PARLIAMENT OF ROMANIA

CHAMBER OF DEPUTIES **SENATE**

LAW

on the Tax Procedures Code

The Parliament of Romania hereby adopts this law.

TITLE I
General Provisions

Definitions

Art. 1. - For the purposes of this code, the terms and expressions below have the following meanings:

1. *administrative-tax document* - the document issued by the tax body in the performance of its duties of administration of taxes, charges, and social contributions, for the establishment of an individual situation and in order to produce legal effects towards the person to whom it is addressed;

2. *tax receivable administration* - any of the activities performed by the tax bodies with regard to:

a) the registration for tax purposes of the taxpayers/payers and other subjects of fiscal law relationships;

b) the declaration, assessment, audit, and collection of tax receivables;

c) the settlement of appeals against administrative-tax documents;

d) assistance/guidance of taxpayers/payers, either upon request

or ex officio;

e) applying sanctions under the law;

3. *risk analysis* - the activity performed by the tax body in order to identify the noncompliance risks related to the fulfillment by the taxpayer/payer of the obligations provided by the tax legislation, to assess such obligations, manage them, as well as use them in order to perform the tax administration activities;

4. *taxpayer* - any individual, legal entity or other entity without legal personality that owes taxes, charges, and social contributions, as per legal provisions;

5. *social contribution* - compulsory levy under the law, whose purpose is to protect the individuals who have the obligation to take insurance against certain social risks, in exchange for which those individuals benefit from the rights covered by that levy;

6. *tax audit* - the totality of activities carried out by the tax bodies in order to verify how the taxpayer/payer fulfills his/her obligations provided by the tax and accounting legislation;

7. *budget receivable* - the right to collect any amount owed to the general consolidated budget, representing the principal budget receivable and the ancillary budget receivable;

8. *principal budget receivable* - the right to collect any amount owed to the general consolidated budget, other than ancillary budget receivables;

9. *ancillary budget receivable* - the right to collect interests, penalties or other such amounts, under the law, which correspond to certain principal budget receivables;

10. *tax receivable* - the right to collect any amount owed to the general consolidated budget, representing the principal tax receivable and the ancillary tax receivable;

11. *principal tax receivable* - the right to levy taxes, charges, and social contributions, as well as the taxpayer’s right to be refunded the amounts paid and not due and to be refunded the amounts due, in the cases and under the conditions provided by law;

12. *ancillary tax receivable* - the right to levy interests, penalties or increments that correspond to certain principal tax receivables, as well as the right of the taxpayer to receive interests, under the law;

13. *tax creditor* - the holder of a tax receivable;

14. *budget creditor* - the holder of a budget receivable;

15. *tax debtor* - the holder of a payment obligation that corresponds to a tax receivable;

16. *budget debtor* - the holder of a payment obligation that corresponds to a budget receivable;

17. *tax return* - a document elaborated by the taxpayer/payer, in accordance with the requirements and in the situations provided by the law, which represents the tax statement and the informative return;

18. *tax statement* - the document elaborated by the taxpayer/payer and referring to:

a) the taxes, charges and social contributions owed, if, in accordance with the law, the obligation to calculate them is incumbent upon the taxpayer/payer;

b) the taxes, charges and social contributions collected, if the payer has the obligation to calculate, withhold and pay or, as applicable, to collect and pay the taxes, charges and social contributions;

c) the taxable goods and revenues, as well as other elements of the tax base, if the law provides that they should be declared;

19. *informative return* - the document elaborated by the taxpayer/payer and referring to any information related to the taxes, charges and social contributions, to the taxable assets and revenues, if the law provides that they should be declared, other than those provided by point 18;

20. *interest* - the ancillary tax obligation representing the equivalent amount of the prejudice caused to the holder of the principal tax receivable as a result of the debtor’s failure to pay the principal tax liabilities;

21. *customs rights* - import and export rights, as they are defined by the Law no. 86/2006 on the Romanian Customs Code, as subsequently amended and supplemented;

22. *tax executor* - the person from the enforcement body who has duties of performing the enforcement;

23. *tax* - a compulsory levy, irrespective of its name, charged under the law without consideration, in order to satisfy needs of general interest;

24. *tax legislation* - the totality of norms provided by the legislative acts which refer to taxes, charges, social contributions, as well as to procedures of administration thereof;

25. *accounting legislation* - the totality of norms provided by the legislative acts which refer to the organization and keeping of accounting records;

26. *additional tax assessed for late payment* - the ancillary tax liability representing the equivalent amount of the prejudice caused to the holder of the principal tax receivable, as well as the sanction for the debtor's failure to pay the principal tax liabilities;

27. *tax liability* - the liability of paying any amount owed to the general consolidated budget, representing the principal tax liability and the ancillary tax liability;

28. *principal tax liability* - the obligation of paying taxes, duties, and social contributions, as well as the tax body's obligation to refund the amounts collected and not due and to reimburse the amounts due, in the cases and under the conditions provided by law;

29. *ancillary tax liability* - the obligation to pay or to refund the interests, penalties or additional taxes that correspond to certain principal tax liabilities;

30. *tax body* - the central tax body, the local tax body, as well as other public institutions which administer tax receivables;

31. *central tax body* - the National Agency for Fiscal Administration, hereinafter referred to as the *A.N.A.F.*, through its specialty structures with duties of administration of tax receivables, including the units subordinated to the A.N.A.F.;

32. *local tax body* - the specialty structures of the local public administration authorities with duties of administration of tax receivables;

33. *late payment penalties* - the ancillary tax liability representing the sanction for the debtor's failure to pay the principal tax liabilities when due;

34. *failure to declare penalty* - the ancillary tax liability

representing the sanction for the failure to declare or the incorrect declaration through tax returns of the taxes, charges, and social contributions;

35. *payer* - the person who has the legal obligation to pay, or to withhold and pay, or to collect and pay, as applicable, the taxes, charges, and social contributions in the name of the taxpayer. The secondary seat which has the legal obligation to register for tax purposes as payer of salaries and revenues assimilated to salaries is also a payer;

36. *charge* - a compulsory levy, irrespective of its name, charged under the law on the occasion of the provision of certain services by public institutions or authorities, without any equivalence between the amount of the charge and the value of the service;

37. *tax receivable document* - the document which establishes and individualizes the tax receivable in accordance with the law;

38. *budget receivable document* - the document which establishes and individualizes the budget receivable in accordance with the law;

39. *taxpayer file* - the totality of types of tax liabilities for which there are permanent declaratory obligations;

40. *identification details* - the first and last name for individuals or the denomination for legal entities and entities without legal personality, the tax domicile and the tax identification code.

CHAPTER I
Scope of the Tax Procedures Code

Object and scope of the Tax Procedures Code

Art. 2. - (1) The Tax Procedures Code regulates the rights and obligations of the parties in fiscal law relationships related to the administration of tax liabilities owed to the general consolidated budget, irrespective of the authority which administers them, except if otherwise provided by law.

(2) Unless otherwise provided by special law, this Code also applies to:

a) the administration of customs rights;

b) the administration of mining royalties, of oil royalties, and royalties resulting from concession agreements, lease agreements, and other agreements of efficient exploitation of agricultural lands concluded by the State Property Agency;

c) other budget receivables which are assimilated to tax receivables under the law.

(3) For the purpose of enforcement of para. (2), customs rights and royalties are assimilated to tax receivables.

(4) This Code does not apply to the administration of budget receivables resulting from contractual legal relationships, with the exception of those provided by para. (2) letter b).

Relationships of the Tax Procedures Code with other legislative acts

Art. 3. - (1) This Code is the common law proceeding for the administration of the receivables provided by art. 2.

(2) Where this Code does not provide, the provisions of the Civil Code and those of the Civil Proceedings Code are to be applied, to the extent those provisions can be applicable to the relationships between public authorities and taxpayers/payers.

CHAPTER II
General principles of conduct in the administration of tax receivables

The legality principle

Art. 4. - (1) The tax receivables and the corresponding liabilities of taxpayers/payers are those provided by law.

(2) The tax receivables administration proceeding is carried out in accordance with legal provisions. Tax bodies have the obligation of observing the legal provisions relating to the rights and obligations of taxpayers/payers or of other persons involved in the proceeding.

Unitary application of the legislation

Art. 5. - (1) Tax bodies have the obligation of applying the provisions of the tax legislation in a unitary manner on Romanian territory, and of seeking to correctly establish the tax receivables.

(2) The Ministry of Public Finance, in its capacity of specialty body of the central public administration, has the role of coordinating the unitary application of the tax legislation provisions.

(3) The Central Tax Committee operates within the Ministry of Public Finance and has duties of elaboration of decisions relating to the unitary application of the Tax Code, of this Code, of the legislation subsequent thereto, as well as of the legislation whose application falls within the authority of the A.N.A.F.

(4) The composition and the regulation of organization and operation of the Central Tax Committee are to be approved through order of the minister of public finance.

(5) The Central Tax Committee is coordinated by the secretary of state of the Ministry of Public Finance in charge with tax policies and legislation.

(6) If the Central Tax Committee is authorized to settle an issue which refers to the local taxes and charges provided by the Tax Code, it shall be supplemented by 2 representatives of the Ministry of Regional Development and Public Administration, as well as by one representative of each associative structure of the local public administration authorities.

(7) The decisions of the Central Tax Committee shall be approved through order of the minister of public finance and shall be published in the Official Gazette of Romania, Part I.

Exercising the right of

Art. 6. - (1) Tax bodies are entitled to assess the relevance of the tax state of affairs, within the limits of their duties and authority

assessment

and by using the means of evidence provided by law, and to adopt a solution which is based on legal provisions, as well as on complete findings with regard to all the relevant circumstances in the case at hand at the time of taking a decision. When exercising its right of assessment, the tax body must take into consideration the opinion issued in writing by the competent tax body to the taxpayer/payer in question through the activity of assistance and guidance of taxpayers/payers, as well as the solution adopted by the tax body through an administrative-tax document or by the court of law through a definitive court judgment previously issued for similar states of affairs of the same taxpayer/payer. If the tax body finds differences between the tax state of affairs of the taxpayer/payer and the information which was considered when issuing a written opinion or an administrative-tax document for the same taxpayer/payer, the tax body is entitled to record the findings in accordance with the real tax state of affairs and with the tax legislation, and it has the obligation to mention in writing the reasons why it does not take into account the previous opinion.

(2) Tax bodies exercise their right of assessment within the limits of reasonableness and equity, ensuring a just proportion between the intended purpose and the means used to reach that purpose.

(3) Anytime the tax body must set a deadline for the exercise of a right or the fulfillment of an obligation by the taxpayer/payer, that deadline must be reasonable, so as to give the taxpayer/payer the opportunity of exercising the right or fulfilling the obligation. Deadlines can be extended for justified reasons, based on the consent of the leader of the tax body.

Active role and other rules of conduct for the tax body

Art. 7. - (1) As part of the performance of a proceeding of administration of tax receivables, the tax body informs the taxpayer/payer on the rights and obligations thereof throughout the performance of the proceeding, as provided by law.

(2) The tax body has the obligation of analyzing the state of affairs in an objective manner and within the limits set by the law, as well as of guiding the taxpayer/payer during the enforcement of tax provisions, the fulfillment of his/her obligations and the

exercise of his/her rights, either as a result of the taxpayer's/payer's request or at the initiative of the tax body, as applicable.

(3) The tax body is entitled to analyze the state of affairs ex officio, to obtain and use all the information and documents necessary for a correct assessment of the taxpayer's/payer's tax affairs. During its analysis, the tax body has the obligation of identifying and taking into account all relevant circumstances for each case at hand.

(4) The tax body decides on the type and volume of analyses, according to the circumstances of each case at hand and within the limits provided by law.

Official tax administration language

Art. 8. - (1) The official tax administration language is Romanian language.

(2) If the tax body receives petitions, supporting documents, certificates or other written documents in a foreign language, it shall request that they should be accompanied by translations thereof into Romanian certified by translators authorized by the Ministry of Justice, under the law.

(3) If the tax body receives petitions, supporting documents, certificates or other written documents in a foreign language for which there are no authorized translators in accordance with para. (2), the tax body shall request that the documents should be accompanied by translations thereof into Romanian made or certified by an embassy/consular office of the State in whose official language the documents in question were issued.

(4) The petitions, supporting documents, certificates or written documents elaborated in a foreign language and submitted in violation of para. (3) shall not be considered by the tax body.

(5) The provisions of art. 19 in the Law on local public administration no. 215/2001, republished, as subsequently amended and supplemented, shall be properly applied hereto.

The right to be heard

Art. 9. - (1) Before taking a decision, the tax body has the obligation of giving to the taxpayer/payer the opportunity of expressing his/her opinion with regard to the facts and

circumstances which are relevant in taking the decision.

(2) The tax body does not have the obligation of applying the provisions of para. (1) when:

a) if the decision is delayed it would endanger the assessment of the real tax state of affairs regarding the fulfillment by the taxpayer/payer of his/her tax liabilities or the taking of other measures provided by law;

b) the amount of tax receivables would be changed by at least 10% of the value of the previously established tax receivable;

c) the information presented by the taxpayer/payer which he/she gave through a declaration or a request is accepted;

d) measures of enforcement are to be taken;

e) the decisions related to ancillary tax liabilities are to be issued.

(3) The hearing is considered to be carried out in the following situations:

a) the taxpayer/payer expressly refuses to attend the hearing set by the tax body;

b) the taxpayer/payer does not come to two consecutive hearings set by the tax body, irrespective of his/her reasons.

(4) The exception of lack of hearing can be invoked by the taxpayer/payer when he/she formulates the appeal in accordance with this Code.

(5) The provisions of art. 6 para. (3) become applicable when setting the hearings provided by para. (3).

Obligation of cooperation

Art. 10. - (1) The taxpayer/payer has the obligation of cooperating with the tax body for the establishment of his/her tax state of affairs, by presenting the facts known to him/her in their entirety, in accordance with reality, and by indicating the evidence known to him/her, under observance of the legal provisions in criminal and criminal proceeding matters.

(2) The taxpayer/payer has the obligation of taking the measures necessary in order to procure the necessary evidence, by using all the possibilities available to him/her.

Tax secrecy

Art. 11. - (1) The personnel of the tax body have the obligation of keeping tax secrecy over all information they have found out through the exercise of their job duties.

(2) The category of information deemed tax secret includes data related to the taxpayer/payer, like: the identification details; the nature and amount of the tax liabilities; the nature, source, and amount of revenues; the nature, source, and value of the goods, payments, accounts, turnovers, cash transfers, balances, collections, deductions, loans, debts; the value of the net assets, or any kind of information obtained from declarations or documents presented by the taxpayer/payer or by third parties.

(3) The tax body may transmit the information it has:

a) to public authorities, for the purpose of fulfilling the obligations provided by law;

b) to the tax authorities of other countries, under conditions of reciprocity and based on international judicial instruments signed by Romania which include provisions related to administrative cooperation on tax matters and/or to the recovery of tax receivables;

c) to the authorized judicial authorities, under the law;

d) to any applicant, based on the written consent of the taxpayer/payer with regard to whom the information was requested;

e) in other cases expressly provided by law.

(4) The authority which receives the tax information has the obligation of keeping it secret.

(5) It is allowed to transmit information of the type of that provided by para. (1), including for the period when he/she was a taxpayer/payer:

a) to the taxpayer/payer himself/herself;

b) to the successors thereof, as well as to those who have inheritance entitlement proven in accordance with the law.

(6) For the purpose of enforcing the provisions of para. (3) letters a) and c), public authorities may conclude a protocol on exchange of information with the tax body which has the information that is to be transmitted.

(7) Sending tax information is allowed in other cases than those provided by para. (3) if it is ensured that the information in question does not reveal the identity of any individual, legal entity, or entity without legal personality.

(8) The tax body may make public the information it has:

a) anytime the information is qualified by the law as being public;

b) anytime violations of the obligations provided by the tax legislation are ascertained through administrative documents or court judgments.

(9) The procedure of making public the information held by the central tax body shall be approved through order of the chairman of A.N.A.F., and the procedure of making public the information held by the local tax body shall be approved through a common order of the minister of regional development and public administration and of the minister of public finance.

(10) Central and local tax bodies shall process personal data under observance of the provisions of Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, as subsequently amended and supplemented.

Good faith

Art. 12. - (1) The relationships between taxpayers/payers and tax bodies must be based on good faith.

(2) The taxpayers/payers must fulfill their obligations and exercise their rights in accordance with the purpose for which they were recognized by the law and they must correctly declare the data and information related to their tax liabilities.

(3) The tax bodies must observe the rights of taxpayers/payers in the case of every undergoing proceeding of administration of tax receivables.

(4) Good faith of taxpayers is presumed until proven otherwise by the tax body.

CHAPTER III

Enforcement of the tax legislation

Interpretation of the law

Art. 13. - (1) The interpretation of tax regulations must respect the will of the legislator as it is expressed in the law.

(2) If the will of the legislator is not clearly revealed by the text of the law, the purpose for which the legislative act was issued will be considered when establishing the will of the legislator, as that purpose is revealed by the public documents which accompany the legislative act during the process of elaboration, debate, and approval thereof.

(3) The provisions of the tax legislation shall be interpreted in conjunction with others, every provision being given the meaning which results from the law as a whole.

(4) The provisions of the tax legislation which could have several meanings shall be interpreted to have the meaning which best suits the object and purpose of the law.

(5) The provisions of the tax legislation shall be interpreted so as to produce effects, not in a way that would produce no effect.

(6) If the provisions of the tax legislation remain unclear after the enforcement of the rules of interpretation provided by para. (1) - (5), they shall be interpreted in the taxpayer's/payer's favor.

Prevalence of the economic content of fiscally relevant situations

Art. 14. - (1) Revenues, other benefits and asset elements are subject to the tax legislation no matter if they are obtained from acts or facts which fulfill or don't fulfill the requirements of other legal provisions.

(2) Fiscally relevant states of affairs shall be assessed by the tax body in accordance with their economic reality established on the basis of evidence administered as provided by this Code. When there is a difference between the economic basis or nature of an operation or transaction and its judicial form, the tax body shall assess these operations or transactions under observance of their economic basis.

(3) The tax body shall establish the tax treatment of an operation by considering only the provisions of the tax legislation; the tax treatment shall not be influenced by the fact that the

operation in question fulfills or not the requirements of other legal provisions.

Tax legislation avoidance

Art. 15. - (1) If a tax liability was not established or reported relative to the real tax base by means of avoidance of the purpose of the tax legislation, the liability owed and the correlative tax receivable are those legally established.

(2) The provisions of art. 21 are applicable to the situations provided by para. (1).

TITLE II
The fiscal law relationship

CHAPTER I
Provisions related to the fiscal law relationship

Content of the fiscal law relationship

Art. 16. - (1) The fiscal law relationship comprises the substantive tax law relationship and the procedural tax law relationship.

(2) The substantive tax law relationship comprises the totality of rights and obligations which arise in connection with tax receivables.

(3) The procedural tax law relationship comprises the totality of rights and obligations which arise in connection with the administration of tax receivables.

Subjects of the fiscal law relationship

Art. 17. - (1) The subjects of the fiscal law relationship are the State, the administrative-territorial units or the subdivisions of the administrative-territorial units of municipalities, as applicable, the taxpayer/payer, as well as other persons who acquire rights and obligations within that relationship.

(2) The State is represented by the Ministry of Public Finance, acting through the A.N.A.F. and the units subordinated thereto, unless the law establishes another authority in this respect.

(3) The administrative-territorial units or the subdivisions of the administrative-territorial units, as applicable, are represented by the local public administration authorities, as well as by the specialty compartments thereof, within the limit of the duties delegated by those authorities.

Proxies

Art. 18. - (1) Taxpayers/payers may be represented by proxies in their relationships with the tax bodies. The content and limits of representation are those provided by the power of attorney or established by the law, as applicable. The appointment of a proxy does not prevent the taxpayer/payer from personally fulfilling the obligations provided by the tax legislation, even if he/she did not revoke the mandate in accordance with para. (2).

(2) The proxy has the obligation of submitting before the tax body either an original counterpart or a legalized copy of the power of attorney. The revocation of the power of attorney operates with regard to the tax body as of the date of submission before it of either an original counterpart or a legalized copy of the revocation document.

(3) If the taxpayer/payer is represented in his/her relationship with the tax body by a lawyer, the form and content of the power of attorney will be those provided by the legal provisions on the organization and practice of the lawyer’s profession.

(4) Taxpayers/payers who do not have a tax domicile in Romania and have the obligation of submitting returns to the tax body, must appoint a proxy with tax domicile in Romania to fulfill their obligations towards the tax body in their name and by using their patrimony.

(5) The provisions of para. (4) shall not apply to:

a) taxpayers/payers whose residence is in a Member State of the European Union or of the European Economic Area, respectively;

B) taxpayers/payers whose residence is in a State party to an international judicial instrument signed by Romania which includes provisions related to administrative cooperation on tax matters and/or to the recovery of tax receivables.

(6) The provisions of this article are also applicable to tax representatives appointed in accordance with the Tax Code, unless the law provides otherwise.

Appointment of the tax guardian

Art. 19. - (1) If there is no proxy in accordance with art. 18 para. (1) - (4), the tax body will request to the court of law in accordance with legal provisions to appoint a tax guardian for:

a) taxpayers/payers that don't have a tax domicile in Romania and failed to fulfill their obligation of appointing a proxy in accordance with art. 18 para. (4);

b) absent taxpayers/payers, whose tax domicile is not known or who are unable to personally exercise and fulfill their rights and obligations provided by law due to an illness, old age or a disability of any kind, and due to preventive detention or imprisonment.

(2) The tax guardian shall be paid for his/her activity in accordance with the court judgment and all the expenses related to this representation will be borne by the represented.

Obligations of the legal representatives

Art. 20. - (1) The legal representatives of individuals and legal entities, as well as the appointed representatives of associations without legal personality must fulfill the obligations provided by the tax legislation for the persons or entities they represent. These representatives fulfill the payment liabilities of the persons or entities they represent based on those means they administer.

(2) If, for any reason, the tax liabilities of associations without legal personality are not paid in accordance with para. (1), the associates shall be jointly liable for the fulfillment thereof.

CHAPTER II
General provisions related to the tax burden relationship

Establishment of tax

Art. 21. - (1) Unless the law provides otherwise, the tax receivable and the correlative tax liability are established when the

receivables and liabilities

tax base that generates them is set in accordance with the law or when the taxpayer/payer is entitled to claim reimbursement in accordance with the law.

(2) According to para. (1), the right of the tax body of establishing and determining the tax liability or the right of the taxpayer/payer of claiming reimbursement is borne.

Tax receivable clearance

Art. 22. - Tax receivables are cleared through payment, offsetting, enforcement, exemption, cancellation, lapse of the limitation period, debts-against-assets exchange procedure, and other modalities expressly provided by law.

Takeover of tax liabilities

Art. 23. - (1) If a tax liability was not fulfilled by the debtor, the following persons shall become debtors in accordance with the law:

a) the successor who accepted the debtor's inheritance, in accordance with common law;

b) the one who takes over, either in total or in part, the rights and obligations of the debtor subject to division, merger or transformation, as applicable;

c) other persons, as provided by law.

(2) The debtors who take over the tax liability in accordance with para. (1) letters a) and b) shall replace the former debtor in accordance with the provisions of the law governing the termination of those persons' existence.

Securing tax liabilities

Art. 24. - (1) For the tax liabilities of the debtor shall be liable as guarantor, with waiving of the rights of excussion and of division:

a) the person who undertakes the payment liability through a payment commitment or another document concluded in authentic form, by ensuring a real guarantee at the level of the payment liability, within the limit of the secured amount and the amount obtained from the capitalization of the guarantee;

b) the legal entity for the tax liabilities owed under the law by the secondary seats thereof.

(2) The tax body is entitled to claim that the tax liability should

be fulfilled by the guarantor.

(3) The procedure of enforcement of this article shall be approved as follows:

a) through order of the chairman of the A.N.A.F., in the case of tax receivables administered by the central tax body;

b) through a common order of the minister of regional development and public administration and of the minister of public finance, in the case of tax receivables administered by the local tax body.

Joint liability

Art. 25. - (1) The following persons shall be jointly liable with the debtor:

a) the associates of associations without legal personality, including the members of family undertakings, for the tax liabilities of the associations/undertakings, in accordance with the provisions of art. 20, together with the legal representatives who have caused in bad faith the failure to declare and/or to pay the tax liabilities when they were due;

b) garnishees, in the situations provided by art. 236 para. (9), (11), (13), (14) and (18), within the limit of the amounts they misappropriated from the garnishment;

c) the legal representative of the taxpayer who declares to the bank in bad faith, as per the provisions of art. 236 para. (1) letter a), that he/she does not have other money available.

(2) The following persons shall be jointly liable with the debtor declared insolvable in accordance with this Code for his/her outstanding payment liabilities:

a) individuals or legal entities that, prior to the date of declaration of insolvency, acquired assets in bad faith and by any means from the debtors who thus provoked their own insolvency;

b) the administrators, shareholders and any other persons who caused the insolvency of the legal entity debtor by selling or hiding the debtor’s assets in bad faith and in any form;

c) the administrators who, in bad faith, failed throughout the exercise of their mandate to fulfill their legal obligation of asking the authorized court to open the insolvency proceeding for the tax

liabilities of that period of time which remained unpaid on the date when the insolvency was declared;

d) the administrators or any other persons who, in bad faith, caused the non-declaration and/or non-payment of the tax liabilities when they were due;

e) the administrators or any other persons who, in bad faith, caused the refund or reimbursement of amounts of money from the general consolidation budget which were not owed to the debtor.

(3) A legal entity shall be jointly liable with the debtor declared insolvent in accordance with this code if, either directly or indirectly, it controls, is controlled by or is under common control with the debtor and if at least one of the following conditions is fulfilled:

a) it acquires under any title the ownership over assets from the debtor and the accounting value of those assets is at least half of the accounting value of all the assets of the purchaser;

b) it has or has had contractual relationships with the clients and/or suppliers, other than utilities suppliers, who have had or have contractual relationships with the debtor in a proportion of at least half of the total value of the transactions;

c) it has or has had labor or civil relationships of services provision with at least half of the employees or services providers of the debtor.

(4) For the purposes of para. (3), the terms and expressions below have the following meanings:

a) *control* - the majority of voting rights, either in the general shareholders' assembly of a company or of an association or foundation, or in the management board of a company or the board of directors of an association or foundation;

b) *indirect control* - the activity through which one person exercises control through one or several persons.

(5) The liability of the persons provided by this article refers to principal and ancillary tax liabilities of the period during which they had the capacity which triggered the joint liability.

Special

Art. 26. - (1) The liability of the persons provided by art. 25 is

provisions on establishing liability

established through a decision issued by the competent tax body for every individual or legal entity. The decision is an administrative-tax document in accordance with this Code.

(2) Before the issuance of the decision provided by para. (1), the tax body hears the person in question in accordance with art. 9. The person in question shall be entitled to present his/her opinion in writing, within 5 business days as of hearing date.

(3) By way of exception from the provisions of art. 9 para. (4), the decision which triggers the joint liability issued without previously hearing the person in question is null and void. The provisions of art. 9 para. (3) remain applicable.

(4) The decision provided at para. (1) shall comprise, in addition to the elements provided by art. 46, the following:

a) the identification details of the liable person;

b) the identification details of the principal debtor;

c) the amount and nature of the amounts owed;

d) the deadline for the liable person to pay the liability of the principal debtor;

e) the legal grounds and the factual reasons for triggering the liability, including the opinion of the tax body motivated in fact and in law with regard to the person in question’s opinion.

(5) Liability shall be established both for the principal tax receivable and for the ancillaries thereto.

(6) For the purpose of applying the enforcement measures, the decision provided at para. (1) becomes a writ of enforcement on the lapse of the payment term provided by art. 156 para. (1).

(7) If the tax receivables are cleared through any means provided by this Code, the debtor or the other persons jointly liable, as applicable, shall be discharged from liability towards the creditor.

(8) Anytime the Tax Code or any other legislative acts which regulate tax receivables provide the joint liability of two or several persons for the same tax receivable, the tax receivable document shall be issued in the name of each person, with mentioning of the other persons jointly liable for that receivable.

(9) The procedure regarding joint liability shall be approved as follows:

a) through order of the chairman of the A.N.A.F., in the case of tax receivables administered by the central tax body;

b) through a common order of the minister of regional development and public administration and of the minister of public finance, in the case of tax receivables administered by the local tax bodies.

Rights and obligations of successors

Art. 27. - (1) The rights and obligations in the fiscal law relationship pass to the successors of the debtor in accordance with common law provisions. The provisions of art. 23 remain applicable.

(2) The provisions of para. (1) are not applicable to the payment obligation related to amounts which represent fines enforced under the law against individual debtors.

Provisions regarding the assignment of tax receivables of the taxpayer/payer

Art. 28. - (1) Tax receivables related to reimbursement or refund rights of the taxpayer/payer can be assigned only after they are established through a reimbursement decision.

(2) The assignment produces effects against the competent tax body only as of the date when it was notified to it.

(3) The cancellation of the assignment or the ascertaining of its nullity after the tax liability is cleared is not opposable to the tax body.

TITLE III
General Procedural Provisions

CHAPTER I
Authority of the central tax body

General authority of the central tax body

Art. 29. - (1) The tax receivables owed to the State budget, the State social insurance budget, the budget of the National Single Fund of Health Insurance, and the budget of unemployment insurance are administered through the central tax body, unless otherwise provided by law.

(2) The central tax body also performs activities of administration of other receivables owed to the general consolidated budget than those provided at para. (1), in accordance with the authority established by law.

