(9) After the withholding commencement, the third party that is withheld shall have the obligation:

a) to pay the withheld amounts in the account indicated by the enforcing body immediately or after the date on which the receivable becomes due;

b) to freeze the intangible goods withheld, informing the enforcing body in this respect.

(10) Provided that the amounts due to the debtor are seized by several creditors, the third party that is subject to withholding is to notify the creditors in writing about this and is to proceed to the distribution of such amounts in accordance with the sequence of priority provided in art. 170.

(11) For the settlement of tax receivables, debtors that hold bank accounts may be prosecuted by withholding of the amounts existing in the bank accounts, the provisions of par. (5) being to be adequately applied. In such case, simultaneously with the communication of the summons and of the executory title to the debtor according to art. 44, a certified copy of such title is to be sent to the bank where the debtor's account is opened. The debtor is also to be notified on such measure.

(12) As needed, for the payment of the amount due on the date of the bank notification, according to par. (11), the existing amounts and future amounts obtained from daily proceeds in lei and foreign currency accounts are to be frozen. From that moment, namely from the date and time of receipt of the withholding setting up notice as regards available funds, banks shall no longer settle payment papers received or debit debtors accounts, and they shall accept no further payments from their accounts until the full payment of the tax liabilities specified in the withholding setting up notice, except for the amounts required for salary rights.

(13) Violation of the provisions of par. (9), (10), (12) and (15) shall entail the nullity of all payments and the joint liability of the third party that is withheld with the debtor, within the limits of the amounts evaded from freezing. The provisions of art. 28 are to apply correspondingly.

(14) In case that the debtor makes the payment within the deadline provided in the summons, the execution body is to immediately notify the banks in writing as regards the partial or full cancellation of freezing accounts and withholding amounts. Otherwise, the bank must act in compliance with paragraph (12). (12).

(15) If the executory titles cannot be settled within the same day, the banks shall follow the execution thereof from the daily collections into the debtor's account.

(16) Provisions in par. (10) are to apply correspondingly.

ARTICLE 150

Forced execution of the third party that is subject to seizure

(1) If the third party that is subject to seizure notifies the enforcing body that he/she does not owe any amount of money to the debtor under prosecution and if he/she invokes other non-conformities in connection to the withholding commencement, the court within whose territorial jurisdiction the domicile or location of the third party that is subject to seizure is located, upon the request of the enforcing body or of other party concerned and based on the evidence administered, shall pronounce the maintenance or the cancellation of such withholding.

(2) The trial shall be carried out as a matter of emergency and priority.

(3) Based on the decision to maintain the withholding, which constitutes an enforceable title, the enforcing body may commence the compulsory execution of the third party that is subject to seizure in compliance with this Code.

SECTION 3

Forced execution of movable goods

ARTICLE 151

Forced execution of movable goods

(1) Any of the debtor's movable goods shall be subject to forced execution, unless otherwise provided by law.

(2) In the case of the debtor that is a natural person, the following cannot be subject to forced execution as they are necessary to the life and work of the debtor and his/her family:

a) movable goods of any kind that serve for the continuation of studies and professional training as well as those that are strictly necessary to carry out a profession or other occupation on a continuous basis, including those that are necessary for the performance of agricultural activities such as tools, seeds, fertilizers, forage and production and working animals;

b) goods that are strictly necessary for the personal or household use of the debtor and his/her family, as well as religious cult objects, unless there are several such objects of the same kind;

c) food that is necessary to the debtor and his/her family for 2 months and if the debtor deals exclusively with agriculture, food that is strictly necessary until the new crop;

d) the fuel that is necessary for the debtor and his/her family for heating and for preparing food, calculated for three winter months;

e) objects that are necessary to handicapped persons or intended for the care of ill persons;

f) goods declared non-pursuable by other legal provisions.

(3) The goods of the debtor that is a natural person, required for the performance of trade activities shall not be exempted from forced execution.

(4) Movable goods are to be subject to forced execution by the such movable goods seizure and sale of such movable goods, even if they are held by a third party. The seizure is to be initiated through a minutes.

(5) For movable goods that were previously seized as a precautionary measure, a new seizure shall not be required.

(6) Upon the commencement of the forced execution, the tax executor is obliged to check if the goods provided in par. (5) are to be found at the place of application of the seizure and if such goods were not replaced or degraded and is to seize other goods of the debtor in case that goods found upon the audit are not sufficient for the settlement of such receivable.

(7) Goods shall not be seized if their sale could cover only the forced execution expenses.

(8) Through the seizure initiated over movable goods, the tax creditor acquires a pledge right that allows him/her the same rights in relation with other creditors and the pledge right according to the common law.

(9) As of the preparation of the minutes, the seized goods are to become unavailable. During the forced execution, the debtor can make use of such goods only with the approval of the competent body, according to law. Failure to observe this prohibition is to result in legal liability on the guilty party.

(10) The ordering documents which might occur further to the freezing in compliance with par. (9) are to become fully null.

(11) In case no precautionary measures were taken for the entire realization of tax receivables and when upon the initiation of the forced execution is found that there is an obvious danger of alienation, replacement or purloin of the debtor's pursuable assets, the seizure shall be applied together with the communication of the summons.

ARTICLE 152 **Seizure Report**

(1) The seizure report shall include:

a) the name of the enforcing bodies, the specification of the place, date and time of seizure;

b) the name and surname of the tax executor that carries out the seizure, his/her job identity card and delegation registration number;

c) the registration number of the forced execution file, the registration date and number of the summons, as well as the executory title based on which the forced execution procedure is carried out;

d) the legal grounds based on which the forced execution is performed;

e) amounts due for the forced execution of which the sequester is carried out, including amounts of delay penalties, and the specification of their rate and the normative act based on which the payment obligation was determined;

f) the name, surname and domicile of the debtor that is a natural person or, in his/her absence, of the adult that lives with the debtor, the debtor's name, surname and location, the name, surname and domicile of other adults that were present on the application of the seizure, as well as other identification elements of such persons;

g) description of the movable goods seized and indication of the estimated value of each good, according to the appraisal of the tax executor, for identification and individualization of such goods, and the specification of the tear and wear status and possible particular signs of each good and if any measures were taken in respect of keeping them unchanged, such as applying seals, taking

under custody or removal from their location or their administration or preservation, as the case may be;

h) the specification that the valuation shall be done prior to the initiation of the sale procedure if the tax executor could not appraise the good because of lack of the required specialist knowledge;

i) the specification made by the debtor regarding the existence or the lack of existence of a right to pledge, mortgage or privilege, as the case may be, incorporated in favor of another person for the goods seized;

j) the name, surname and address of the person to whom the goods were left and their storage place, as the case may be;

k) possible objections by the persons present at the seizure;

l) the specification that, unless within 15 days as of the conclusion of the seizure report the debtor pays the tax obligations, the sale of the goods seized shall be initiated;

m) the signature of the tax executor that applied the seizure and of all persons that witnessed the sequestration. If any of such persons cannot or will not sign, the tax executor is to mention such circumstance.

(2) A copy of the seizure report shall be handed over to the debtor against signature or shall be sent to his/her domicile/location, and, if necessary, to the custodian who shall sign, with the specification of receipt of the goods under care.

(3) For sale purposes, the enforcing bodies must check whether the goods seized are on the place mentioned in the seizure report and if they were replaced or degraded.

(4) When the seized goods found upon the audit are not sufficient for the realization of the tax receivable, the enforcing body shall make the necessary investigations for the identification and tracing of other assets pertaining to the debtor.

(5) If it is ascertained that the goods are not in the place mentioned in the minutes of seizure or that they were replaced or degraded, the tax executor is to conclude an ascertaining minutes. For goods found upon the investigations carried out according to par. (4) a minutes of seizure is to be concluded.

(6) If goods under pledge are also seized for the guarantee of receivables to other creditors, the enforcing body shall send them as well a copy of the seizure report.

(7) If goods under pledge are also seized for the guarantee of receivables to other creditors, the forced execution body is to send a copy of the minutes of seizure to them. The same minutes of seizure is to serve to declare as seized other goods that might be identified, if applicable.

(8) Goods recorded in the prior seizure report shall also be deemed as seized within the new forced execution procedure.

(9) In case the tax officer ascertains that in relation to the goods seized deeds, which can be considered criminal law violations were committed, he/she should record this in the seizure report and immediately notify the competent criminal prosecution bodies.

ARTICLE 153

Custodian

(1) Movable goods seized may be left under the custody of the debtor, of the creditor or of another person appointed by the forced execution body or by the tax executor, as the case may be, or are to be removed and stored by such tax executor. Whenever goods are left in the custody of the debtor or of another person appointed according to law and whenever the danger of replacement or degradation is ascertained, the tax executor may apply the seal to the goods.

(2) In case the goods seized consist of amounts of money in lei or foreign currency, securities, precious metal objects, precious stones, art objects, valuable collections, such goods shall be removed and handed over to specialized units until the following working day.

(3) The recipient of the goods under custody shall sign the seizure report.

(4) In case the custodian is not the same person as the debtor or the creditor, the enforcing body shall establish remuneration in this respect, according to the activity performed.

SECTION 4

Forced execution of real estate

ARTICLE 154

Forced execution of real estate

(1) Real estate under the ownership of the debtor shall be subject to the forced execution procedure. If the debtor owns property in joint ownership with others, the forced execution shall cover only the assets assigned to the debtor following the legal partition, and the balancing payment.

(2) Real estate forced execution is also to fully apply to the annexes of the immovable good as provided in the Civil Code. Annexes may be traced only together with the real estate to which belong.

(3) In case of the debtor that is a natural person, the minimum area inhabited by the debtor and his/her family as determined in compliance with legal norms in force cannot be subject to forced execution.

(4) Provisions in par. (3) are not to apply in cases when the forced execution is performed for the settlement of tax receivables that result from committing criminal law violations.

(5) The tax executor that carries out the seizure is to conclude the minutes of seizure, the provisions of art. 151 par. (9) and (10) and of art. 152 par. (1) and (2) being to be applied.

(6) The seizure applied to the immovable goods in conformity with par. (5) is to be considered a legal mortgage.

(7) The right to mortgage allows the tax creditor in his/her relation with other creditors the same rights as the mortgage right in respect of the provisions of common law.

(8) For real estate seized, the enforcing body that initiated the seizure shall immediately request the Land Book Register to perform the mortgage record by enclosing a copy of the seizure report.

(9) Within 10 days, the Land Book Register shall inform the enforcing bodies, upon their request, of the other real rights and burdens that have an impact on the prosecuted building and their holders, who shall be notified by the enforcing body and called upon the deadlines determined for the sale of the real estate and distribution of the price.

(10) The debtor's creditors, other than the holders of the rights under par. (9), are obliged to inform the forced execution body in writing about the titles they hold on such real estate within 30 days as of the registration of the minutes of seizure of such real estate in the real estate advertising records.

ARTICLE 155

Appointment of a seizure administrator

(1) Upon the initiation of the seizure and during the entire forced execution procedure, the enforcing body may appoint a seizure administrator if such measure is required for the administration of the prosecuted real estate, of rent and of other income obtained from its administration, including for the defense against litigation regarding such real estate.

(2) The seizure administrator may be the creditor, the debtor or any other natural or legal person.

(3) The seizure administrator is to record the income collected according to par. (1) at the competent units and to file the receipt to the forced execution body.

(4) When a person, other than the creditor or debtor is appointed as a seizure administrator, the enforcing body shall determine his/her remuneration, depending on the activity carried out.

ARTICLE 156

Suspension of forced execution of real estate

(1) After the receipt of the seizure report, within 15 days of the notification, the debtor may request the enforcing body to approve that the full payment of tax receivables be made from the income of the traced real estate or from other income for not more than 6 months.

(2) The forced execution procedure initiated for the real estate shall be suspended as of the approval of the debtor's application.

(3) For well-grounded reasons, the enforcing body may reiterate the real estate seizure before the expiration of the 6-month deadline.

(4) If the debtor is a legal person and received the approval of suspension according to par. (2) later avoids the forced execution or self-caused insolvency, there are to be applied correspondingly the provisions of art. 27.

SECTION 5

Forced execution of other goods

ARTICLE 157

Forced execution of fruit that were not picked and of rooted crops

(1) Forced execution of the fruits that were not picked and of rooted crops belonging to the debtor shall be performed according to the provisions of this Code on the real estate.

(2) Provisions of this Code regarding movable goods shall be applied to the forced execution of fruits that were not picked and of rooted crops.

(3) The enforcing body shall decide, as the case may be, the sale of the fruit that were not picked and of rooted crops or after cropping.

ARTICLE 158

Forced execution of a group of goods

(1) Movable goods and/or real estate under the debtor's ownership can be sold individually or/and as a whole if the enforcing body deems that in this way such goods may be sold under more profitable conditions.

(2) The enforcing body may change its option at any stage of the forced execution, with the resumption of proceedings.

(3) For the forced execution of goods in par. (1) the forced execution body is to proceed to the seizure of such goods, according to this Code.

(4) Provisions of Section 3 regarding the forced execution of movable goods and of Section 4 regarding the forced execution of real estate as well as the provisions of art. 165 regarding installment payment are to apply correspondingly.

SECTION 6

Sale of goods

ARTICLE 159

Sale of goods subject to seizure

(1) If the tax receivable is not settled within 15 days as of the conclusion of the seizure report, the seized goods shall be sold without further formalities, except the cases when, in compliance with the law, the cancellation of the seizure, the suspension or postponement of forced execution was decided.