(3) A different special authority of administration can be established through Government decision in the case of the personal income tax and of social contributions.

(4) The central tax body performs activities of assistance and guidance of the taxpayers/payers based on the methodological coordination of the Ministry of Public Finance. The methodological coordination procedure shall be established through order of the minister of public finance.

(5) The central tax body, acting through the A.N.A.F., is also authorized for collecting the budget receivables established through writs of enforcement which are owed to the State budget, irrespective of their nature, which were transmitted thereto for recovery purposes, according to law.

Authority by subject matter and territory of the central tax body

Art. 30. - (1) The authority of administration of tax receivables and other receivables owed to the budgets provided by art. 29 para. (1) and (2) belongs to that territorial tax body of the A.N.A.F. which is established through order of the chairman of the A.N.A.F. and within the territory of which the taxpayer’s/payer’s tax domicile is located.

(2) In the case of non-resident taxpayers/payers who carry out activities in Romania through one or several permanent seats, the central tax body within the territory of which the permanent seat of the taxpayers/payers established in accordance with the Tax Code is located has administration authority.

(3) For the purpose of administration by the central tax body of the tax liabilities owed by large and medium taxpayers, including by the secondary seats thereof, through order of the chairman of the A.N.A.F. can be established the administration authority for other tax bodies than those provided at para. (1), as well as the selection criteria and the lists of taxpayers who are deemed large taxpayers or medium taxpayers, as applicable.

(4) The authorized central tax body shall notify the taxpayers anytime amendments are made with regard to the taxpayers' belonging to the category of large or medium taxpayers, as applicable.

(5) For the purpose of administration by the central tax body of the tax liabilities owed by a tax group established in accordance with the provisions of the Tax Code, the administration authority can be established through order of the chairman of the A.N.A.F. for other tax bodies than those provided by para. (1). The central tax body thus appointed is authorized to administer the tax liabilities owed by all the members of the group.

The tax domicile in the case of tax receivables administered by the central tax body

Art. 31. - (1) In the case of tax receivables administered by the central tax body, the *tax domicile* means:

a) for individuals, the address where they have their domicile or the address where they actually live, if different from the domicile;

b) for individuals who carry out economic activities independently or practice liberal professions, the seat of their activity or the place where their main activity is effectively carried out;

c) for legal entities, the registered seat or the place where their administrative management is done and where their business is effectively ran, if these are not done at the declared registered seat;

d) for associations and other entities without legal personality, their seat or the place where their main activity is effectively carried out.

(2) *Address where they actually live* as provided by para. (1) letter a) means the address of the dwelling a person continuously uses for more than 183 days in a calendar year; interruptions of up to 30 days shall not be considered. If the stay has the exclusive purpose of a visit, vacation, treatment or other similar particular purposes and does not exceed one year, that address in question shall not be deemed an address where the person actually lives.

(3) If the tax domicile cannot be established in accordance

with para. (1) letters c) and d), the tax domicile shall be the place where most of the assets are located.

Registration/ change of the tax domicile

Art. 32. - (1) Taxpayers/payers shall submit an application for registration/change of tax domicile accompanied by supporting documents in order to register/change the tax domicile defined in accordance with art. 31 anytime the tax domicile is different from the domicile or registered seat.

(2) The application shall be submitted to the central tax body within the territory of which the tax domicile is to be established. The application shall be settled within 15 business days as of its submission, through issuance of a decision of registration/change of tax domicile which shall be served to the taxpayer/payer.

(3) The tax body provided at para. (2) issues ex officio the decision of registration/change of tax domicile anytime it ascertains that the tax domicile is different from the domicile or registered seat and the taxpayer/payer did not submit an application for change of tax domicile.

(4) The date of registration/change of the tax domicile is the date of communication of the decision of registration/change of the tax domicile.

Authority in the case of secondary seats

Art. 33. - (1) In the case of secondary seats registered for tax purposes according to law, the authority for administration of the tax on salaries owed by these seats belongs to the tax body authorized to administer the liabilities of the taxpayer/payer who incorporated those seats.

(2) The authority for the registration of secondary seats for tax purposes as payers of salaries and revenues assimilated to salaries, in accordance with the law, belongs to the central tax body within the territory of which the seats are located.

Authority with regard to the tax and contributions

Art. 34. - (1) By way of exception from the provisions of art. 30 and 38, the tax and social contributions that correspond to revenues from agricultural activities owed by individuals under the law can be also paid in cash to the local tax body in the locality

that correspond to revenues from agricultural activities

where the taxpayer's tax domicile is located and where there is no territorial unit of the A.N.A.F., if a protocol was concluded for this purpose between the local public administration authority and the A.N.A.F. The payment date is the date provided by art. 163 para. (11) letter a), including for the amounts erroneously paid by the taxpayer for other types of liabilities or erroneously cleared by the tax body when performing the procedure provided by para. (4).

(2) The amounts collected in accordance with para. (1) shall be deposited by the local tax body into a separate cash account, within at most 5 business days as of collection, together with the report on the collected amounts, which will include at least the following information: the number and date of the document through which the cash collection was made, the SIC/PNC of the taxpayer, the name of the taxpayer, the type of liability paid, the amount paid.

(3) The amounts deposited into the account provided by para. (2) shall be transferred by the units of the State Treasury into the corresponding revenue accounts of the State budget and of the budget of the National Single Fund of Health Insurance within two business days as of the deposit date, in accordance with the procedure established by para. (4).

(4) The procedure of collection and transfer to the State budget and the budget of the National Single Fund of Health Insurance of the amounts collected in accordance with para. (1), as well as the manner of collaboration and performance of exchange of information between the central and local tax bodies shall be approved through common order of the minister of public finance and the minister of regional development and public administration.

Authority in the case of nonresident taxpayers

Art. 35. - In the case of nonresident taxpayers who have a permanent seat on Romanian territory, the authority belongs to the central tax body established through order of the chairman of the A.N.A.F.

Change of

Art. 36. - (1) If the tax domicile is changed in accordance

authority

with the law, the authority by territory passes to the new central tax body as of the date when the tax domicile is changed.

(2) The provisions of para. (1) shall be properly applied to large and medium taxpayers as well, as they are defined by the law, if their capacity changes.

(3) If an administration proceeding is in progress, with the exception of the enforcement proceeding, the central tax body that started the proceeding is authorized to complete it.

CHAPTER II
Authority of the local tax body

General authority of the local tax body

Art. 37. - Tax receivables owed to the local budget, including corporate income tax which becomes revenue of the local budget in accordance with the Tax Code, are administered through the local tax body, unless otherwise provided by law.

Authority by territory of the local tax body

Art. 38. - (1) Tax receivables owed to the local budget of an administrative-territorial unit/subdivision are administered through the local tax body of that administrative-territorial unit/subdivision, unless otherwise provided by law.

(2) For the purpose of administration by the local tax body of the tax liabilities owed by large and medium taxpayers, the criteria based on which the large or medium taxpayers, as applicable, are established, as well as the lists of those taxpayers, can be set through a decision of the deliberative authority.

(3) The authorized local tax body shall notify the taxpayers anytime amendments are made with regard to the taxpayers' belonging to the category of large or medium taxpayers, as applicable.

The tax domicile in the case of tax receivables

Art. 39. - (1) In the case of tax receivables administered by the local tax body, the *tax domicile* is the domicile regulated in accordance with common law or the registered seat.

(2) If the taxpayer/payer has a tax domicile registered in

administered by the local tax body

accordance with art. 32, that tax domicile shall be used for the purpose of communication of administrative-tax documents issued by the local tax body.

CHAPTER III
Other provisions related to authority

Special authority

Art. 40. - (1) If the taxpayer/payer does not have a known tax domicile or does not have a tax domicile in Romania, the authority in terms of territory belongs to the tax body within the territory of which the act or fact subject to the tax provisions is ascertained.

(2) The provisions of para. (1) shall also apply for emergency taking of legal measures necessary in cases of disappearance of the elements of identification of the real tax base, as well as in cases of enforcement.

(3) In the case of taxpayers/payers with tax domicile in Romania who apply the special regime for electronic, telecommunications, radio broadcasting and television services, as they are regulated by the Tax Code, the authority of administration of the value-added tax corresponding to the services subject to this regime belongs to the central tax body established through order of the chairman of the A.N.A.F.

Conflict of authority

Art. 41. - (1) There is a conflict of authority when two or several tax bodies declare at the same time either that they have authority or that they don’t.

(2) For the purpose of this article, *conflict of authority* means the conflict which arises with respect to the enforcement of the rules of authority regarding the administration of tax receivables provided by this Code and/or by the Tax Code, as applicable, or by other laws governing the tax receivables with regard to which the conflict arose.

(3) If a conflict of authority arises, the tax body which first declared to be authorized or the last one to declare lack of authority shall continue the proceeding of administration in

progress and request to the authorized body to decide on the conflict.

(4) The body authorized to settle the conflict of authority shall decide on the conflict at once and the solution it adopts shall be communicated to the tax bodies in conflict, in order to be implemented; the persons interested shall be informed, if applicable.

(5) If there is a conflict of authority between the central tax body and a public institution which administers tax receivables, the conflict of authority shall be settled by the Central Tax Committee.

Conflict of authority in the case of the central tax bodies

Art. 42. - If there is a conflict of authority between two or several central tax bodies, the conflict shall be settled by their common superior body. If the conflict of authority involves a structure from the central level of the A.N.A.F., the conflict shall be settled by the chairman of the A.N.A.F.

Conflict of authority in the case of the local tax bodies

Art. 43. - (1) If there is a conflict of authority between the local tax bodies or between a central tax body and a local tax body, the conflict of authority can be settled amicably, under the coordination of the representatives appointed in this respect by the Ministry of Public Finance and the Ministry of Regional Development and Public Administration. If the conflict of authority cannot be settled amicably, it shall be settled by the Central Tax Committee. In this case, the Committee shall be supplemented with 2 representatives of the Ministry of Regional Development and Public Administration, as well as with one representative of every associative structure of the local public administration authorities.

(2) In the case of tax receivables administered by the local tax bodies, the conflict of authority to which this article refers does not relate to the conflict arisen with regard to the manner of demarcation of the territory between the administrative-territorial units and/or administrative-territorial subdivisions of the municipalities.

(3) If a conflict arises with regard to the territorial demarcation

between two or several administrative-territorial units and/or two or several administrative-territorial subdivisions of the municipalities with regard to the same taxable matter, until the conflict is clarified the taxpayer shall owe the local taxes and charges that correspond to the taxable matter to the local budget of theadministrative-territorial unit or of the administrative-territorial subdivision in whose recordsthe taxable matter was registered beforetheconflict arose. The other local tax bodies are not entitled to levy local taxes and charges until the conflict is settled. The local taxes and charges paid by the taxpayer remain revenues of the local budget to which they were paid even if the taxation right belongs to another local tax body after the conflict is settled. In this case, the taxation right belongs to the new authorized local tax body, as of January 1 of the year following that in which the conflict was settled.

(4) The provisions of para. (3) are properly applicable to the fines of any kind which become revenues of the local budget.

Conflict of interests

Art. 44. - An individual from the tax body involved in an administration proceeding is in a conflict of interests, if:

a) he/she is a taxpayer/payer, the spouse of the taxpayer/payer, a relative or in-law up to and including the fourth degree of the taxpayer/payer, a representative or proxy of the taxpayer/payer in that proceeding;

b) he/she could obtain an advantage or could suffer a disadvantage, either directly or indirectly, in that proceeding;

c) there is a conflict of any kind between him/her, his/her spouse, his/her relatives or in-laws up to and including the third degree and one of the parties or the spouse, relatives or in-laws up to and including the third degree of one of the parties;

d) in other cases provided by law.

Abstention and recusation

Art. 45. - (1) Any individual who knows he/she is in one of the situations provided by art. 44 has the obligation of informing his/her superior immediately after he/she finds out of the existence of that situation and of abstaining from performing any act with regard to the administration proceeding in progress.

(2) The abstention shall be proposed by the individual in question and shall be decided at once by the superior thereof.

(3) The taxpayer/payer involved in the ongoing proceeding may request that the person in the conflict of interests be recused. The recusation request does not suspend the ongoing administration proceeding.

(4) The recusation request shall be settled at once by the leader of the tax body to which the recused individual belongs or by the superior tax body if the recused person is the leader of the tax body. In the case of individuals from the central structure of the A.N.A.F., the recusation shall be decided by the chairman of this institution.

(5) The decision dismissing the recusation request can be appealed before the authorized court of law.

CHAPTER IV
Documents issued by the tax bodies

Content and motivation of the administrative-tax document

Art. 46. - (1) Administrative-tax documents shall be issued in writing, on paper or in electronic form.

(2) The administrative-tax documents issued on paper shall comprise the following elements:

a) the denomination of the issuing tax body;

b) the issuance date and the date as of which it produces effects;

c) the identification details of the taxpayer/payer and the identification details of the proxy of the taxpayer/payer, if applicable;

d) the object of the administrative-tax document;

e) the reasons in fact;

f) the reasons in law;

g) the name and capacity of the proxies of the tax body, according to law;

h) the signature of the proxies of the tax body, according to law, as well as the stamp of the issuing tax

body;

i) the possibility of appeal, the term of submission of the appeal and the tax body before which the appeal should be submitted;

j) mentions related to the hearing of the taxpayer/payer.

(3) Administrative-tax documents issued in electronic form shall comprise the elements provided at para. (2), with the exception of the elements provided at letter h).

(4) Administrative-tax documents issued in electronic form by the central tax body shall be signed with the extended electronic signature of the Ministry of Public Finance, based on a qualified certificate.

(5) Administrative-tax documents issued in electronic form by the local tax body shall be signed with the extended electronic signature of the local public administration the issuing local tax body belongs to, based on a qualified certificate.

(6) Administrative-tax documents issued in accordance with para. (2) and printed by a massive printing center shall be valid even if they do not bear the signature of the proxies of the tax body and the stamp of the issuing body, provided they fulfill the legal requirements applicable in the matter at hand.

(7) The categories of administrative-tax documents which shall be issued by the central tax body in accordance with para. (6) shall be established through order of the chairman of the A.N.A.F.

(8) The categories of administrative-tax documents which can be issued in accordance with para. (6) by the local tax bodies shall be established through common order of the minister of regional development and public administration and of the minister of public finance. If the local tax body has or has access to a massive printing center, the local councils shall issue a decision

establishing if the local tax body of that local public administration authority is entitled to issue administrative-tax documents in accordance with para. (6).

(9) The administrative-tax document shall be deemed issued and registered with the tax body as follows:

a) on the signing date thereof by the proxy of the tax body, for the administrative-tax documents issued on paper;

b) on the date the document is generated, in the case of administrative-tax documents issued on paper and printed through a massive printing center;

c) on the date of application of the extended electronic signature, in the case of administrative-tax documents issued in electronic form.

Service of the administrative-tax document

Art. 47. - (1) The administrative-tax document must be served to the taxpayer/payer it is dedicated to. In the case of taxpayers/payers with no tax domicile in Romania who appointed a proxy in accordance with art. 18 para. (4), as well as in the case of appointment of a tax guardian, as provided by art. 19, the administrative-tax document shall be served to the proxy or to the tax guardian, as applicable.

(2) Administrative-tax documents issued on paper shall be communicated to the taxpayer/payer or to the proxy thereof at the tax domicile, either directly, if the receipt under signature of the administrative-tax documents is ensured, or by post, through registered letter with confirmation of receipt.

(3) Administrative-tax documents issued in electronic form shall be served through electronic means of remote transmission anytime the taxpayer/payer opted for this modality of issuance and service.

(4) If the service in accordance with para. (2) or

(3), as applicable, was not possible, it shall be made through publicity.

(5) Service through publicity is made by posting an announcement mentioning that the administrative-tax document was issued in the name of the taxpayer/payer, as follows:

a) in the case of administrative-tax documents issued by the central tax body, by posting the announcement at the seat of the issuing tax body and on the web page of the A.N.A.F. at the same time;

a) in the case of administrative-tax documents issued by the local tax body, by posting the announcement at the seat of the issuing tax body and on the web page of the local public administration authority in question at the same time.

(6) The announcement provided by para. (5) shall be kept for at least 60 days as of its posting and shall contain the following elements:

a) the first and last name or the denomination of the taxpayer/payer;

b) the tax domicile of the taxpayer/payer;

c) the name, number and date of issuance of the administrative-tax document.

(7) If the administrative-tax document is served by publicity, it shall be deemed served within 15 days as of the date when the announcement was posted.

(8) In the case of administrative-tax documents issued by the central tax body, the electronic means of remote transmission, the procedure of service of the administrative-tax documents through electronic means of remote transmission, as well as the conditions under which they are to be performed shall be approved through order of the minister of public finance, based on the endorsement of the minister for the information society.

(9) In the case of administrative-tax documents issued by the local tax body, the electronic means of

remote transmission, the procedure of service of the administrative-tax documents through electronic means of remote transmission, as well as the conditions under which they are to be performed shall be approved through common order of the minister of regional development and public administration and of the minister of public finance, based on the endorsement of the minister for the information society. For the local tax body, the local council shall establish through a decision the electronic means of remote transmission that are to be used by that local tax body, based on the technical capacity available.

(10) The tax body must start the actions necessary to serve the document within at most 10 business days as of the date of issuance of the administrative-tax document.

Effects of the administrative-tax document

Art. 48. - (1) The administrative-tax document produces effects as of the moment it is served to the taxpayer/payer or on a subsequent date mentioned in the document, according to the law.

(2) The administrative-tax document that was not served in accordance with art. 47 is not opposable to the taxpayer/payer and does not produce any legal effect.

Nullity of the administrative-tax document

Art. 49. - (1) The administrative-tax document is null in any of the following cases:

a) if it is issued in violation of the legal provisions related to authority;

B) if it is missing one of the elements thereof related to the first name, last name and capacity of the proxy of the tax body; the first name, last name or denomination of the taxpayer/payer; the object of the administrative document or the signature of the proxy of the tax body, with the exception provided by art. 40 para. (3), or the issuing tax body;

c) if it is affected by a serious and obvious error. The administrative-tax document is affected by a serious and obvious error when the causes which formed the basis of its issuance are so flawed that, if they had been eliminated prior to or at the same time with the issuance of the document, this would have led to the document not being issued.

(2) Nullity can be ascertained by the competent tax body or by the appeal settlement body, either upon request or ex officio. If the nullity is ascertained by the competent tax body, it shall issue a decision which shall be served to the taxpayer/payer.

(3) Administrative-tax documents which violate other legal provisions than those mentioned at para. (1) are voidable. The provisions of art. 50 shall be properly applied.

Annulment, termination or amendment of administrative-tax documents

Art. 50. - (1) Administrative-tax documents can be annulled, terminated or amended by the competent tax body in accordance with this Code.

(2) The annulment or definitive total or partial termination, as per the legal provisions, of administrative-tax documents which provided principal tax receivables triggers the annulment, termination or amendment, either total or partial, of both the administrative-tax documents which provided ancillary tax receivables that corresponded to the principal tax receivables individualized through the annulled, terminated or amended administrative-tax documents, and of the subsequent administrative-tax documents issued on the basis of those annulled, terminated or amended administrative-tax documents, even if the administrative-tax documents which provided ancillary tax liabilities or the subsequent administrative-tax documents became definitive with regard to the administrative or judicial means of appeal or were not

appealed. In this case, the issuing tax body, either ex officio or at the request of the taxpayer/payer, shall issue a new administrative-tax document, through which it properly terminates or amends the administrative-tax documents which provided ancillary tax receivables or the subsequent administrative-tax documents.

Effects of the administrative-tax document's annulment

Art. 51. - (1) Anytime an administrative-tax document is annulled, the competent tax body shall issue another administrative-tax document, if this is possible under the law.

(2) It is no longer possible to issue another administrative-tax document if:

a) the limitation period provided by law lapsed;

b) the flaws which led to the annulment of the administrative-tax document refer to its merits.

Individual tax ruling and advance pricing agreement

Art. 52. - (1) The individual tax ruling is the administrative document issued by the central tax body in order to settle a request of the taxpayer/payer regarding the regulation of certain future tax states of affairs. The future tax states of affairs shall be analyzed relative to the date of submission of the request.

(2) The advance pricing agreement is the administrative document issued by the central tax body in order to settle a request of the taxpayer/payer related to the establishment of the conditions and modalities of determination of transfer pricing throughout a fixed period of time for the transactions performed with affiliates, as these are defined by the Tax Code. Future transactions which form the object of the advance pricing agreement shall be analyzed relative to the date of submission of the request. Taxpayers/payers are allowed to request advance pricing agreements for the determination of the tax result attributable to a permanent seat as well.

(3) Prior to submitting the request for issuance of an individual tax ruling or for issuance/amendment of an advance pricing agreement, the taxpayer/payer may request in writing to the competent tax body to have a preliminary talk in order to establish the existence of the future tax state of affairs for the issuance of a tax solution, or for the conclusion of an agreement, or, as applicable, to determine the conditions for the agreement's amendment.

(4) The request for issuance of an individual tax ruling or of an advance pricing agreement must be accompanied by relevant documents for the issuance thereof, as well as by the proof of payment of the issuance charge.

(5) The taxpayer/payer proposes through request the content of the individual tax ruling or of the advance pricing agreement, as applicable.

(6) For the purpose of settling the request, the competent tax body may ask clarifications from the taxpayer/payer with regard to the request and/or the related documents.

(7) Prior to issuing the individual tax ruling or the advance pricing agreement, as applicable, the competent tax body shall present to the taxpayer/payer the draft administrative document in question and offer the taxpayer/payer the possibility to express his/her opinion in accordance with art. 9 para. (1), except if the taxpayer/payer waives this right and notifies the tax body of the waiver.

(8) The taxpayer/payer may present the clarifications provided by para. (6) or he/she may express the opinion provided by para. (7) within 60 business days as of the date when the necessary clarifications are requested or as of the date of communication of the draft individual tax ruling or advance pricing agreement.

(9) The request of the taxpayer/payer is settled through the issuance of the individual tax ruling or of the advance pricing agreement. If the taxpayer/payer does not agree with the individual tax ruling or with the advance pricing agreement that was issued, he/she will notify the issuing tax body in this respect within 30 days as of the date he/she was served the individual tax ruling or the advance pricing agreement. The individual tax ruling or the advance pricing agreement for which the taxpayer/payer sent a notification does not produce any legal effects.

(10) The individual tax ruling or the advance pricing agreement shall be served to the taxpayer/payer it refers to, as well as to the tax body authorized to administer the tax receivables owed by the taxpayer/payer in question.

(11) The individual tax ruling and the advance pricing agreement shall be opposable to and compulsory for the tax body only if the terms and conditions thereof have been observed by the taxpayer/payer.

(12) The settlement term for the request of issuance of an advance pricing agreement is of 12 months in the case of a unilateral agreement and of 18 months in the case of a bilateral or multilateral agreement, as applicable. The settlement term for the request for issuance of an individual tax ruling is of up to 3 months. The provisions of art. 77 shall be properly applied.

(13) The taxpayer/payer who holds an advance pricing agreement has the obligation of submitting on a yearly basis to the tax body which issued the agreement a report on the observance of the terms and conditions of the agreement in the reporting year. The report shall be submitted within the term provided by law for the submission of the annual financial statements or of the annual accounting reports, respectively.

(14) Throughout its validity term the advance

pricing agreement can be amended through validity extension, extension or, as applicable, revision, at the request of the holder thereof. The advance pricing agreement's validity can be extended only when the taxpayer/payer requests it and on the basis of the same terms and conditions. The advance pricing agreement can be extended only if the taxpayer/payer requests that it should include other transactions with affiliates. Revision can occur only if circumstances and factual elements intervene which have not been foreseen or have been inaccurately foreseen at the time of issuance of the advance pricing agreement and which could influence the agreement's terms and conditions. The request of amendment can be submitted at least 30 days before the lapse of the validity term, subject to termination of this right. If the request of amendment is approved after the lapse of the advance pricing agreement's validity term, it produces effects for the past as well, namely for the period of time between the moment when the validity term lapsed and the date when the decision of approval of the amendment was served.

(15) The advance pricing agreement can be issued on a unilateral, bilateral or multilateral basis. Unilateral advance pricing agreements are issued by the competent tax body in Romania. Bilateral or multilateral advance pricing agreements are issued jointly by the competent tax body in Romania and the authorized tax authorities in the countries where the affiliates of the applicant taxpayer/payer are located. Bilateral/multilateral advance pricing agreements can be issued only for transactions with taxpayers/payers from countries which have concluded agreements of avoidance of double taxation with Romania. In this case, the provisions of the agreements of avoidance of double taxation related to "Amicable proceeding" shall be applicable.

(16) An issuance charge shall be levied for the individual tax rulings, as follows:

a) of EUR 5,000, at the exchange rate communicated by the National Bank of Romania for the date of payment, for large taxpayers;

b) of EUR 3,000, at the exchange rate communicated by the National Bank of Romania for the date of payment, for the other categories of taxpayers/payers.

(17) An issuance/amendment charge shall be levied for the advance pricing agreements, as follows:

a) of EUR 20,000, at the exchange rate communicated by the National Bank of Romania for the date of payment, for large taxpayers. For the amendment of the agreement the charge is of EUR 15,000, at the exchange rate communicated by the National Bank of Romania for the date of payment;

b) of EUR 10,000, at the exchange rate communicated by the National Bank of Romania for the date of payment, for the other categories of taxpayers/payers. If the consolidated value of the transactions included in the agreement exceeds the equivalent of EUR 4,000,000, at the exchange rate communicated by the National Bank of Romania on December 31 of the tax year for which the report on the observance of the terms and conditions of the agreement is submitted, or the taxpayer/payer is included in the “large taxpayers” category during the agreement’s validity term, the issuance charge shall be the one provided by letter a). For the amendment of the agreement the charge is of EUR 6,000, at the exchange rate communicated by the National Bank of Romania for the date of payment. If the consolidated value of the transactions included in the agreement exceeds the equivalent of EUR 4,000,000, at the exchange rate communicated by the National Bank of Romania on

December 31 of the tax year for which the report on the observance of the terms and conditions of the agreement is submitted, or the taxpayer/payer is included in the "large taxpayers" category during the agreement's validity term, the amendment charge shall be the one provided by letter a).

(18) The possible charge differences owed in accordance with para. (17) shall be paid on the date of submission of the report on the observance of the terms and conditions of the agreement which ascertains that the ceiling was exceeded or that the taxpayer/payer was included in the category of "large taxpayers".

(19) The applicant taxpayer/payer is entitled to a refund of the charge if the competent tax body dismisses the request for issuance of the individual tax ruling or the request for issuance/amendment of the advance pricing agreement.

(20) The individual tax ruling and the advance pricing agreement shall no longer be valid if the legal provisions of substantive tax law based on which they were issued are amended.

(21) The individual tax ruling and the advance pricing agreement, as well as the dismissal of the request for issuance of an individual tax ruling and of the advance pricing agreement shall be approved through order of the chairman of the A.N.A.F.

(22) The proceeding for issuance of the individual tax ruling or the advance pricing agreement, as well as the content of the request for issuance of the individual tax ruling and the advance pricing agreement and of the request for amendment, extension or revision of the advance pricing agreement shall be established through order of the chairman of the A.N.A.F.

Correction of clerical errors in the

Art. 53. - (1) The tax body may correct at any point in time the clerical errors of the administrative-tax

administrative-tax document

document, either ex officio or at the request of the taxpayer/payer.

(2) For purposes of this article, *clerical errors* means any writing errors, omissions or wrong mentions in the administrative-tax documents, with the exception of those which trigger the nullity of the administrative-tax document in accordance with the law or which relate to the substance of the administrative-tax document.

(3) If the tax body finds ex officio after serving the administrative-tax document that the document contains clerical errors, it shall serve to the taxpayer/payer a document of correction of the clerical error in question.

(4) If the correction of the clerical error is requested by the taxpayer/payer, the tax body shall proceed as follows:

a) if the request for correction of the clerical error is justified, it shall issue and serve to the taxpayer/payer the document of correction of the clerical error;

b) if the request for correction of the clerical error is not justified, it shall dismiss the request through a decision which shall be served to the taxpayer/payer.

(5) The document of correction of the clerical error and the decision of dismissal of the request for correction of the clerical error are subject to the same judicial regime as the initial document and can be appealed in accordance with the law on the basis of which the initial document could be appealed.

Provisions applicable to enforcement documents and other documents issued by the tax bodies

Art. 54. - The provisions of art. 46 para. (6), art. 47, 48, and 53, shall be properly applied to the enforcement documents and to other documents issued by the tax bodies, unless otherwise provided by law.

CHAPTER V
Evidence Administration and Assessment

SECTION 1
General Provisions

Means of evidence

Art. 55. - (1) Evidence is any factual element which serves for the ascertaining of a tax state of affairs, including audio and video recordings, data and information stored on any means, as well as material means of evidence which are not forbidden by law.

(2) Tax bodies administer means of evidence in accordance with the law in order to determine the tax state of affairs and are entitled to:

a) request information of any kind from the taxpayer/payer and other individuals;

b) request expert investigations;

c) use written documents;

d) perform on-the-spot verifications;

e) perform current, operative and unannounced audits or thematic audits, as applicable, in accordance with the law.

(3) The administered evidence will be correlated and assessed by considering their force of evidence recognized by the law.

Right of the tax body of requesting that the taxpayer/payer should come to the seat thereof

Art. 56. - (1) The tax body is entitled to request that the taxpayer/payer should come to the seat thereof in order to offer the information and clarifications necessary for the establishment of his/her real tax state of affairs. If applicable, the tax body shall indicate when making this request the documents the taxpayer/payer has to present.