(2) For the performance of the forced execution under more profitable conditions taking into account the legitimate and immediate interest of the creditor and the rights and obligations of the prosecuted debtor, the enforcing body shall proceed to the sale of the seized goods in any of the ways as provided by legal provisions in force and which compared to the actual data of the cause proves to be the most effective.

(3) For purposes of par. (2) the competent forced execution body is to proceed to the sale of the seized goods as follows:

- a) by agreement between parties;
- b) by consignment sale of movable goods;
- c) by direct sale;
- d) by an auction sale;

e) by other means allowed by law, including the sale of goods through auction houses, estate agencies or brokerage companies, as the case may be.

(4) If perishables are seized, they can be sold under an emergency regime.

(5) If due to an appeal or an agreement between parties, the date, the place or the time of the direct sale or auction was changed by the forced execution body, other advertising and announcements are to be published according to art. 162.

(6) The sale of seized goods shall be performed only by natural or legal persons that do not have any unpaid tax obligations.

(7) For purposes of par. (6), the category of unpaid tax obligations is not to include tax obligations for which cuts, deferrals or rescheduling were allowed by law.

ARTICLE 160

Sale of goods by agreement between parties

(1) The sale of goods by an agreement between parties is to be performed by the debtor himself, with the endorsement of the forced execution body, so as to ensure an adequate recovery of the tax receivable. The debtor is obliged to submit in writing to the forced execution body the proposals made and the coverage of tax receivables indicating the name and address of the possible buyer and the deadline within which such buyer is to pay the price proposed.

(2) The price proposed by the buyer and accepted by the enforcing body cannot be less than the valuation price.

(3) Based on the analysis of proposals in par. (1), the forced execution body is to notify the approval by specifying the deadline and the budgetary account where the price of the good is to be transferred by the buyer.

(4) The jam under art. 151 par. (9) and (10) is to be removed after is credited the budgetary account mentioned under par. (3).

ARTICLE 161

Sale of goods by direct sale

(1) The sale of goods by direct sale can be performed in the following cases:

a) for goods stipulated under art. 159 par. (4);

b) before the beginning of the sale by auction, if the tax receivable is fully recovered;

c) after the auction completion, if the good(s) was not sold and a person offers at least the valuation price;

(2) The direct sale shall be conducted by concluding a report which shall become a title deed.

(3) If the execution body receives more than one request under the terms in par. (1) the good is to be sold to the person that offers the highest price compared to the valuation price.

ARTICLE 162

Sale of goods by auction

(1) For the sale of seized goods by auction, the enforcing body shall advertise the auction at least 10 days prior to the date established for the auction.

(2) Sale publicity will be made by posting the announcement of the sale at the main offices of the enforcing body, the city hall under which territorial jurisdiction the seized assets are, at the main office and the domicile of the debtor, at the sale place, if other than the place where the seized assets are, on the building put up for sale, when selling buildings is involved, as well as by publishing the announcement in a national newspaper of wide circulation, in a local newspaper, on the website or in the Official Gazette of Romania, Part IV, if appropriate, or through other means provided for by the law.

(3) The debtor, custodian, seizure administrator as well as the holder of the real rights and encumbrances over the asset pursued shall all be informed about the date, time and place of the auction.

(4) The announcement regarding the sale shall also include the following elements:

- a) designation of the issuing fiscal body;
- b) the date when it was issued;
- c) name and signature of authorized persons of the fiscal body, in compliance with the law, and the stamp of the issuing fiscal body;
- d) the registration number of the forced enforcement file;
- e) the goods offered for sale and their brief description;
- f) the valuation price or the auction beginning price for the sale by auction, for each good intended for sale;
- g) the specification, if necessary, of the real rights and privileges that lien the goods;
- h) the date, time and place of the sale;
- i) the invitation for all persons that claim a right over such goods, to notify the enforcing body on this priority to the date established for sale;
- j) the invitation for all persons that are interested in the purchase of such goods to be present on deadline at the place as determined for this purpose and to submit tender offers on or before such deadline;
- k) the specification that the bidders shall have the obligation to submit in case of sale by auction until the deadline provided in par. (7), a participation fee or a bank letter of guarantee representing 10% of the price for the auction beginning;
- l) the specification that all persons that are interested in the purchase of the goods should produce evidence issued by the fiscal bodies that they do not have unpaid tax obligations;
- m) the date of the sale announcement publishing.

(5) The auction shall be held at the location where seized goods are kept or at the location decided by the enforcing body, as the case may be.

(6) The debtor is obliged to allow the auction on its premises, if adequate to this purpose.

(7) In order to attend the auction, bidders shall submit the following documents at least one day before the auction:

- a) the purchase offer;
- b) the proof of payment of the auction participation fee or of the guarantee establishment as a letter of bank guarantee, according to par. (11) or (12);
- c) the proxy of the person that represents the bidder;

d) for the Romanian legal persons, a copy of the sole registration certificate issued by the Trade Register Office;

e) for foreign legal persons, the registration certificate translated into Romanian;

f) for Romanian individuals, the copy of the identity card;

g) for foreign individuals, a copy of the passport;

h) the proof issued by the fiscal bodies that bidders have no unpaid tax liabilities to such bodies.

(8) The beginning price of the auction is the valuation price for the first auction, diminished by 25% for the second auction and by 50% for the third auction.

(9) The auction is to begin from the highest price in the written purchase bids, if higher than the price provided in par. (8), otherwise, the auction is to begin from the latter price.

(10) The auction is to be won by the bidder with the highest price, for a price not less than the beginning price. In case of a single bidder, the auction committee can declare him/her as the winning bidder, provided that the price offered is at least equal to the beginning price.

(11) The auction fee is to amount to 10% of the beginning price and is to be paid in lei to the territorial unit of the State Treasury. Within 5 days after drawing up the auction report, the enforcing body shall refund the auction participation fee to the bidders that submitted purchase offers and were not declared winning bidders; as concerns the winning bidder, the fee shall account for the price. The participation fee shall not be refunded to the bidders failing to show up for the auction, to the winning bidder refusing to sign the award report or the winning bidder failing to pay the price. The participation fee not refunded shall become revenue to the state budget, except the case the forced execution is organized by the fiscal bodies provided in art. 35, when the participation fee shall become revenue to the local budgets.

(12) To participate in the auction, bidders may also establish guarantees, in compliance with the law, in the form of bank letter of guarantee.

(13) The bank letter of guarantee established under par. (12), shall be executed by the enforcing body in case the bidder is declared winner and/or in cases provided in par. (11), third thesis.

ARTICLE 163

Auction committee

(1) Sale of seized goods by auction shall be organized by a committee led by a chairman.

(2) The auction committee consists of three persons appointed by the head body of the budgetary creditor.

(3) The auction committee shall verify and analyze the documents of participation and shall post the list of bidders that submitted the complete participation documentation at the auction location, at least one hour before the beginning of such auction.

(4) Bidders shall be identified according to their sequence number on the list of participation and further on, the chairman of the committee shall announce the auction subject as well as the manner that the auction shall be carried out.

(5) Upon the determined deadlines for auction, the tax executor is first to read the sale ad and then the written offers that were received until the date provided in art. 162 par. (7).

(6) In case there were no bidders at the first auction or at least the beginning price was not obtained according to art. 162 par. (8), the forced execution body is to determine a new deadline, within no later than 30 days, for the second auction.

(7) In case the beginning price was not obtained during the second auction either, or there were no bidders, the enforcing body shall determine another deadline, no later than 30 days, to carry out the third auction.

(8) Upon the third auction, the prosecuting creditors or interveners cannot adjudicate the goods offered for sale at a price less than 50% of the valuation price.

(9) For each auction deadline, the auction for sale is to be advertised according to art. 162.

(10) The auction of each good shall be followed by the preparation of the report regarding the performance and the result of such auction.

(11) The minutes in par. (10) are also to include, beside the elements provided in art. 43 par. (2), the following: the buyer's name and surname or the company name, as well as his/her fiscal domicile; the registration number of the forced execution file; the specification of the sold goods, the sale price of the good and the related value-added tax, if applicable; all participants in the auction and the amount offered by each participant, as well as the specification of cases when the sale was not carried out, as the case may be.

ARTICLE 164

Award

(1) After the award of the asset, the winning bidder shall pay the price, diminished by the amount of the auction fee, in lei, in cash at a State Treasury unit or by bank transfer, no later than 5 days after the award date.

(2) If the winning bidder fails to pay the price, the auction shall resume within 10 days of the award date. In such case, the winning bidder must pay the costs related to the new auction and the price difference, in case the price of the new auction is lower. The winning bidder may pay the price offered initially and produce the proof of this payment until the deadline provided in art. 162 par. (7), in this case following to have the obligation to pay further only the expenses caused by the organization of a new auction.

(3) With the amounts due to the possible difference of price, collected based on par. (2), the tax receivables recorded in the executory title, on which basis began the forced execution, shall be settled.

(4) In case the good was not sold in the following auction, the former winning bidder shall pay all the costs related to the pursuing thereof.

(5) The deadline in par. (1) is also to apply to the sale according to the agreement between parties or by direct sale.

ARTICLE 165

Installment payment

(1) As regards the sale of real estate by auction, buyers can apply for the installment payment, in no more than 12 monthly installments, with an anticipatory payment of at least 50% of the sale price of the real estate and with an delay penalty payable as provided by this Code. The forced execution body is to determine the terms and conditions of such installment payment.

(2) The buyer may not alienate the real estate before the full payment of the price and of the delay penalty determined.

(3) For failure to pay the advance payment amount as provided in par. (1), provisions of art. 164 are to apply correspondingly.

(4) The amount of delay penalty may not settle the tax receivables for which the forced execution was initiated and shall represent revenue to the budget to which correspond the main receivable.

ARTICLE 166

Award Report

(1) In the case of sale of real estate, the forced execution body is to prepare the good adjudication report, within not more than 5 days after full payment of the price or of the advance as provided in art. 165 par. (1), if the good was sold with the payment in installments. Such report shall be deemed a title deed and the transfer of ownership shall become operational as of its conclusion. For installment sale, a copy of the minutes of adjudication of the real estate is to be sent to the Land Book Office, so that to record the prohibition from disposal and lien of such good until the full payment of the price and interest established for the real estate transferred, based on which the record in the Land Book is operated.

(2) The adjudication report prepared according to par. (1) is also to include, beside elements under art. 43 par. (2), the following specifications:

- a) the registration number of the enforcement file;
- b) the number and date of the auction report;
- c) the name and domicile or, as the case may be, the buyer's name and location;
- d) the tax identification code of the debtor and buyer;
- e) the final price of the good and the related value added tax, if applicable;
- f) the manner of payment of the price difference for installment sale;
- g) the good identification data;
- h) the specification that this document is a title deed and can be recorded in the Land Book;
- i) the specification that for the creditor the adjudication report is the document based on which the executory title is issued against the buyer that fails to pay the price difference, if the sale was made in installments;
- j) the signature of the buyer or of his/her legal representative, as the case may be.

(3) If the buyer whose payment in installment was approved fails to pay the remaining price under the terms and conditions provided, then he/she can be subject to compulsory execution in respect of the amount due, based on the executory title that was issued by the competent enforcing body based on the adjudication report.

(4) In case of the sale of movable goods, within 5 days after the payment of the price, the tax executor shall prepare an adjudication report that shall be deemed a title deed.

(5) The adjudication report prepared according to par. (4) is also to include, beside elements under art. 43 par. (2), elements provided in par. (2) of this article, except for letter f), h) and i), the specification that such document is an ownership act. A copy of the minutes of adjudication is to be sent to the coordinating forced execution body and to the buyer.

ARTICLE 167

Resumption of sale procedure

(1) If the goods subject to forced execution could not be sold as provided in art. 159, such goods may be returned to the debtor by maintaining the blocking measure until the expiry of the statute of limitation. The forced execution body may resume the sale procedure at any time within this deadline and may appoint, maintain or change the seizure administrator or the custodian, as the case may be.

(2) In the case of seized goods that could not be sold in the third auction, on the occasion of resumption of proceedings under the limitation period, if the enforcing body considers that there should be a new evaluation, the beginning price of the auction can not be less than 50% of the valuation price of goods.

(3) If debtors whose goods were supposed to be returned according to par. (1) relocated their stated fiscal domicile and cannot be identified further to the investigations, the fiscal body is to proceed to their notification according to the procedure of communication by advertising in compliance with art. 44 par. (3), that the good in question is maintained available to the owner until the expiry of the statute of limitation, after which the good is to be sold according to legal provisions regarding the sale of the goods entered in the state private ownership, unless otherwise provided by law.

(4) Actions in par (3) are to be recorded in minutes prepared by the fiscal body.

(5) In case of real estate, based on the minutes provided in par. (4) the competent court acting upon ascertaining the state private ownership right over such good is to be notified under the law.

CHAPTER 9

Expenses

ARTICLE 168

Forced execution expenses

(1) The expenses related to the forced execution shall be borne by the debtor.

(2) The expenses related to the forced execution shall be determined by the enforcing body through a report that shall represent an executory title according to this Code, based on documents related to the expenses incurred.

(3) The expenses related to forced execution of tax receivables shall be paid by enforcing bodies from their budgets.