(2) The aforementioned request shall be made in writing and must include:

a) the date, time and place where the taxpayer/payer has to come;

b) the legal base of the request;

c) the purpose of the request;

d) the documents the taxpayer/payer has to present.

(3) When setting the date on which the taxpayer/payer has to come to the seat of the tax body, the tax body shall consider a reasonable term, which would give the taxpayer/payer the possibility to fulfill this obligation.

(4) The taxpayer/payer may request a postponement of the date set by the tax body in accordance with this article based on justified reasons.

Communication of information between the tax bodies

Art. 57. - (1) If the tax bodies find facts which are important for other fiscal law relationships on the occasion of performing an administration proceeding, they shall mutually communicate the information in question.

(2) The failure to expeditiously send the information or the obstruction of the exchange of information represents misconduct and the manager of the tax body has the obligation of taking measures to sanction the individuals at fault and to supply the requested information.

SECTION 2

Information and expert investigations

The obligation to supply information

Art. 58. - (1) The taxpayer/payer or a proxy thereof has the obligation of supplying to the tax body the information necessary for the establishment of the tax state of affairs. For the same purpose, the tax body is entitled to request information from other individuals the taxpayer/payer has or has had economic or legal relationships with, and those individuals have the obligation of supplying the requested information. The information supplied by other individuals shall be considered only to the extent it is confirmed by other

means of evidence.

(2) The request of information supply shall be formulated in writing. The tax body must specify in this request the type of information requested for the establishment of the tax state of affairs and the documents which substantiate the supplied information.

(3) The declaration of the individuals who have the obligation provided by para. (1) of supplying information will be submitted or, as applicable, made in writing.

(4) If the individual who has the obligation of supplying information in writing finds it impossible to write for reasons beyond his/her will, the tax body shall draw up a report in this respect.

Regular supply of information

Art. 59. - (1) The taxpayer/payer has the obligation of regularly supplying information related to his/her activity to the central tax body.

(2) The information provided by para. (1) shall be supplied by filling in a declaration on honour.

(3) The type of information, the frequency of supply, as well as the template of declarations shall be approved through order of the chairman of the A.N.A.F.

Information obligations related to the residents of other Member States of the European Union

Art. 60. - (1) The payers of revenues of the type of those provided by art. 291 para. (1) letters a)-d) have the obligation of submitting to the central tax body a return declaring the revenues paid to every beneficiary who is a resident of other Member States of the European Union by the last day of February of the current year for the past year.

(2) By May 25 of the current year for the past year, taxpayers who are residents of other Member States of the European Union and obtain revenues from real estate located in Romania have the obligation of submitting to the central tax body a return declaring

these revenues.

(3) The model and content of the returns provided by para. (1) and (2) shall be approved through order of the chairman of the A.N.A.F.

(4) For the purpose of performing the compulsory automatic exchange of information provided by art. 291, local tax bodies have the obligation of sending to the central tax body information related to the immovable goods owned by residents of other Member States of the European Union on the territory of that administrative-territorial unit. The transmission and content of the information, as well as the deadlines and the proceeding for transmission thereof shall be approved through common order of the minister of public finance and of the minister of regional development and public administration. Local tax bodies shall send in electronic form to the central tax body, at the latter's request, other fiscally relevant information which is available to them.

(5) For the purpose of transmission by the local tax body of the information provided by para. (4), the residents of other Member States of the European Union who acquire ownership in a real estate located in Romania have the obligation of submitting the tax return under observance of the conditions and deadlines provided by the Tax Code. The model and content of the return shall be approved through common order of the minister of public finance and of the minister of regional development and public administration.

(6) The central tax body has the obligation of communicating to the local tax body through automatic exchange fiscally relevant information available to it, as established on the basis of a protocol.

(7) The central tax body has the obligation of communicating to the local tax body at the request thereof fiscally relevant information available to it in electronic form.

(8) If the exchange of information is operationalized on the basis of protocols concluded between the central tax body and the local tax bodies, the information provided by para. (4) shall be automatically taken by the central tax body and the local tax body shall be exempt from the obligation of sending that information.

The obligation of credit institutions of supplying information

Art. 61. - (1) At the request of the central tax body, credit institutions have the obligation to communicate thereto all the turnovers and/or balances of the accounts opened by the account holder who is the subject of the request, as well as information and documents related to the operations carried out through those accounts.

(2) Credit institutions have the obligation to communicate to the central tax body the following information on a daily basis:

a) the list of account holders, namely individuals, legal entities or any other entities without legal personality, who open or close accounts, as well as the identification details of the individuals who have rights of signature on those accounts;

b) the list of individuals who lease safe deposit boxes, as well as the termination of the lease agreements.

(3) Based on the justified request of the local tax body or of another central or local public authority, the central tax body shall send the information it receives in accordance with para. (2) letter a) which refers to the bank accounts in order for these authorities to fulfill their legal duties. Information shall be requested and sent through the information system made available by the A.N.A.F. Direct access to the database of the central tax body can be ensured on the basis of a protocol concluded between the central tax body and the local tax body or another public authority.

(4) Individuals, legal entities and any other entities

without legal personality that have the obligation of sending information to the National Office of Prevention and Control of Money Laundering in accordance with the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as for the establishment of measures of prevention and fighting of terrorism financing, as republished, as subsequently amended and supplemented, shall send the information in question at the same time and on the same format to the A.N.A.F. as well.

(5) By way of exception from the provisions of art. 11 para. (3), the information obtained in accordance with para. (1), para. (2) letter b) and para. (4) shall be used only for the purpose of fulfillment of the central tax body's specific duties.

(6) The proceeding of implementation of this article shall be approved through order of the chairman of the A.N.A.F.

Obligation of financial institutions of supplying information about non-resident taxpayers

Art. 62. - (1) For the purpose of performing the exchange of information regarding the taxpayers who are residents of the countries with which Romania has concluded a judicial instrument of international law and for the improvement of international tax compliance, financial institutions, including credit institutions, have the obligation to declare on a yearly basis to the tax body of the A.N.A.F. information of financial nature related to the accounts opened and/or closed by the taxpayers mentioned in this paragraph with such institutions.

(2) The following shall be established through order of the minister of public finance endorsed by the National Bank of Romania and the Financial Supervisory Authority:

a) the financial institutions, including credit institutions, which have the information obligation;

b) the categories of information related to the identification of the taxpayers mentioned at para. (1), as well as the information of financial nature related to the accounts opened and/or closed by them with the institutions mentioned at para. (1);

c) the non-reporting entities in Romania and the accounts excluded from the information obligation;

d) the compliance rules applicable by the institutions mentioned at para. (1), in order to identify the accounts that can be reported by these institutions, as well as the procedure of declaration of the information related to the identification of the taxpayers mentioned at para. (1) and of the financial information related to the accounts opened and/or closed by these taxpayers with the institutions mentioned at para. (1);

e) administrative norms and proceedings meant to ensure the implementation and observance of the reporting and precautionary proceedings provided by the judicial instruments of international law signed by Romania.

(3) The information mentioned at para. (1) shall be supplied by May 15, inclusive, of the current calendar year for the previous calendar year.

(4) The information mentioned at para. (1) which is obtained by the tax body of the A.N.A.F. shall be used by it only for the purpose provided by para. (1) and under observance of the provisions of art. 11.

(5) Notwithstanding the provisions of para. (1) and (6), every institutions mentioned at para. (1) which has information obligations shall inform the taxpayers mentioned at para. (1) on the fact that the data related to the identification of their accounts are selected and declared in accordance with this article, and shall supply the taxpayers with all the information they are entitled to on the basis of the Law no. 677/2001, as subsequently amended and supplemented. The information shall be made in due time, so that the taxpayers referred to in this article should have the opportunity to exercise their personal data protection rights before the institutions mentioned at para. (1) send to the tax body of the A.N.A.F. the information mentioned at para. (1).

(6) The information mentioned at para. (1) shall be kept for a term which must not exceed the period of time necessary for reaching the purpose provided by para. (1) and in accordance with the legislation

referring to the limitation period of every data operator.

The expert investigation

Art. 63. - (1) Anytime it deems necessary, the tax body is entitled to resort to the services of an expert in order to elaborate an expert investigation report. The tax body has the obligation of informing the taxpayer/payer on the name of the expert.

(2) The taxpayer/payer may appoint an expert on his/her own expenses.

(3) Experts have the obligation of keeping secret all the data and information they are revealed.

(4) The expert investigation report shall be elaborated in writing.

(5) The fees set for the expert investigations provided by this article shall be paid from the budget of the tax body which resorted to the expert's services.

(6) If the expert investigation is not clarifying for the tax body, it can order that it should be supplemented or it can order that a new one should be performed.

SECTION 3

Written documents and on-the-spot verifications

Presentation of written documents

Art. 64. - (1) For the purpose of establishing the tax state of affairs, the taxpayer/payer has the obligation of making available to the tax body registers, records, business documents and any other written documents. For the same purpose, the tax body is entitled to request written documents from other individuals the taxpayer/payer has or has had economic or legal relationships with.

(2) The tax body may request to be made available the written documents at the seat thereof or at the tax domicile of the person who has the obligation of presenting them.

(3) The tax body has the right to withhold for a term of at most 30 days, for the purpose of protection against alienation or destruction, original documents, acts, written documents, registers and financial-accounting documents, irrespective of the means on which they are stored, or any material element which proves the establishment, registration and payment of the tax liabilities by the taxpayer/payer. In exceptional circumstances and based on the approval of the manager of the tax body, the withholding period can be extended by at most 90 days. The taxpayer/payer has the right to request copies of the documents withheld by the tax body as long as they are in the possession of the tax body.

(4) The proof of withholding the documents provided by para. (3) is the document elaborated by the tax body which specifies all the elements necessary for the individualization of the evidence or proof in question, and mentions that the evidence or proof was withheld by the tax body in accordance with legal provisions. The aforementioned document shall be elaborated in two counterparts and shall be signed by the tax body and by the taxpayer/payer; one counterpart shall be served to the taxpayer/payer.

(5) If the taxpayer/payer makes available to the tax body original written documents or other documents for the purpose of establishment of the tax state of affairs, the tax body shall return to the taxpayer/payer the original counterparts and shall keep copies true to the originals only of the written documents which are fiscally relevant. The taxpayer/payer shall attest that the copies are true to the original by mentioning “true to the original” thereon and by signing them.

(6) Anytime the taxpayer/payer submits to the tax body a document signed by an individual or legal entity that performs activities specific for regulated

professions, like tax consulting, financial audit, accounting expert investigations, assessment, the document must also provide the name of that person, as well as the tax identification code thereof allocated by the competent tax body.

(7) If the law provides that the taxpayer/payer should submit copies of certain documents, the copies in question must be certified by the taxpayer/payer as true to the original. The provisions of para. (5) shall be properly applicable.

On-the-spot verifications

Art. 65. - (1) In accordance with legal provisions, tax bodies are entitled to perform on-the-spot verifications and elaborate in this respect ascertaining reports.

(2) The ascertaining reports shall mention at least the following:

a) the date and place of conclusion;

b) the first name, last name and capacity of the proxy, as well as the name of the tax body the proxy belongs to;

c) the legal grounds based on which the on-the-spot verification was made;

d) the findings of the on-the-spot verification;

e) the assertions of the taxpayer/payer, of the experts or other persons who participated to the performance of the verification;

f) the signature of the proxy, as well as the signature of the persons provided by letter e). If the persons provided by letter e) refuse to sign, a mention shall be made of this in the report;

g) other mentions deemed relevant.

(3) The taxpayer/payer has the obligation of allowing the proxies of the tax body to perform the on-the-spot verifications, and of allowing the experts used for this action to enter lands, rooms and any other enclosures, if this is necessary for tax ascertaining

purposes.

(4) The individuals holding the lands or enclosures in question must be informed within a reasonable term about the on-the-spot verification, with the exception of unannounced controls. Individuals must be informed about the right to refuse access to their domicile or residence.

(5) In case of refusal, the domicile or residence of the individual in question shall be entered on the basis of an authorization from the relevant court of law, the provisions related to the presiding judge's order in the Code of Civil Proceedings being applicable thereto.

(6) At the request of the tax body, the police, the gendarmerie or other agents of the public force shall be bound to offer support for the enforcement of the provisions of this article.

SECTION 4

The right to refuse the supply of evidence

Right of relatives to refuse the supply of information, the performance of expert investigations and the presentation of written documents

Art. 66. - (1) The spouse and relatives or in-laws of the taxpayer/payer up to and including the third degree are entitled to refuse the supply of information, the performance of expert investigations, as well as the presentation of written documents.

(2) The individuals provided by para. (1) must be informed about this right.

The right of other individuals to refuse the supply of information

Art. 67. - (1) The following are entitled to refuse to supply information with regard to the data they found out during the exercise of their activities: priests, lawyers, notaries public, tax consultants, judicial executors, auditors, accounting experts, physicians, and psychotherapists. These individuals may not refuse to supply information related to the fulfillment of the

obligations provided for them by the tax legislation.

(2) The assistants, as well as the individuals who participate to the professional activity of the individuals provided by para. (1), are assimilated to thereto.

(3) The individuals provided by para. (1), with the exception of priests, may supply information, based on the consent of the person about whom the information was requested.

SECTION 5

Collaboration between public authorities

Obligation of public authorities and institutions of supplying information and presenting documents

Art. 68. - (1) Public authorities, public and public interest institutions, both central and local, as well as the decentralized services of the central public authority, have the obligation of supplying information and documents to the tax body at the request thereof.

(2) The local tax bodies have the obligation to supply to the central tax body information about the immovable goods and the means of transportation owned by individuals and legal entities for whom there is an obligation of declaration provided by the Tax Code. The frequency, format and manner of supply shall be established through a common order of the minister of public finance and the minister of regional development and public administration.

(3) The central tax body has the obligation of supplying to the local tax bodies information about the sources of revenue of individuals. The frequency, format and manner of supply shall be established through a common order of the minister of public finance and the minister of regional development and public administration.

(4) For the purpose of this code, the tax body may access on line the database of the public authorities and

institutions provided by para. (1) for the information established on the basis of a protocol.

Collaboration between the public authorities, the public or public interest institutions

Art. 69. - (1) Public authorities, public or public interest institutions, have the obligation of collaborating for the purposes of this code.

(2) The actions taken by the authorities provided by para. (1) in accordance with their legal duties do not represent a collaboration activity.

(3) The tax body which requests the collaboration shall be liable for the legality of its request and the requested authority shall be liable for the data it supplies.

(4) Anytime a public institution or authority must settle a request of an individual or legal entity for whose settlement the specific legislation provides that a tax ascertaining certificate should be presented or a revenue certificate or another document related to the tax state of affairs of the person in question, the public institution or authority has the obligation of requesting the tax ascertaining certificate, the revenue certificate or the document in question to the competent tax body. In this case, the individual or legal entity in question no longer has an obligation of presenting the certificates or the document.

(5) The tax ascertaining certificate, the revenue certificate or the document provided by para. (4) can be issued and sent in electronic form on the basis of a protocol concluded between the public institution/authority and the issuing tax body. In this case, the certificates or the document provided by para. (4) shall be valid without the signature of the proxies of the tax body, as provided by law, and without the stamp of the issuing body.

Conditions and limits of

Art. 70. - (1) The collaboration between the public

collaboration

institutions, the public or public interest institutions shall be made within the limits of their duties provided by law.

(2) If the public authority, the public or public interest institution, refuses to collaborate, the public authority ranking higher than both bodies shall decide on the matter. If there is no such authority, the decision shall be taken by the authority ranking higher than the requested one. If a local tax body refuses to collaborate, the decision on the matter shall be taken by the mayor or the chairman of the local council, as applicable, according to their legal prerogatives.

Interstate collaboration between public authorities

Art. 71. - (1) Pursuant to international agreements, tax bodies collaborate with similar tax authorities from other countries.

(2) In the absence of an agreement, tax bodies may offer or request to collaborate with a tax authority from another country on the basis of reciprocity.

SECTION 6

Burden of proof

Proof of evidence of the supporting documents and accounting records

Art. 72. - The supporting documents and accounting records of the taxpayer/payer are considered evidence for the establishment of the tax base. If there is other documentary evidence as well, it shall be taken into account when establishing the tax base.

Burden of proof for proving the tax state of affairs

Art. 73. - (1) The taxpayer/payer has the burden of proving the acts and facts which formed the basis of his/her returns and of any other requests addressed to the tax body.

(2) The tax body has the burden of motivating the administrative-tax documents issued on the basis of own

evidence or findings.

Establishing the owner for taxation purposes

Art. 74. - (1) If it is found that certain goods, revenues or other titles which, according to law, represent taxable amounts or are held by individuals who continuously benefit from the earnings or any usual benefits brought by these goods and that the individuals in question declare in writing that they are not the owners of the goods, revenues or titles in question, but do not mention the owners, the tax body shall provisionally establish the corresponding tax liability for those individuals.

(2) As provided by law, the tax liability related to the taxable amounts provided by para. (1) can be established for the owners. Also, the owners shall owe compensation to the individuals who paid for the clearance of the liability established in accordance with para. (1). If the tax liability is established for the owner, the procedure of provisional establishment of the tax liability in accordance with para. (1) shall cease.

CHAPTER VI
Terms

Calculation of terms

Art. 75. - Terms of any kind related to the exercise of rights and the fulfillment of liabilities provided by the Tax Code, by this Code, as well as by other legal provisions applicable in the matter, shall be calculated in accordance with the provisions of the Code of Civil Proceedings, unless otherwise provided by the tax legislation.

Extension of terms

Art. 76. - Terms established on the basis of the law by a tax body can be extended by that body in justified cases, either upon request or ex officio.

Settlement term of the requests of taxpayers/payers

Art. 77. - (1) The requests submitted by taxpayers/payers to the tax body shall be settled within 45 days as of registration.

(2) If it is necessary to administer additional relevant evidence in order to take a settlement decision, the term shall be extended with the interval comprised between the date when the evidence is requested and the date when it is obtained, but not more than:

a) two months, if the requesting taxpayer/payer is asked for additional evidence;

b) 3 months, if the authorities or public institutions or other third parties from Romania are asked for additional evidence;

c) 6 months, if tax authorities from other countries are asked for additional evidence, as provided by law.

(3) In the situations provided by para. (2) letters b) and c), the tax body has the obligation of informing the taxpayer/payer on the extension of the settlement term.

(4) In the situation provided by para. (2) letter a), the term of two months can be extended by the tax body at the request of the taxpayer/payer.

(5) If the risk analysis reveals that the settlement of the request requires a tax inspection, the settlement term of the request shall be of at most 90 days as of the registration of the request and the provisions of para. (2)-(4) shall be properly applied. In this case, the taxpayer/payer shall be informed with regard to the applicable settlement term within 5 days as of completion of the risk analysis. The tax inspection performed for the settlement of the request shall be a partial tax inspection within the meaning of art. 115.

(6) The tax inspection for the settlement of the request in accordance with para. (5) can be suspended in accordance with art. 127. In this case, the provisions of para. (2) shall not be applicable. The time intervals during which the tax inspection is suspended shall not

be included in the calculation of the term provided by para. (5).

Force majeure and casus fortuitus

Art. 78. - (1) The terms provided by law for the fulfillment of the tax liabilities shall not start running or shall be suspended, as applicable, if the fulfillment of these liabilities is hindered by the occurrence of a situation of force majeure or casus fortuitus.

(2) Tax liabilities shall be deemed fulfilled on time, with no levy of interests, late payment penalties or additional taxes assessed for late payment, as applicable, or the application of sanctions provided by the law, if they are performed within 60 days as of termination of the situations provided by para. (1).

CHAPTER VII
Transmission of applications by the taxpayers/payers and identification thereof in the electronic environment

Transmission of applications to the tax body through electronic means of remote transmission

Art. 79. - (1) Taxpayers/payers may send to the competent tax body applications, deeds or any other documents by electronic means of remote transmission, in accordance with the provisions of para. (4) or (5).

(2) The date of submission of the application, deed or document shall be the date of registration thereof, as it results from the electronic message sent to the electronic registrar of the Ministry of Public Finance or of the local public administration authority, as applicable.

(3) For the purpose of this code, *electronic registration* means the electronic system of registration and trading of documents and information received or issued by the tax body through electronic means.

(4) In the case of applications, deeds or documents sent by the taxpayer/payer to the central tax body, the electronic means of remote transmission, the procedure of transmission of the applications, deeds or documents

through electronic means of remote transmission, as well as the conditions under which they are to be performed shall be approved through order of the minister of public finance, based on the endorsement of the minister for the information society.

(5) In the case of applications, deeds or documents sent by the taxpayer/payer to the local tax body, the electronic means of remote transmission, the procedure of transmission of the applications, deeds or documents through electronic means of remote transmission, as well as the conditions under which they are to be performed shall be approved through common order of the minister of regional development and public administration and of the minister of public finance, based on the endorsement of the minister for the information society. For the local tax body, the local council shall establish through a decision the electronic means of remote transmission that can be used by the taxpayer/payer, based on the technical capacity available.

Identification of the taxpayer/payer in the electronic environment

Art. 80. - The taxpayer/payer who submits applications, written documents or documents to the tax body by electronic means of remote transmission shall be identified as follows in its relationship with the tax body:

a) legal entities, associations and other entities without legal personality, as well as individuals who carry out economic activities independently or exercise liberal professions, shall be identified only with qualified certificates;

B) individuals, other than those provided by letter a), shall be identified through the providers of public services of electronic authentication authorized in accordance with the law or through different devices, like a qualified certificate, credentials of user/password

type accompanied by lists of single use authentication codes, mobile phone, digipass or other devices established through order of the minister of public finance endorsed by the minister for the information society, in the case of their identification in the relationship with the central tax body or, as applicable, through common order of the minister of regional development and public administration and of the minister of public finance endorsed by the minister for the information society in the case of their identification in the relationship with the local tax body. In these cases, the applications, written documents or documents shall be considered signed if all the requirements of the orders provided by art. 79 para. (4) and (5) are fulfilled.

TITLE IV
Registration for tax purposes

Scope of the activity of registration for tax purposes

Art. 81. - (1) The registration for tax purposes is the activity of award of a tax identification code, of organization of the register of taxpayers/payers and of issuance of the tax registration certificate.

(2) Unless otherwise provided by law, the tax identification code is awarded exclusively by the central tax body, on the basis of the tax registration declaration.

Obligation to register for tax purposes

Art. 82. - (1) Any person or entity included in a fiscal law relationship shall be registered for tax purposes and shall receive a tax identification code. The tax identification code is:

a) for legal entities, as well as for associations and other entities without legal personality, with the exception of those provided by letter b), the tax registration code awarded by the tax body;

b) for the individuals and legal entities, as well as

for other entities which register in accordance with the special law with the trade register, the sole registration code awarded in accordance with the special law;

c) for the individuals who carry out economic activities independently or exercise liberal professions, with the exception of those provided by letter b), the tax registration code awarded by the tax body;

d) for individuals, other than those provided by letter c), the personal numeric code awarded in accordance with the special law;

e) for individuals who do not have a personal numeric code, the tax identification number awarded by the tax body.

(2) For the purpose of administration of the personal income tax, the tax identification code shall be the personal numeric code for the individuals who are taxpayers in accordance with the provisions of the Tax Code on personal income tax.

(3) By way of exception from the provisions of art. 18 para. (1), for the individuals provided by para. (1) letter e), as well as for nonresident legal entities, who obtain only income subject to taxation rules of withholding at source, and the withheld tax is final, the tax identification code can be awarded by the tax body at the request of the income payer.

(4) The individuals provided by para. (1) letters d) and e) who are employers shall have the obligation to submit the tax registration declaration.

(5) Individuals who have a personal numeric code and are subject to personal income tax shall be registered for tax purposes on the date of submission of their first tax return.

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

a) the date of incorporation according to law, for legal entities, associations and other entities without

legal personality;

b) the issuance date of the legal operation document, the activity starting date, the date of obtaining the first income or of becoming an employer, as applicable, in the case of individuals.

(7) For the purpose of administering the tax receivables, the central tax body may register, ex officio or at the request of another authority which administers tax receivables, a tax law subject who has not fulfilled the obligation of registration for tax purposes, according to law. The procedure of registration ex officio or at the request of another authority which administers tax receivables shall be approved through order of the chairman of the A.N.A.F..

(8) In the case of non-resident taxpayers/payers who carry out activities in Romania through one or several permanent seats, they have the obligation of indicating the permanent seat established in accordance with the Tax Code when they submit the tax registration declaration. In the case of tax registration, the tax registration declaration shall be submitted to the tax body under the administrative authority of which the permanent seat that is to be established is located.

(9) In the cases provided by para. (3) and (7), the tax identification code shall be awarded on the basis of the applicant’s request, with the exception of the case in which the tax registration is made ex officio.

(10) The tax registration certificate submitted in accordance with this article must be accompanied by copies of supporting documents for the information mentioned therein.

(11) The tax registration date is:

a) the date of submission of the tax declaration, in the case of taxpayers provided by para. (5);

b) the award date of the tax identification code, in the other cases.

Special provisions for the tax registration of nonresident individuals

Art. 83. - (1) Once a company is registered with the trade register in accordance with the law or, as applicable, when it assigns its shares or quota shares, or when it appoints new legal representatives or brings in new shareholders, or when it makes a share capital increase, the trade register offices attached to tribunals send to the Ministry of Public Finance by electronic means, either directly or through the National Trade Register Office, a request for award of the tax identification number for the nonresident individuals who act as founders, shareholders or administrators of that company in accordance with the provisions of the company's articles of incorporation.

(2) Based on the data sent in accordance with the provisions of para. (1), the Ministry of Public Finance awards the tax identification code, registers for tax purposes the nonresident individuals provided by para. (1) and issues the corresponding tax registration certificate, unless these individuals are already registered for tax purposes. The provisions of art. 87 shall be properly applied. The tax registration certificate shall be issued and sent to the trade register office attached to the tribunal on the same day or on the following day, at the latest.

(3) The tax registration certificate shall be communicated by the trade register offices attached to tribunals to the company where the individual in question has one of the qualities mentioned by para. (1), together with the documents provided by art. 8 in the Law no. 359/2004 on simplifying the formalities for registration with the trade register of individuals, family associations and legal entities, for their registration for tax purposes, as well as for the authorization of the legal entities' operation, as subsequently amended and supplemented.

Identification of the taxpayer/payer in the relationships with the

Art. 84. - For the purpose of administration of local taxes and charges, taxpayers/payers are identified in their relationship with the local tax body, as follows:

local tax body

a) individuals, through the personal numeric code awarded in accordance with the special law;

b) individuals who do not have a personal numeric code, through the tax identification number awarded by the tax body in accordance with art. 82;

c) legal entities, through the tax identification code awarded by the tax body in accordance with art. 82.

Declaring subsidiaries and secondary seats

Art. 85. - (1) The taxpayer/payer has the obligation to declare the incorporation of secondary seats to the central tax body within 30 days.

(2) The taxpayer/payer whose tax domicile is in Romania has the obligation to declare the incorporation of subsidiaries and secondary seats abroad within 30 days.

(3) For the purpose of this article, *secondary seat* is a place where the taxpayer/payer carries out his/her activity, either entirely of partially, like: an office, a store, a workshop, a deposit and others alike.

(4) *Secondary seat* also means a construction site, a construction project, an ensemble or fitting or supervisory activities related thereto, only if the site, project or activities have been carried out for more than 6 months. The permanent seats defined in accordance with the Tax Code are secondary seats as well.

(5) The taxpayer/payer who registers secondary seats as payers of salaries and revenues assimilated to salaries in accordance with the Law no. 273/2006 on local public finance, as subsequently amended and supplemented, does not have the obligation of declaring these seats in accordance with this article. The provisions of art. 32 para. (7) in the Law no. 273/2006, as subsequently amended and supplemented, remain applicable.

(6) The declaration shall be accompanied by a copy of the tax registration certificate of the taxpayer/payer to

whom the secondary seat or subsidiary belongs, as well as by copies of supporting documents of the information written therein.

The form and content of the declaration of registration for tax purposes

Art. 86. - (1) The declaration of registration for tax purposes shall be elaborated by filling in a form made available for free by the central tax body and shall be accompanied by supporting documents of the information registered therein.

(2) The declaration of registration for tax purposes comprises: the identification details of the taxpayer/payer, the data related to the taxpayer file, data related to secondary seats, identification details of the proxy, data related to the judicial situation of the taxpayer/payer, as well as other information necessary for the administration of tax receivables.

The tax registration certificate

Art. 87. - (1) Based on the declaration of registration for tax purposes submitted in accordance with art. 81 para. (2) or, as applicable, of the application submitted in accordance with art. 82 para. (9), the central tax body shall issue the tax registration certificate within 10 days as of the date of submission of the declaration or application. The tax registration certificate must mention the tax identification code.

(2) No extra-judiciary stamp duties shall be owed for the issuance of tax registration certificates.

(3) If the tax registration certificate is lost, stolen or destroyed, the tax body shall issue a duplicate thereof on the basis of the application submitted in this respect by the taxpayer/payer along with the proof that he/she announced the fact that the certificates was lost, stolen or destroyed through the Official Gazette of Romania, Part III.

(4) The provisions of this article shall be properly applied to the certificate of registration for VAT

purposes.

Amendments after the registration for tax purposes

Art. 88. - (1) The subsequent amendments of the data provided through the declaration of registration for tax purposes must be notified to the central tax body within 15 days as of the date of occurrence thereof, by filling in and submitting a declaration of mentions.

(2) In case of amendments occurred with regard to the data declared initially and registered in the tax registration certificate, the taxpayer/payer shall submit the tax registration certificate once with the declaration of mentions, in order to have it annulled and to be issued a new certificate.

(3) The declaration of mentions shall be accompanied by documents attesting the amendments that occurred.

(4) The provisions of this article shall be properly applied anytime the taxpayer/payer finds errors in the declaration of registration for tax purposes.

Amendments subsequent to the registration for tax purposes in the case of individuals or legal entities or other entities which have the obligation of registration with the trade register

Art. 89. - (1) The amendments that occur with regard to the data initially declared by individuals, legal entities or other entities which register with the trade register in accordance with the special law shall be made as provided by the special law.

(2) In the case of individuals or entities provided by para. (1), the amendments that occur with regard to the data initially declared in the taxpayer file shall be declared to the central tax body.

Cancellation of the registration for tax purposes

Art. 90. - (1) The cancellation of the registration for tax purposes is the activity of withdrawal of the tax identification code and of the tax registration certificate.

(2) When the individuals or entities registered for tax purposes through a declaration of registration for tax

purposes in accordance with art. 81 and 82 cease to be tax law subjects, they must request to have their registration for tax purposes canceled, by submitting a declaration of cancellation. The declaration shall be submitted within 30 days as of the date when they cease to be tax law subjects and it must be accompanied by the tax registration certificate in order for it to be annulled. The cancellation of the registration for tax purposes can be made ex officio as well, by the tax body, anytime it finds that the conditions of cancellation of the registration are fulfilled and no declaration of cancellation has been submitted.

(3) The cancellation of the registration for tax purposes shall be made ex officio, by the central tax body, when the individual dies or, as applicable, when the legal entity ceases to exist in accordance with the law.

(4) The tax identification code withdrawn as a result of the cancellation of the registration for tax purposes can be used after the cancellation only for the purpose of fulfillment by the successors of the individuals/entities that ceased to exit, of the tax liabilities that correspond to the time intervals during which the individual/entity was a tax law subject.

Register of taxpayers/payers

Art. 91. - (1) The central tax body shall organize the record keeping of the taxpayers/payers through the register of taxpayers/payers, which contains:

a) the identification details of the taxpayer/payer;

b) data related to the taxpayer file;

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

(2) The data provided by para. (1) shall be filled in on the basis of the information communicated by the taxpayer/payer, by the trade register office, by the civil records service, by other authorities and institutions, as

well as on the basis of the central tax body's own findings.

(3) The data in the register of taxpayers/payers can be amended ex officio anytime it is found that they do not correspond to the real state of affairs. The amendments shall be communicated to the taxpayer/payer.

(4) The types of tax liabilities the taxpayer/payer has the obligation of declaring under the law and which form the taxpayer file are established through order of the chairman of the A.N.A.F..

Register of inactive/reactivated taxpayers/payers

Art. 92. - (1) The taxpayer/payer which is a legal entity or any entity without legal personality shall be declared inactive and shall be applied the provisions of the Tax Code on the effects of inactivity if it is found in one of the following situations:

a) it does not fulfill any information obligation provided by law during one calendar half-year;

b) it avoids the inspections of the central tax body by declaring identification details of the tax domicile which prevent the tax body from identifying it;

c) the central tax body finds that the taxpayer/payer does not operate at the declared tax domicile;

d) temporary inactivity registered with the trade register;

e) the company's term of operation has expired;

f) the company no longer has statutory bodies;

g) the duration of holding the space used as registered seat has expired.

(2) In the case provided by para. (1) letter a), the declaration of inactivity cannot be made before the lapse of the term of 15 days provided by art. 107 para. (1).

(3) In the cases provided by para. (1) letters f) and g), the declaration of inactivity shall be made after the lapse of the term of 30 days as of the date when the taxpayer/payer is served a notification related to those

cases.

(4) Declaring the taxpayer/payer inactive, as well as reactivating it shall be made by the central tax body through a decision issued in accordance with the prerogatives and the proceeding established through order of the chairman of the A.N.A.F., which shall be served to the taxpayer/payer.

(5) The taxpayer/payer declared inactive shall be reactivated if the following conditions are cumulatively fulfilled:

a) it fulfills all the information obligations provided by law;

b) it does not have outstanding tax liabilities;

c) the central tax body finds that the taxpayer/payer operates at the declared tax domicile;

(6) In order for the taxpayer/payer provided by para. (1) letters d) - g) to be reactivated, apart from fulfilling the conditions provided by para. (5), it must no longer be in the situation which led to it being declared inactive, as per the mentions provided by the registers where it was registered.

(7) The condition provided by para. (5) letter a) is also considered fulfilled if the tax liabilities were established through decision by the central tax body.

(8) By way of exception from the provisions of para. (5), the taxpayer/payer for which the insolvency proceeding in simplified form was opened, the taxpayer/payer which entered bankruptcy or the taxpayer/payer for which a decision of dissolution was rendered or adopted, shall be reactivated by the central tax body at the request thereof, after the taxpayer/payer fulfills the information obligations.

(9) Anytime it is found that a taxpayer/payer was declared inactive by error, the issuing central tax body shall annul the decision declaring the taxpayer/payer inactive, with future and past effects.

(10) The A.N.A.F. shall keep the records of the taxpayers/payers declared inactive/reactivated in the Register of inactive/reactivated taxpayers/payers, which contains:

a) the identification details of the taxpayer/payer;

b) the date when the taxpayer/payer was declared inactive;

c) the date of reactivation;

d) the denomination of the central tax body which issued the decision of declaration as inactive/of reactivation;

e) other mentions.

(11) The register of inactive/reactivated taxpayers/payers is public and shall be posted on the website of the A.N.A.F..

(12) The issuing central tax body shall make registrations in the register provided by para. (11) after it serves the decision of declaration as inactive/of reactivation, within at most 5 days of service.

(13) The decision of declaration as inactive/of reactivation produces effects towards third parties on the day following that of registration in the register provided by para. (10).

(14) The proceeding of implementation of this article shall be approved through order of the chairman of the A.N.A.F..

TITLE V
Tax assessment

CHAPTER I
General Provisions

Scope and documents of tax assessment

Art. 93. - (1) Tax assessment is the activity of establishment of the taxable base, of calculation of the tax base and of the tax receivables.

(2) Tax receivables shall be assessed as follows:

a) through a tax return, in accordance with the provisions of art. 95 para. (4) and art. 102 para. (2);

b) through a tax assessment issued by the tax body, in the other cases.

(3) The provisions of para. (2) shall be also applicable in the cases in which the tax receivables are exempt from payment in accordance with legal provisions, as well as in the case of value-added tax reimbursements.

Tax assessment subject to subsequent verification

Art. 94. - (1) The amount of tax receivables shall be assessed subject to subsequent verification, except for the case in which the assessment was made as a result of a tax audit or a verification of the personal tax situation.

(2) The tax assessment subject to subsequent verification can be canceled or amended at the initiative of the tax body or at the request of the taxpayer/payer, based on the findings of the competent tax body.

(3) The reserve of subsequent verification shall be annulled only after the lapse of the limitation period related to the right of tax assessment or as a result of the tax audit or of the verification of the personal tax situation.

(4) If the taxpayer/payer corrects the tax returns in accordance with art. 105 para. (6), the reserve of subsequent verification shall be reopened, as follows:

a) for the elements of the tax base which are subject to correction, if the reserve of subsequent verification was canceled as a result of the tax audit or of the verification of the personal tax situation;

b) for all the elements of the tax base, if the reserve of subsequent verification was canceled as a result of the lapse of the limitation period related to the right of tax assessment.

CHAPTER II
Provisions related to the tax assessment

The tax assessment

Art. 95. - (1) The tax assessment shall be issued by the competent tax body.

(2) The tax body shall issue the tax assessment anytime it assesses or amends the tax base as a result of a documentary verification, of a tax audit or of a verification of the personal tax situation performed in accordance with the law.

(3) The tax assessment shall be issued, if necessary, when no decision was issued with regard to the tax base in accordance with art. 99.

(4) The tax statement elaborated in accordance with art. 102 para. (2) is assimilated to a tax assessment, subject to a subsequent verification, and produces the legal effects of the payment notice as of its submission.

(5) If the law does not provide the obligation of calculating tax, the tax statement is assimilated to a decision related to the tax base.

(6) The tax assessment and the decision related to ancillary tax liabilities are also payment notices as of the date of their service, if they establish amounts that have to be paid.

Waiver of assessment of the tax receivable

Art. 96. - (1) The tax body waives the assessment of the tax receivable and does not issue the tax assessment anytime it finds that the legal entity ceased to exist or the individual died and there are no successors.

(2) The central tax body waives the assessment of the tax receivable and does not issue a tax assessment if the principal tax receivable is below Lei 20. If the tax assessment refers to several types of principal tax

receivables, the ceiling shall be applied on the total amount of these receivables.

(3) In the case of tax liabilities administered by the local tax body, the deliberative authorities may set the ceiling of tax liabilities they can waive through a decision and this ceiling cannot exceed the maximum limit provided by para. (2).

The form and content of the tax assessment

Art. 97. - The tax assessment must include, apart from the elements provided by art. 46, the type of tax receivable, the tax base, as well as the amount thereof, for every taxable period.

Administrative-tax documents assimilated to tax assessments

Art. 98. - The following administrative-tax documents shall be assimilated to tax assessments:

a) the decisions of settlement of value-added tax reimbursement applications and the decisions of settlement of applications for refunds of tax liabilities;

b) the decisions related to the tax bases;

c) the decisions related to the ancillary tax liabilities;

d) the tax base no change decisions.

Decisions related to the tax bases

Art. 99. - (1) The tax bases shall be established separately, through a decision related to the tax bases, in the following cases:

a) when the taxable income is obtained by several persons. The decision also comprises the distribution of the taxable income to every person who participated to its obtaining;

b) when the source of the taxable income is under the authority of another tax body than the one authorized by territory. In this case, the authority of establishment of the tax base belongs to the tax body under whose authority the source of the income is located.

(2) If the taxable income is obtained by several persons, then they may appoint a common proxy in their relationship with the tax body.

Decisions of assessment of certain budget receivables

Art. 100. - (1) Budget receivables which represent prejudices/illegal payments from public funds which must be recovered in accordance with the law shall be assessed through a decision issued by the competent authorities, unless otherwise provided by the special law.

(2) The decision provided by para. (1) is a budget receivable document in accordance with art. 1 point 38 and can be appealed in accordance with this code. The appeal shall be settled by the issuing authority. The provisions of title VIII shall be properly applicable.

CHAPTER III
Provisions related to the tax return

The obligation of submitting tax returns

Art. 101. - (1) Tax returns shall be submitted by the persons for whom this obligation is provided by the Tax Code or by other special laws, on the terms established by these laws.

(2) If the law does not provide the term of submission of the tax return, this term shall be established as follows:

a) through order of the minister of public finance, in the case of tax returns to be submitted to the central tax body;

b) through a common order of the minister of regional development and public administration and of the minister of public finance, in the case of tax returns to be submitted to the local tax body.

(3) The obligation of submitting tax returns is also maintained in cases when:

a) the tax liability was paid;

b) the tax liability in question is exempt from payment, in accordance with legal regulations;

c) no payable amounts result during the reporting period for the tax liability, but there is an information obligation related thereto, as per the law;

d) the income is obtained in Romania by nonresident taxpayers and is not taxable in Romania in accordance with the agreements of avoidance of double taxation.

(4) In case of temporary inactivity or in the case of information obligations related to income which is exempt in accordance with the law from the payment of personal income tax, the central tax body may approve other terms or conditions of submission of the tax returns at the request of the taxpayer/payer, according to the necessities of administration of tax liabilities. With regard to the aforementioned terms and conditions the decision shall be taken by the central tax body, according to the prerogatives thereof approved through order of the chairman of the A.N.A.F..

(5) The taxpayer/payer who has secondary seats registered for tax purposes as payers of salaries and income assimilated to salaries has the obligation of declaring in the name of the secondary seats the tax on salaries owed by those seats, as per the legal provisions.

(6) In the case of non-resident taxpayers who carry out activities in Romania through several permanent seats, the information obligation provided by para. (5) shall be fulfilled through the permanent seat established as such in accordance with the provisions of the Tax Code.

The form and content of the tax return

Art. 102. - (1) The tax return shall be elaborated by filling in a form made available for free by the tax body.

(2) The taxpayer/payer must calculate the amount

of tax liabilities and mention it in the tax statement, if this is provided by law.

(3) The taxpayer/payer has the obligation of filling in the tax return with correct, complete and good faith information, as provided by the form and in accordance with his/her tax situation. Tax returns shall be signed by the taxpayer/payer or by the legal representative or proxy thereof, as applicable.

(4) The obligation of signing the tax return shall be deemed fulfilled in the following cases as well:

a) when the tax return is sent through the electronic payment system;

b) when the tax return is sent through electronic systems of remote transmission, in accordance with art. 103 para. (1).

(5) Tax returns must be accompanied by the documentation required by the legal provisions.

(6) In the case of tax liabilities administered by the central tax body, an order of the chairman of the A.N.A.F. can establish the types of tax receivables for which the tax body may send to the taxpayer/payer the forms of declaration of tax receivables, the instructions of filling in thereof, other useful information, as well as the pre-addressed envelopes. In this case, the counter-value of the correspondence shall be borne by the central tax body.

Submitting the tax returns

Art. 103. - (1) Tax returns shall be submitted to the registrar’s office of the competent tax body or shall be sent by post with confirmation of receipt. Tax returns can be sent through electronic means or through electronic systems of remote transmission. In the case of tax receivables administered by the central tax body, the proceeding related to the transmission of the tax return through electronic means or electronic systems of

remote transmission shall be established through order of the chairman of the A.N.A.F..

(2) Tax returns can be elaborated by the tax bodies under the form of minutes, if the taxpayer/payer is unable to write for reasons independent of his/her will.

(3) The date of submission of the tax return is the date of registration thereof with the tax body or the date of submission at the post office, as applicable. If the tax return is submitted by electronic means of remote transmission, the date of submission thereof is the date of registration thereof on the web page of the tax body, as proven by the electronic message of confirmation sent as a result of receiving the return.

(4) The date of submission of the tax return through electronic means of remote transmission is the date of registration thereof on the portal, as results from the electronic message sent by the information trading system, provided the content of the return is validated. If the return is not validated, the date of submission thereof shall be the date of validation, as it results from the electronic message.

(5) By way of exception from the provisions of para. (4), if the tax return was submitted before the legal term, and the electronic message transmitted by the information trading system results that it was not validated as a result of errors being detected therein, the date of submission of the return shall be the date from the message sent initially if the taxpayer/payer submits a valid return by the last day of the month when the legal term of submission lapses.

Certification of the tax return submitted to the central tax body

Art. 104. - (1) The taxpayer/payer may opt for the certification of the tax return, including of the rectifying tax return, prior to submitting it with the central tax body, by a tax consultant who obtained this capacity in accordance with the legal provisions related to the

organization and exercise of the tax consultancy activity and who is registered as active member in the Register of Tax Consultants and of tax consultancy companies.

(2) The tax return shall be certified with/without reservations, according to the certification norms approved as provided by law by the Chamber of Tax Consultants and endorsed by the Ministry of Public Finance. The documents which are concluded as a result of the certification must include explanations with regard to the amount and nature of the declared tax receivable, as well as, as applicable, the causes which generated the rectification, and the motivation of a certification made with reservations.

(3) The procedure of submission to the tax body of the certification document elaborated by the tax consultant in accordance with the provisions of para. (2) shall be approved through order of the chairman of the A.N.A.F. , as well as the procedure related to the exchange of information between the A.N.A.F. and the Chamber of Tax Consultants.4

(4) The certification of the tax return by a tax consultant who is not registered as active member in the Register of Tax Consultants and of tax consultancy companies or by a person who is not a tax consultant results in a lack of certification.

(5) The central tax body shall notify the taxpayer/payer if it finds that a tax return was submitted which was certified by a tax consultant who is not registered as active member in the Register of Tax Consultants and of consultancy companies or by a person who is not a tax consultant, in accordance with the law. If the certification is not submitted within 30 days as of notification, the provisions of para. (4) shall be applicable.

(6) The certification of the tax return by a tax consultant is an assessment criteria in the risk analysis

performed by the central tax body in order to select the taxpayers/payers for tax inspections.

Correction of the tax returns

Art. 105. - (1) Tax statements can be corrected by the taxpayers/payers during the limitation period of the right of assessment of tax receivables.

(2) The informative return can be corrected by the taxpayer/payer irrespective of the period to which it refers.

(3) The returns provided by para. (1) and (2) can be corrected through the submission of a rectifying return.

(4) In the case of value-added tax, the errors in the tax returns shall be corrected in accordance with the provisions of the Tax Code. The clerical errors in the value-added tax returns shall be corrected in accordance with the procedure approved through order of the chairman of the A.N.A.F..

(5) The tax statement cannot be submitted or corrected after the reserve of subsequent verification is annulled.

(6) By way of exception from the provisions of para. (5), the tax statement can be submitted or corrected after the reserve of subsequent verification is annulled, in the following cases:

A) if the correction is owed to the fulfillment or failure to fulfill a condition provided by law which imposes the correction of the tax base and/or of the related tax receivable;

b) if a definitive court judgment established for the payer payment liabilities representing income or differences of income to be paid to the beneficiaries thereof which generate tax liabilities corresponding to periods for which the reserve of subsequent verification was annulled.

(7) In the situations provided by para. (6), the taxpayer/payer must mention in the tax statement he/she

submitted or rectified the legal grounds for the submission or correction of the tax base and/or of the related tax receivable.

(8) If the taxpayer/payer submits or corrects during the tax inspection the tax statement that corresponds to the periods and tax receivables which form the object of the tax inspection, the tax return shall not be taken into account by the tax body.

CHAPTER IV
Assessment of the tax base through estimation

Right of the tax body of assessing the tax base through estimation

Art. 106. - (1) The tax body assesses the tax base and the related tax receivable through the reasonable estimation of the tax base, using any evidence and means of evidence provided by law, anytime it cannot establish the correct tax state of affairs.

(2) The assessment through estimation of the tax base shall be made in cases like:

a) in the situation provided by art. 107 para. (1) - (4);

b) when the tax body cannot establish the correct tax state of affairs and it finds that the accounting or tax records or the tax returns or the documents and information presented during the tax audit are incorrect, incomplete, as well as if they do not exist or are not made available to the tax bodies.

(3) If the tax body is entitled in accordance with the law to assess by estimation the tax bases, it shall identify those elements which are closest to the tax state of affairs. The tax body shall have the obligation of mentioning in the tax assessment the reasons in fact and in law which led to the use of the estimation, as well as the estimation criteria.

(4) In the case of tax receivables administered by

the central tax body and in order to assess by estimation the tax base, the tax body may use methods of assessment by estimation of the tax bases approved through order of the chairman of the A.N.A.F..

(5) The amount of tax liabilities resulting from the application of the provisions of this article shall be assessed subject to subsequent verification, with the exception of those assessed during a tax inspection.

Assessment of tax liabilities ex officio as a result of the failure to submit the tax return

Art. 107. - (1) The failure to submit the tax return gives the tax body the right to assess ex officio the tax liabilities through a tax assessment. The assessment ex officio cannot be made before the lapse of a term of 15 days as of the notification of the taxpayer/payer on the exceeding of the legal term of submission of the tax return. These provisions are not applicable after the start of the tax inspection for the undeclared tax liabilities.

(2) Through the notification provided by para. (1) the tax body shall inform the taxpayer/payer on the consequences of his/her failure to submit the tax return.

(3) The assessment ex officio of the tax receivable shall be made by estimating the tax base, in accordance with art. 106. The tax body shall proceed to estimating the tax receivable anytime the information held by the tax body do not allow the estimation of the tax base.

(4) For the tax receivables administered by the central tax body, the notification of failure to submit the returns and the assessment ex officio of the tax liabilities shall not be made in the case of an inactive taxpayer/payer, so long as the inactivity operates.

(5) The taxpayer/payer may submit the tax return for the tax liabilities which formed the object of the tax assessment issued in accordance with para. (1) within 60 days as of the date he/she is served the assessment, subject to termination of this right, even if this term lapses after the lapse of the limitation period related to

the tax body's right of assessing tax receivables. The tax assessment shall be annulled by the tax body on the date of submission of the tax return.

(6) If the tax statement provided by para. (4) is submitted after the lapse of the limitation period provided by art. 110, a new limitation period shall start on the date of submission of the return.

CHAPTER V
About the tax and accounting records

The obligation of keeping tax records

Art. 108. - (1) In order to assess the tax state of affairs and the tax liabilities owed, the taxpayer/payer shall be bound to keep tax records, in according with the legislative acts in force.

(2) For the purpose of documenting the observance of the market value principle, the taxpayer/payer that performs transactions with affiliates has the obligation of elaborating the transfer pricing file. At the request of the authorized central tax body, the taxpayer/payer has the obligation of presenting the transfer pricing file. The amount of transactions for which the taxpayer/payer has the obligation of elaborating the transfer pricing file, the terms for the elaboration thereof, the content of the transfer pricing file, as well as the conditions under which it is requested shall be approved through order of the chairman of the A.N.A.F..

(3) The following are tax records: registers, situations, as well as any other documents which must be elaborated in accordance with the tax legislation in order to assess the tax state of affairs and the tax receivables, like: the sales journal, the purchase journal, the tax records register.

Rules for keeping the

Art. 109. - (1) The accounting and tax records shall

accounting and tax records

be kept, as applicable, at the tax domicile of the taxpayer/payer, at the registered seat or the secondary seats thereof, including on electronic media, or they can be entrusted to a company authorized by law to provide archiving services.

(2) By way of exception from the provisions of para. (1), the accounting and tax records of the financial year in progress shall be kept, as applicable, at the tax domicile of the taxpayer/payer, at the registered seat or the secondary seats thereof or, between 1 and 25 of the following month to the reporting tax period, at the seat of the individual or legal entity authorized to process them for the purpose of elaboration of the tax returns.

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

(4) If the tax and accounting records are kept with the help of electronic management systems, apart from the data archived in electronic form, the taxpayer/payer has the obligation of keeping and presenting the information applications which generated the records.

(5) The taxpayer/payer has the obligation of recording the income obtained and the expenses made with regard to the activities he/she carries out through the elaboration of the registers or of any other documents provided by law.

(6) The taxpayer/payer has the obligation of using for the activity he/she carries out primary documents and accounting records established by law and to fill in entirely the boxes of the forms, in accordance with the operations he/she registers.

(7) The tax body may take into account any records which are relevant for taxation that the taxpayer/payer keeps.

CHAPTER VI
Limitation period of the right to assess tax liabilities

The object, term and moment as of which the limitation period of the right to assess tax liabilities starts running

Art. 110. - (1) The right of the tax body of assessing tax liabilities is subject to a limitation period of 5 years, unless otherwise provided by law.

(2) The limitation period of the right provided by para. (1) starts running as of July 1 of the year following that for which the tax liability is owed, unless otherwise provided by law.

(3) The right to assess tax receivables shall be subject to the limitation period of 10 years if the receivables result from an action provided by criminal law.

(4) The term provided by para. (3) runs as of the date when the action which represents a crime sanctioned as such through a definitive court judgment was committed.

Interruption and suspension of the limitation period related to the right of assessing tax receivables

Art. 111. - (1) The limitation period provided by art. 110 shall be interrupted:

a) in the cases and under the conditions provided by law for the interruption of the limitation period of the right to file a court action;

b) on the date of submission by the taxpayer/payer of the tax return after the lapse of the legal term of submission thereof;

c) on the date when the taxpayer/payer corrects the tax statement or makes another voluntary act of recognition of his/her tax debt.

(2) The limitation period provided by art. 110 shall be suspended:

a) in the cases and under the conditions provided by law for the suspension of the limitation period of the right to file a court action;

b) during the period of time comprised between the

start date of the tax inspection/verification of the personal tax situation and the date of issuance of the tax return as a result of performance of the tax inspection/verification of the personal tax situation, provided the legal duration of performance thereof is observed;

c) during the time frame when the taxpayer/payer avoids the performance of the tax inspection/verification of the personal tax situation;

d) during the period comprised between the date of declaration of a taxpayer/payer as inactive and the date of reactivation thereof.

Effects of the lapse of the limitation period related to the right of assessing tax receivables

Art. 112. - If the tax body finds that the limitation period related to the right of assessing tax receivables lapsed, it shall stop the procedure of issuance of the tax receivable document.

TITLE VI
Tax audit

CHAPTER I
Tax inspection

Object of the tax inspection

Art. 113. - (1) Tax inspection is the activity whose object is the verification of the lawfulness and conformity of tax returns; of the correctness and accuracy of fulfillment of the obligations related to the assessment of the tax liabilities by the taxpayer/payer; of the observance of the provisions of the tax and accounting legislation; as well as the verification or assessment, as applicable, of the tax bases and of the related states of affairs, and the assessment of the differences of principal tax liabilities.

(2) For the purpose of performing the tax inspection, the tax inspection body shall:

a) analyze the documents from the tax file of the

taxpayer/payer;

b) verify the correspondence of the data in the tax returns and those in the accounting and tax records of the taxpayer/payer;

c) analyze and assess the tax information, in order to compare the tax returns with own information or with information from other sources and, as applicable, to discover new relevant elements for the application of the tax legislation;

d) verify, find and investigate from a tax perspective the acts and facts which result from the activity of the taxpayer/payer subject to inspection or of other persons with regard to the legality and conformity of tax returns, the correctness and accuracy of fulfillment of the obligations provided by the tax and accounting legislation;

e) request information from third parties;

f) verify the places where activities which generate taxable income are performed or where the taxable goods are located;

g) request written explanations from the legal representative of the taxpayer/payer or the proxy thereof or from the persons provided at art. 124 para. (1), as applicable, anytime such explanations are necessary during the tax inspection, for the purpose of clarifying and completing the findings;

h) inform the legal representative of the taxpayer/payer or the proxy thereof, as applicable, on the findings of the tax inspection, as well as discuss about the findings;

i) correctly establish the tax base, the plus or minus differences, as applicable, relative to the principal tax liability declared by the taxpayer/payer and/or assessed by the tax body, as applicable;

j) sanction in accordance with the law the facts which are violations of the tax and accounting

legislation and order measures to prevent and fight the deviations from the provisions of the tax and accounting legislation;

k) order safeguarding measures in accordance with the law;

l) apply seals on the goods, and elaborate a protocol in this respect.

(3) The tax inspection does not include the performance of technical and scientific findings or any other verifications requested by the criminal prosecution bodies in order to clear up facts or circumstances of the cases pending before these institutions.

Persons subject to tax inspection

Art. 114. - Tax inspection shall be performed with regard to any individuals and entities, irrespective of their form of organization, which have obligations of assessment, withholding or payment of the tax liabilities provided by the law.

Forms and extent of the tax inspection

Art. 115. - (1) The tax inspection forms are:

a) general tax inspection, which represents the activity of verification of the fulfillment of all tax liabilities and other liabilities provided by the tax and accounting legislation which are incumbent upon a taxpayer/payer for a determined period of time;

b) single-issue tax inspection, which represents the activity of verification of the fulfillment of oner or several tax liabilities, as well as of other liabilities provided by the tax and accounting legislation which are incumbent upon a taxpayer/payer for a determined period of time.

(2) The tax inspection body shall decide on the performance of a general or single-issue tax inspection based on the risk analysis.

(3) Tax inspection can be extended to include all relationships relevant for taxation, if they present

interest for the application of the tax/accounting legislation.

Audit methods

Art. 116. - (1) The following audit methods can be used for the performance of the tax inspection:

a) random verification, which consists of the activity of selective verification of the significant documents and operations which form the basis of the manner of calculation, registration and payment of the tax liabilities;

b) exhaustive verification, which consists of the activity of verification of all documents and operations which form the basis of the manner of calculation, registration and payment of the tax liabilities;

c) electronic audit, which consists of the activity of verification of the accounting and sources thereof, processed electronically, by using methods of analysis, assessment and testing assisted by specialized information tools;

(2) The selection of the methods and significant operations shall be made by the inspector.

(3) If the central tax body performs the tax inspection, sampling methods and proceedings can be approved through order of the chairman of the A.N.A.F.

Period subject to tax inspection

Art. 117. - (1) The tax inspection shall be performed within the limitation period related to the right of assessing tax receivables.

(2) The period subject to tax inspection starts at the end of the period previously audited, in accordance with the provisions of para. (1).

Rules related to tax inspection

Art. 118. - (1) The tax inspection activity shall be organized and carried out on the basis of annual, quarterly and monthly programs. The conditions for the elaboration of the programs shall be approved as

follows:

a) through order of the chairman of the A.N.A.F., in the case of tax inspections performed by the central tax body;

b) through acts of the local public administration issued in accordance with the law, in the case of tax inspections performed by the local tax body.

(2) The tax inspection shall be carried out on the basis of the principles of independence, uniqueness, autonomy, ranking, territoriality and decentralization.

(3) The tax inspection shall be performed only once for every type of tax receivable and for every period subject to taxation.

(4) In the beginning of the tax inspection the tax inspection body must present to the taxpayer/payer his/her inspection ID and the appointment order signed by the leader of the tax inspection body. The start of the tax inspection must be registered in the control ledger anytime such ledger must be kept.

(5) The tax inspection refers to the analysis of all states of affairs and judicial relationships which are relevant for taxation or for the verification of the manner of observance of all the liabilities provided by the tax and accounting legislation.

(6) The tax inspection shall be carried out so as to affect the least the current activity of the taxpayer/payer and to use efficiently the time set for the performance of the tax inspection.