(4) The expenses related to forced execution, which were not based on documents that certify that such expenses were incurred for forced execution purposes, shall not be borne by the debtor.

(5) The amounts recovered in the account of forced execution expenses shall become revenue to the budget from which they were paid, except for the amounts representing expenses for the forced execution of tax receivables administered by the Ministry of Economy and Finance that are revenues to the State budget, unless otherwise provided by the law.

CHAPTER 10

Release and distribution of amounts obtained by forced execution

ARTICLE 169

Amounts obtained by forced execution

(1) The amount that was obtained during the forced execution procedure shall include all the amounts collected after the notification of summons in any of the ways provided by this Code.

(2) Tax receivables recorded in the executory title are to be settled by amounts realized according to par. (1), according to their seniority, first the main receivable and then its ancillaries.

(3) Provided that the amount representing both tax receivable and forced execution expense is less than the amount obtained from forced execution, the difference is to be offset according to art. 116, or is to be refunded upon the debtor's request, as the case may be.

(4) The debtor shall be immediately notified on the amounts to be refunded.

ARTICLE 170

Distribution sequence

(1) In case the forced execution procedure was initiated by several creditors or when until the release or distribution of the amount resulting from forced execution other creditors also submitted their titles, the bodies provided in art. 136 are to resort to the distribution of such amount according to the priority sequence, unless otherwise provided by law, as follows:

a) receivables representing expenses of any kind made for the prosecution and preservation of the goods whose price is distributed;

b) receivables representing salaries and other assimilated duties, pensions, amounts for the unemployed, according to the law, aids for the support and care of children, for maternity care, for temporary work incapacity, for the prevention of illness, for the health recovery or improvement, death benefits granted within the state social security system, as well as receivables representing the

obligation to repair damages caused by death, damage of body integrity or of health;

c) receivables that result from support obligations, child benefits or payment liabilities of other regular amounts intended to ensure the means of subsistence;

d) tax receivables from taxes, fees, contributions and other amounts provided according to law that are due to the State budget, the State Treasury budget, the state social security budget, local budgets and special funds budgets;

e) receivables that result from loans granted by the state;

f) receivables representing compensations for the repair of damages brought to public ownership through illegal deeds;

g) receivables that result from bank loans, from supply of products, supply of services or performance of works, as well as from rent;

h) receivables representing fines to the State budget or the local budgets;

i) other receivables.

(2) For the payment of receivables that have the same priority, unless otherwise provided by law, the amount from execution shall be distributed among creditors proportionally to their receivable.

ARTICLE 171

Rules regarding release and distribution

(1) Tax creditors that have a privilege by law and that comply with the condition of advertising or owning a movable good are to have priority, in conditions provided in art. 142 par. (7), in the distribution of the amount resulting from the sale compared to other creditors that hold real guarantees over such good.

(2) Ancillaries of the main receivable as mentioned in the enforceable title shall observe the priority sequence of the main receivable.

(3) If there are creditors who have pledge, mortgage or other real rights on the good sold about which the forced execution body found out according to the provisions of art. 152 par. (6) and art. 154 par. (9), upon the distribution of the amount obtained from the sale, their receivables shall be paid before the receivables provided in art. 170 par. (1) letter b). In this case, the forced execution body shall have the obligation to notify ex officio the creditors in whose favor such burdens were preserved in order to allow them to participate in the price distribution.

(4) Creditors who did not participate in the forced execution procedure may submit their titles in order to participate to the distribution of amounts obtained from the forced execution only until the date of preparation by the enforcing body of the report concerning the release or the distribution of such amounts.

(5) The release or the distribution of the amount resulting from the forced execution shall be performed only after the expiry of 15 days after the submission of the amount, when the enforcing body proceeds, as the case may be, to the release or distribution of such amount, by notifying the parties and creditors that submitted their titles.

(6) The release or distribution of the amount resulted from forced execution shall be immediately recorded by the tax executor in minutes that shall be signed by all the entitled parties.

(7) The person that is dissatisfied with the release or distribution of the amount resulted from forced execution may request the tax executor to record such objections in the report.

(8) After the preparation of the minutes in par. (6) no creditor is to be entitled anymore to request to participate in the distribution of amounts resulted from the forced execution.

CHAPTER 11 **Appeal to forced execution**

ARTICLE 172 **Appeal to forced execution**

(1) Persons interested may appeal against any act of forced execution that is performed by the violation of provisions of this Code by the enforcing bodies as well as if such bodies refuse to carry out a forced execution act in compliance with the law.

(2) Provisions concerning the temporary suspension of the forced execution by presidential ordinance provided in art. 403 par. (4) from the Civil Procedure Code are not applicable.

(3) The appeal may also be directed against the executory title based on which the forced execution was initiated, in case that such title is not a decision made by a court or other legal jurisdictional authority and if for such appeal there is no other procedure stipulated by law.

(4) The appeal shall be registered at the competent court and shall be solved under the emergency procedure.

ARTICLE 173 **Appeal deadline**

(1) The appeal may be submitted within 15 days under the sanction of nullity as of the date when:

a) the applicant was informed of the execution or the execution act he is contesting, from the communication of the summons or from other notifications received or, in the lack thereof, upon the performance of forced execution proceedings or in any other way;

b) the applicant was informed according to letter a) of the refusal of the enforcing body to carry out the forced execution procedures;

c) the party interested was informed according to letter a) of the release or distribution of the amounts he is contesting.

(2) The appeal whereby a third party claims to have an ownership right or other real right over the good traced may be entered no later than 15 days after performing of the forced execution.

(3) Failure to submit the appeal within the deadline provided in par. (2) is not to impede the third party from realizing his/her right based on a separate application, according to the common law.

ARTICLE 174

Judging of the appeal

(1) Upon carrying out an appeal, the court shall also summon the enforcing body within whose territorial jurisdiction the traced goods are located or in case of execution by withholding, the third party withheld is located or domiciled.

(2) Upon the request of the interested party, the court may decide upon the execution appeal with regard to the distribution of the goods held by the debtor under joint ownership with other persons.

(3) If the court accepts the execution appeal, as the case may be, it may decide the cancellation of the execution action appealed or its correction, cancellation or end of the forced execution itself, cancellation or clarification of the enforceable title or the performance of the forced execution action whose performance was refused.

(4) In case of cancellation of the appealed forced execution act or in case of completion of the forced execution itself and cancellation of the executory title, the court may decide by the same decision to return to the rightful person the lawful amount from the sale of goods or from withholdings by seizure.

(5) In case of repeal of the appeal, upon the request of the forced execution body the applicant may be obliged to pay indemnities for damages caused due to the delay in execution, and when the appeal was submitted in bad faith, the applicant is to also be obliged to pay a fine between 50 lei and 1,000 lei.

CHAPTER 12

Settlement of tax receivables by other means

ARTICLE 175

Payment by transfer in public ownership of a real estate

(1) Tax receivables administered by the Ministry of Economy and Finance through the National Agency for Fiscal Administration, except those withheld at source and their related ancillaries, as well as the tax receivables related to local budgets may be anytime settled, upon the request of the debtor and with the consent of the tax creditor, by transfer of the real estate, including that under seizure, of the debtor in the public property of the State or of the relevant territorial-administrative unit.

(2) For the purpose provided in par. (1) the fiscal body shall submit the request, accompanied by its own recommendations, to a committee appointed by an Order of the Minister of Economy and Finance or of the territorial administrative unit, as appropriate. The request shall be accompanied by documentation established by an Order of the Minister of Economy and Finance.

(3) The Committee provided in par. (2) shall analyze the request only when there is a request for taking over of the assets concerned for administration, in compliance with the law, and shall decide the solution to this request by decision. When the request is admitted, the committee shall order the competent fiscal body to draw up a report on the transfer in public ownership of the immovable asset concerned and on the settlement of the tax receivables. The committee may repeal the request when the immovable assets concerned are of no public use or interest.

(4) The report on the transfer in public ownership of the immovable assets concerned shall be deemed a property title deed.

(4¹) In case the transfer of property upon the real estates in the State ownership at the established price is taxable according to the law plus the value-added tax, this one shall be the first settled.

(5) Real estate that is transferred under the public ownership according to par. (1) may be given under administration according to law. Until the act ordering the entrustment for administration comes into force, the real estate shall be in the custody of the institution having required the takeover for administration.

(6) At the date of preparation of the report for ownership transfer concerning the real estate in public ownership of the state, its blocking measure shall cease, together with the capacity of seizure administrator of the persons designated under the law, if any.

(7) The administration costs, if any, incurred in the period between the conclusion of the report on transfer of the real estate in case in public ownership of the state and the take-over for administration, by Government Decision, shall be borne by the requesting public institution. If the Government agrees on entrusting the real estate for administration to an institution other than the requesting one, the administration costs shall be borne by the public institution to which the asset is entrusted for administration.

(8) If the immovable assets transferred under public ownership as provided by this Code have been claimed and returned to third parties, in compliance with the law, the debtor shall pay the amounts settled by this method. Tax receivables shall arise back when the immovable assets are returned to the third party concerned.

(9) In case during the statute of limitation of the tax receivables, the committee provided in par. (3) found out about certain aspects related to the relevant immovable assets, not known on the date of the approval of the debtor's request, it may decide based on the statute of fact the integral or partial revoking of the decision by which certain tax receivables have been settled by transfer of the immovable assets in public ownership, the provisions of par. (8) following to be adequately applied.

(10) In cases provided in par. (8) and (9), no delay penalties shall be imposed for the period between the date of the transfer under public ownership and the date when tax receivables emerge again, respectively, the date of revoking of the decision by which the tax receivables payment has been approved by such method.

ARTICLE 175^{^1}

Assignment of tax receivables administered by the National Agency for Fiscal Administration

(1) The National Agency for Fiscal Administration may assign the tax receivables administered by it as they are individualized by receivable titles and confirmed by fiscal attestation certificate issued for the date established in the assignment contract.

(2) The National Agency for Fiscal Administration may not assign the main and ancillary tax receivables administered for a price lower than their nominal value. In case there are more bidders for the takeover of the tax receivables, the assignment shall be made following an auction organized by the National Agency for Fiscal Administration.

(3) The assignee of the tax receivable takes over following the receivable assignment all the rights of the assignor except those granted by the capacity of budgetary creditor.

(4) In case the National Agency for Fiscal Administration intends to assign tax receivables it shall notify the debtor about its intention. Starting with the date of 1st of the month next to the month in which notification was sent until the date of performing of the receivable assignment, any payment shall be deemed to be made in the account of the current or future tax receivables. In case the tax receivable assignment is not performed, the debtor shall be notified about this fact and the provisions of art. 114 and 115 shall be adequately applied.

(5) The National Agency for Fiscal Administration shall be responsible for the existence of the tax receivable established in the fiscal attestation certificate and contained in the receivable assignment contract. After signing of the assignment contract, the National Agency for Fiscal Administration shall be discharged from any responsibility to warrant this receivable.

(6) In case the tax receivable subject of the assignment is challenged, the National Agency for Fiscal Administration shall have no obligation to warrant it.

(7) Tax receivable assignment may be completed according to the procedure established by order of the President of the National Agency for Fiscal Administration.

ARTICLE 176

Insolvency

(1) For the purpose of this Code, the debtor whose revenues or pursuable assets are smaller in value than his outstanding tax obligations or who has no pursuable revenues or assets shall be deemed as insolvent.

(2) For tax receivables of debtors that are declared insolvent, that do not own pursuable revenues or assets, the head of the forced execution enforcing body shall decide to write out such receivable from current records and its entry in a separate record.

(3) In case of debtors provided in par. (2), by way of derogation from provisions of art. 148 par. (3), the forced execution is to be interrupted. The fiscal

bodies should investigate the state of such taxpayers at least once a year and such investigations shall not be deemed forced execution deeds.

(4) When the debtors are found having acquired pursuable revenues or assets, the enforcing bodies shall take the necessary measures to switch back the debtors from the separate records to the current records and to perform their forced execution.

(5) If at the end of prescription period the acquiring of pursuable revenues or assets is not ascertained, the forced execution bodies shall write off the tax receivables from the analytic account on taxpayer according to art. 134. This write off shall be made also during the prescription period for the debtors, individuals, dead or missing persons, not having successors who accepted the succession.

(6) Tax receivables due by debtors that are legal persons removed from the Trade Register shall be deducted from the analytical records kept on taxpayers, irrespective of whether liability has or has not been assigned to other persons for the tax obligations payment according to the legal provisions in force.

ARTICLE 177

Opening of insolvency proceedings

(1) In order to retrieve tax receivables from debtors in an insolvency state, the National Agency for Fiscal Administration and the bodies under its authority as well as the specialized bodies of the local public administration authority shall declare to liquidators the tax receivables existing in the records kept on the taxpayers as of the declaration day.

(2) Provisions in par. (1) shall be applied for the recovery of the tax receivables from the debtors being in liquidation procedure according to the law.

(3) Tax bodies' applications concerning the initiation of insolvency proceedings shall be submitted to the law courts and shall be exempt from the submission of any bail.

(4) In case the fiscal body subordinated to the National Agency for Fiscal Administration holds at least 50% of the total amount of the receivables, the National Agency for Fiscal Administration may decide the appointment of a legal administrator/liquidator establishing also this one remuneration. The confirmation of this legal administrator/liquidator appointed by the National Agency for Fiscal Administration by the syndical judge shall be made during the first session according to art. 11 par. (1) letter d) from Law no 85/2006, as further amended.