(7) When the tax inspection is finalized, the taxpayer/payer has to give a written declaration on honor proving that he/she made available all the documents and information he/she was requested for the tax inspection. The declaration shall also mention the fact that all the documents requested and made available by the taxpayer/payer were returned.

(8) The taxpayer/payer has the obligation of taking

the measures provided by the act elaborated on the occasion of the tax inspection, on the terms and conditions established by the tax inspection body.

Authority of performance of the tax inspection

Art. 119. - The tax inspection shall be performed exclusively, directly and unlimitedly by the tax body authorized in accordance with chapters I and II of title III. The tax bodies which are authorized to perform tax inspections are called for purposes of this chapter *tax inspection bodies*.

Special rules related to the authority of performance of the tax inspection by the central tax body

Art. 120. - (1) Through order of the chairman of the A.N.A.F. structures can be created in the central body for the tax receivables administered by the central tax body to be authorized for performing tax inspections throughout the whole territory of the country.

(2) The authority for performing the tax inspection by the central tax body can be delegated to another central tax body, in accordance with the provisions of the order of the chairman of the A.N.A.F..

(3) In the case of delegations of authority as per the provisions of para. (2), the tax inspection body which was delegated the authority shall inform the taxpayer/payer on the delegation of authority.

Selecting the taxpayers/payers for tax inspections

Art. 121. - (1) The selection of the taxpayers/payers to be subject to tax inspection shall be made by the authorized tax inspection body, according to the risk level. The risk level shall be established on the basis of the risk analysis.

(2) The taxpayer/payer may not object to the selection procedure used.

(3) The provisions of para. (1) shall be properly applied in the case of requests received from other State institutions, as well as if other legislative acts provide the performance of tax inspection actions.

The tax inspection notification

Art. 122. - (1) Before the tax inspection is carried out, the tax inspection body has the obligation of notifying the taxpayer/payer in writing on the actions that is to be performed, by serving him/her a tax inspection notification.

(2) The tax inspection notification shall be served to the taxpayer/payer before the start of the tax inspection, as follows:

a) 30 days in advance for large taxpayers;

b) 15 days in advance for the other taxpayers/payers.

(3) The taxpayer/payer may waive the benefit of the service period of the tax inspection notification provided by para. (2).

(4) The tax inspection notification shall be communicated at the start of the tax inspection in the following cases:

a) if a tax inspection is carried out with regard to a taxpayer/payer undergoing insolvency;

b) if the tax inspection must be started immediately, following an unannounced audit;

c) for the purpose of extending the tax inspection to periods or tax receivables different from those included in the initial tax inspection notification;

d) if the tax inspection is redone as a result of an appeal settlement decision;

e) in the case of requests of the taxpayer/payer for whose settlement the risk analysis reveals that a tax inspection is necessary.

(5) In the case provided by para. (2), after the tax inspection notification is received, the taxpayer/payer may request only once and for justified reasons to have the tax inspection postponed. The postponement shall be approved or dismissed through a decision issued by the leader of the tax inspection activity and served to the taxpayer. If the request for postponement was

admitted, the decision shall also mention the date for which the tax inspection was rescheduled.

(6) In the case provided by para. (4), the taxpayer/payer may request that the tax inspection should be suspended. The provisions of art. 127 shall be properly applied.

(7) The tax inspection notification comprises:

a) the legal grounds of the tax inspection;

b) the starting date of the tax inspection;

c) the tax liabilities, other liabilities provided by the tax and accounting legislation, as well as the periods which shall be subject to the tax inspection;

d) the possibility of requesting the postponement of the starting date of the tax inspection.

Starting the tax inspection

Art. 123. - (1) If the starting date of the tax inspection mentioned in the notification is subsequent to the lapse of the term provided by art. 122 para. (2), the tax inspection may not start before the date mentioned in the notification.

(2) The starting date of the tax inspection is the date registered in the control ledger anytime such ledger must be kept. In the case of taxpayers/payers who do not keep or do not present to the tax inspection body the control ledger, the date shall be mentioned in an ascertaining report. The report mentioned above shall be signed by the tax inspection body and by the taxpayer/payer and shall be registered with the registrar of the taxpayer/payer, anytime such a registrar exists.

(3) If the tax inspection cannot start within at most 5 business days as of the date provided in the notification, the taxpayer/payer shall be informed in writing on the new starting date of the tax inspection.

The obligation of collaboration of the

Art. 124. - (1) When the tax inspection is started the taxpayer/payer must be informed that he/she may

taxpayer/payer

name people who can supply information. If the information supplied by the taxpayer/payer or by the person named by him/her is not sufficient, then the tax inspection body may refer to other persons as well in order to obtain the information necessary for performing the tax inspection.

(2) The taxpayer/payer has the obligation of collaborating for the ascertaining of the tax states of affairs. He/she has the obligation of providing information, of presenting to the place of performance of the tax inspection all the documents, as well as any other data necessary for the clarification of the states of affairs which are relevant from a tax perspective.

(3) Throughout the entire term of performance of the tax inspection, the taxpayer/payer has the right of benefiting from specialized or legal assistance.

Place and time of performance of the tax inspection

Art. 125. - (1) Tax inspections shall be usually carried out in the working spaces of the taxpayer/payer. The taxpayer/payer must make available an adequate space, as well as the logistics necessary for the performance of the tax inspection.

(2) If there is no adequate working space of the performance of the tax inspection or no such space can be made available, then the inspection activity can be carried out at the seat of the tax body or in any other place established by mutual agreement with the taxpayer/payer.

(3) Irrespective of the place where the tax inspection is carried out, the tax inspection body has the right of verifying the places where the activity is performed, or where the taxable goods are located, in the presence of the taxpayer/payer or of a person appointed by the taxpayer/payer.

(4) Tax inspections shall be usually carried out during the working hours of the taxpayer/payer. Tax

inspections can be carried out outside the working hours of the taxpayer/payer as well, based on the written consent of the taxpayer/payer and on the approval of the leader of the tax inspection body.

Duration of performance of the tax inspection

Art. 126. - (1) The duration of performance of the tax inspection shall be set by the tax inspection body in accordance with the objectives of the inspection, and it cannot be longer than:

a) 180 days for large taxpayers, as well as for the taxpayers/payers who have secondary seats, irrespective of their size;

b) 90 days for medium taxpayers;

c) 45 days for the other taxpayers.

(2) If the tax inspection is not completed within a period of time representing two times the period provided by para. (1), then the tax inspection shall cease and no tax inspection or tax assessment or tax base no change decision shall be issued. In this case, the tax inspection body may resume the inspection on the basis of the approval of the superior body to that which approved the initial tax inspection, only once for the same period of time and for the same tax liabilities, under observance of the provisions of art. 117 para. (1).

(3) If the tax inspection ceases in accordance with para. (2), the provisions of art. 11 para. (2) letter b) shall not be applicable.

Suspending the tax inspection

Art. 127. - (1) The authorized leader of the tax inspection may decide on suspending a tax inspection in any of the following situations and only if the occurrence of that situation prevents the completion of the tax inspection:

a) for the performance of one or several cross-audits with regard to the acts and operations carried out by the taxpayer/payer subject to tax inspection;

b) for the fulfillment of the measures ordered by the tax inspection body, including in the case when they related to the elaboration and presentation of the

transfer pricing file;

c) for the issuance of a decision of the Central Tax Committee;

d) for the performance of an expert investigation, in accordance with art. 63;

e) for the performance of specific investigations in order to identify certain persons or to establish the reality of certain transactions;

f) for the purpose of requesting information or documents from authorities, institutions or third parties, including from tax authorities from other countries, with regard to the object of the tax inspection;

g) for the completion of certain tax audit actions performed in accordance with the law with regard to the same taxpayer/payer which could influence the results of the tax inspection;

h) for the performance of verifications related to other members of the single tax group defined in accordance with the Tax Code;

i) when a tax inspection must start immediately with regard to another taxpayer/payer for the purpose of using the information resulting from other tax inspection actions or obtained from other authorities or from third parties;

j) in other duly justified cases.

(2) In the case provided by para. (1), the tax inspection shall be suspended until the date when the reason of the suspension no longer exists, but not more than 6 months as of the date of suspension.

(3) The authorized leader of the tax inspection may decide on suspending one tax inspection on the basis of the justified request of the taxpayer/payer. In this case, the suspension cannot last longer than 3 months.

(4) The authorized leader of the tax inspection may decide on suspending a tax inspection if the settlement of the appeal filed against an administrative-tax document previously issued or of an administrative litigation related to the same taxpayer/payer may influence the results of the undergoing tax inspection. In this case, the tax inspection shall be resumed after

the appeal settlement decision is issued or after the court judgment becomes definitive.

(5) Anytime the leader of the tax inspection decides on suspending the inspection, a suspension decision shall be issued and shall be served to the taxpayer/payer.

(6) The date when the tax inspection is resumed shall be notified to the taxpayer/payer.

(7) The time intervals during which the tax inspection is suspended shall not be included in the calculation of the duration thereof.

Re-verification

Art. 128. - (1) By way of exception from the provisions of art. 118 para. (3), the leader of the tax inspection body may decide to reverify certain types of tax liabilities for a certain taxable period as a result of additional data being found out which were not known to the tax inspection body on the date of performance of the tax inspection and which influence the results of the inspection.

(2) *Additional data* means information, documents or other written acts obtained as a result of unannounced controls performed with regard to other taxpayers/payers or communicated to the tax body by the criminal prosecution bodies or by other public authorities or obtained in any manner by the tax inspection body, which are likely to change the results of the previous tax inspection.

(3) When the re-verification action starts, the tax inspection body has the obligation of serving to the taxpayer/payer the re-verification decision, which can be appealed in accordance with this code. The decision shall be served in accordance with the provisions of art. 122 para. (2) - (6). In this case, no tax inspection notification shall be issued or served.

(4) The decision of re-verification shall contain, apart from the elements provided by art. 46, the elements provided by art. 122 para. (7) letters b)-d).

Redoing the tax inspection

Art. 129. - (1) If the settlement decision issued in accordance with art. 279 totally or partially annuls the appealed administrative-tax document issued during the tax inspection proceeding, the tax inspection body shall redo the tax inspection under observance of the provisions of art. 276 para. (3).

(2) The tax inspection shall be redone under strict observance of the tax periods, as well as of the considerations of the appeal settlement decision which led to the annulment, as such are mentioned in the decision.

(3) The redoing of the tax inspection and the issuance of the new administrative-tax document are possible even if the reserve of subsequent verification provided by art. 94 para. (3) was annulled for the targeted tax periods and liabilities.

(4) The tax inspection shall be redone by another tax inspection team than the one which concluded the annulled act.

Right of the taxpayer/payer of being informed

Art. 130. - (1) The taxpayer/payer must be informed throughout the performance of the tax inspection about the aspects found during the tax inspection action and about the findings and related tax consequences upon the conclusion of the tax inspection.

(2) The tax inspection body shall serve to the taxpayer/payer the draft tax inspection report in electronic form or on paper and offer him/her the possibility of expressing his/her opinion. For this purpose, once the draft report is served, the tax inspection body shall also inform the taxpayer/payer on the date, time and place of the final discussion.

(3) The taxpayer/payer may renounce to the final discussion by informing the tax inspection body in this respect.

(4) The date of conclusion of the tax inspection is the date scheduled for the final discussion with the taxpayer/payer or the date when the taxpayer/payer notifies the tax inspection body that he/she waives this right.

(5) The taxpayer/payer is entitled to present his/her opinion with regard to the findings of the tax inspection body in writing, within at most 5 business days as of the date of conclusion of the tax inspection. In the case of large taxpayers the term of presentation of the opinion is of at most 7 business days. The term can be extended for justified reasons, based on the consent of the leader of the tax inspection body.

Result of the tax inspection

Art. 131. - (1) The result of the tax inspection shall be mentioned in writing in a tax inspection report which shall present the findings of the tax inspection body from a factual and legal perspective and the tax consequences thereof.

(2) The tax inspection report shall be elaborated upon the conclusion of the tax inspection and shall comprise all the findings related to the tax periods and liabilities that were verified, as well as with regard to other liabilities provided by the tax and accounting legislation which were included in the verification. If the taxpayer/payer exercised the right provided by art. 130 para. (5), the tax inspection report shall include the opinion of the tax inspection body as well, motivated in fact and in law, with regard to the opinion expressed by the taxpayer/payer.

(3) Acts related to the findings made at the seat of the taxpayer/payer or at the secondary seats thereof, like minutes concluded on the occasion of unannounced audits or on-the-spot ascertaining reports and other such acts, shall be attached to the inspection report anytime this is necessary.

(4) The tax inspection report forms the basis of

issuance of:

a) the tax assessment for plus or minus differences of principal tax liabilities that correspond to tax base differences;

b) the tax base no change decision, if no differences of the tax bases or of principal tax liabilities are found;

c) the tax base change decision, if differences of the tax bases are found, but no differences of principal tax liabilities are assessed.

(5) The decisions provided at para. (4) shall be issued within at most 25 business days as of the conclusion of the tax inspection.

(6) The decisions provided by para. (4) shall be served to the taxpayer/payer in accordance with the provisions of art. 47.

Notifying the criminal prosecution bodies

Art. 132. - (1) The tax inspection body has the obligation of notifying the authorized criminal prosecution bodies with regard to the findings it made during the tax inspection which could suggest crimes, as provided by the criminal law.

(2) In the cases provided by para. (1), the tax inspection body has the obligation of elaborating the minutes signed by the tax inspection body and by the taxpayer/payer subject to inspection, with or without explanations or objections from the taxpayer/payer. If the taxpayer/payer subject to tax inspection refuses to sign the minutes, the tax inspection body shall mention this in the minutes. In all cases, the minutes must be served to the taxpayer/payer.

(3) The minutes elaborated in accordance with para. (2) is an act of notification and forms the basis of the documentation of notification of the criminal prosecution bodies.

Provisional tax assessment

Art. 133. - (1) During the period of performance of the tax inspection, the tax inspection body issues provisional tax assessments for the additional principal tax liabilities that correspond to one period of time and one type of liability verified. In this case, by way of exception from the provisions of art. 131, no tax inspection report shall be elaborated. For this purpose, the tax body shall inform the taxpayer/payer within at most 5 business days on the finalization of a tax period and of a type of tax liability verified.

(2) The provisional tax assessments provided by para. (1) shall be issued at the request of the taxpayer/payer, for the purpose of payment of additional tax liabilities.

(3) The tax liabilities assessed through provisional tax assessments shall be included in the decisions elaborated in accordance with the provisions of art. 131 and shall be appealed together with these. The amounts assessed through the provisional tax assessment shall be regularized in the tax assessment issued in accordance with art. 131.

(4) The tax receivable document provided by para. (1) becomes enforceable on the date when the tax assessment issued in accordance with art. 131 becomes enforceable.

CHAPTER II
Unannounced audit

Object of the unannounced audit

Art. 134. - (1) The tax body may perform an audit without prior notification of the taxpayer/payer, hereinafter referred to as *unannounced audit.*

(2) The unannounced audit consists of:

a) factual and documentary verification, mainly as a result of information about the existence of violations of the tax legislation;

b) the verification of the documents and taxable

operations of a taxpayer/payer, in correlation with those obtained by the individual or entity subject to a tax audit, hereinafter referred to as *cross-audit;*

c) the verification of elements of the tax base or related to the factual tax situation, as well as the ascertaining, analysis and assessment of a specific tax risk.

(3) The duration of performance of the unannounced audit shall be set by the leader of the tax audit body, in accordance with the objectives of the audit, and it cannot be longer than 30 days.

(4) An unannounced audit cannot be performed at the same time as a tax inspection with regard to the same taxpayer for the same operations and the tax liabilities related thereto.

Rules related to the performance of the unannounced audit

Art. 135. - (1) In the beginning of the unannounced audit, the audit body has the obligation of presenting to the taxpayer/payer the audit ID and the appointment order.

(2) The performance of the unannounced audit must be registered in the control ledger, in accordance with the law.

(3) When the unannounced audit is completed, a minutes shall be concluded, which shall be a means of evidence for the purpose of art. 55. One counterpart of the minutes shall be served to the taxpayer/payer.

(4) The taxpayer/payer may express his/her opinion with regard to the findings mentioned in the minutes within 5 business days as of service.

(5) The provisions of art. 113 para. (2) letters a), b), e), f), g), j), k), and l), art. 118 para. (8), art. 124, 125 and art. 132 shall be properly applicable in the case of unannounced audits as well.

CHAPTER III

The Anti-fraud Audit

Authority of performance of the operative and unannounced audits

Art. 136. - The operative and unannounced audits shall be performed by the anti-fraud inspectors, with the exception of those from the Fraud Prevention Directorate, as provided by law.

Rules related to operative and unannounced audits

Art. 137. - (1) Operative and unannounced audits can be also performed in order to carry out thematic audit operations which represent the activity of verification intending to know, analyze and assess a tax risk specific for one or several particular economic activities.

(2) In the beginning of the operative and unannounced audits, anti-fraud inspectors have to present their IDs in accordance with the law.

(3) Anytime the operative and unannounced audits are performed at the registered seat or secondary seats of the taxpayer/payer, this shall be registered in the control ledger, as provided by law.

(4) At the end of the operative and unannounced audits, audit reports/acts shall be concluded in accordance with the law.

CHAPTER IV
Verification of the personal tax situation by the central tax body

Object and rules of verification of individuals

Art. 138. - (1) The central tax body has the right of performing a tax verification of the general personal tax situation of an individual with regard to personal income tax.

(2) For the purpose of verifying the individual’s personal tax situation, the central tax body shall perform the following preliminary activities:

a) risk analysis for the establishment of the probable risk for a group of individuals or for punctual

cases, at the request of certain public institutions or authorities;

b) selection of the group of individuals to be subject to prior documentary tax verification;

c) prior documentary tax verification.

(3) The authority of exercise of the verification of the personal tax situation and of the preliminary activities thereof shall be established through order of the chairman of the A.N.A.F.. The central body of the A.N.A.F. is authorized to carry out verifications of private individuals, in accordance with this chapter, on the entire territory of the country.

(4) Personal tax situation means the totality of rights and obligations of patrimonial nature, the treasury flows and other elements that could determine the real tax state of affairs of the individual throughout the period under verification.

(5) The prior documentary tax verification consists of a comparison between the income declared by the individual or by the payers, on the one hand, and the estimated income determined on the basis of the personal tax situation of the individual, on the other hand. This verification shall be carried out by considering the documents and information held/obtained by the central tax body which is relevant for establishing the tax situation, without notifying the individual.

(6) If the central tax body finds a significant difference between the income declared by the individual or by the payers, on the one hand, and the estimated income determined on the basis of the personal tax situation of the individual, on the other hand, it shall continue the verification provided by para. (1) and serve the verification notice. A significant difference means that there is a difference of more than 10% of the declared income, but not less than Lei

50,000, between the estimated income calculated on the basis of the personal tax situation and the income declared by the individual or by the payers.

(7) If the central tax body finds significant differences in accordance with para. (6), it shall request to the individual to present within at most 60 days as of service of the verification notice supporting documents or other clarifications which are relevant for the individual's tax situation, subject to termination of this right. The aforementioned term can be extended by 30 days, but only once, at the justified request of the individual approved by the central tax body.

(8) The individual subject to verification has the obligation of submitting a declaration of assets and income at the request of the central tax body. If the request is made at the same time as the service of the verification notice, the declaration shall be submitted within the term provided by para. (7). In this case, the request shall be attached to the verification notice. If the request was made during the verification period, the declaration shall be submitted within 15 days as of service of the request.

(9) The asset and income elements which must be declared by the individual subject to verification, as well as the model of declaration, shall be established through order of the chairman of the A.N.A.F.

(10) On the occasion of the verification of the personal tax situation, the central tax body shall establish the income obtained by the individual during the period under verification. For this purpose, the central tax body shall use indirect methods of income establishment approved through order of the chairman of the A.N.A.F..

(11) If there are differences between the income established in accordance with para. (10) and the income declared by the individual, the central tax body

shall request to the individual information and documents to clarify the difference.

(12) The central tax body shall decide on the indirect method used and the extent thereof within the limits of reasonableness and equity, ensuring a just proportion between the intended purpose and the means used to reach that purpose.

(13) Anytime during the verification of the personal tax situation the central tax body considers that new documents or relevant information are necessary for the verification, it can request them to the individual in accordance with the provisions of this code. In this case, the central tax body shall set a reasonable term which cannot be shorter than 10 days for the presentation of the requested documents and/or information.

(14) During the performance of the verification of one’s personal situations, the individual subject to verification has the right of presenting any supporting documents or explanations for the establishment of his/her real tax situation. On the occasion of presentation of the supporting documents or explanations, the conclusions shall be registered in a document signed by both parties. If the individual verified refuses to sign the document, the refusal shall be registered as well.

(15) In the beginning of the verification of one’s personal tax situation, the individual verified shall be informed that he/she is entitled to name people who can supply information.

(16) If the information supplied by the verified individual or by the person named by him/her is not sufficient, then the central tax body may refer to other persons as well in order to obtain information, in accordance with the provisions of this code.

(17) The verified individual must be informed

throughout the performance of the verification of one's personal tax situation on the findings that result from the verification.

(18) The verification of one's personal tax situation shall be carried out only once for the personal income tax and for every taxable period.

Rights and obligations of the central tax body

Art. 139. - In order to verify one's personal tax situation, the central tax body may:

a) make a lawful request of information from public authorities and institutions;

b) make an analysis of all the information, documents and other means of evidence related to the tax situation of the verified individual;

c) compare the information obtained through the administration of the means of evidence with that from the tax returns submitted in accordance with the law by the verified individual or, as applicable, by the income payers or third parties;

d) request in accordance with the law information, clarifications, explanations, documents and other such means of evidence from the verified private individual and/or from individuals whom he/she had or has economic or judicial relationships;

e) discuss about the findings of the central tax body with the verified individual and/or the proxies thereof;

f) establish, if applicable, the adjusted tax base on each income category, as well as the tax liabilities corresponding thereto;

g) order safeguarding measures in accordance with the law.

Period, place and duration of performance of the verification of

Art. 140. - (1) The period for which the tax state of affairs of the verified individual is assessed is the taxable period defined as such by the Tax Code.

one’s personal tax situation

(2) The verification of one’s personal tax situation shall be performed within the limitation period related to the right of assessing tax receivables.

(3) The verification of one’s personal tax situation shall be performed at the seat of the central tax body or, at the request of the verified individual, at the domicile thereof or the domicile/seat of the individual who grants him/her specialty or judicial assistance, in accordance with art. 124 para. (3).

(4) The written request of the individual for the performance of the verification at the domicile or seat thereof or at the domicile/seat of the individual who grants him/her assistance shall be submitted with the tax body before the start date of the tax verification registered in the verification notice. The request shall be settled within 5 days as of registration.

(5) For the purpose of performing the verification at the seat of the individual or at the domicile/seat of the individual who grants him/her specialty or legal assistance, the space made available to the central tax body must be adequate for the performance of the verifications. Adequate space for the performance of the verifications means the assurance of a space, according to the individual’s possibilities, which would allow the performance of activities related to the audit of documents and the elaboration of the audit act.

(6) The duration of performance of the verification of one’s personal tax situation shall be set by the central tax body and cannot be longer than 6 months as of the notified start date of the tax verification or 12 months if information from abroad is necessary.

(7) The periods provided by law or set by the central tax body for the presentation of the requested documents and/or information shall not be included in the calculation of the tax verifications duration.

The verification notice

Art. 141. - (1) The verification notice provided by art. 138 para. (6) shall comprise:

a) the legal grounds of the verification;

b) the starting date of the verification;

c) the period to be verified;

d) the possibility of requesting the postponement of the starting date of the verification. The postponement can be requested only once and for justified reasons;

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

(2) The request of postponement provided at para. (1) letter d) shall be settled within at most 5 days as of the date of registration thereof. If the central tax body approved the postponement of the starting date of the tax verification, it shall inform the individual on the date when the tax verification action was rescheduled.

(3) The individual shall be informed through the verification notice that he/she has the right of benefiting from specialized or legal assistance.

Suspension of the verification

Art. 142. - (1) The verification of one's personal tax situation can be suspended when one of the following conditions is fulfilled and only if the failure to take the action provided by that condition prevents the finalization of the verification:

a) for the performance of an expert investigation, in accordance with this code;

b) for the performance of investigations in order to identify certain persons or to establish the reality of certain transactions;

c) at the written request of the individual, due to the occurrence of an objective situation confirmed by the central tax body appointed to carry out the verification, which makes it impossible to continue the

verification. During a verification, the individual may request the suspension thereof only once;

d) for the purpose of requesting additional information from third parties or from similar tax authorities from other countries;

e) at the proposal of the structure which coordinates the tax verification activity of the individuals, for the use of certain information that resulted from other verifications, which was received from other public authorities or institutions or from third parties.

(2) The date as of which the verification action shall be suspended shall be communicated to the individual through the suspension decision.

(3) After the conditions which generated the suspension cease, the verification of one's personal tax situation shall be resumed and the date when it is to be resumed shall be communicated in writing to the individual.

Right of collaboration of verified individuals

Art. 143. - The verified individual has the right to collaborate for the finding of the tax states of affairs, in accordance with the law. He/she has the right of providing information, of presenting relevant documents for the tax verification, as well as any other data necessary for the clarification of the states of affairs which are relevant from a tax perspective.

Re-verification

Art. 144. - By way of exception from the provisions of art. 138 para. (18), the leader of the authorized central tax body mat decide to reverify a certain period if additional data are found out between the date of conclusion of the tax verification and the date when the limitation period lapsed, which were not known to the tax body on the date of performance of the verification.

The verification report

Art. 145. - (1) The result of the verification of one's personal tax situation shall be registered in a written report which presents the factual and legal findings.

(2) The documents which formed the basis of the findings, as well as the documents of the meetings held and any other documents related to the findings made in the case at hand shall be attached to the report on the verification results. The documents presented by the verified individual shall be handed over to the central tax body under signature.

(3) At the end of the verification of one's personal tax situation, the central tax body shall present to the individual the findings and their tax consequences and shall grant him/her the possibility of expressing his/her opinion in accordance with art. 9, with the exception of the case in which the tax bases were not amended following the verification or if the individual waives this right and notifies the waiver in writing to the tax body.

(4) The date, time and place of presentation of the conclusions shall be communicated in writing to the individual in due time.

(5) The individual shall be entitled to present in writing his/her opinion with regard to the findings of the verification of one's personal tax situation, within at most 5 business days as of the date of presentation of the conclusions; this opinion shall be attached to the verification report and the central tax body shall rule on it in the report.

The tax assessment

Art. 146. - (1) The report provided at art. 145 forms the basis of the tax assessment or, as applicable, of a decision of termination of the verification proceeding, if the tax base is not adjusted.

(2) The tax assessment or the decision of termination of the verification proceeding shall be served to the verified individual.

(3) If it is found that the tax returns, the documents and information presented during the verification proceeding are incorrect, incomplete, false or if the verified individual refuses during the same proceeding to present the documents for verification or the documents are not presented within the legal term or the individual avoids the verification by any other means, the central tax body shall establish the adjusted tax base for the personal income tax and shall issue the tax assessment.

Other applicable norms

Art. 147. - The provisions of this chapter shall be supplemented with the provisions of chapter I, unless they are contrary to the special laws related to the verification of one's personal situation.

CHAPTER V
Documentary verification

Scope and object of the documentary verification

Art. 148. - (1) The tax body may perform a documentary verification for the purpose of accurately assessing the tax situation of a taxpayer/payer.

(2) The documentary verification consists of the performance of a coherence analysis of the taxpayer's/payer's tax situation on the basis of the documents found in the taxpayer's/payer's tax file, as well as on the basis of any information and documents sent by third parties or held by the tax body which are relevant for the assessment of the tax situation.

Result of the documentary

Art. 149. - (1) If the tax body finds as a result of the documentary verification differences between the

verification

tax liabilities, the income or taxable assets and/or the information related thereto declared by the taxpayer/payer, it shall inform the taxpayer/payer on these findings. Once with this information, the tax body shall also request the documents the taxpayer/payer must present in order to clarify the tax situation.

(2) If the documents requested in accordance with para. (1) were not presented by the taxpayer/payer within 30 days as of the service of the notification or if the documents that were presented are not sufficient to clarify the tax situation, the tax body shall assess the differences of tax liabilities owed through the issuance of a tax assessment or shall order the measures necessary for observing the legal provisions, as applicable.

(3) The tax assessment provided by para. (2) is an assessment subject to subsequent verification.

(4) The tax assessment issued in accordance with this article shall be null if the taxpayer/payer was not heard.

CHAPTER VI
Final provisions related to the tax audit performed by the central tax body

Regime of the acts of notification of criminal prosecution bodies

Art. 150. - (1) The reports of notification of the criminal prosecution bodies through which the tax bodies find factual situations which could be considered crimes, as well as the reports concluded at the request of the criminal prosecution bodies through which the prejudice is assessed are not administrative-tax documents within the meaning of this code.

(2) Based on the reports provided by para. (1), the tax body organizes the tax records of the amounts representing the prejudice mentioned in these reports,

separately from the records of tax receivables.

(3) The taxpayer/payer or another interested individual may pay the amounts mentioned in the reports provided by para. (1) or, as applicable, the claims of the tax body registered in the documents through which it registered as civil party in the criminal trial.

(4) Anytime the acts issued by the judicial bodies reveal that the individual who made the payment does not owe the amounts paid, those amounts shall be refunded to the payer. In this case, the right of refund is born on the date of service of the act by the judicial body.