(5) In cases when fiscal body holds at least 50% of the total amount of the receivables, this one is entitled to check the activity of the legal administrator/liquidator and to request to him producing the documents referring to the activity developed and the fees cashed.

ARTICLE 178

Cancellation of tax receivables

(1) If execution expenses, exclusive of mail-related expenses, exceed the tax receivables subject to forced execution, the head of the forced execution body

may approve the cancellation of the debts concerned. Expenses for sending summons by mail are to be covered by the fiscal body.

(2) Outstanding tax receivables on the balance on 31st December of the year that are less than 10 lei are to be cancelled. Annually, the thresholds of the tax receivables that can be cancelled are to be established by a Government decision.

(3)) In case of tax receivables that are owed to local budgets, the amount provided in par. (2) is the maximum limit up to which deliberative authorities may determine by a decision the threshold of tax receivables that may be cancelled.

CHAPTER 13 **International aspects**

SECTION 1 **General provisions**

ARTICLE 179

Purpose

This chapter lays down regulations for recovery in Romania of receivables established in another Member State of the European Union and for recovery in another EU member state of receivables established in Romania.

ARTICLE 180

Scope of application

(1) This chapter applies to all receivables relating to:

a) restitutions, interventions and other measures that are part of the full or partial funding mechanism of the European Agricultural Guidance and Guarantee Fund (EAGGF) and the European Agricultural Fund for Rural Development (EAFRD), including the amounts due within these actions;

b) contributions, dues and other duties provided for within the common organization of sugar markets;

c) import duties in the form of custom fees and fees of similar effect on the imports of goods, as well as the import fees provided for within the common agricultural policy or the specific customs procedures applicable to certain goods resulting from the processing of agricultural products;

d) export duties in the form of custom fees and fees of similar effect on the export of goods, as well as the export fees provided for within the common agricultural policy or the specific customs procedures applicable to certain goods resulting from the processing of agricultural products;

e) the value-added tax;

f) excises for: beer, wines, fermented drinks, other than beer and wines, intermediate goods, alcohol, processed tobacco, energy goods and electricity;

g) revenue and capital taxes, as defined by the Fiscal Code;

h) fees on insurance premiums, including fees of identical or similar nature, which complement or replace fees on insurance premiums provided in par. (2);

i) interest, delay penalties, administrative penalties and fines as well as receivable related costs mentioned in letters a) - h), with the exception of any criminal sanction provided for by the legislation in force in the Member State where the main offices of the requesting authorities are located.

(2) Fees on insurance premiums provided in par. (1) letter h) are those provided by the national law, known as:

- a) in Austria: "Versicherungssteuer" and "Feuerschutzsteuer";
- b) in Belgium: "Taxe annuelle sur les contrats d'assurance" and "Jaarlijkse taks op de verzekeringcontracten";
- c) in Germany: "Versicherungssteuer" and "Feuerschutzsteuer";
- d) in Denmark: "Afgift af lysfartøjsforsikringer", "Afgift af ansvarsforsikringer for motorkøretøjer m.v." and "Stempelafgift af forsikringspræmier";
- e) in Spain: "Impuesto sobre la prima de seguros";
- f) in Greece: "Phoroscuclou Ergasiov (Ph.C.E)" and "Tele Chartosemou"⁶;
- g) in France: "Taxe sur les conventions d'assurances";
- h) in Finland: "Eraista vakuutusmaksuista suoritettava vero/skatt på vissa försäkringspremier" and "Palosuojelumaksu/brandskyddsavgift";
- i) in Italy: "Imposte sulle assicurazioni private ed i contratti vitalizi di cui alla legge 29.10.1967 no 1216";
- j) in Ireland: "Levy on insurance premiums";
- k) in Luxembourg: "Impot sur les assurances" and "Impot dans l'interet du service d'incendie";
- l) in Netherlands: "Assurantiebelasting";
- m) in Portugal: "Imposto de selo sobre os premios de seguros";
- n) in Sweden: none;
- o) in the United Kingdom of Great Britain and Northern Ireland: "insurance premium tax (IPT)";
- p) in Malta: "Taxxa fuq Dokumenti u Trasferimenti";
- q) in Slovenia: "davek od prometa zavarovalnih poslov" and "pozarna taksa".

ARTICLE 181

The competent authority in Romania

(1) The competent authorities in Romania for implementation of provisions of this chapter are:

- a) for receivables stipulated in art. 180 par. (1) lit. a), e), f) și h), the National Agency for Fiscal Administration;
- b) for receivables stipulated in art. 180 par. (1) letter b), the Agency for Payments and Interventions in Agriculture;
- c) for receivables stipulated in art. 180 par. (1) letters c) - f) owed for customs transactions, the National Customs Authority;
- d) for receivables stipulated in art. 180 par. (1) letter g), the National Agency for Fiscal Administration and the local public administration authorities, as the case may be.

⁶ Greek letters were converted into Latin letters.

(2) Authorities provided in par. (1) are competent also for the recovery of the interests, delay penalties, administrative penalties and fines as well as expenses provided in art. 180 par. (1) letter i), related to the main tax receivables of which recovery is under their competence.

SECTION 2

Assistance for the recovery in Romania of the receivables established by debt securities issued in another Member State:

ARTICLE 182

Providing of information

(1) The competent authorities provided in art. 181 shall provide, at the request of the competent authority of another Member State, referred to in this section as applicant authority, all the information necessary for the recovery of a receivable, unless:

- a) the information may not be provided in accordance with the provisions of this Code;
- b) the information constitutes a trade, industrial or professional secret;
- c) the provision of information would prejudice the security or public order in Romania.

(2) The competent authority in Romania shall immediately confirm in writing the receipt of the request for information, or, in justified cases, no later than 7 days from the date of receipt.

(3) To obtain the requested information, the competent authority from Romania shall exercise the powers provided by law as in the recovery of similar receivables established in Romania. The provisions of this Code on providing of information shall apply accordingly.

(4) The competent authority provided in art. 181 shall notify the applicant authority about the reasons stopping it to provide the information requested, as soon as possible or in maximum 3 months from the date of receipt of the request.

(5) Where deemed necessary, the competent authority in Romania may require the applicant authority to provide additional information necessary to solve the request.

(6) The competent authority in Romania shall provide the applicant authority the information as it is gathered and, when it is not gathered, the applicant authority shall be informed about the situation and the reasons having led to such situation.

(7) Within 6 months after the confirmation of receipt of the request for information, if the request has not been resolved, the competent authority in Romania shall inform the applicant authority of the result of research conducted for obtaining the information requested.

(8) In case the applicant authority requests in writing, in term of two months from the information receipt provided in par. (7), to be continued the investigations, the competent authority in Romania shall solve the request according to the provisions applicable to the initial request.

ARTICLE 183

Communication of documents issued in the Member State of the applicant authority

(1) At the request of the applicant authority, the competent authority in Romania shall communicate the addressee all papers and decisions, including the judicial ones, regarding a receivable or its recovery, issued in the member state where the applicant authority is situated. The provisions of art. 182 par. (2) are to apply correspondingly.

(2) The authority provided in art. 181 shall communicate the documents as they were issued, without putting into question their validity.

(3) Immediately after the receipt of the request to communicate information, the authority provided in art. 181 shall take all measures necessary to complete the communication. The provisions on the communication of administrative documents of this code shall apply accordingly. If necessary, the competent authority in Romania may request additional information without jeopardizing the communication deadline indicated in the request of the applicant authority.

(4) Immediately after the communication, the competent authority in Romania shall inform the applicant authority in this respect and about the date the recipient's documents were communicated to the addressee, by appropriate certification on the reverse of the second copy of the request for communication and its forward to the applicant authority.

ARTICLE 184

Recovery of the receivable and implementation of precautionary measures

(1) Upon the request of the applicant authority, the competent Romanian authority shall proceed according to the provisions for the enforcement of the tax receivables in order to recover the receivables that are object to an executory title submitted by the applicant authority, as well as to carry out precautionary measures, when appropriate.

(2) The competent authority in Romania shall confirm in writing the receipt of the request, under art. 182 par. (2), and may request to the applicant authority the completion of its request in case there are not specified the information and elements provided in art. 192.

(3) In applying the provisions of par. (1), any receivable which is the subject of a request for recovery is regarded as a tax receivable for the purposes of this Code, except the case where applicable the provisions of art. 198. The amounts recovered shall enter in distribution together with the tax receivables, the provisions of art. 170 and 171 following to be adequately applied.

(4) If necessary, the competent authority in Romania shall retain the amount requested to be recovered from the amounts due to the debtor as reimbursement or refund after completion of the offset under art. 116. The possible differences shall be refunded to the debtor or shall be recovered from the debtor and transferred to the applicant authority as the case may be.

ARTICLE 185

Executory title

(1) The title passed to the applicant authority, annexed to the request for recovery, is an executory title in accordance with art. 141 par. (2). Given that the executory title attached at the request for recovery does not have the elements of an executory title necessary for recovery of the tax receivables, according to this Code, the competent Romanian authority shall apply accordingly the provisions of art. 141 par. (1).

(2) In term of 3 months from the date of the request receipt, the authority provided in art. 181 shall complete the formalities for the issuance and communication of the executory title. If the 3-month deadline is exceeded, the competent Romanian authority shall inform the applicant authority about the reasons for the delay, as soon as possible and in no way later than 7 days after the expiry of the 3-month deadline.

(3) Receivable shall be recovered in the national currency of Romania. The full amount of the receivables recovered shall be transferred, converted in the Romanian currency, to the applicant authority in the month that follows the date when the recovery was performed.

(4) For the receivables included in the executory title, the debtor shall owe delay penalties for the time beginning with the day that follows the date when the executory title is communicated to the debtor and the date the receivables are recovered, that day included. The provisions of this Code on the establishment and calculation of delay penalties are applicable accordingly. Delay penalties recovered by the competent Romanian authority shall be transferred to the applicant authority in compliance with par. (3).

(5) The authority provided in art. 181 shall inform as fast as possible the applicant authority about the solution of the recovery request as it follows:

a) where, depending on the circumstances of each case, full or partial recovery of the receivable or the taking of precautionary measures in a reasonable time fail, the competent Romanian authority shall inform the applicant authority, stating the reasons which led to this situation;

b) maximum on the expiry of the 6-month period from the date of the confirmation of the request receipt, the authority provided in art. 181 shall inform the applicant authority about the situation or the result of the recovery or precautionary measure undertaking procedure.

ARTICLE 186

Subsequent amendment of the receivable

(1) If the competent Romanian authority is informed by the applicant authority about the change in minus of the receivable amount, whose recovery has been requested, it shall continue the action taken for recovery or fulfillment of precautionary measures, limiting the action on the remaining amount to be recovered. If, when it is informed about the reduction of the receivable amount, the Romanian authority had already recovered an amount that exceeds the amount remaining to collect, without being initiated the procedure for transfer to the applicant authority, the competent authority in art. 181 shall repay the amount extra charged to the person entitled, by the law.

(2) If the applicant authority informs on the amendment in addition to the receivable amount, by submitting an additional request for recovery or fulfillment of precautionary measures, the competent authority from Romania shall resolve the additional request, as far as possible, together with the original request. In a situation in which, taking into account the stage of the procedure under way, the additional request can not be related to the original request, the competent authority from Romania shall take into account the additional request only if its object is a receivable in an amount equal to or greater than the value prescribed in art. 203.

ARTICLE 187

Possibility to refuse assistance

(1) The competent Romanian authority is not obliged:

a) to assist in recovery, whenever compulsory execution involves revenue and assets which, according to the regulations in force, are exempt from forced execution;

b) to grant assistance provided in art. 182 - 186, where the original request made for provision of information, communication or recovery regards the receivables for which the period between the moment in which the executory title that allows the recovery is issued in accordance with the laws, regulations and administrative practices in force in the Member State where the applicant authority is located and the date of the request exceeds 5 years. However, if the receivable or title is subject to an appeal, the time begins to run from the point at which the applicant state establishes that they can no longer be disputed.

(2) The competent Romanian authority shall inform the applicant authority of the reasons for which it refused to provide assistance. The motivated refusal shall be also notified to the European Commission.

ARTICLE 188

Confidentiality of the documents and information received

Documents and information communicated to the competent authority in Romania for the implementation of this chapter shall not be communicated except:

a) to the natural or legal person concerned by the request for assistance;

b) to the individuals and authorities responsible for the recovery of receivables, only for the purpose of recovery;

c) to the legal authorities informed in connection with cases relating to the recovery of receivables.

ARTICLE 189

Expenditure related to assistance

(1) Expenditure for granting of assistance in Romania for the provision of information or communication provided by this section shall be borne by the competent Romanian authority.

(2) Expenses incurred by the competent Romanian authority following the receipt of a request for recovery of the receivable or precautionary measures are

in the debtor's charge. Provisions of art. 168 par. (2) - (5) are to apply correspondingly.

SECTION 3

Assistance for the recovery in a Member State of receivables established by documents issued in Romania

ARTICLE 190

Request for information

(1) to recover in other Member State a receivable assessed by a tax document issued in Romania, the competent authorities provided in art. 181 shall request any information about an individual or legal person from another Member State useful for the recovery of this receivable, to the competent authority in the Member State, called in this section requested authority. The request concerns both the debtor and any other person from that member state, that is obliged to pay the receivable under this Code or that owns assets belonging to the debtor or to the person liable to pay.

(2) The request for information shall include the name, address and any other useful information for the identification of persons referred to in par. (1), held by the competent Romanian authority, and of the receivable type and amount for which the request is formulated.

(3) The request for information shall contain, in addition to the items listed in par. (2), the signature of the empowered person and the stamp of the issuing authority.

(4) To the extent that is possible, the request shall be sent by electronic means, in which case there is no longer need for the signature and stamp referred to in par. (3). However, in all cases where the request is sent by electronic means, it must be drawn up in writing as well, in accordance with par. (3).

(5) The competent Romanian authority may withdraw at any time the request for information sent to the requested authority. The decision about the withdrawal shall be communicated in writing to the requested authority.

(6) If the competent Romanian authority addressed to another authority a similar request for information, it shall also specify in the request made in compliance with this article the name of this authority.

(7) Considering the information received from the requested authority, the competent Romanian authority may ask it to continue research. The request shall be made in writing within two months from the date of communication of results of the research conducted by the requested authority.

ARTICLE 191

Communication of instruments issued in Romania

(1) In order to recover receivables as well as to notify about all instruments issued in Romania that regard receivables referred to in art. 180, including of the court decisions, concerning a natural or legal person who, according to the legal provisions in force, have to be notified the instruments, the Romanian authorities

prescribed in art. 181 shall submit to the requested authority a request for communication, accompanied by the documents for which communication assistance is being requested. The request and documents attached shall be transmitted in duplicate.

(2) The request shall include the name, address and any other information useful for identification of the recipient, held by the competent authority from Romania, the nature and scope of the act or decision to be communicated and, where appropriate, debtor's name and address and the receivable mentioned in the act or decision and other useful information.

(3) The request shall refer to the legal provisions in force on the procedure for contesting the receivable or for its recovery whenever the administrative document that is communicated does not specify it.

(4) The request for information shall contain, in addition to the items listed in par. (2), the signature of persons authorized by the competent authority and the stamp of this authority.

(5) If the requested authority requires the competent authority of Romania further information, it shall communicate any additional information in its possession or which it can obtain under the law.

ARTICLE 192

The recovery of receivables established in Romania

(1) For the recovery in another member state of a receivable established in Romania, the competent authority provided in art. 181 shall submit to the requested authority a request for recovery or for precautionary measures accompanied by the original of the instrument permitting enforcement issued in Romania or a notarized copy thereof, as well as, when appropriate, by the original or notarized copies of other documents needed for recovery or the ordering of precautionary measures.

(2) The authority provided in art. 181 may not make a request for recovery unless:

a) the receivable or executory title is not contested in Romania, except the cases where there shall be applied the provisions of art. 198;

b) it performed, according to the laws in force in Romania, the recovery proceedings under the enforceable title, and the measures taken have led to full payment of the receivable.

(3) The request for recovery or precautionary measures shall indicate:

a) the name, address and other information to identify the person concerned and/or any third person holding his/her assets;

b) the name, address and other information on the competent Romanian authority;

c) the title that allows the execution of the receivable, issued in Romania, according to the law;

d) the nature and amount of the receivable, with the separate indication of the main receivable, of late payments, interest and other penalties, fines and charges due, as appropriate. The amount of the receivable will be shown both in the national currency of Romania and in the national currency of the requested

authority, at the exchange rate communicated by the National Bank of Romania, valid on the day of signature of the request;

e) the date on which the title was notified by the recipient by the Romanian authority and/or requested authority;

f) the date from which and the period during which the execution is possible in accordance with the laws in force in Romania;

g) any other useful information.

(4) The request for recovery or precautionary measures shall also contain a statement of the competent Romanian authority, which confirms that the fulfillment of conditions referred to in par. (2), the signature of persons authorized by the competent authority and the stamp of this authority.

(5) If the requested authority requires the competent authority of Romania to fill in the request for recovery or precautionary measures with further information, it shall immediately communicate the requested authority any useful information about the request for recovery.

(6) The request for recovery or precautionary measures may concern any of the persons referred to in art. 190 par. (1).

ARTICLE 193

Expenditure related to assistance

(1) Expenditure for granting of assistance for the provision of information or communication provided by this section shall be borne by the requested authority.

(2) Expenses incurred by the requested authority following the receipt of a request for recovery of the receivable or precautionary measures sent by the competent authority in Romania shall be in the debtor's charge and the requested authority shall recover them from the latter.

ARTICLE 194

Impossibility of recovery

When full or partial recovery of the receivable or the taking of precautionary measures fail, according to the information communicated by the requested authority, the competent Romanian authority may ask the requested authority to reopen the recovery procedure or the ordering of precautionary measures. The request shall be made in writing within two months from the receipt of communication of results of the procedure.

ARTICLE 195

Modification or settlement of the receivable

(1) If the value of the receivable covered by the request for recovery or precautionary measures has been amended, the competent Romanian authority shall immediately inform the requested authority in writing and, if necessary, issue and communicate a new executory title.

(2) If the value of the receivable is further amended, the competent Romanian authority shall address as soon as possible to the required authority an additional

request for recovery or precautionary measures. Provisions of art. 192 par. (3) letter d) shall be applicable.

(3) If the request for recovery or precautionary measures remains without object as a result of receivable collection, cancellation or from any other reason, the competent Romanian authority shall immediately inform the requested authority in this respect, in writing, so that the latter should stop the procedure undertaken.

ARTICLE 196

Language used in the assistance procedure

The requests for assistance made under this section, including enforceable title and the other documents attached shall be accompanied by a translation into the official language or in one of the official languages of the member state in which the requested authority is located or in another language agreed with the requested authority.

ARTICLE 197

Forms

The model of requests drawn up by competent authorities in Romania, in compliance with this section, shall be approved by an Order of the Minister of Economy and Finance.

SECTION 4

Final provisions

ARTICLE 198

Appeal against the receivable or executory title

(1) If, during the recovery procedure, the receivable or the enforceable title that allows its recovery, issued in the member state where the applicant authority is situated, is disputed by an interested person, the latter shall appeal to the court or competent authority to resolve complaints from the member state in which the applicant authority is situated in accordance with the laws in force in that state. The applicant authority shall immediately notify the requested authority about this action. The interested person may also notify the requested authority about this action.

(2) As soon as the requested authority receives the notification referred to in par. (1) either from the applicant authority or the interested person, it shall suspend the procedure of execution and wait for the decision of the court or competent authority to solve the appeal, unless the applicant authority makes a contrary request, according to par. (3). If necessary, the requested authority may take precautionary measures to ensure recovery, in the extent to which laws or regulations in force in the member where it is located allow it for similar receivables.

(3) In accordance with the laws, regulations and administrative practices in force in the member state where it is located, the applicant authority may request the requested authority to recover a contested receivable to the extent that the

laws, regulations and administrative practices in the member state where the requested authority is located allow this, if this is not allowed, the requested authority shall inform the applicant authority as soon as possible and in any case within one month after receiving the request for recovery of the disputed receivable. If the appeal outcome is favorable to the party concerned, the applicant authority must reimburse any amount recovered, and pay any compensation due, in accordance with the law in force in the member state where the requested authority is located.

(4) Any action initiated in the member state of the requested authority for reimbursement or recovered amounts or offset, as regards the recovery of receivables established pursuant to par. (3), must be notified to the applicant authority in writing by the requested authority as soon as the latter is informed of the action in question. As far as possible, the requested authority shall involve the applicant authority in the proceedings to regulate the amount to be refunded and of the due offset. On the basis of a written motivation of the requested authority, the applicant authority shall transfer the amounts and the offset paid within two months after receipt of the request.

(5) If the appeal refers to implementing measures taken in the member state where the requested authority is situated, the appeal shall be filed in court or the competent authority to resolve appeal from the member state concerned, in accordance with the laws and regulations from this state.

(6) If the competent authority where the appeal has been filed in accordance with par. (1), the decision of a law court or of an administrative tribunal, if favorable to the applicant authority and if allows recovery of the receivable in the member state where the applicant authority is situated, is deemed as an executory title, and the recovery of the receivable referred to in the request for assistance shall made based on this decision.

ARTICLE 199

Prescription of the right to require forced execution

(1) The prescription of the right to require forced execution operates in accordance with the laws in force in the member state where the applicant authority is situated.

(2) The actions of recovery made by the requested authority in accordance with the request for assistance, which, if made by the applicant authority would have resulted in suspension or interruption of limitation period in accordance with the laws in force in the member state where the applicant authority is located, are considered in relation to this effect as being undertaken in that member state.

ARTICLE 200

Reimbursement of recovery expenses

(1) The requested authority shall ask the applicant authority to reimburse the recovery expenses in the following cases:

a) if the requested authority performed actions recognized as unjustified from the point of view of reality of the receivable or validity of the title issued by the applicant authority;

b) when the member state where the requested authority is located agrees with the member state where the applicant authority is located on some specific arrangements for reimbursement, if the recovery of the receivable causes special problems, involves very high costs or joins the fight against organized crime. In this situation the requested authority shall formulate a justified request and attach a detailed estimate of costs required to be refunded by the applicant authority. It shall confirm in writing the receipt of the request for reimbursement as soon as possible and in any case within 7 days from the receipt. Within two months from the date of receipt of the request, the applicant authority shall notify the requested authority whether and to what extent it accepts the proposed arrangements for reimbursement. If the requested authority and the applicant authority do not reach an agreement, the requested authority shall continue the recovery procedures under the laws in force in the member state where the latter is located.

(2) If the recovery of receivables by the requested authorities from other member states is made according to par. (1) letter b), the approval of costs required to be repaid shall be made by the leaders of the competent authorities prescribed in art. 181.

ARTICLE 201

Sending information electronically

(1) All the information communicated in writing under this chapter shall be sent to the extent that is possible only through electronic means, with the following exceptions:

a) the request for communication and the act or decision whose communication is required;

b) the requests for recovery or precautionary measures and enforceable title or another act accompanying them.

(2) In terms of reciprocity, there may be agreed upon the transmission / receipt electronically of acts referred to in par. (1).

(3) Electronic transmission is the transmission through electronic equipment for data processing, including digital compression, cable, radio, optical methods or any other electromagnetic process.

(4) The competent authorities provided in art. 181 processing the information received under this chapter in electronic databases and exchange such information by electronic means, shall take all measures necessary to preserve the confidentiality of such information and that all transmissions made electronically be duly authorized.

ARTICLE 202

Central office and liaison offices

(1) For the purpose of electronic transmission and/or reception, in compliance with art. 201, of information on granting assistance according to this chapter, the Central Office shall be set up in compliance with the Order of the Minister of Economy and Finance.

(2) For the purposes of applying the provisions of this chapter, at each competent authority provided in art. 181, with the exception of local public administration, liaison offices shall be set up.

(3) The procedure for making the exchange of information between competent authorities in Romania shall be approved by joint Order of the Minister of Economy and Finance, of the Minister of Agriculture and Rural Development and of the Minister of Interior and Administrative Reform.

ARTICLE 203

Conditions for acceptance of the request for assistance

The request for assistance may regard one or several receivables, provided that they are in the same person's charge. One may not make a request for assistance if the total amount of the receivable or receivables is less than the equivalent in lei of Euro 1,500, at the exchange rate communicated by the National Bank of Romania on the day of signature of the request for recovery.

ARTICLE 204

Instructions for application

For the purposes of this chapter, the Minister of Economy and Finance shall issue instructions in compliance with the law.

TITLE IX

Solution of appeals against tax administrative documents

CHAPTER 1

Right to appeal

ARTICLE 205

Possibility to contest

(1) Against the receivable title, as well as against other administrative acts appeal may be made, according to law. The appeal is an administrative manner to contest and does not remove the right to act of the person that deems to have been harmed in his/her rights, under the law.

(2) Only the person that deems to have been harmed in his/her rights by a tax administrative document or by its absence has the right to submit an appeal.

(3) The taxation base and the tax, the fee or the contribution as assessed by the tax decision are always to be appealed at the same time.

(4) Also the tax decisions under par. (3) by which no taxes, fees, contribution or other amounts owed to the general consolidated budget are assessed may be contested.

(5) In case of decisions regarding the taxation base, regulated by art. 89 par. (1), the appeal may be submitted by any person that participates in the realization of income.

(6) Taxation bases ascertained separately in a decision as regards the taxation base may be contested only by the appeal against such decision.

ARTICLE 206

Form and content of appeal

- (1) The appeal shall be submitted in writing and shall include as follows:
- a) the applicant's identification data;
 - b) the subject of the appeal;
 - c) grounds de facto and de jure;
 - d) grounding evidence;
 - e) the signature of the applicant or his/her representative and the stamp, in case of legal persons. The evidence of the by proxy capacity of an applicant, either a legal person or an individual, is to be produced according to law.
- (2) Subject to appeal shall be only amounts and measures that were assessed and specified by the fiscal body in the tax decision or the contested tax administrative document, except the appeal against the unjustified refuse to issue the tax administrative document.
- (3) The appeal shall be submitted to the fiscal body or the customs body whose tax administrative document is contested and shall not be subject to stamp fees.