(5) The procedure of enforcement of this article shall be approved as follows:

a) through order of the chairman of the A.N.A.F., in the case of tax receivables administered by the central tax body;

b) through a common order of the minister of regional development and public administration and of the minister of public finance, in the case of tax receivables administered by the local tax bodies.

Final provisions related to the tax audit performed by the central and local tax bodies

Art. 151. - (1) The separation of authority for the different audit structures in the A.N.A.F. shall be made through order of the chairman of the A.N.A.F..

(2) The audit structures of the A.N.A.F. have the obligation of collaborating in order to carry out the tax audits provided by this title, under the conditions set through the order provided by para. (1).

(3) The separation of authority between the different audit structures of the local tax body shall be made through a decision of the deliberative authority.

TITLE VII
Collection of tax receivables

CHAPTER I
General Provisions

Collection of tax receivables

Art. 152. - (1) For the purposes of this title, the collection of tax receivables is the totality of activities whose purpose is to extinguish tax receivables.

(2) The collection of tax receivables shall be made on the basis of a tax receivable document or of a writ of enforcement, as applicable.

Records of tax receivables

Art. 153. - (1) For the purpose of performance of the tax receivables collection activity, the tax body shall organize records of tax receivables and the manner of settlement thereof for every taxpayer/payer. The records shall be organized on the basis of the tax receivable documents and the acts related to the settlement of tax receivables.

(2) The taxpayers/payers shall have access to the information in the records of tax receivables based on a request sent to the competent tax body.

(3) Access to the records of tax receivables shall be granted in accordance with the procedure and the conditions approved as follows:

a) through order of the chairman of the A.N.A.F. , in the case of records of tax receivables organized by the central tax body;

b) through a common order of the minister of regional development and public administration and of the minister of public finance, in the case of records of tax receivables administered by the local tax body.

Due date of the tax receivables

Art. 154. - (1) Tax receivables become due upon the lapse of the terms provided by the Tax Code or by other laws which regulate them.

(2) If the law does not provide the due date, this date shall be established as follows:

a) through order of the minister of public finance, in the case of receivables administered by the central tax body;

b) through a common order of the minister of regional development and public administration and of the minister of public finance, in the case of tax receivables administered by the local tax bodies.

(3) In the case of tax receivables administered by the central tax body established on the basis of tax returns which are to be paid into the single account and are not due on the 25th, the due date thereof shall be replaced with the 25th of the month provided by the legislative act which regulates them.

Special provisions related to the due date and the declaration of tax receivables

Art. 155. - (1) Legal entities which are dissolved during a tax period in accordance with the law have the obligation to submit their tax returns and pay the corresponding tax liabilities by the date of submission of the balance as provided by law.

(2) Tax receivables administered by the central tax body for which the Tax Code or other laws which regulate them provide a due date and/or a declaration term on December 25 shall become due and/or shall have to be declared by December 21. If December 21 is a non-business day, the tax receivables shall become due and/or shall be declared by the last business day prior to the date of December 21.

(3) Tax liabilities assessed by the central tax body through pre-payment decisions served after the lapse of the payment terms provided by the Tax Code in the case of taxpayers who did not have the obligation of performing anticipatory payments in the previous year because they did not obtain income shall be due within 5 days as of service of the pre-payment decision.

Payment terms

Art. 156. - (1) The payment term for the differences of principal tax liabilities and for ancillary tax liabilities assessed through a tax assessment as per the legal provisions shall be set in accordance with the date of service of the decision, as follows:

a) if the service date is comprised between the 1st and 15th of the month, the payment term shall be by the 5th of the following month, inclusive;

b) if the service date is comprised between the 16th and 31st of the month, the payment term shall be by the 20th of the following month, inclusive.

(2) The provisions of para. (1) shall be properly applicable in the following cases:

a) a decision of triggering joint liability issued in accordance with art. 26;

b) a decision issued in accordance with art. 100 if the law does not provide a different payment term;

c) the tax assessment issued by the tax body, in accordance with the law, based on the rectifying return submitted by the taxpayer.

(3) For the tax liabilities paid in installments, as well as for the ancillaries thereto, the payment term shall be set through the document which approves the payment in installments.

Outstanding tax liabilities

Art. 157. - (1) *Outstanding tax liabilities* means:

a) tax liabilities whose due date or payment term lapsed;

d) differences of principal tax liabilities and ancillary tax liabilities assessed through a tax assessment, even if the payment term thereof provided by art. 156 para. (1) did not lapse.

(2) The following shall not be deemed outstanding tax liabilities:

a) the tax liabilities for which payment facilities

have been granted and are in progress, according to the law, if the payment term thereof provided by the act of award of the facility did not lapse;

b) the tax liabilities assessed through administrative-tax documents whose enforcement is suspended in accordance with the Law on administrative litigations no. 554/2004, as subsequently amended and supplemented;

c) the tax liabilities with future payment terms established in the judicial reorganization plan approved in accordance with the law.

(3) It shall not be deemed that a taxpayer has outstanding tax liabilities if the sum of tax liabilities registered in the tax ascertaining certificate issued by the tax body is lower than or equal to the sum which has to be refunded/reimbursed. The tax ascertaining certificate shall make mention of this.

Tax ascertaining certificate issued by the central tax body

Art. 158. - (1) The tax ascertaining certificate shall be issued by the authorized central tax body at the request of the taxpayer/payer. The certificate can also be issued ex officio or at the request of other public authorities, in the cases and under the conditions provided by the legal regulations in force, as well as at the request of any individual holding equity securities in a company.

(2) The tax ascertaining certificate shall be issued on the basis of the data comprised in the records of tax receivables of the authorized central tax body and shall comprise the outstanding tax liabilities present in the balance on the last day of the month prior to that of submission of the request and not settled by the date of issuance of the certificate, as well as other budget receivables individualized in writs of enforcement issued in accordance with the law and existing in the records of the central tax body for recovery purposes.

(3) The tax ascertaining certificate shall provide any other mentions related to the tax situation of the taxpayer/payer, as stipulated through order of the chairman of the A.N.A.F.

(4) The issuing central tax body shall mention in the tax ascertaining certificate the certain, liquid and chargeable amounts the applicant taxpayer/payer has to collect from the contracting authorities defined in accordance with the Government Emergency Ordinance no. 34/2006 on the award of public procurement agreements, of agreements of concession of public works and of agreements of concession of services, approved as amended and supplemented through the Law no. 337/2006, as subsequently amended and supplemented. The registration shall be made on the basis of a document issued by the contracting authority and certifying that the amounts are certain, liquid and chargeable.

(5) The tax ascertaining certificate shall be issued within at most 3 business days as of the date of submission of the request and can be used by the interested person for up to 30 days as of issuance. In the case of individuals, the period of use is of up to 90 days as of issuance date. During its term of use, the certificate can be presented by the taxpayer/payer either in its original counterpart or in a legalized copy to any person requesting it.

(6) By way of exception from the provisions of para. (5), if the taxpayer/payer subject to a tax inspection requests the issuance of a tax ascertaining certificate for the purpose of being erased from the registers it was registered in, the tax ascertaining certificate shall be issued within 5 business days as of the date of issuance of the tax assessment or of the tax base no change decision;

Tax ascertaining

Art. 159. - (1) The tax ascertaining certificate

certificate issued by the local tax body

shall be issued by the authorized local tax body at the request of the taxpayer/payer. The certificate can be also issued at the request of the public authorities in the cases and under the conditions provided by the legal regulations in force, as well as at the request of the notary public, in accordance with the delegation given by the taxpayer.

(2) The tax ascertaining certificate shall be issued on the basis of the data comprised in the records of tax receivables of the authorized local tax body and shall comprise the outstanding tax liabilities and, as applicable, the tax liabilities outstanding until the first day of the month following that of submission of the request, as well as other budget receivables individualized in writs of enforcement issued in accordance with the law and existing in the records of the local tax body for recovery purposes.

(3) The tax ascertaining certificate shall be issued within at most two business days as of the date of request and shall be valid for 30 days as of issuance date.

(4) The tax ascertaining certificate issued in accordance with this article can be presented both in the original counterpart and in legalized copy to any person requesting it.

(5) For the alienation of ownership in buildings, land plots and means of transportation, the owner of the assets which are alienated must present tax ascertaining certificates attesting the payment of all liabilities owed to the local budget of the administrative-territorial unit in whose territory the asset to be alienated is registered for tax purposes, in accordance with para. (2). For the asset to be alienated, the owner thereof must pay the tax owed for the year when the asset is alienated, with the exception of the case in which the tax for that asset is owed by a person

different from the owner.

(6) The acts of alienation of buildings, land plots and means of transportation made in violation of the provisions of para. (5) shall be null by operation of law.

(7) The provisions of para. (5) and (6) shall not be applicable in the case of the enforcement proceeding, of the insolvency proceeding and of liquidation proceedings.

Requests of tax ascertaining certificates made by other persons than the taxpayer

Art. 160. - (1) Any individual or legal entity, other than that provided by art. 69 para. (4), may request to the tax bodies a tax ascertaining certificate or documents attesting the tax situation of a taxpayer only on the basis of the written consent of the taxpayer in question.

(2) By way of exception from the provisions of para. (1), anytime the inheritance of a deceased individual is debated, the public notary has the obligation of requesting to the central tax body and the local tax body a tax ascertaining certificate for the individual whose inheritance is being debated.

Payment of the tax liabilities in special cases

Art. 161. - Any person may pay, either for himself/herself or for another, certain tax liabilities for which the limitation period related to the right of assessment of tax liabilities lapsed or the limitation period of the right of claiming the enforcement lapsed or if the tax liabilities were owed by a legal entity which ceased to exist. The person performing the payment must submit to the tax body a declaration on honor with regard to the option of performing such a payment.

Publication of the lists of debtors which register outstanding tax liabilities

Art. 162. - (1) Tax bodies have the obligation of publishing on their own web page the list of debtors, individuals and legal entities, which register outstanding tax liabilities, as well as the amount of

these liabilities.

(2) The list shall be published on a quarterly basis, on the first day of the quarter following that of reporting and shall comprise the tax liabilities outstanding at the end of the quarter and not paid on the date of publication of the list, whose ceiling shall be established as follows:

a) in the case of tax receivables administered by the central tax body, through order of the chairman of the A.N.A.F.;

b) in the case of tax receivables administered by the local tax body, through a decision of the local council.

(3) The outstanding liabilities shall be notified to the debtors before being published. The tax liabilities of the secondary seats which are payers of salaries and income assimilated to salaries shall be notified to the person in the structure of which these seats operate.

(4) Within 15 days as of the payment in full of the tax liabilities owed, the competent tax body shall make the amendments for every debtor who paid these liabilities.

(5) The provisions of this article shall be also applied to the tax liabilities assessed through receivable documents which were appealed by the taxpayer in accordance with the law, until the means of appeal are settled, in which case the tax body shall make mentions about this situation. The provisions of para. (4) shall be applicable anytime the taxpayer obtains the suspension of the enforcement of the administrative-tax document in accordance with the Law no. 554/2004, as subsequently amended and supplemented.

CHAPTER II

Settlement of tax receivables through payment, offsetting and refund

Provisions related to payments

Art. 163. - (1) Payments to the tax body shall be performed through banks, treasuries and other institutions authorized to carry out payment operations.

(2) In the case of tax receivables administered by the central tax body the debtors shall perform the payment thereof into a single account, through the use of a payment order for the State Treasury for the tax liabilities owed to the State budget and of a payment order for the State Treasury for the other tax liabilities. The types of tax liabilities subject to these provisions shall be approved through order of the chairman of the A.N.A.F..

(3) The competent tax body shall distribute the amounts from the single account, separately on every budget or fund, as applicable, proportionally to the tax liabilities owed.

(4) If the amount paid does not cover the tax liabilities owed to a budget or fund, the distribution on every budget or fund shall be made by the following order:

a) for all the taxes and social contributions withheld at source;

b) for all the other principal tax liabilities;

c) for the ancillary tax liabilities that correspond to the obligations provided by letters a) and b).

(5) If the amount paid does not cover all the tax liabilities that correspond to one of the categories provided by para. (4), the distribution shall be made on that category proportionally to the tax liabilities owed.

(6) The methodology of distribution of the amounts paid into the single account and of settlement of the tax liabilities shall be approved through order of the chairman of the A.N.A.F..

(7) The tax liabilities, other than those provided

by para. (2), shall be paid by the debtors, separately on every type of tax receivable.

(8) In the case of tax receivables administered by the local tax body, the debtors shall perform the payment thereof in accordance with the provisions of para. (7). The provisions of para. (1), (9), (11) and (12) shall be also applicable to the payments made to the local tax body.

(9) The tax liabilities shall be paid by the debtor. The payment can be made in the name of the debtor by another person than the debtor.

(10) By way of exception from the provisions of para. (3), if the debtors benefit from payment facilities in accordance with the legal regulations in force or they are subject to the provisions on the insolvency proceeding, the amounts paid into the single account shall be distributed by the competent tax body in accordance with the order provided by art. 165 para. (1) or (6), as applicable, irrespective of the type of receivable.

(11) If the tax liabilities are settled through payment, the time of payment shall be:

a) in the case of cash payments, the date mentioned on the payment document issued by the tax body, by the State Treasury units or by the bodies or persons authorized by them;

b) in the case of payments made through postal order, the post date registered on the postal order;

c) in the case of payments made through banks, the date when the banks debit the account of the payer on the basis of the specific payment instruments, as this information is sent through the electronic payment message by the initiating banking institution, in accordance with the specific regulations in force, with the exception of the situation provided by art. 177, the date being proven through the account statement;

d) in the case of payments made through bank cards, the date of the transaction, as it is confirmed through its authorization proceeding. In the case of tax receivables administered by the central tax body, the proceeding and the types of tax receivables which can be paid through the bank cards shall be approved through order of the minister of public finance.

(12) If the tax liabilities are settled through the enforcement of the guarantee established in accordance with art. 211 letter a), the settlement date shall be the date of establishment of the guarantee.

Provisions related to the correction of errors in the payment documents elaborated by the debtors

Art. 164. - (1) The payment of tax liabilities made in a wrong budget account is valid as of the time of performance thereof, in accordance with the provisions of this article. At the request of the debtor, the competent tax body shall correct the errors in the payment documents elaborated by the debtor, in the amount and from the account of the debtor registered on the payment document, provided the account thereof is debited and a budget account is credited.

(2) The provisions of para. (1) shall be also applied if the payment was made into another budget than that whose income is the paid tax liability, provided they are administered by the same tax body and the payment did not settle receivables owed to the budget where the erroneously paid amount was collected, with the exception of the case in which the tax records of the debtor provide amounts paid extra at least at the level of the erroneous payment.

(3) In the case of payments made into another budget, the competent tax body shall order to the State Treasury unit to transfer the amounts erroneously paid to the budget to which the tax liability is owed.

(4) If the payment of tax liabilities was made by using an erroneous tax identification code, the error in

the payment document can be corrected if the payment did not settle the receivables owed to the budget where the amount erroneously paid was collected, with the exception of the case in which the debtor registers amounts paid extra at least at the level of the erroneous payment. In this case, the request for correction of the error shall be submitted by the person who made the payment to the competent tax body.

(5) The request for correction of errors in the payment documents can be submitted within 5 years, subject to termination of this right. The term starts to run on January 1 of the year following that when the payment was made.

(6) The proceeding of correction of errors in payment documents shall be approved as follows:

a) through order of the minister of public finance, in the case of payments made to the central tax body;

b) through common order of the minister of regional development and public administration and of the minister of public finance, in the case of payments made to the local tax body.

Order of settlement of tax liabilities

Art. 165. - (1) If a debtor owes several types of tax liabilities and the amount paid is not sufficient to settle all liabilities, then the tax liability indicated by the debtor shall be settled, as per the law, or the one distributed in accordance with the provisions of art. 163, as applicable, and the settlement shall be made by operation of law in the following order:

a) all the principal tax liabilities, by order of age, and then all ancillary tax liabilities, by order of age;

b) future liabilities, at the debtor’s request.

(2) By way of exception from the provisions of para. (1), in the case of tax receivables administered by the local tax body the fines for civil offenses individualized in writs of enforcement shall be settled

with priority from the amount paid by the debtor, by order of age, even if the debtor indicates another type of tax liability. These provisions shall not apply to the payment of charges, as they are defined by art. 1 point 36.

(3) For the purpose of settlement of tax liabilities, their age shall be established as follows:

a) according to their due date, in the case of principal tax liabilities;

b) according to the payment term provided by art. 156 para. (1), in the case of differences of principal tax liabilities assessed by the competent tax body, as well as in the case of ancillary tax liabilities;

c) according to the date of submission before the tax body of the rectifying tax returns, for differences of principal tax liabilities assessed by the taxpayer/payer, if the law provides an obligation of the taxpayer/payer of calculating the amount of tax liability;

d) according to the date of receipt in accordance with the law of the writs of enforcement sent by other institutions.

(4) For the beneficiaries of payments in installments, the order of settlement shall be the following:

a) the installments and/or, as applicable, the tax liabilities on whose payment depends the validity of the payment in installments;

b) the amounts owed on the account of the following installments from the payment schedule, up to the amount established for payment in installments or up to the amount paid, as applicable.

(5) For the beneficiaries of payment postponements, the order of settlement shall be the following:

a) the tax liabilities owed, other than those subject to the payment postponement;

b) the tax liabilities postponed.

(6) With the exception of the situations provided by art. 167 para. (11) and (12), for the debtors subject to the insolvency law, the order of settlement shall be the following:

a) the tax liabilities born after the opening date of the insolvency proceeding, by order of age;

b) the amounts owed on the account of installments from schedules of payments of tax liabilities included in the confirmed judicial reorganization plan, as well as the ancillary tax liabilities owed throughout the reorganization, if the plan provided their calculation and payment;

c) the tax liabilities born prior to the opening date of the insolvency proceeding, by order of age, until they are completely settled, in the case of taxpayers undergoing bankruptcy;

d) other tax liabilities than those provided by letters a) - c).

(7) By way of exception from the provisions of para. (1), in the case of taxpayers who benefit from State aid in the form of subsidies from the State budget for completion of own income, as provided by law, the tax liabilities that correspond to the tax period to which the subsidy refers shall be settled with priority, no matter if the payment is made from the subsidy or from own income.

(8) By way of exception from the provisions of para. (1), in the case of tax liabilities assessed by the tax inspection bodies, as well as in the case of fines of any kind, the tax liability or the fine chosen by the taxpayer shall be settled with priority.

(9) The competent tax body shall inform the debtor on the manner of settlement of the tax liabilities at least 5 days before the next payment term of tax liabilities.

Special rules related to the settlement of tax receivables through payment or offsetting

Art. 166. - (1) The payments made by debtors shall not be distributed and they shall not settle the tax liabilities registered in writs of enforcement for which the enforcement is suspended in accordance with art. 233 para. (1) letters a) and d) and para. (7), with the exception of the case in which the taxpayer opts for settling them in accordance with art. 165 para. (8).

(2) The provisions of para. (1) shall also be applicable in the case of settlement of tax liabilities through offsetting.

Offsetting

Art. 167. - (1) Through offsetting shall be settled the receivables of the State or of the administrative-territorial units or of subdivisions thereof representing taxes, charges, contributions and other amounts owed to the general consolidated budget with the receivables of the debtor representing amounts that need to be refunded, reimbursed or paid from the budget, up to the smallest of the amounts, when both parties act at the same time as both creditors and debtors, provided those receivables are administered by the same public authority, including by the units subordinated thereto. *Amounts payable from the budget* means the amounts the State or the administrative-territorial unit/subdivision must pay to a person, including those resulting from contractual legal relationships, if they are assessed through writs of enforcement.

(2) The receivables of the debtor shall be offset with liabilities owed to the same budget, and from the difference that remains the liabilities owed to other budgets shall be proportionally offset, under observance of the conditions provided by para. (1).

(3) The tax receivables resulting from customs relationships shall be offset with the receivables of the debtor representing refundable amounts of the same

nature. The possible remaining differences shall be offset with other tax liabilities of the debtor, by the order provided by para. (2).

(4) Unless otherwise provided by law, the offsetting shall act by operation of law as of the date when the receivables exist at once and are certain, liquid and chargeable at the same time.

(5) For the purposes of this article, the receivables are chargeable:

a) on their due date, as provided by art. 154 or 155, as applicable;

b) on the term provided by law for the submission of the receivable VAT return with refund option, within the limit of the amount approved for refund through the decision issued in this respect by the central tax body in accordance with the law;

c) on the date of submission of the refund request, within the limit of the amount approved for refund through the decision issued by the central tax body in accordance with the law, for the requests of return of the excise or value-added tax, as applicable, submitted in accordance with the Tax Code;

d) on the date of service of the decision, for the principal tax liabilities, as well as for the ancillary tax liabilities assessed by the competent tax body through a decision;

e) on the date of submission before the tax body of the rectifying tax assessments, for differences of principal tax liabilities assessed by the taxpayer/payer, if the law provides an obligation of the taxpayer/payer of calculating the amount of tax liability;

f) on the date of service of the act of individualization of the amount, for the payment liabilities from the budget;

g) on the date of receipt by the tax body, as per the legal provisions, of the writs of enforcement issued

by other institutions for the purpose of performance of enforcements;

h) on the date when the right of refund is born for the refundable amounts, in accordance with art. 168, as follows:

1. on payment date, for the amounts paid which exceed the tax liabilities owed;

2. on the date provided by law for the submission of the annual tax return for the corporate income tax, in the case of refundable corporate tax resulting from the annual regularization, according to legal provisions. The refund shall be made within the limit of the amount remaining after the regularization of the annual tax with the unpaid anticipatory amounts;

3. on the date of issuance of the annual tax assessment, in the case of refundable personal income tax resulting from the annual regularization, according to legal provisions. The refund shall be made within the limit of the amount remaining after the regularization of the annual tax with the unpaid anticipatory amounts;

4. on the date of the distribution report, for the amounts left after the performance of the distribution provided by art. 258;

5. on the date provided by law for the submission of the tax return, in the case of refundable amounts resulting from the regularization provided by art. 170;

6. on the date of submission of the refund request, within the limit of the amount approved for refund through the decision issued by the tax body in accordance with the law, for the other cases of refundable amounts.

(6) Tax receivables resulting from the assignment notified in accordance with the provisions of art. 28 shall be settled through offsetting with the liabilities of the assignee on the date of notification of the

assignment.

(7) The offsetting shall be ascertained by the competent tax body, at the request of the debtor or ex officio. The provisions of art. 165 referring to the order of settlement of debts shall be properly applied.

(8) The competent tax body shall serve to the debtor the decision regarding the performance of the offsetting within 7 days as of the date of performance of the operation.

(9) The negative amount of value-added tax in the receivable VAT return with refund option submitted by the representative of a tax group established in accordance with the Tax Code shall be offset in accordance with the provisions of this article with the tax liabilities of the members of the tax group, in the following order:

a) the tax liabilities of the representative of the tax group;

b) the tax liabilities of the other members of the tax group, based on the option of the central tax body.

(10) If the value-added tax added for payment is settled through regularization with the negative amount of tax, as per the provisions of the Tax Code, the date of settlement of the payable tax is the date provided by law for the submission of the deduction sheet through which the regularization was made.

(11) For the debtors subject to the insolvency legislation who submit a receivable VAT return with refund option after the opening date of the insolvency proceeding, the amount approved for refund shall be offset in accordance with the provisions of this article with the tax liabilities born after the opening date of the insolvency proceeding.

(12) By way of exception from the provisions of para. (11), the negative amount of VAT requested for refund through the first return submitted after the

opening date of the insolvency proceeding in accordance with the Tax Code shall be offset in accordance with the provisions of this article with the tax liabilities of the debtor born prior to the opening of the proceeding.

Refunds of amounts

Art. 168. - (1) The taxpayer/payer shall be refunded upon request any amount unduly paid or collected.

(2) If an undue payment was made, the person for whom it was made is entitled to be refunded the amount in question.

(3) The provisions of this article shall also apply to the amounts which are refundable following the application of the indirect exemption or other such exemptions, as provided by law.

(4) By way of exception from the provisions of para. (1), the following amounts shall be refunded ex officio:

a) the refundable amounts which represent differences of tax resulting from the annual regularization of the personal income tax owed by individuals, which shall be refunded within at most 60 days as of the date of service of the tax assessment;

b) the amounts collected through garnishment in addition to the tax receivables for which the garnishment was established, which shall be refunded within at most 5 business days as of collection date.

(5) The refundable differences of personal income tax and/or social contributions smaller than Lei 10 shall remain in the tax records to be offset with future debts, and they shall be refunded when the cumulated amount thereof exceeds the aforementioned limit.

(6) By way of exception from the provisions of para. (5), the differences smaller than Lei 10 shall be refunded in cash only at the request of the taxpayer/payer.

(7) In case of refund of amounts in foreign currency that were confiscated, the refund shall be made in accordance with the law, in Lei, at the reference exchange rate of the currency market for the EUR, as communicated by the National Bank of Romania, as of the date when the court judgment ordering the refund becomes definitive.

(8) If the taxpayer/payer registers outstanding liabilities, the refund/reimbursement shall be made only after the offsetting is performed in accordance with this code.

(9) If the amount to refund or reimburse is smaller than the outstanding liabilities of the taxpayer/payer, the offsetting shall be made until the amount to refund or reimburse is covered.

(10) If the amount to refund or reimburse is bigger than the sum of outstanding liabilities of the taxpayer/payer, the offsetting shall be made until the sum of outstanding liabilities is covered and the resulting difference shall be refunded to the taxpayer/payer.

(11) If amounts to refund or reimburse are assessed after the death of the individual or after the closing of the legal entity through definitive court judgments, these amounts shall be refunded or reimbursed only if there are successors or other holders who obtained the rights of refund or reimbursement in accordance with the law.

(12) If credit institutions transfer to the tax body by mistake certain amounts representing non-reimbursable credits or financings received from international institutions or organizations for the implementation of certain programs or projects, the amounts in question shall be refunded at the request of the credit institution or of the taxpayer/payer, even if the latter has outstanding liabilities, by way of exception from the provisions of para. (8).

Special provisions related to value-added tax refunds

Art. 169. - (1) Value-added tax claimed for refund through negative value-added tax returns with refund claim submitted within the legal term of submission, shall be refunded by the central tax body in accordance with the proceeding and conditions approved through order of the chairman of the A.N.A.F..

(2) In the case of negative value-added tax returns with refund claim submitted after the lapse of the legal term of submission, the negative amount of tax therein shall be carried forward to the return of the following period.

(3) The central tax body shall decide in accordance with the provisions of the order mentioned at para. (1) if it performs the tax inspection prior or subsequent to the approval of the refund, based on a risk analysis.

(4) By way of exception from the provisions of para. (3), in the case of negative value-added tax returns with refund claim for which the amount claimed for refund is of up to Lei 45,000, the central tax body shall refund the tax and perform a subsequent tax inspection.

(5) The provisions of para. (4) shall not apply to:

a) if the taxpayer/payer has deeds mentioned in the tax record which are sanctioned as crimes;

b) if the central tax body, based on the information it holds, finds that there is a risk of undue refund.

(6) In the case of the negative value-added tax returns submitted in the name of a tax group established in accordance with the Tax Code, the provisions of para. (5) shall be applicable both for the representative of the tax group and for the members thereof.

(7) Anytime the refund is approved in accordance

with the provisions of this article with subsequent tax inspection, the tax inspection shall be decided on the basis of a risk analysis.

(8) Negative value-added tax returns with refund claim for which the amount claimed for refund is of up to Lei 45,000 and which are submitted by taxable persons found in one of the situations provided by para. (5) shall be settled after the performance of the anticipatory tax inspection.

Special provisions related to the refund of personal income tax withheld at source

Art. 170. - (1) If the payer withheld at source personal income tax in excess of the tax owed, the refund thereof shall be made by the payer, at the request of the taxpayer submitted before the lapse of the limitation period of the right to claim the refund provided by art. 219.

(2) The amounts refunded by the payer shall be regularized by it with the tax liabilities of the same type owed for the tax period when the refund was made, through the submission of a request of regularization/a refund request. The request of regularization/refund request can be submitted afterwards as well, under observance of the limitation period of the right to claim the refund. The provisions of art. 167 or 168, as applicable, shall be applied to the refundable differences.

(3) In the case of nonresident taxpayers who submit a tax residency certificate after the withholding at source of the tax by the income payer, the refund and regularization provided by this article shall be performed even if the reserve of subsequent verification for the tax period where the refunded tax receivable was owed was lifted as a result of performance of the tax inspection.

(4) For the personal income tax which is regularized in accordance with this article, the payer

shall not submit a rectifying return.

(5) If the payer no longer exists or if it is undergoing the insolvency proceeding in accordance with the Law no. 85/2014, the personal income tax withheld at source in excess of the legally owed tax shall be refunded by the authorized central tax body on the basis of the refund request submitted by the taxpayer. *Authorized central tax body* means the central tax body authorized to administer the tax liabilities of the taxpayer who submits the refund request.

(6) The payer has the obligation of correcting, if applicable, the information returns that correspond to the regularization in question.

(7) The proceeding of implementation of this article shall be approved through order of the chairman of the A.N.A.F..

Regularization of the tax liabilities in the case of reconsideration of a transaction by the central tax body

Art. 171. - (1) Tax liabilities assessed by the central tax body as a result of a reconsideration of a transaction in accordance with the law shall be regularized with the tax liabilities declared/paid by the taxpayer/payer which correspond to that transaction. In this case, the amounts paid on account of the tax liabilities declared/paid by the taxpayer/payer shall be deemed to represent anticipatory payments on account of the tax liabilities assessed as a result of the reconsideration.