ARTICLE 207

Deadline for submitting an appeal

- (1) The appeal shall be submitted within 30 days as of the communication of the tax administrative act, under the sanction of nullity.
- (2) In case the competence for solution does not stay with the body that issued the appealed tax administrative document, the appeal shall be submitted by such body within 5 days after the registration to the competent solution body.
- (3) In case the appeal is submitted to a fiscal body that is not competent, such appeal shall be submitted within 5 days of receipt to the fiscal body that issued the appealed tax administrative document.
- (4) If the fiscal administrative document does not include elements under art. 43 par. (2) letter i), the appeal may be submitted within 3 months after the notification of the fiscal administrative document to the competent solution body.

ARTICLE 208

Withdrawal of an appeal

- (1) The appeal may be withdrawn by the applicant until its solution. The competent fiscal body is to communicate the applicant the decision that confirms the waiver to such appeal.
- (2) Withdrawal of appeals does not trigger the loss of the right to submit a new appeal within the deadline generally allowed for appeals.

CHAPTER 2

Competence for solving appeals. Solution decision

ART. 209⁷
Competent body

(1) Appeals submitted against tax decisions, tax administrative documents assimilated to tax decisions as well as decisions for the adjustment of the status, issued according to the customs law in force, shall be solved as follows:

a) appeals having as subject taxes, fees, contributions, customs liabilities and their ancillaries amounting to less than lei 1,000,000 are to be solved by the competent bodies that are established at the level of the general directorates where such appellants have their fiscal domicile;

b) appeals regarding taxes, fees, contributions, customs liability and their ancillary whose amount equals or exceeds 1,000,000 lei and those submitted against documents issued by the central bodies, the appeals filled in by the large taxpayers having as subject taxes, fees, contributions, customs debts and their ancillaries, regardless their quantum, and the appeals filled in against financial audit reports are to be solved by the Directorate General for appeal solution within the National Agency for Fiscal Administration.

(2) Appeals submitted against other tax administrative documents shall be solved by the issuing fiscal bodies.

(3) Appeals submitted by those that deem to have been harmed by the unjustified refusal to issue the tax administrative document shall be solved by the higher hierarchical body of the fiscal body competent to issue such document.

(4) Appeals submitted against tax administrative documents issued by authorities of local public administration as well as by public authorities which, according to the law, administer tax receivables, shall be solved by such authorities.

(5) Amounts provided in par. (1) are to be updated by a Government Decision.

ARTICLE 210
Solution decision or provision

(1) For the solution of appeals, the competent body shall decide upon by a decision or a provision, as the case may be.

(2) The decision or the provision issued for the solution of appeals shall be final with respect to administrative appeal methods.

ARTICLE 211
Form and content of the decision to solve an appeal

(1) The decision to solve appeals is to be issued in writing and is to comprise as follows: the preamble, the reasons and the framework.

⁷ By art. I par. 18 from the Government Emergency Ordinance no 19/2008 was modified art. 209 par. (1) letter b) from Government Ordinance no 92/2003, republished. We reproduce below the provisions of art. II par. (3) from the Government Emergency Ordinance no 19/2008 :

"3. Provisions of art. I par. 18 shall apply to all appeals registered with the fiscal bodies and not solved until the date of coming into force of the present Emergency Ordinance"

(2) The preamble is to include: the name of the body that is in charge with the solution, the name and the surname of the applicant, his/her fiscal domicile, the registration number of the appeal at the competent solution authority, the subject of such cause and the summary of the parties arguments when the competent solution body is not the issuing body of the appealed document.

(3) The reasons shall include the grounds de jure and de facto that led to the conviction of the solution body that is competent for the issuance of the decision.

(4) The framework shall include the solution decided, the appeal solution method, and the term within which it can be exerted by the competent court.

(5) The decision shall be signed by the head of the General Directorate, the general manager of the competent body established at central level, the head of the issuing fiscal body of the appealed administrative act or his/her substitutes, as the case may be.

CHAPTER 3 Procedural provisions

ARTICLE 212

Involvement of other persons in the solution procedure

(1) The competent solution body may involve ex officio or upon request, for the solution of appeals, as the case may be, other persons whose legal tax interest is harmed further to the issuance of the decision to solve the appeal. Prior to involving other persons, the appellant shall be heard according to art. 9.

(2) The persons that participate in the obtaining of the income, according to art. 205 par. (5) and did not submit an appeal are to be involved ex officio.

(3) The person involved in the appeal procedure is to be informed of all requests and declarations of the other parties. This person is to have the rights and duties of the parties as a result of the fiscal legal relation that is subject to the appeal and is entitled to submit his/her own applications.

(4) The provisions of the Civil Procedure Code regarding the forced and voluntary intervention shall be applicable.

ARTICLE 213

Solution of the appeal

(1) In the solution of appeal, the competent body is to check the grounds de facto and de jure underlying the issuance of the fiscal administrative document. The appeal shall be analyzed as compared to the parties' arguments, the legal provisions invoked and documents existing in the file of such cause. The appeal is to be solved within the limits of the notification.

(2) The solution body that is competent for the clarification of the cause may request the point of view of the specialist departments within the ministry or within other institutions and bodies.

(3) The solution of appeal shall not lead to a more difficult case for the applicant by his/her own appeal manner.

(4) The applicant, the interveners or their empowered persons may submit new evidence for the support of the cause. In such case, the fiscal body that

issued the appealed fiscal administrative document or the body that carried out the audit activity, as the case may be, is to be given the possibility to pronounce upon such aspects.

(5) The competent solution body shall decide first on the exceptions of procedure and then on the content thereof, and when they are ascertained grounded, the thorough analysis of the cause is no longer to be carried out.

ARTICLE 214

Suspension of procedure of solution of appeal by administrative means

(1) The competent solution body may suspend through a well-grounded decision the solution of the cause whenever:

a) the body that carried out the audit activity notified the competent body regarding the existence of indications on committing a criminal law violation whose determination may have a decisive impact on the solution which is about to be passed under an administration procedure;

b) the solution of the cause depends in whole or in part on the existence or the non existence of a right that is subject to a separate trial.

(2) The competent solution body may suspend the procedure upon request if there are grounded reasons. Upon the approval of suspension, the competent solution body shall determine the deadline until when the procedure is suspended as well. The suspension may only be requested once.

(3) The administrative procedure is to be resumed on the cessation of the reason that triggered the suspension or, as the case may be, upon the expiry of the deadline determined by the competent solution body according to par. (2), irrespective if the reason that led to the suspension ceased or not.

(4) The final decision of the criminal court solving a civil action is opposable to the fiscal bodies competent for solving the appeal, concerning the amounts for which the State became civil party.

ARTICLE 215

Suspension of execution of a tax administrative document

(1) Submitting the appeal as administrative way of challenge in court shall not suspend the execution of the tax administrative document.

(2) The provisions of this article shall not prejudice the taxpayer right to require the suspension of the execution of the tax administration document, under Administrative Dispute Law no 554/2004, as further amended. The competent court may suspend the execution, if bail of up to 20% of the amount disputed is submitted, and in the case of applications whose object is not evaluated in money, a bail of up to lei 2,000.

CHAPTER 4

Solutions regarding the appeal

ARTICLE 216

Solutions regarding the appeal

(1) By decision, the appeal may be admitted or repealed as a whole or in part.

(2) In case the appeal is admitted, a decision shall be made on the total or the partial cancellation of the appealed document.

(3) By decision, the appealed tax administrative document may be totally or partially cancelled, and in this case a new tax administrative document shall be concluded by considering the reasons of the solution decision.

(4) By decision, a solution to a cause may be suspended in compliance with provisions of art. 214.

ARTICLE 217

Repeal of appeal for failure to comply with procedural conditions

(1) In case the competent solution body notices a failure to comply with a procedural condition, the appeal shall be repealed without resorting to the analysis of the content of such case.

(2) The appeal may not be repealed if it bears an inaccurate name.

ARTICLE 218

Communication of decision and appeal proceedings

(1) The decision regarding the solution of appeal is to be communicated to the applicant, persons involved in compliance with art. 44 and fiscal body issuer of the appealed fiscal administrative document.

(2) The decisions delivered to solve the appeals may be challenged by the appellant or by the persons involved in case according to art. 212, before the competent administrative dispute court, under the provisions of the law.

TITLE X

Sanctions

ARTICLE 219

Civil law violations

(3) The following actions constitute civil law violations:

a) failure to submit statements regarding the tax registration or specifications within the legal deadlines;

b) failure to fulfill the obligations to declare taxable property and incomes or taxes, fees, contributions and other amounts due to the general consolidated budget, as the case may be, at the deadlines as provided by law;

b¹) failure to submit at the deadlines provided by law of the summarizing declarations provided in title VI from Law no 571/2003, as amended and completed;

c) failure to observe the obligations provided in art. 56 and art. 57 par. (2);

d) failure to observe the obligation provided in art. 105 par. (8);

e) failure to enforce the measures established according to art. 79 par. (2), art. 80 par. (4) and art. 105 par. (9);

f) failure to fulfill the obligations stipulated in art. 53;

g) failure to observe the obligation to record the fiscal identification code on documents, in compliance with art. 73;

h) failure to observe the obligations to fill in and keep tax files by the payers of wages and other assimilated incomes;

i) failure to observe obligations as regards the transmission to the competent fiscal body or, as the case may be, to third parties of forms and documents provided by the tax law, other than fiscal declarations and statements for tax or specifications registration;

j) banks' failure to observe the obligation to provide information and to refund provided in this Code;

k) failure of the third party to observe the obligations generated in its charge by this Code;

l) failure to observe the notification obligation provided in art. 154 par. (9);

m) refusal of the debtor subject of forced execution to hand over the goods to the enforcing body for seizure purposes or to make such goods available for identification and valuation purposes;

n) refusal to submit to the financial-fiscal body the material assets subject to taxes, fees, contributions due to the general consolidated budget, to be established the real nature of the fiscal declaration;

o) failure of the payers of tax obligations to withhold at source, according to the law, the amounts representing taxes and contributions;

p) failure of the payers of tax obligations to collect and pay in full the amounts representing taxes and contributions with withholding at source, if not committed in such conditions that, according to the law, be considered as crimes;

r) refusal to fulfill the obligation provided in art. 52 par. (1).

(2) Civil law violations as provided in par. (1)) is to be sanctioned as follows:

a) by a fine between lei 6,000 and lei 8,000, for individuals, and fine between lei 25,000 and lei 27,000, for legal persons, in case of committing the deeds provided in par. (1) letter c);

b) by a fine between lei 1,000 and lei 1,500, for individuals, and fine between lei 5,000 and lei 7,000, for legal persons, in case of committing the deeds provided in par. (1) letter d);

c)) by a fine between lei 2,000 and lei 3,500, for individuals, and fine between lei 12,000 and lei 14,000, for legal persons, in case of committing the deeds provided in par. (1) letter e) and f);

d) by a fine between lei 500 and lei 1,000, for individuals, and fine between lei 1,000 and lei 5,000, for legal persons, in case of committing the deeds provided in par. (1) letters a), b), g) - m);

e) by a fine between lei 1,000 and lei 1,500, for individuals, and fine between lei 4,000 and lei 6,000, for legal persons, in case of committing the deeds provided in par. (1) letter n) - r), if tax obligations evaded from payment are up to lei 50,000 inclusively;

f) by a fine between lei 4,000 and lei 6,000, for individuals, and fine between lei 12,000 and lei 14,000, for legal persons, in case of committing the deeds provided in par. (1) letter n) - r), if tax obligations evaded from payment are between lei 50,000 and lei 100,000 inclusively;

g) by a fine between lei 6,000 and lei 8,000, for individuals, and fine between lei 25,000 and lei 27,000, for legal persons, in case of committing the deeds

provided in par. (1) letter n) - r), if tax obligations evaded from payment are over lei 100,000;

h) by fine between lei 12,000 and lei 14,000, in case of committing the deeds provided in par. (1) letter b¹).

(3) In case of individuals, the failure to submit the taxable income statements within the deadlines provided by law shall be treated as a civil law violation and shall be sanctioned with a fine between lei 10 and lei 100.

(4) In case of associations and other entities without legal personality, the civil law violations provided in par. (1) shall be sanctioned with the fine provided for individuals.

(5) The failure to submit fiscal declarations for the obligations due to local budgets is to be sanctioned according to the Law no 571/2003 on the Fiscal Code, as subsequently amended and completed.

(6) The amounts collected under the conditions of this title shall be revenues to the state budget or local budgets, as the case may be.

ARTICLE 220

Civil law violations and sanctions for the regime of excisable products

(3) The following actions constitute civil law violations:

a) holding excisable products outside the suspensive regime, without having them entered under the excising system according to Title VII from the Fiscal Code;

b) failure to advise the competent fiscal body within the legal deadline about modifications of initial data taken into account upon the issuance of the authorization;

c) holding excisable products that are subject to marking, according to Title VII from the Fiscal Code, outside the fiscal warehouse or their sale on the territory of Romania, without being marked or being marked inadequately or by false marks;

d) failure to observe the work schedule of the fiscal warehouse for production of ethylic alcohol and distillates as approved by the competent fiscal body;

e) practicing, by producers or importers, of sale prices that are less than costs incurred by the production or the import of excisable products sold, to which the excise and the value-added tax shall be added;

f) failure to mention in a distinct manner the amount of the excise or the tax on oil and natural gas from domestic in cases provided by Title VII from the Fiscal Code;

g) failure to use the fiscal documents provided in Title VII from the Fiscal Code;

h) failure to perform, through banking units, settlements between suppliers and purchasers of excisable products that are legal persons;

i) the location of means of measurement of the production and concentration of alcohol and distillates in other places than those specifically mentioned in Title VIII from the Fiscal Code or the damage of seals applied by the tax surveyor and the failure to notify the fiscal body in the case of damaging thereof;

j) failure to apply for the appointment of the tax surveyor in order to unseal the tank or containers in which the alcohol and distillates are transported in bulk;

- k) transportation of excisable products not accompanied by the good accompanying administrative document - DAI - provided in title VII from the Fiscal Code or for which the document is filled in with incorrect or incomplete data concerning the quantity, the NC code or the transport means as well as the transportation of excisable products made by tanks or containers not having the seals of the tax supervisor or having those seals damaged;
- l) production of sanitary alcohol by persons, other than warehouse keepers authorized for the production of ethyl alcohol;
- m) sale in bulk, on the domestic market, of the sanitary alcohol;
- n) circulation and sale in bulk of the refined ethyl alcohol and distillates for other purposes than those specifically provided in Title VIII from the Fiscal Code;
- o) failure to accurately record in the special register of the quantities of alcohol and distillates imported in bulk;
- p) failure to accurately record with the territorial fiscal bodies of the statements regarding the manner of sale of the alcohol and distillates;
- q) failure to apply at the territorial tax body for the unseal of the production outfits, as well as failure to record in the special register intended for this purpose of information regarding real capacities of distillation, the date and the time of sealing and unsealing stills or other outfits for the production of plum brandy and fruit spirits;
- r) sale for prices higher than the stated maximum retail sale prices of products for which such prices were determined;
- s) sale of products that are not mentioned in the lists of maximum retail sale prices stated by economic operators that are producers and importers;
- ș) the refusal of economic operators that are producers of cigarettes to take over and destroy, under the law conditions, seized quantities of tobacco;
- t) the use of mobile pipes, flexible hoses or other similar pipes, the use of containers that are not calibrated, as well as the placement before meters of taps or valves through which quantities of alcohol or distillates may be extracted without being metered;
- ț) sale in bulk and use as raw materials, for the production of alcohol beverages, of the ethyl alcohol and distillate with alcohol concentration less than 96.0% in volume;
- u) development of distribution and wholesale trading of alcoholic beverages and tobacco products without being observed the conditions provided in art. 244¹ par. (1) of the Law no. 571/2003, as amended and completed;
- v) sale through pumps of distribution stations of mineral oils, other than those in the category of liquid petroleum gas, petrol, diesel oil and kerosene compliant with the national standards of quality;
- x) operation of outfits for the production of ethyl alcohol or distillates, outside an approved work schedule;
- y) production or sale of excisable products in a fiscal warehouse during the period that the authorization was revoked or cancelled, without the approval of the fiscal authority responsible for the valuation of stocks of products, granted according to the law, as well as the non-observance of the provisions of art. 178 par. (3) from the Fiscal Code.

(2) Civil law violations provided in par. (1) are to be sanctioned by fine between lei 20,000 and lei 1.000,000, as well as by the following:

a) seizure of products, and in case that such products were sold, confiscation of amounts resulted from such sale, in cases provided in par. (1) letters a), c), k), l), m), n), v), x) and y);

b) seizure of tanks, containers and transport means that are used for the transport of ethyl alcohol and distillates, in the case provided in par. (1) letter k);

c) cessation of the marketing activity of excisable products for a period between 1 and 3 months, for traders in wholesale or retail system, for the cases covered by par. (1) letter c), m), u) and v);

d) cessation of the production activity of excisable products by sealing the equipment, in case of producers, for the cases covered by par. (1) letters d), i), l), n) and x).

(2¹) It shall be treated as a civil law violation and shall be sanctioned with a fine between lei 1,000 lei and lei 5,000 lei the following deeds:

a) failure to submit on deadline of the good accompanying administrative document to the competent fiscal authority at the moment of dispatch of the excisable under suspensive regime;

b) receipt at the destination of the excisable products without producing of the good accompanying administrative document, unless otherwise provided by law.

(3) The competent tax authority shall suspend, upon the proposal of the tax audit body, the authorization of fiscal warehouse for the cases referred to in par. (1) letters d), i), m), n), t) and x).

ARTICLE 221

Ascertainment of civil law violations and application of sanctions

(1) The ascertainment of civil law violations and application of sanctions shall be made by the competent fiscal bodies.

(2) The contravention sanctions provided in art. 219 and 220 shall be applied to individuals or legal persons having the capacity of subject of the legal fiscal relation. In the case of associations and other entities without legal personality, the sanctions shall be applied to their representatives.

(3) Ascertainment and sanctioning of the facts representing civil law violations according to art. 220 shall be performed by the specialized personnel within the Ministry of Economy and Finance and its territorial units, except for the sanction of suspension of the authorization of fiscal warehouse decided by the competent tax authority, upon the proposal of the tax audit body.

(4) Civil law violations provided in art. 219 par. (1) letter b) are to apply for facts ascertained after the date of entry into force of this code.

(5) In the case of the application of fine according to art. 219 and 220, the taxpayer has the possibility to pay a half of the minimum fine as provided by this code within 48 hours and the ascertaining agent is to mention such possibility in the ascertainment and sanction minutes of such civil law violation.

ARTICLE 222

Update of fines amounts

The limits of the fines for civil law violations as provided in this Code may be updated annually, depending on the inflation rate, by a Government Decision, upon the proposals of the Ministry of Economy and Finance.

ARTICLE 223

Applicable provisions

The provisions of this Title shall be completed by legal provisions regarding the legal regime of civil law violations.

TITLE XI

Final and transitional provisions

ARTICLE 224

Provisions regarding the customs regime

Failure to pay within the deadline taxes, fees or other amounts payable, under the law, in customs shall trigger the prohibition to carry out other customs operations until the integral settlement thereof.

ARTICLE 225

Provisions related cessation of state aid

- (1) Cessation of granting of state aid shall be rightfully obtained by:
- a) issuing a decision by the Competition Council in this regard;
 - b) issuing a decision by the supplier of state aid as a result of the exercise of supervision, when ascertaining the incompatibility between the granted state aids and the provisions of Law no 143/1999 concerning state aid, republished⁸, as well as of the norms issued for this law enforcement.
- (2) The decisions issued according to par. (1) should contain the following elements:
- a) the designation of the economic operator and its identification data;
 - b) the method of granting the state aid;
 - c) the date when the cessation is made.

ARTICLE 226

Provisions regarding the recovery of illegal or prohibited state aid

- (1) The decisions of the Competition Council, and the decisions of state aid suppliers prescribing the recovery of an illegal or prohibited state aid is an enforceable title. Provisions of art. 141 par. (6) - (9) are to apply correspondingly.
- (2) Recovery of state aid prescribed under par. (1) shall be made by the territorial units of the Ministry of Economy and Finance - The National Agency for

⁸ Law no 143/1999 concerning the state aid, republished in the Official Gazette of Romania, Part I, no 744 of August 16, 2005, has been abrogated by the Government Emergency Ordinance no 117/2006 concerning the national procedures related to state aid, published in the Official Gazette of Romania, Part I, no 1.042 of December 28, 2006

Fiscal Administration, and the specialized compartments of the local public administration, according to the Fiscal Procedure Code, except for the Authority for State Assets Recovery, which shall apply its own procedure for recovery.

(3) For the amounts representing state aids to be recovered, an interest is due from the date on which the state aid was made available for the beneficiary and its recovery date.

(4) The level of interest on the amounts to be recovered as an illegal or prohibited state aid shall be determined annually by Government Decision.

(5) The recovered amounts representing illegal or prohibited state aids shall go to the state budget and local budgets, as appropriate, as revenues.

ARTICLE 227

Provisions regarding public officers within the fiscal bodies

(1) In carrying out their job duties, public officers within the fiscal bodies are invested with the power of public authority and benefit of protection according to the law.

(2) The state and the administrative-territorial units are liable from a patrimonial point of view for prejudices caused to the taxpayer by public officers within the fiscal bodies while carrying out their job duties.

(3) The liability of the state and the administrative-territorial units does not relieve the public officers within the fiscal bodies from their liability in case of carrying out their job duties in bad faith or in severe negligence.

(4) The Ministry of Economy and Finance and the administrative-territorial units shall set up monthly funds for granting incentives for the personnel from the own system of the Ministry of Economy and Finance and National Agency for Fiscal Administration and from the subordinate units or specialized compartments, with responsibilities in the administration of local tax receivables, as appropriate, through retention of a rate of 15% from:

a) the amounts representing tax receivables settled by forced execution, according to the provisions of this Code;

b) the amounts received under the insolvency proceedings;

c) the amounts representing taxes, fees and contributions established as a result of a tax audit, settled by collection or offset;

d) the amounts representing ancillary tax obligations established by the fiscal bodies, settled by collection or offset;

e) the amounts representing the value of fines settled by collection or offset;

f) the amounts representing the value of goods seized and marketed.

(5) National Agency for Fiscal Administration may retain according to the law a rate of 75% of the tariffs cashed under art. 42 par. (9), to establish an incentive fund for the personnel of its own organization and of the organizations of the subordinated units.

(6) Approval of incentives for administrative-territorial units shall be made by the credit authorizing officer, upon the proposal of the head of the specialized compartment.

(7) The system of granting incentives to personnel from the own system of the Ministry of Economy and Finance and of the National Agency for Fiscal

Administration and its subordinated units shall be similar to the salary system of the budgetary staff and shall be approved by Order of the Minister of Economy and Finance, upon the proposal of the President of the National Agency for Fiscal Administration. Until approval of the Order, the regulations on the distribution of incentive funds remain applicable.

(8) The payment of approved incentives shall be made during the current month for the previous month.

(9) The amounts which are not spent by the end of the month or year, from the incentive fund established according to the preceding paragraphs, shall be monthly and yearly carried over, following to be used in the same purpose.

(10) From the funds provided in par. (4) and (5), the National Agency for Fiscal Administration may finance the following expenses:

a) expenses for the completion of the constructions - mounting investments in progress, contained in the expense budget of the National Agency for Fiscal Administration and in the budgets of its subordinated units;

b) expenses with the arrangement of locations of the National Agency for Fiscal Administration and of its subordinated units;

c) expenses for independent endowment and purchases of premises of the National Agency for Fiscal Administration and of its subordinated units, including for endowment with information and communication technologies;

d) expenses for materials and services necessary to improve the activity of the National Agency for Fiscal Administration and of its subordinated units.

(11) Paragraph (10) shall apply by observing the provisions of Law no 500/2002 concerning public finances, as subsequently amended.

ARTICLE 228

Normative acts for application

(1) For the application of this code, the Government shall adopt methodological norms for application, within 30 days as of the date of the publication of the law for the approval of this code in the Official Gazette of Romania, Part I.

(2) Forms required and instructions for use thereof to administer the tax receivables are to be approved by an order of the President of the National Agency for Fiscal Administration.

(3) Forms necessary and instructions for use of thereof to administer the local taxes and fees shall be approved by a joint order of the Minister of Interior and Administrative Reform and the Minister of Economy and Finance.

(4) Forms necessary and instructions for using thereof as regards the realization of receivables of the general consolidated budget that are administered by other bodies shall be approved by an order of the competent minister or the head of such public institution, as the case may be.

(5) In applying the provisions of art. 225 and 226, the Ministry of Economy and Finance shall issue instructions for implementing approved by the Order of the Minister of Economy and Finance.

ARTICLE 229

Fiscal bodies exemption from payment of fees

Fiscal bodies shall be exempt from fees, tariffs, commissions or bails for applications, actions or any other actions they must take for the administration of tax receivables, except for those regarding the communication of the fiscal administrative documents.

ARTICLE 230

Registration of receivables in Electronic Archive of Real Movable Guarantees

For tax receivables administered by the Ministry of Economy and Finance, such ministry is authorized, as an operator that through its territorial units, that act as its empowered agents, to record the receivables included in the executory titles in the Electronic Archive of Real Movable Guarantees.

ARTICLE 231

Provisions regarding deadlines

Current deadlines upon the date of entry into force of this Code shall be calculated according to legal norms that are effective upon such deadlines initiation date.

ARTICLE 232

Seizures

(1) Seizures according to law are to be carried out by bodies that ordered such seizure. Seizures ordered by prosecutors or by law courts shall be carried out by the Ministry of Economy and Finance, the Ministry of Interior and Administrative Reform, or, as the case may be, by other public authorities empowered by law, by their competent bodies, as established by a joint order of heads of the institutions in question, and the sale of the seized assets shall be made by competent bodies of the Ministry of Economy and Finance, according to the law.

(2) If the seizure ordered by prosecutors or law courts concerns amounts in foreign currency, the amounts shall be converted into RON at the exchange rate communicated by the National Bank of Romania, valid when the measure of the seizure remains permanent.

(3) The amounts seized and those derived from the sale of seized goods, except for expenses incurred by the performance and the sales thereof shall become revenue to the State budget or the local budget, as the case may be, according to law.

ARTICLE 233

Ascertainment of facts that may constitute civil law violations

Ascertainment of facts that may constitute civil law violations according to art. 296¹ from Law no 571/2003 on Fiscal Code, as subsequently amended and completed, is the competence of the fiscal body within the National Agency for Fiscal Administration and of the Financial Guard.