(2) The proceeding of implementation of this article shall be approved through order of the chairman of the A.N.A.F..

Obligation of the banks subject to special supervision or special administration regimes

Art. 172. - Banks subject to special supervision or special administration regimes which perform the payments ordered within the limit of collections shall deduct on a daily basis and with priority the amounts representing tax liabilities included in the payment orders issued by the debtors and/or tax liabilities included in the garnishment notice sent by the tax

bodies.

CHAPTER III
Interests, late payment penalties and failure to declare penalties

General provisions related to interests and late payment penalties

Art. 173. - (1) For the debtor's failure to pay the principal tax liabilities when due, interests and late payment penalties shall be owed after the due date thereof.

(2) No interests and late payment penalties shall be owed for the amounts payable as fines of any kind, for ancillary tax liabilities assessed in accordance with the law, for enforcement expenses, judicial expenses, confiscated amounts, as well as for the amounts representing the equivalent in Lei of foreclosed assets and amounts which are not found at the scene.

(3) For differences of tax liabilities assessed through rectifying tax returns or tax assessments, no ancillary tax liabilities shall be owed for the amount paid on account of the principal tax liability if the debtor performed a payment prior to the assessment of the tax liabilities and the amount paid did not settle other liabilities. These provisions shall also be applicable if the debtor performed the payment of the tax liability and the tax return was submitted after the performance of the payment.

(4) Interests and late payment penalties shall become income of the budget to which the principal tax receivable belongs.

(5) Interests and late payment penalties shall be assessed through decisions, with the exception of the case provided by art. 227 para. (8).

(6) Interests and late payment penalties can be updated on an annual basis, through Government decision, in accordance with the evolution of the reference interest rate of the National Bank of

Romania.

Interests

Art. 174. - (1) Interests shall be calculated for every day of delay, starting with the day immediately following the due date and until the amount owed is settled, inclusive.

(2) For additional differences of tax receivables resulting from the correction of returns or from the amendment of a tax assessment, the interests shall be owed as of the day immediately following the due date of the tax receivable for which the difference was assessed and until the date of settlement thereof, inclusive.

(3) If the differences which result from the correction of tax assessments or from the amendment of a tax assessment are negative relative to the amounts initially assessed, interests shall be owed for the amount due after the correction or amendment, as of the date immediately following the due date and until the date of settlement thereof, inclusive.

(4) By way of exception from the provisions of para. (1), interests shall be owed as follows:

a) for tax receivables settled through enforcement, until the date of elaboration of the distribution report, inclusive. If the price is paid in installments, the interests shall be calculated until the date of elaboration of the distribution report for the advance payment. For the amount left to be paid, the interests shall be owed by the purchaser.

b) for the tax liabilities owed by the debtor declared insolvent who has no traceable income or assets, until the date of transition to separate records, as per the provisions of art. 265.

(5) The interest shall be of 0.02% for every day of delay.

Interests in the case of taxes administered by the central tax body for which the tax period is annual

Art. 175. - (1) Interests shall be owed as provided below for the failure to pay when due tax liabilities representing taxes for which the tax period is annual:

a) during the tax year of assessment, for the tax liabilities assessed in accordance with the law by the central tax body or by the taxpayers, including those which represent anticipatory payments, the interests shall be calculated as of the day following the due date and until the date of settlement or, as applicable, until the last day of the tax year of assessment, inclusive;

b) for the amounts not paid in the tax year of assessment in accordance with letter a), the interests shall be calculated as of the first day of the next tax year and until the date of settlement thereof, inclusive;

c) if the tax liability assessed through the annual tax assessment or the annual tax return, as applicable, is smaller than the one assessed through the decisions of anticipatory payments or the returns submitted during the tax year, the interests shall be recalculated as of the first day of the tax year following that of taxation on the unpaid balance relative to the annual tax assessed through the annual tax assessment or the annual tax return and the interests shall be properly regularized.

d) for the differences of tax left to pay in accordance with the annual tax assessment or the annual tax return the interests shall be owed as of the day following the due date provided by law. In the case of personal income tax this rule shall be applied only if the tax return was submitted within the term provided by law. If the tax return was not submitted within the term provided by law, the interest shall be owed as of January 1 of the year following the taxation year.

(2) The provisions of para. (1) shall be also applied in the case in which the taxpayers do not fulfill their declaratory liabilities and the tax receivable is

assessed by the central tax body through a tax assessment, as well as in the case of the return submitted in accordance with art. 107 para. (5). In this case, for the purpose of application of para. (1) letter a, the receivable which corresponds to a tax period assessed by the central tax body shall be distributed on the corresponding payment terms from the taxation year, with the exception of the case in which the tax liabilities were assessed in the taxation year.

(3) If the central tax body assesses additional tax differences through a tax audit proceeding, the interests shall be calculated at the tax difference as of the first day of the tax year following that of taxation.

Late payment penalties

Art. 176. - (1) Late payment penalties shall be calculated for every day of delay, starting with the day immediately following the due date and until the amount owed is settled, inclusive. The provisions of art. 174 para. (2) - (4) and art. 175 shall be properly applicable hereto.

(2) The late payment penalties shall be of 0.01% for every day of delay.

(3) Late payment penalties do not supersede the obligation of paying interests.

(4) Late payment penalties shall not apply to the principal tax liabilities not declared by the taxpayer/payer and assessed by the tax inspection body through tax assessments.

Interests and late payment penalties in the case of payments made through bank settlement

Art. 177. - (1) The failure of credit institutions to settle the amounts owed to the general consolidated budget within 3 business days as of the date when the taxpayer’s/payer’s account was debited does not exonerate the taxpayer/payer from the obligation of paying those amounts and triggers interests and late payment penalties as provided by art. 174 and 176 for

the amounts in question after the term of 3 days.

(2) In order to recover the amounts owed to the general consolidated budget which were not settled by the credit institutions, as well as the interests and late payment penalties provided by para. (1), the taxpayer/payer may file claim against the credit institution in question.

Interests and late payment penalties in the case of offsetting

Art. 178. - In the case of tax receivables settled through offsetting, the interests and late payment penalties, as applicable, shall be calculated until the date provided by art. 167 para. (4).

Interests and late payment penalties in the case of opening of the insolvency proceeding

Art. 179. - In the case of debtors whom were opened the insolvency proceeding interests and late payment penalties shall be owed for the tax receivables born prior or subsequent to the date of opening of the insolvency proceeding in accordance with the law regulating the insolvency proceeding.

Interests and late payment penalties in the case of debtors for whom a dissolution judgment was delivered

Art. 180. - (1) No interests and late payment penalties shall be owed or calculated for the tax receivables born prior or subsequent to the date of registration of the dissolution judgment of the debtor with the trade register as of this date.

(2) If a definitive court judgment annulled the act which formed the basis of the dissolution, interests and late payment penalties shall be calculated between the date of registration with the trade register of the dissolution acts and the date when the annulment judgment becomes definitive.

Non-declaration penalty in the case of tax receivables administered by the central tax body

Art. 181. - (1) For the principal tax liabilities not declared or incorrectly declared by the taxpayer/payer and assessed by the tax audit body through tax assessments, the taxpayer/payer shall owe a non-

declaration penalty of 0.08% for every day, as of the day immediately following the due date and until the date of settlement of the amount owed, inclusive of this latter day, applied on the principal tax liabilities not declared or incorrectly declared by the taxpayer/payer and assessed by the tax audit body through tax assessments.

(2) The non-declaration penalty established in accordance with para. (1) shall be reduced at the taxpayer's/payer's request by 75% if the principal tax liabilities assessed through the tax assessment:

a) are settled by payment or offsetting by the deadline provided by art. 156 para. (1);

b) are established for payment in installments, in accordance with legal provisions. In this case, the reduction shall be granted upon completion of the payment in installments.

(3) The non-declaration penalty provided by para. (1) shall be increased by 100% if the principal tax liabilities resulted from deeds of tax evasion found by the judicial bodies in accordance with the law.

(4) The application of the non-declaration penalty provided by this article does not eliminate the obligation to pay the interests provided by this code.

(5) The non-declaration penalty shall be revenue of the State budget.

(6) The tax body shall not set the non-declaration penalty provided by this article if it is smaller than Lei 50.

(7) The non-declaration penalty shall not be applied if the principal tax liabilities not declared or incorrectly declared by the taxpayer/payer and established by the tax audit body through tax assessments result from the application of provisions of the tax legislation by the taxpayer/payer as these provisions are interpreted by the tax body through norms, instructions, circular letters or opinions

communicated to the taxpayer/payer by the central tax body.

(8) The tax audit report shall register and motivate the application of the non-declaration penalty in accordance with para. (1) or, as applicable, about it not being applied, as provided by para. (6) or (7). The provisions of art. 130 para. (5) and those of art. 131 para. (2) shall be properly applicable hereto.

(9) If the principal tax liabilities are set by the tax audit body as a result of the failure to submit the tax return, then only the non-declaration penalty shall be applied, without the civil offense sanction for the failure to submit the return.

(10) The proceeding of implementation of this article shall be approved through order of the chairman of the A.N.A.F.

(11) With the exception of the situation provided by para. (3), the non-declaration penalty cannot be bigger than the level of the principal tax liability to which it applies, anytime through the application of the calculation method provided by para. (1) the non-declaration penalty exceeds this level.

Interests in the case of amounts to be refunded or reimbursed from the budget

Art. 182. - (1) For the amounts that need to be refunded or reimbursed from the budget, the taxpayer/payer is entitled to interest as of the day following the expiry of the term provided by art. 168 para. (4) or art. 77, as applicable, and until the date of settlement of the amounts by any of the manners provided by law. The interest shall be awarded upon request of the taxpayer/payer.

(2) In the case of receivables of taxpayers/payers resulting from the annulment of an administrative-tax document which set payable tax liabilities that were settled prior to the annulment, the taxpayer/payer is entitled to interest as of the day when the tax

receivable individualized through the annulled administrative-tax document was settled and until the day of refund or offsetting of the taxpayer's/payer's receivable resulted from the annulment of the administrative-tax document. This provision does not apply if the taxpayer/payer requested the offsetting, as provided by art. 18 in the Law no. 554/2004, as subsequently amended and supplemented, as well as in the case provided by art. 107 para. (5).

(3) The provisions of para. (1) shall be also applied to tax receivables that were subject to a refund request which was dismissed by the tax body but definitively admitted by the appeal settlement body or by the court of law.

(4) The level of interest shall be that provided by art. 174 para. (5) and shall be borne from the same budget from which the amounts claimed by the taxpayer/payer are refunded or reimbursed, as applicable.

Additional tax assessed for late payment in the case of tax liabilities owed to the local budgets

Art. 183. - (1) By way of exception from the provisions of art. 173 and 176, additional tax assessed for late payment shall be owed after the lapse of the legal term for the debtor's failure to pay when due the principal tax liabilities owed to the local budgets.

(2) The additional tax assessed for late payment shall be of 1% of the amount of the principal tax liabilities not paid when due; the additional tax shall be calculated for every month or fraction of a month, as of the day immediately following the due date and until the date of settlement of the amount owed, inclusive of the latter date.

(3) The provisions of art. 173-180 and art. 182 shall be properly applicable.

(4) Additional tax assessed for late payment shall be owed for the amounts that have to be refunded from

the local budget. The level and manner of calculation of the additional tax shall be those provided by para. (2).

CHAPTER IV
Payment facilities

SECTION 1
Establishing the possibility of granting payment facilities

Establishment of the central tax body's possibility of granting agreements for payment in installments

Art. 184. - (1) At the debtors' request, central tax bodies may award agreements for payment in installments for a term of at most 5 years. For debtors who do not create any kind of collateral as provided by this chapter the payment in installments shall be awarded for at most 6 months.

(2) For the purpose of this chapter, associations without legal personality which are debtors in accordance with the law shall be assimilated to legal entities.

(3) The agreement for payment in installments shall be awarded for all tax liabilities registered in the tax ascertaining certificate, provided the requirements of this chapter are fulfilled.

(4) The provisions of para. (3) shall be also applied to the tax liabilities taken by the tax bodies from another tax body or from another public authority as a result of transfers of power, if the transfer of power occurs during the term of an agreement for payments in installments. For this purpose, the competent tax body shall serve to the debtor a payment notice on the tax liabilities thereof individualized in administrative documents taken over as a result of the transfer of power, as well as on the decisions related to the corresponding ancillary tax liabilities.

(5) The following shall be assimilated to tax

liabilities for the purpose of awarding the agreement for payment in installments:

a) fines of any kind administered by the tax body;

b) tax receivables assessed by other bodies and sent for recovery to the tax bodies, according to the law, including the budget receivables resulting from contractual relationships assessed through court judgments or other documents which are considered writs of enforcement in accordance with the law.

(6) Agreements for payment in installments shall not be awarded for:

a) the tax liabilities which were subject to an agreement for payment in installments awarded in accordance with this chapter which is no longer valid;

b) the tax liabilities whose due date and/or payment term lapses after the date of issuance of the tax ascertaining certificate;

c) tax liabilities which fall into the category governed by art. 167 on the date of issuance of the tax ascertaining certificate, within the limit of the amount that has to be refunded/reimbursed/paid from the budget;

d) the tax liabilities assessed through administrative-tax documents which are suspended on the date of issuance of the tax ascertaining certificate in accordance with art. 14 or 15 in Law no. 554/2004, as subsequently amended and supplemented. If the suspension of enforcement of the administrative-tax document ceases after the date of service of an agreement for payment in installments, the debtor may request the inclusion of the tax liabilities that were subject to suspension, as well as of the ancillary tax liabilities corresponding thereto, in the agreement for payment in installments. For this purpose, the competent tax body shall serve to the the debtor a payment notice on the tax liabilities thereof

individualized in administrative documents for which the suspension of enforcement ceased, as well as the decisions related to the ancillary tax liabilities corresponding thereto.

(7) The agreement for payment in installments shall not be awarded for tax liabilities which amount to less than Lei 500 for individuals and Lei 5,000 for legal entities.

(8) The term of the agreement for payment in installments shall be set by the competent tax body in accordance with the amount of tax liabilities and the financial capacity of the debtor. The term of the agreement for payment in installments cannot be longer than the term requested for the payment in installments.

Establishment of the local tax body's possibility of granting payment facilities

Art. 185. - (1) Based on a thoroughly justified request of the taxpayer, the local tax body may award the following payment facilities for the taxpayer's outstanding tax liabilities:

a) agreements for payment in installments and/or payment deferrals for the tax liabilities, as well as for the budget liabilities provided by art. 184 para. (5);

b) exemptions or reductions of the additional tax assessed for late payment.

(2) The agreement for payment in installments shall be awarded for a term of at most 5 years, and the payment deferral for a term of at most 6 months, but the term thereof may not exceed the date of December 20 of the tax year during which it is awarded.

(3) Additional tax assessed for late payment of 0.5% per month or fraction of a month representing the equivalent of the prejudice shall be owed throughout the term for which payment deferrals or agreements for payment in installments were awarded for the principal tax liabilities subject to the deferral or the agreement for payment in installments.

(4) 50% of the additional tax assessed for late payment, which represents the penalty component thereof, and corresponds to the tax liabilities subject to deferral or to the agreement for payment in installments shall be deferred throughout the term of the payment deferral and/or of the agreement for payment in installments. If the amounts subject to payment deferral or to the agreement for payment in installments were fully settled, the deferred additional tax assessed for late payment shall be annulled.

(5) The taxpayers must set collaterals as provided below for the tax liabilities subject to agreements for payment in installments and/or to payment deferrals:

a) in the case of individuals, the collateral shall amount to two average installments provided by the agreement for payment in installments and representing local tax liabilities and additional tax assessed for late payment calculated in the case of the agreement for payment in installments, or an amount resulting from the ratio between the counter-value of deferred debts and the additional tax assessed for late payment thereto and the number of months approved for the payment deferral, in the case of payment deferrals;

b) in the case of legal entities, the collateral must cover the total amount of tax liabilities included in the agreement for payment in installments and/or the payment deferral.

(6) The procedure of award of payment facilities shall be established through a decision of the deliberative authority.

(7) In the case of legal entity taxpayers, the facilities provided by para. (1) letter b) shall be awarded under observance of the rules in the field of State aid.

SECTION 2

Procedure of award of the agreements for payment in installments by the central tax body

Conditions for awarding the agreements for payment in installments

Art. 186. - (1) The debtors must cumulatively fulfill the following requirements in order to be awarded an agreement for payment in installments by the central tax body:

a) they should be in a state of distress caused by a temporary lack of funds and must have payment capacity throughout the term of the agreement for payment in installments. These situations shall be assessed by the competent tax body on the basis of the program of financial restructuring or redress or on any other relevant information and/or documents presented by the debtor or held by the tax body;

b) they should not have established the collateral provided by art. 193;

c) they should not be undergoing the insolvency proceeding;

d) they should not be undergoing dissolution in accordance with the legal provisions in force;

e) they should not have been established as liable in accordance with the legislation on insolvency and/or joint liability, as per the provisions of art. 25 and 26. By way of exception from the aforesaid, if the documents which established them as liable are definitive in the system of administrative or judicial means of appeal and the amount for which they were established liable was paid, the condition shall be deemed fulfilled.

(2) Apart from the requirements provided by para. (1), the debtors must have submitted all the tax returns in accordance with their taxpayer files. This requirement must be fulfilled on the date of issuance of the tax ascertaining certificate.

(3) The condition provided by para. (2) shall be also deemed fulfilled if the tax liabilities were set by the tax body through tax assessment for the periods of time when the tax returns were not submitted.

(4) By way of exception from the provisions of para. (1) letter b), in the case of debtors who do not own assets or whose assets are not sufficient for the establishment of the collaterals provided by this chapter, the tax body may award the agreement for payment in installments if the other requirements provided by para. (1) are fulfilled. In this case, the late payment penalties that correspond to the principal tax liabilities included in the agreement for payment in installments shall not be deferred and shall be included in the agreement for payment in installments.

The request for award of agreements for payment in installments

Art. 187. - (1) The request for award of agreements for payment in installments, hereinafter referred to as the *request*, shall be submitted before the registrar's office of the competent tax body or sent by post with confirmation of receipt and shall be settled by the competent tax body within 60 days as of registration.

(2) The content of the request, as well as the supporting documents attached thereto, shall be approved through order of the chairman of the A.N.A.F..

Withdrawal of the request for award of agreements for payment in installments

Art. 188. - (1) The debtor may withdraw his/her request before the issuance of the decision admitting or dismissing the agreement for payment in installments. The competent tax body shall serve to the debtor the decision acknowledging the dismissal of the request.

(2) The debtor does not lose the right to submit a new request if he/she withdraws the previous request.

Special provisions on the settlement of tax liabilities

Art. 189. - If during the period of time between the date of issuance of the tax ascertaining certificate and the date of service of the decision admitting the agreement for payment in installments the debtor performs payments into the budget accounts that correspond to the types of tax liabilities included in the agreement for payment in installments, the liabilities which are chargeable during that period of time shall be settled first and then the liabilities mentioned in the tax ascertaining certificate in accordance with the provisions of art. 207 para. (2) and (3), as applicable.

Other special provisions on the settlement of tax liabilities administered by the central tax body

Art. 190. - (1) The provisions of art. 167 shall be applied for the negative VAT returns with refund claim submitted by the date of issuance of the tax ascertaining certificate.

(2) During the period of performance of the agreement for payment in installments, the amounts that are to be refunded/reimbursed shall settle the liabilities in the order provided by art. 165 para. (4), within the limit of the amount approved for refund/reimbursement.

(3) By way of exception from the provisions of art. 167 para. (5) letter b), in the case of negative VAT returns with refund claim submitted between the date of issuance of the tax ascertaining certificate and the date of issuance of the decision admitting the agreement for payment in installments, the moment when the refundable amount becomes chargeable is the date of issuance of the refund decision.

(4) The *date of issuance of the refund decision* provided by para. (3) is the date of registration of the decision with the competent tax body.

(5) The differences of tax liabilities left not settled after the settlement of the negative VAT returns with refund claim shall be served to the debtor through a

payment notice.

Issuance of the tax ascertaining certificate

Art. 191. - (1) After it receives the relevant request, the competent tax body shall issue ex officio the tax ascertaining certificate and serve it to the debtor. The issuance of the tax ascertaining certificate for the purpose of awarding the agreement for payment in installments shall not imply the payment of an extra-judiciary stamp duty.

(2) The tax ascertaining certificate shall be issued within at most 5 business days as of the registration of the relevant request.

(3) By way of exception from the provisions of para. (2), the term of issuance of the tax ascertaining certificate is of at most 10 business days in the case of requests submitted by individuals who perform economic activities independently or exercise liberal professions.

(4) By way of exception from the provisions of art. 158 and 159, as applicable, the tax ascertaining certificate comprises the outstanding tax liabilities existing in the balance of the taxpayer on the date of issuance of the certificate.

(5) When there are differences between the amounts claimed by the debtor through the request and those registered in the tax ascertaining certificate, the differences shall be reconciled.

(6) By way of exception from the provisions of art. 158 and 159, as applicable, the tax ascertaining certificate shall be valid for 90 days as of the issuance date.

Settlement of the request

Art. 192. - (1) The debtor’s request shall be settled by the competent tax body through a decision admitting or dismissing the agreement for payment in installments, as applicable.

(2) The amount and payment terms of the installments shall be established through schedules of installments which are an integral part of the decision admitting the agreement for payment in installments. For the purpose of art. 167, the installments shall be due on the aforementioned payment terms, with the exception of the situation provided by art. 190 para. (2).

(3) The request shall be settled through a dismissal decision in any of the following situations:

a) in the case of requests submitted for the liabilities provided by art. 184 para. (6) and (7);

b) if the requirements for award provided by art. 186 para. (1) and (2) are not fulfilled;

c) if the debtor does not submit the supporting documents necessary to settle the request;

d) if the request and the related documents do not reveal any change from the conditions of award of the agreement for payment in installments provided by a previous request which was dismissed;

e) if the tax liabilities included in the request for award of an agreement for payment in installments are fully settled by the date of issuance of the decision admitting the agreement.

(4) After the competent tax body issues the tax ascertaining certificate and reconciles the amounts in accordance with art. 191 para. (5), as applicable, it shall verify if the request observes the requirements provided by this chapter and shall serve to the debtor the dismissal decision or the agreement in principle on the payment in installments, as applicable.

Collaterals

Art. 193. - (1) Within at most 30 days as of service of the agreement in principle, the debtor must establish collaterals. At the thoroughly justified request of the debtor, the competent tax body may approve the

extension of this term by at most 30 days.

(2) For the tax liabilities included in the agreement for payment in installments, as well as for those which are accepted for payment deferral in accordance with art. 208 of up to Lei 5,000 in the case of individuals and of Lei 20,000 in the case of legal entities, it is not necessary to establish collaterals.

(3) By way of exception from the provisions of para. (1), the following categories of debtors do not have to establish collaterals:

a) public institutions, as they are defined by the Law no. 500/2002 on public finance, as subsequently amended and supplemented, as well as by the Law no. 273/2006, as subsequently amended and supplemented, as applicable;

b) autonomous public authorities/units incorporated through organic law;

c) units and institutions of public law provided by art. 7 in the Government Ordinance no. 57/2002 on scientific research and technological development, approved as amended and supplemented by the Law no. 324/2003, as subsequently amended and supplemented;

d) State-owned higher education institutions.

(4) The debtors provided by para. (3), as well as the debtors provided by art. 186 para. (4) who own assets, shall establish collaterals as follows:

a) if the value of the assets covers the values provided by para. (13) or (15), as applicable, the debtors shall establish collaterals at the level of this value, under observance of the provisions of this article;

b) if the value of the assets does not cover the values provided by para. (13) or (15), as applicable, the debtors shall establish collaterals at the level of the assets they own, under observance of the provisions of

this article.

(5) Through the agreement in principle, the tax body shall establish the term of the agreement for payment in installments, the date until which the collateral shall be valid, if said collateral is set in the form of a letter of guarantee/warranty insurance policy, as well as the amount of the collateral, with mentioning of the amounts that are to be paid in installments, of the interests owed during the term of payment in installments and the percentage provided by para. (13) corresponding to the term of payment in installments.

(6) The collaterals may consist of:

a) money deposited at a State Treasury unit in the debtor's name and at the disposal of the tax body;

b) a letter of guarantee/warranty insurance policy, as provided by art. 211;

c) the establishment of a distraint on the assets owned by the debtor;

d) the conclusion of a mortgage or pledge agreement in favor of the competent tax body for the execution of the debtor's tax liabilities included into an agreement for payment in installments, whose object would be assets owned by a third party. These assets must be unencumbered, with the exception of the case in which the distraint is levied exclusively by the competent tax body, under observance of the limits provided by para. (16).

(7) Movable assets whose normal term of use has not expired in accordance with the Law no. 15/1994 on the depreciation of capital fixed in tangible and intangible assets, as republished, as subsequently amended and supplemented, as well as movable assets which were revalued in accordance with the accounting rules in force although their normal term of use had expired, may form the object of collaterals established in accordance with para. (6).

(8) An asset used as collateral in accordance with para. (6) letter d), cannot be used as collateral for an agreement of payment in installments related to the liabilities of another debtor.

(9) The provisions of para. (1) shall not apply if the value of the assets owned by the debtor on which the tax body already levied distraints cover the value provided by para. (13) or (15), as applicable, provided a valuation report is submitted with updated values of the assets under distraint on the date of submission of the request, within the term provided by para. (1). The provisions of art. (11) shall be properly applied.

(10) If the value of assets on which the tax body already levied distraints cover the value provided by para. (13) or (15), as applicable, the debtor shall establish a collateral in accordance with the provisions of para. (1) for the value difference not covered.

(11) The assets offered as collaterals in accordance with para. (6) letters c) and d) shall be valued by an independent expert valuer who shall elaborate a valuation report in this respect. In the case of movable assets whose value set by the valuation report is higher than the indicative value set through the expert reports used by the chamber of notaries public, the value of the assets shall be set at the level of the indicative value established through the expert report elaborated by the chamber of notaries public. In the case of movable assets whose value set through the valuation report is manifestly disproportionate from the market value thereof, the competent tax body may perform a new valuation in accordance with the provisions of art. 63. In this case, the term of settlement of the request shall be extended with the period comprised between the date of submission of the valuation report and the date of performance of the new valuation.

(12) For the assets offered as collaterals in accordance with para. (6) letters c) and d), the debtor

shall submit before the competent tax body within the term provided by para. (1) the valuation report and other documents established through order issued in accordance with art. 209.

(13) The collaterals established under the forms provided by para. (6) must cover the amounts included in the agreements for payment in installments, the interests owed throughout the term of payment in installments, plus a percentage of up to 16% of the amounts included in the agreement for payment in installments, according to the term of the agreement for payment in installments, as follows:

a) for payments in installments from 13 to 24 months, the percentage is of 4%;

b) for payments in installments from 25 to 36 months, the percentage is of 8%;

c) for payments in installments from 37 to 48 months, the percentage is of 12%;

d) for payments in installments over 49 months, the percentage is of 16%.

(14) By way of exception from the provisions of para. (13), the collaterals established under the forms provided by para. (6) letters a) and b) must cover the amounts included in the agreement for payment in installments, as well as the interests owed throughout the term of the agreement for payment in installments.

(15) For the purpose of establishment of the collateral under the form provided by para. (6) letter c), if the assets are mortgaged/pledged in favor of other creditors, the value of these assets must cover the value for which the mortgage/pledge was established, as well as the amounts included in the agreement for payment in installments, the interests owed throughout the term of the agreement for payment in installments, plus a percentage of up to 16% of the amounts included in the agreement for payment in installments, according to

the term of this agreement.

(16) For the purpose of establishment of the collateral under the form provided by para. (6) letter d), the value of the assets must cover the tax liabilities of the guarantor for whom the competent tax body levied the distraint, as well as the amounts included in the agreement for payment in installments of the debtor, the interests owed throughout the term of the agreement for payment in installments, plus a percentage of up to 16% of the amounts included in the agreement for payment in installments, according to the term of this agreement.

(17) The validity period of the letter of guarantee/warranty insurance policy must be at least 3 months longer than the due date of the last installment provided by the schedule of installments.

(18) During the term of the agreement for payment in installments the collateral can be replaced or resized at the debtor’s request in accordance with the value of installments left to be paid. In this case, the additional percentage of the collateral which is taken into account when establishing the value of the collateral is the percentage in force on the date when the collateral is replaced or resized corresponding to the period of time left of the agreement for payment in installments.

(19) The competent tax body shall release the collaterals after it serves the decision of termination of the agreement for payment in installments provided by art. 194 para. (3), with the exception of the case provided by art. 202 para. (3).

(20) If the taxpayer requests the replacement or resize of the collateral in accordance with para. (18) and the amounts left from the agreement for payment in installments are below than the limits provided by para. (2), the tax body shall release the collaterals by

way of exception from the provisions of para. (19).

(21) If the collateral established in accordance with para. (15) is enforced by another creditor during the term of the agreement for payment in installments and the amounts distributed therefrom to the competent tax body do not cover the value of the collaterals provided by para. (13), the debtor has the obligation of completing the collateral for the tax liabilities not settled from the agreement for payment in installments.

(22) If the asset which is used as collateral in accordance with the provisions of para. (6) letter d) and para. (16) is enforced throughout the term of the agreement for payment in installments by the tax body for the guarantor's payment liabilities, the debtor has the obligation of establishing collaterals for the tax liabilities not settled from the agreement for payment in installments. In this case, the amounts left after the distribution shall be confiscated in favor of the tax body until the collateral is established and shall settle the remaining liabilities from the agreement for payment in installments if the collateral is not established within the term provided by art. 194 para. (1) letter m).