ARTICLE 234

Procedural provisions regarding registration in the case of activities with excisable products

(1) The registration provided in art. 244¹ par. (1) from the Law no 571/2003 on Fiscal Code, as subsequently amended and completed, shall be made by submitting to the competent fiscal body of an application for registration.

(2) Based on the application for registration the competent fiscal body shall issue a certificate entitling the holder to distribute and sell in wholesale system, alcoholic beverages and tobacco products.

(3) The competent fiscal body shall issue the attestation only if all conditions of art. 244¹ par. (1) from the Law no 571/2003, as amended and completed, are met;

(4) The fiscal body issuer shall revoke the attestation any time it ascertains the failure to observe one of the conditions provided in art. 244¹ par. (1) from the Law no 571/2003, as amended and completed.

(5) By derogation from the legal provisions on the use of fiscal warehouses, upon the request of the fiscal warehouse keeper authorized for the production and bottling of beer, the committee responsible for authorizing the fiscal warehouses may approve, by decision, the use of bottling equipment for beer also for bottling soft drinks and still water. The other provisions on the fiscal warehouses keeping shall be applied accordingly.

(6) By decision, the committee may set the conditions for use of the installations.

ARTICLE 235

Transitional provisions regarding fiscal registration

(1) Persons provided in art. 72 par. (4), that are already registered, are required to submit the fiscal registration statement within 30 days as of the entry into force of this Code.

(2) Tax identification codes and tax registration certificates assigned prior to the entry into force of this Code shall remain valid.

(3) Persons registered in the Register of taxpayers upon the entry into force of this Code whose fiscal domicile differ from their registered location, in case of legal persons, or domicile in case of individuals, as the case may be, are obliged to submit the fiscal registration declaration within 90 days as of the date of entry into force of this Code. Otherwise, the last domiciled or location as declared is to be considered as the valid fiscal domicile.

ARTICLE 236

Transitional provisions as regards solution of applications for value-added tax refund

Applications for the value added tax refund, which were submitted according to the value-added tax law but were not solved until the entry into force of this Code, shall be solved in compliance with regulations based on which they were submitted.

ARTICLE 237

Transitional provisions regarding tax audit

Tax audits commenced before the entry into force of this Code are to continue according to existing procedures upon the date of initiation thereof. In these cases, the measures decided in the minutes of control are assimilated with an administrative fiscal document.

ARTICLE 238

Transitional provisions regarding solution of appeals

(1) Appeals submitted prior to the date of entry into force of this Code shall be solved according to the existing administrative-jurisdictional procedure upon the submission of such appeal.

(2) In case of appeals with the judgment in progress, filled in against audit documents by which the same period and the same type of tax obligation were verified before and for which from the instrumentation of the criminal cases by competent bodies no prejudice resulted, previously determined obligations shall be maintained.

ARTICLE 239

Transitional provisions regarding forced execution

The forced executions already commenced upon the entry into force of this Code shall continue according to its provisions, the acts previously performed remaining valid.

ARTICLE 240

Entry into force

This Code shall enter into force as of 1st January 2004. Provisions of Title X "Sanctions" shall enter into force as of 10th January 2004.

ARTICLE 241

Temporal conflict of normative acts

Regulations issued on the basis of the emergency ordinances and ordinances provided in art. 242 are to remain applicable until the date of the approval of normative acts for the implementation of this Code, as provided in art. 228, to the extent that such regulations do not contradict the provisions of this Code.

ARTICLE 242

Abrogated provisions

On the entry into force of this Code, the following normative acts shall be abrogated:

- a) Government Ordinance no 82/1998 on the fiscal registration of taxpayers, republished in the Official Gazette of Romania, Part I, no 712 of 01.10.02, as amended and completed;
- b) Government Ordinance no 68/1997 on the procedure to prepare and submit fiscal declarations, republished in the Official Gazette of Romania, Part I, no 121 of 24.03.1999, as amended and completed;

c) Government Ordinance no 61/2002 concerning collection of budgetary receivables, republished in the Official Gazette of Romania, Part I, no 582 of 14.08.2003, as amended and completed;

d) Government Ordinance no 70/1997 on Fiscal Code, published in the Official Gazette of Romania, Part I, no 227 of 30th August 1997, approved with amendments and completions by Law no 64/1999, as amended and completed;

e) Government Emergency Ordinance no. 13/2001 concerning the solution of appeals submitted against measures taken by the audit or tax documents prepared by bodies of the Ministry of Public Finance, published in the Official Gazette of Romania, Part I, no 62 of 6th February 2001, approved with amendments and completions by Law no 506/2001, as amended and completed;

f) Government Ordinance no 39/2003 on the procedures for administration of receivables to local budgets, published in the Official Gazette of Romania, Part I, no 66 of 2nd February 2003, approved with amendments and completions by Law no 358/2003;

g) par. 5 in chapter I of the annex to the Law no 117/1999 concerning extra-judicial stamp fees, published in the Official Gazette of Romania, Part I, no 321 of 06.07.1999, as amended and completed;

h) art. 3 from the Law no. 87/1994 concerning the fight against the tax evasion, republished in the Official Gazette of Romania, Part I, no 545 of 29th July 2003⁹;

i) art. IV par. (1) - (5) from the Government Ordinance no 29/2004 for the regulation of certain financial measures, approved with modifications and completions through the Law no 116/2004, published in the Official Gazette of Romania, Part I, no 90 on 31st January 2004

j) art. 246 from the Law no. 571/2003 on the Fiscal Code published in the Official Gazette of Romania, Part I, no 927 of 23rd December 2003;

k) art. 61 par. (3) from the Law no 141/1997 on the Customs Code of Romania, published in the Official Gazette of Romania, Part I, no 180 on 1st August 1997, as subsequently amended and completed.¹⁰

l) chapter III "Civil law violations and related sanctions" from Law no 87/1994 concerning the tax evasion control, republished in the Official Gazette of Romania, Part I, no 545 of 29th July 2003, as subsequently amended¹¹.

NOTE:

We shall reproduce below the transitional and final provisions of normative acts modifying the Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, republished in the Official Gazette of Romania, Part I, no 863 of

⁹ Law no 87/1994 concerning the tax evasion control, republished in the Official Gazette of Romania, Part I, no 545 of 29th July 2003, was abrogated by Law no 241/2005 concerning the prevention and control of the tax evasion, published in the Official Gazette of Romania, Part I, no 672 of 27th July 2005.

¹⁰ Law no 141/1997 on the Customs Code of Romania, published in the Official Gazette of Romania, Part I, no 180 of 1st August 1997, was abrogated by Law no 86/2006 on the Customs Code of Romania, published in the Official Gazette of Romania, Part I, no 350 of 19th April 2006.

¹¹ Law no 87/1994 concerning the tax evasion control, republished in the Official Gazette of Romania, Part I, no 545 of 29th July 2003, was abrogated by Law no 241/2005 concerning the prevention and control of the tax evasion, published in the Official Gazette of Romania, Part I, no 672 of 27th July 2005.

26th September 2005, as well as the note for the transposing of the directives not included in its republished text.

1. Article II from Law no 158/2006 for the approval of the Government Emergency Ordinance no 165/2005 for the amendment of the Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania, Part I, no 444 of July 23, 2006:

"ARTICLE II

(1) The provisions of this Law shall enter into force 30 days from the date of publication in the Romanian Official Gazette, Part I, and shall apply to procedural acts performed starting with that date. By exception, the provisions of art. 109¹ from the Government Ordinance no 92/2003 on Fiscal Procedure Code, republished, as subsequently amended and completed*1), shall apply on the first of the month following the one when this law came into force.

(2) The suspension of execution of the tax administrative document decided by the solution body of the appeal before the entry into force of this law shall continue to produce its effects until the delivery of the solution of the appeal.

*1) Art. 109¹ became in its published form art. 112."

2. Articles III and IV from the Government Ordinance no 35/2006 for the amendment and completion of the Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania, Part I, no 675 of August 7, 2006, rectified in the Official Gazette of Romania, Part I, no 742 of August 31, 2006, approved with amendments and completions by Law no 505/2006, published in the Official Gazette of Romania, Part I, no 1054 of December 30, 2006.

"ARTICLE III

This ordinance shall enter into force 30 days from the date of publication in the Romanian Official Gazette, Part I, with the following exceptions:

a) provisions of art. 174¹⁹ and 174²⁴ from par. 36 of art. I*2), which shall enter into force 3 days after the date of publishing in the Official Gazette of Romania, Part I;

b) par. 2 - 4*3), 9*4), 12*5) and 36*6), with the exceptions provided in letter a), of art. I, which shall come into force on January 1, 2007.

*2) Art. 174¹⁹ and 174²⁴ became in the published form art. 197 and art. 202.

*3) Point 2 refers to art. 31 par. (1) letter a¹) become in the form republished art. 31 par. (1) letter b), point 3 refers to art. 31 par. (1) letter c) become in the form republished art. 31 par. (1) letter d), point 3¹ refers to art. 33 par. (2); point 4 refers to art. 36 par. (3).

*4) Point 9 refers to art. 69 par. (1) letter e) become in the form republished art. 72 par. (1) letter e).

*5) Point 12 refers to art. 109 par. (7) and 8) became in the form republished art. 111 par. (7) and (8).

*6) Point 36 refers to art. 174¹ - 174²⁶ become in the form republished art. 179 - 204.

ARTICLE IV

(1) On entry into force of this ordinance there shall be abrogated the provisions of art. 261 par. (3) from the Law no 95/2006 on the reform in health, published in the Official Gazette of Romania, Part I, no 372 of April 28, 2006.

(2) On January 1, 2007 shall be abrogated:

a) provisions of art. 70 from the Government Ordinance no 92/2003 on the Fiscal Procedure Code, republished as subsequently amended and completed;

b) provisions of art. 9 par. (2) and of art. 12 par. (2) from the Law no 359/2004 concerning the simplification of registration formalities of natural persons, family associations and legal persons with the Trade Register, their tax registration and the authorization of legal persons functioning, as further amended and completed, published in the Official Gazette of Romania, Part I, no 839 of September 13, 2004;

c) provisions of art. 171¹ par. (4), second thesis*7) from the Government Ordinance no 92/2003 on Fiscal Procedure Code, republished, as subsequently amended and completed, as well as with the amendments provided by this ordinance.

*7) Art. 171¹ par. (4) became in its republished form art. 175 par. (4)."

3. Note for transposing of the directives contained in the Government Ordinance no 35/2006 for the amendment and completion of the Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania, Part I, no 675 of August 7, 2006, rectified in the Official Gazette of Romania, Part I, no 742 of August 31, 2006, approved with amendments and completions by Law no 505/2006, published in the Official Gazette of Romania, Part I, no 1054 of December 30, 2006:

"Art. I par. 36*8) from the present ordinance transposes the Directive of the European Council 76/308/EEC concerning the reciprocal assistance for the recovery of receivables representing certain dues, rights, fees and other amounts, published in the Official Gazette of the European Communities no L 073 of March 19, 1976, amended by: Council Directive 79/1071/EEC and Council Directive 2001/44/EC.

Art. I par. 36*9) from this ordinance implements the Commission Directive 2002/94/EC establishing the application norms of certain provisions from the Council Directive 76/308/EEC, published in the Official Gazette of the European Union no L 337 of December 13, 2002, except the annexes I - IV, which shall be implemented by order of the Minister of public finances for the approval of the forms used for the receivables recovery to the purposes of chapter XIII of the title VIII of the Fiscal Procedure Code.

*8) Point 36 refers to art. 174¹ - 174²⁶ become in the republished form art. 179 - 204.

*9) Point 36 refers to art. 174¹ - 174²⁶ become in the republished form art. 179 - 204."

NOTE:

We shall reproduce below the provisions of art. II and IV from the Government Ordinance no 47/2007 .

"ARTICLE II

(1) Article I shall come into force 3 days after the date of publishing of this ordinance, except points 34 - 36, which shall come into force 30 days after the publishing date, and of point 38, which shall come into force on January 1, 2008.

(2) Provisions of art. I par. 8 shall apply starting with January 1, 2008 for the annual declarations on 2007.

(3) Provisions of art. I par. 13, 18, 19, 23, 30 and 37 shall also apply to the procedures in progress on the date of coming into force of this ordinance.

(4) Provisions of art. I par. 14 shall apply starting with January 1, 2008.

(5) Provisions of art. I par. 24 - 27 shall also apply to the force execution procedures initiated after the date of coming into force of this ordinance.

(6) In term of 30 days from the date of coming into force of this ordinance, the fiscal bodies shall compute the ancillary tax obligations due until the date of coming into force of this ordinance by the insolvent taxpayers, according to art. 41 from the Law no. 85/2006 on insolvency procedure, as subsequently amended, and shall undertake all efforts necessary to record the receivables due with the creditor table.

(7) Provisions of art. I par. 32 shall apply to the appeals registered with the fiscal body starting with October 1, 2007.

(8) Regulations issued until the date of coming into force of this ordinance based on art. 228 par. (2) of the Government Ordinance no 92/2003 on the Fiscal Procedure Code, republished, shall remain applicable until the date of the approval of the normative acts for the enforcement provided in the amendment set forth by the present ordinance.

[...]

ARTICLE IV

Tax obligations due to the general consolidated budget by the taxpayers for 2006 and paid by these ones following the erroneous indication of the record number of the payment, shall be settled by the competent fiscal bodies according to the settlement sequence of the debts which is in force on the payment date."