(23) At the debtor's request, the competent tax body may enforce the collateral established under the forms provided by para. (6) letters a) and c) or it may approve the capitalization of the assets in accordance with the parties' agreement, as per the provisions of art. 248, if the entire amount from the agreement for payment in installments is settled.

Conditions for maintaining the validity of the agreements for payment in installments

Art. 194. - (1) The agreement for payment in installments of tax liabilities remains valid in the following circumstances:

a) if the tax liabilities administered by the tax body are declared and paid in accordance with legal

provisions on the terms of payment thereof, as of the date of service of the decision of payment in installments, with the exception of the situation in which the debtor requested an agreement for payment in installments in accordance with art. 195. The agreement for payment in installments also remains valid if these liabilities are declared and/or paid by the 25th of the month following the due date provided by law, inclusive of this day, or until the completion of the payment in installments if this term runs after the full settlement of the tax liabilities established for payment in installments;

b) if the tax liabilities assessed through decision by the competent tax body are paid in accordance with legal provisions on the terms of payment thereof, as of the date of service of the decision of payment in installments, with the exception of the situation in which the debtor requested an agreement for payment in installments in accordance with art. 195. The agreement for payment in installments also remains valid if these liabilities are paid within at most 30 days as of the payment term provided by law or until the end of the period of payment in installments, if the term of 30 days runs after this date;

c) if the differences of tax liabilities resulting from rectifying returns are paid within at most 30 days as of submission of the return, with the exception of the case in which the debtor requested an agreement for payment in installments in accordance with art. 195;

d) if the amount and payment terms from the schedule of installments are observed. The agreement for payment in installments also remains valid if the installment is paid on or before the next payment term from the schedule of installments;

e) if the tax liabilities administered by the tax

body which are not settled on the date of service of the decision admitting the agreement for payment in installments and are not subject to the payment in installments, are paid within at most 90 days as of the date of service of this decision;

F) if the receivables established by other bodies than the tax bodies and transmitted to the tax bodies for recovery purposes, as well as fines of any kind for which summons were sent after the date of service of the decision admitting the agreement for payment in installments are paid within at most 180 days as of service of the summons or until the completion of the payment in installments if the term of 180 days runs after the date of full settlement of the tax liabilities included in the agreement for payment in installments, with the exception of the case in which the taxpayer requested the agreement for payment in installments in accordance with art. 195;

g) if the tax liabilities not settled after the settlement of the VAT returns in accordance with art. 190 para. (5) are paid within at most 30 days as of service of the payment notice, with the exception of the case in which the debtor requested an agreement for payment in installments in accordance with art. 195;

h) if the tax liabilities assessed through administrative-tax documents suspended in accordance with art. 14 or 15 in the Law no. 554/2004, as subsequently amended and supplemented, for which the suspension of enforcement of the administrative-tax document ceased after the date of service of the decision admitting the agreement for payment in installments are paid within at most 30 days as of the date of service of the payment notice, with the exception of the case in which the debtor requested that these amounts be included in the agreement for payment in installments;

i) if the tax liabilities assessed by other authorities whose administration was transferred to the tax body after the issuance of a decision of payment in installments are paid within at most 30 days as of the date of service of the payment notice, with the exception of the case in which the debtor requested that these amounts be included in the agreement for payment in installments;

j) if the amounts for which liability was set in accordance with the provisions of the legislation on insolvency and/or joint liability as per the provisions of art. 25 and 26 are paid within at most 30 days as of the date when liability is set.

k) if neither of the situations provided by art. 186 para. (1) letters c) and d) applies;

l) if the collateral is replenished in accordance with the provisions of art. 193 para. (21) within at most 15 days as of the date of distribution of the amounts resulting from the sale of the assets by other creditors;

m) if the collateral is established in accordance with art. 193 para. (22) within at most 15 days as of the date of service by the tax body of the notification related to the distribution of the amounts resulting from the sale of the assets.

(2) If the terms provided by para. (1) run after the date of completion of the payment in installments, the tax liabilities must be settled on or before the date of completion of the payment in installments.

(3) If the amounts included in the agreement for payment in installments were fully settled and the requirements provided by para. (1) were observed, the competent tax body shall serve to the debtor the decision of completion of the payment in installments.

Amendment of the decision admitting the

Art. 195. - (1) During the period of validity of the payment in installments, the decision admitting the

agreement for payment in installments during the period of validity of this agreement

agreement for payment in installments can be amended at the debtor's request through the inclusion in the agreement of the following tax liabilities provided by the tax ascertaining certificate issued by the competent tax body:

a) those provided by art. 184 para. (6) letter d);

b) the tax liabilities assessed by other authorities, whose administration was transferred to the tax body after the issuance of a decision admitting the agreement for payment in installments;

c) the principal tax liabilities assessed by the tax audit body through a tax assessment, as well as the ancillary tax liabilities related thereto, with payment terms after the date of service of the decision admitting the agreement for payment in installments;

d) the tax liabilities administered by the tax body with payment terms after the date of service of the decision admitting the agreement for payment in installments;

e) the differences in tax liabilities resulting from rectifying returns;

f) the liabilities assessed by other bodies and sent for recovery purposes to the tax body, if the transfer of these liabilities is made during the term of the agreement for payment in installments;

g) the tax liabilities left not settled after the settlement of the returns in accordance with art. 190 para. (5).

(2) The taxpayer may submit at most two requests for amendment of the decision admitting the agreement for payment in installments within one year of payment in installments or, as applicable, within a fraction of a year of payment in installments, calculated as of the date of service of the decision admitting the agreement for payment in installments. These provisions are not applicable to the tax liabilities provided by para. (1)

letters a) and b) and para. (11).

(3) The request shall be submitted on or before the lapse of the term provided by art. 194 para. (1) letters a), b), c), f), g), h) or i) and it shall be settled by the competent tax body through a decision of amendment of the decision admitting the agreement for payment in installment or a decision of dismissal thereof, as applicable.

(4) The tax liabilities provided by para. (1) shall be included in the agreement for payment in installments with maintenance of the period of payment in installments already approved.

(5) By way of exception from the provisions of para. (4), for the tax liabilities provided by para. (1), as well as for the amounts left to pay from the agreement for payment in installments in progress, another period of time for the payment in installments can be approved at the debtor’s request, but it cannot exceed the period of time provided by art. 184 or 206, as applicable. The provisions of art. 184 para. (8) shall be properly applied.

(6) The amount and payment terms of the new installments shall be established through schedules of installments which are an integral part of the decision amending the agreement for payment in installments.

(7) When submitting the request, the debtor must also establish the collaterals provided by this chapter, in accordance with the conditions of amendment of the decision admitting the agreement for payment in installments.

(8) The debtor does not have to establish collaterals if the value of the collaterals already established covers the tax liabilities left from the payment in installments, as well as the tax liabilities for which the amendment of the decision admitting the payment in installments is requested. In the case of

collaterals already established in accordance with art. 193 para. (6) letter d), an addendum shall be concluded to the mortgage/pledge agreement.

(9) The provisions of art. 208 shall be properly applied to the late payment penalties that correspond to the amounts provided by para. (1).

(10) If the request for amendment of the decision admitting the agreement for payment in installments is dismissed, the debtor has the obligation to pay the amounts provided by para. (1) within 30 days as of the date of service of the dismissal decision.

(11) If the debtor obtains a suspension of the enforcement of the administrative-tax document which provides the tax liabilities subject to the payment in installments throughout the term of validity of this facility, the decision admitting the payment in installments shall be amended at the debtor's request.

Waiving the agreement for payment in installments

Art. 196. - (1) The debtor may waive the agreement for payment in installments throughout the term of validity thereof by submitting a waiver request.

(2) If the agreement for payment in installments is waived, the debtor must pay the tax liabilities left until the date when the agreement for payment in installments loses its validity. The provisions of art. 194 para. (3) and those of art. 208 para. (3) shall be properly applicable hereto.

(3) If the obligation provided by para. (2) is not observed, the provisions related to the payment in installments' loss of validity shall be applicable.

Interests and late payment penalties

Art. 197. - (1) Interests shall be owed and calculated in accordance with the provisions of art. 174 para. (5) throughout the term of the agreements for payment in installments for the tax liabilities included therein, with the exception of those provided by art.

173 para. (2). By way of exception from the provisions of art. 174 para. (5), the level of the interest shall be of 0.015% for every day of delay if the debtor establishes the entire collateral under the form of a letter of guarantee and/or warranty insurance policy and/or deposit of funds with a State Treasury unit.

(2) The interests shall be owed and calculated for every installment of the schedule of installments, as of the date of issuance of the decision admitting the agreement for payment in installments and until the payment term from the schedule or until the date of payment of the installment in accordance with art. 194 para. (1) letter d), as applicable.

(3) The interests owed and calculated for the late payment of the installments in accordance with art. 194 para. (1) letter d) shall be notified through a decision related to ancillary tax liabilities and shall be paid in accordance with the provisions of art. 156 para. (1).

(4) The late payment penalty provided by art. 176 shall be calculated until the date of issuance of the decision admitting the agreement for payment in installments.

(5) For the budget receivables assessed by other bodies and transferred for recovery purposes to the tax body in accordance with legal provisions, and for which the specific legislation provides another regime of calculation of interests, the provisions of the specific legislation shall be applicable.

Penalty

Art. 198. - (1) For installments paid with delay until the next payment term from the schedule of installments, as per the provisions of art. 194 para. (1) letter d), as well as for the differences of tax liabilities marked and left not settled after the settlement of the negative VAT returns with refund claim in accordance with art. 190 para. (5), a penalty shall be charged,

which shall be notified to the debtor through a decision related to ancillary tax liabilities and shall be paid in accordance with the provisions of art. 156 para. (1).

(2) The level of the penalty shall be of 5% of:

a) the amount left not settled from the installment representing principal tax liabilities and/or ancillary tax liabilities included in the agreement for payment in installments, including the interests owed throughout the term of the agreement for payment in installments, as applicable;

b) differences of tax liabilities marked and left not settled after the settlement of negative VAT returns with refund claim.

(3) The penalty shall be revenue of the State budget.

Loss of validity of the agreement for payment in installments and consequences thereof

Art. 199. - (1) The agreement for payment in installments loses validity on the date when the provisions of art. 194 para. (1) are no longer observed. The competent tax body shall issue a decision ascertaining the loss of validity of the agreement for payment in installments and shall serve it to the taxpayer.

(2) The loss of validity of the agreement for payment in installments leads to the start or continuance, as applicable, of the enforcement of the entire amount not settled.

(3) If the agreement for payment in installments loses validity, a penalty of 5% shall be owed for the amounts left from the agreement for payment in installments granted by the central tax body and representing principal and/or ancillary tax liabilities included in the agreement for payment in installments. The provisions of art. 198 para. (1) and (3) shall be properly applicable hereto.

Maintaining the agreements for payment in installments

Art. 200. - (1) The debtor may request to the competent tax body to maintain an agreement for payment in installments whose validity was lost due to the failure to observe the requirements provided by art. 194 para. (1) letters a) - j) and l) only once throughout the period of validity thereof, if he/she submits a request in this respect before the enforcement of the collateral by the competent tax body or before the settlement of the tax liabilities, as applicable. The request shall be settled through the issuance of a decision of maintenance of validity of the agreement for payment in installments with preservation of the period approved initially for the agreement.

(2) For the purpose of maintaining the validity of the agreement for payment in installments, the debtor shall have the obligation of paying the tax liabilities due on the date of service of the decision of maintenance of the validity of the agreement for payment in installments within 90 days as of the date of service of the decision, with the exception of those liabilities which were included in an agreement whose validity was lost. The provisions of art. 194 shall be properly applied.

Interests and late payment penalties in the case of loss of validity of an agreement for payment in installments

Art. 201. - If an agreement for payment in installments granted by the tax body loses validity, interests shall be owed in accordance with art. 174 as of the date of issuance of the decision admitting the agreement for payment in installments for the principal tax liabilities left to pay.

Enforcement of collaterals

Art. 202. - (1) If the agreement for payment in installments loses its validity, the competent tax body shall enforce the collaterals on account of the tax liabilities not settled yet.

(2) If the negative VAT returns with refund claim were not settled before the loss of validity of the agreement for payment in installments, the collaterals shall also be enforced on account of the liabilities marked for settlement through offsetting with refundable amounts, within the limit of the amount claimed for refund.

(3) If the negative VAT returns with refund claim are not settled on or before the completion of the agreement for payment in installments, the competent tax body shall enforce the collaterals established under the forms provided by art. 193 para. (6) letters a) and b) on account of the liabilities marked until the issuance of the decision of completion of the agreement for payment in installments. In this case, the date of settlement of the marked liabilities is the term provided by law for the submission of the negative VAT return with refund claim. In the case of collaterals established under the form of assets as per the provisions of art. 193 para. (6) letters c) and d), they shall be released after the returns are settled. The collaterals established under the forms provided by art. 193 para. (6) letters c) and d) shall be enforced if tax liabilities remain unsettled after the settlement of the returns.

Suspension of enforcement

Art. 203. - (1) For the amounts included in the agreement for payment in installments of tax liabilities, as well as for the liabilities provided by art. 194 para. (1) letters a) - c) and e) - j), the enforcement proceeding shall not start or it shall be suspended, as applicable, as of the date of service of the decision admitting the agreement for payment in installments. In the case of the liabilities provided by art. 194 para. (1) letter f), the enforcement shall be suspended after the summons is served.

(2) Once the debtor is served the decision admitting the agreement for payment in installments, the authorized tax bodies shall inform in writing the credit institutions where the debtor has the bank accounts opened and/or the garnished third parties holding/owing amounts of money of/to the debtor on the measures of suspension of the enforcement proceeding of garnishment.

(3) In the case provided by para. (2), the suspension of the enforcement proceeding of bank account garnishment shall have the effect of ceasing the blocking of future amounts resulting from daily collections in accounts in Lei and foreign currency, as of the date and time of service to the credit institutions of the notice of suspension of the enforcement through garnishment.

(4) The amounts found in the bank account on the date and time of service of the notice of suspension of the enforcement proceeding remain blocked and the debtor will be able to dispose of them only after he/she performs the payments for:

a) the liabilities administered by the authorized tax bodies on which the maintenance of the agreement for payment in installments depends;

b) salaries.

(5) In the case of garnished third parties, the suspension of the enforcement proceeding results in the unblocking of amounts owed by these third parties to the debtor, both present amounts and future ones, until the tax body serves a new notice regarding the continuance of the measures of enforcement through garnishment.

(6) The enforcement measures started with regard to the movable and/or immovable assets owned by the debtor shall be suspended as of the date of service of the decision admitting the agreement for payment in

installments.

Special regime of the tax liabilities whose payment depends on the maintenance of an authorization, an agreement or of another similar administrative document

Art. 204. - (1) In the case of debtors who requested agreements for payment in installments and have to pay the tax liabilities administered by the central tax body within a certain term in order to maintain an authorization, an agreement or another similar administrative document, the competent authority shall not revoke/suspend the document for the non-payment of tax liabilities on the term provided by the specific legislation, and the established collaterals shall not be enforced until the settlement of the request for granting of the agreement for payment in installments.

(2) If the request for granting of an agreement for payment in installments was dismissed or withdrawn, the debtors provided by para. (1) must pay the tax liabilities on whose payment the maintenance of the authorization, of the agreement or of another similar administrative document depends for the purpose of maintenance thereof, within 15 days as of the date of service of the dismissal decision or of the decision of acknowledgment of the withdrawal of the request. In this case, a new request for granting of an agreement for payment in installments may be submitted only after the aforementioned tax liabilities are paid.

(3) During the term of validity of the agreement for payment in installments, the competent authority shall not revoke/suspend the authorization, the agreement or the similar administrative document for the reason of non-payment of the tax liabilities within the term provided by the specific legislation, and the established collaterals shall not be enforced.

Calculation of terms

Art. 205. - (1) The terms established in this chapter, with the exception of that provided by art. 191

para. (2) and (3), shall be calculated by calendar days, starting with the day immediately following these terms and shall expire at midnight on the last day of the terms.

(2) If the terms provided by para. (1) end on a legal holiday or when the service is suspended, they shall be extended until the end of the next business day.

Special provisions for the agreements for payment in installments granted by the tax bodies

Art. 206. - (1) In the case of low risk debtors, the competent tax body may approve agreements for payment in installments of the outstanding tax liabilities for a term of at most 12 months.

(2) The debtor must cumulatively fulfill the following requirements in order to benefit from the agreement for payment in installments provided by para. (1):

a) the debtor must submit a request with the competent tax body;

b) if the requirements provided by art. 186 are fulfilled, with the exception of that provided by art. 186 para. (1) letter a);

c) the debtor must submit, within at most 30 days as of the date of service of the tax ascertaining certificate, a collateral of at most 20% of the amounts included in the agreement for payment in installments, as well as of the late penalties which might be included in the agreement for payment in installments in accordance with art. 208, as they are registered in the tax ascertaining certificate issued in accordance with the provisions of this chapter.

(3) For the purpose of this article, debtors are deemed to be low risk if they cumulatively fulfill the following requirements on the date of submission of their request:

a) they have no deeds registered in their tax

records;

b) no administrator and/or shareholder thereof has occupied the position of administrator or shareholder of a legal entity that was liquidated or for which the insolvency proceeding was opened and which had unpaid tax liabilities in the last 5 years prior to the submission of the request;

c) they are not temporarily inactive and registered as such with the trade register or with registers held by the authorized courts of law;

d) they have no outstanding tax liabilities older than 6 months;

e) they have not recorded accounting losses every year of the last 3 consecutive years. The accounting loss provided herein does not include the accounting loss carried forward and arising from the adjustments required by the application of the IAS 29 “Financial reporting in hyperinflationary economies” by the taxpayers who apply or have applied accounting regulations compliant with the International Financial Reporting Standards;

f) in the case of legal entities, they must have been incorporated at least 12 months prior to the submission of the request.

(4) The request submitted in accordance with the provisions of para. (2) letter a) shall be settled by the competent tax body within 15 business days as of the date of registration thereof. This term shall be extended with the period of time comprised between the date of service of the tax ascertaining certificate by the competent tax body and the date of submission of the collateral by the debtor.

(5) In accordance with this article, the debtors who have no outstanding tax liabilities on the date of submission of the request may request an agreement for payment in installments for their declared tax

liabilities, as well as for the tax liabilities assessed through a tax assessment and for which the due date or the payment term provided by art. 156 para. (1) has not lapsed, as applicable.

(6) The provisions of art. 208 shall be properly applied to the late payment penalties that correspond to the amounts included in the agreement for payment in installments in accordance with this article.

(7) If the tax body finds after the issuance of the decision admitting the agreement for payment in installments that the information included in the documents attached to the request submitted in accordance with para. (2) letter a) is not real, the tax body shall issue a decision of annulment of the agreement for payment in installments and of the decision of postponement of the payment of late payment penalties and the provisions of art. 199, 201 and 202 shall be properly applied.

Final provisions

Art. 207. - (1) The competent tax body who issues the decision of payment in installments may correct the errors therein, either ex officio or at the debtor’s request, through an error correction decision. The error correction decision produces effects with regard to the debtor as of the date of service thereof, as provided by law.

(2) If tax liabilities were settled during the time interval between the date of issuance of the tax ascertaining certificate and the date of service of the decision of payment in installments through any means provided by law and these tax liabilities are included in the amount which is provided for payment in installments, the debtor shall pay the installments until the amount left to pay is reached.

(3) By way of exception from the provisions of para. (2), if it is found before the issuance of the

decision for payment in installments that more than 50% of the tax liabilities provided for payment in installments have been settled, the competent tax body shall issue a new tax ascertaining certificate at the debtor’s request and the provisions of this chapter shall then be properly applied.

(4) The debtor may prepay, either in total or in part, the amounts provided by the schedule of payment in installments. In this case, the debtor shall notify the tax body through the request on his/her intention of prepaying these amounts. In the case of partial prepayment, the competent tax body shall inform the debtor, on or before the next payment term from the schedule of installments, on the settlement of the amounts owed on account of the following installments approved, until the amount paid is reached.

(5) If more than 3 installments from the schedule of payment in installments are settled, the competent tax body shall remake the schedule of payment in installments ex officio, on or before the following payment term of the installments, under observance of the approved term of the agreement for payment in installments. In this case, the installments subject to anticipatory settlement shall be chargeable on the date of payment or on the date of issuance of the refund decision, as applicable. The new schedule of payment in installments shall be served to the debtor through a decision of the tax body.

(6) If the schedule of payment in installments includes budget receivables assessed by other bodies and transfered for recovery purposes to the tax body in accordance with the law, and these receivables have not been settled, either fully or partially, in accordance with the specific legislation by the bodies who administer them, the schedule of payment in installments shall be properly redone.

Payment postponement of late payment penalties

Art. 208. - (1) During the term of the agreement for payment in installments the payment of the late payment penalties that correspond to the tax liabilities included in this agreement shall be postponed through a decision which shall be served to the debtor at the same time as the decision of payment in installments. These provisions shall also apply, as applicable, to a percentage of 50% of the additional tax assessed for late payment which represents the penalty component thereof and corresponds to the tax liabilities included in the agreement for payment in installments.

(2) The collaterals or the value of the assets provided by art. 193 para. (13) - (16) must cover the late payment penalties and the additional tax assessed for late payment that were postponed.

(3) If the payment in installments is completed in accordance with the provisions of art. 194 para. (3), the late payment penalties, as well as the additional tax asssessed for late payment which were postponed shall be annulled through a decision which shall be served to the debtor at the same time as the decision of completion of the payment in installments.

(4) If the agreement for payment in installments losses its validity, this will lead to a loss of validity of the payment postponement of the late payment penalties and/or of the additional tax assessed for late payment. In this case, once with the decision ascertaining the loss of validity of the agreement for payment in installments the debtor shall be also served the decision on the loss of validity of the payment postponement of the late payment penalties and/or of the additional tax assessed for late payment.

(5) If the agreement for payment in installments losses its validity in accordance with the provisions of art. 199, the collaterals shall be enforced on account of

the postponed late payment penalties and/or additional tax assessed for late payment as well.

Legislative acts of enforcement

Art. 209. - The proceeding of enforcement of the agreements for payment in installments granted by the central tax body shall be approved through order of the chairman of the A.N.A.F.

CHAPTER V
Collaterals

Establishment of collaterals

Art. 210. - The tax body shall request the establishment of collaterals for:

a) the suspension of enforcement, in accordance with the provisions of art. 233 para. (8);

b) the lifting of safeguarding measures;

c) the undertaking of the payment liability by another person through a payment commitment, as provided by art. 24 para. (1) letter a);

d) in other cases provided by law.

Types of collaterals

Art. 211. - The collaterals for taking the measures provided by art. 210 can be established in accordance with the law through:

a) deposit of money with a State Treasury unit;

b) a letter of guarantee issued by a credit institution or a warranty insurance policy issued by an insurance company. If the letter of guarantee/the warranty insurance policy is issued by a financial institution outside Romania, it must be confirmed and accepted by a Romanian credit or insurance institution;

c) a mortgage on movable or immovable assets located inside the country;

d) a pledge over movable assets.

Use of the collaterals

Art. 212. - (1) The competent tax body shall use the collaterals if the purpose for which they were established is not achieved.

(2) In the case of the collaterals provided by art. 211 letters a) and b), the tax body shall order to the issuing credit institution/insurance company or the financial institution which confirmed and accepted the letter of guarantee/warranty insurance policy or to the State Treasury unit, as applicable, to transfer the amount of money into the corresponding budget revenue accounts.

(3) The use of the collaterals provided by art. 211 letters c) and d) shall be also made through the means and proceedings provided by the provisions of art. 247 para. (2) - (6) and of art. 248-259, which shall be properly applied.

CHAPTER VI
Precautionary measures

Garnishments and distraints

Art. 213. - (1) The safeguarding measures provided by this chapter shall be ordered and enforced by the competent tax body through administrative proceeding.

(2) Precautionary measures under the form of garnishments and distraints shall be ordered upon the movable and/or immovable assets owned by the debtor, as well as upon the income thereof, in exceptional cases, namely when there is danger that the debtor might avoid payment, or hide or squander his/her assets, thus endangering collection or making it considerably more difficult. The provisions of art. 231 remain applicable.

(3) These measures can be taken before the issuance of the receivable document as well, and even

when audits are performed or joint liability is triggered. The safeguarding measures ordered both by the authorized tax bodies and by the courts or law or other competent bodies remain valid throughout the whole term of the enforcement with no other formalities being necessary, provided they were not annulled in accordance with the law. Once the receivable is individualized and reaches its due date the safeguarding measures become enforcement measures if the receivable is not paid.

(4) The safeguarding measures shall be ordered through a decision issued by the competent tax body. In this decision, the tax body shall inform the debtor that if he/she establishes a collateral at the level of the assessed or estimated receivable, as applicable, the safeguarding measures shall be lifted.

(5) The decision of establishment of the safeguarding measures must be motivated and signed by the manager of the competent tax body.

(6) The safeguarding measures ordered in accordance with para. (2), as well as those ordered by the courts of law or by other competent bodies, shall be enforced in accordance with the provisions related to enforcement, which shall be properly applied.

(7) If the safeguarding measures were taken before the issuance of the receivable document, they shall cease if the receivable document was issued and served within at most 6 months as of the date when the safeguarding measures were ordered. In exceptional cases, this term can be extended to up to one year through a decision of the competent tax body. The tax body shall have the obligation to issue the decision lifting the safeguarding measures within at most two days as of the lapse of the term of 6 months or one year, as applicable, and to release the collateral in the case of garnishments.

(8) By way of exception from the provisions of para. (7), if safeguarding measures were established and the criminal prosecution bodies were notified in accordance with the law, the safeguarding measures shall cease by operation of law on the date when safeguarding measures were taken in accordance with the Law no. 135/2010 on the Code of Criminal Proceedings, as subsequently amended and supplemented.

(9) Perishable and/or degradable assets subject to distraints can be sold:

a) by the debtor, based on the consent of the enforcement body, and the amounts obtained will be made available to the enforcement body;

b) through emergency sale, in accordance with the provisions of art. 247 para. (4).

(10) If a distraint is established on movable assets, one counterpart of the report elaborated by the enforcement body shall be served for registration to the Land Register Office.

(11) The registration provided by para. (10) makes the distraint opposable to all who acquire any right over that immovable asset after the registration. The acts of alienation which are concluded after the registration provided by para. (10) shall be null and void.

(12) If the value of the debtor’s own assets does not fully cover the tax receivable of the general consolidated budget, the safeguarding measures can be established over assets held by the debtor in common ownership with third parties, for the share of the debtor.

(13) The interested person may file an appeal before the authorized administrative court against the decision ordering the establishment of safeguarding measures as provided by para. (4).

(14) The interested person may file an appeal against enforcement in accordance with the provisions of art. 260 and 261 against the acts of enforcement of the safeguarding measures.

Lifting of safeguarding measures

Art. 214. - (1) The safeguarding measures established in accordance with art. 213 shall be lifted through a motivated decision by the tax creditor when the reasons why the measures were ordered ceased or when the collateral provided by art. 211 is established, as applicable.

(2) The decision of lifting the safeguarding measures issued in accordance with the provisions of para. (1) shall be enforced by the authorized enforcement body and shall be served to all those who were served the decision ordering the safeguarding measures or the other acts of enforcement related thereto.

CHAPTER VII
Limitation period on the right to claim enforcement and on the right to claim refund

Start of the limitation period

Art. 215. - (1) The right of the enforcement body to claim the enforcement of tax receivables is subject to a limitation period of 5 years, starting on January 1 of the year following that in which this right was born.

(2) The limitation period provided by para. (1) shall also apply to receivables arising from fines for civil offenses.

Suspension of the limitation period

Art. 216. - The limitation period provided by art. 215 shall be suspended:

a) in the cases and under the conditions provided by law for the suspension of the limitation period of the right to file a court action;

b) in the cases and under the conditions under which the suspension of enforcement is provided by law or was ordered by the court of law or by another authorized body, according to legal provisions;

c) during the term of validity of the facility awarded in accordance with legal provisions;

d) as long as the debtor hides his/her income and assets to avoid enforcement;

e) in other cases provided by law.

Interruption of the limitation period

Art. 217. - The limitation period provided by art. 215 shall be interrupted:

a) in the cases and under the conditions provided by law for the interruption of the limitation period of the right to file a court action;

b) on the date when the debtor makes a voluntary payment of the liability provided by the writ of enforcement or recognizes in any way his/her debt, before the start of the enforcement or during the term of the enforcement;

c) on the date of fulfillment of any act of enforcement throughout the term of the enforcement;

d) on the date of service of the protocol of insolvency without assets and income that can be confiscated;

e) in other cases provided by law.

Effects of the lapse of the limitation period

Art. 218. - (1) If the enforcement body finds that the limitation period lapsed with regard to the right to claim enforcement for the tax liabilities, it shall cease the measures of enforcement and eliminate the liabilities from the records of tax liabilities.

(2) The amounts paid by the debtor on account of tax liabilities after the lapse of the limitation period shall not be refunded.

Limitation period on the right to claim refunds

Art. 219. - The right of the taxpayer/payer to claim the refund of tax receivables is subject to a limitation period of 5 years, starting on January 1 of the year following that in which this right was born.

CHAPTER VIII
Settlement of tax receivables through enforcement

SECTION 1
General Provisions

Enforcement bodies

Art. 220. - (1) If the debtor does not pay willingly the tax liabilities he/she owns, the competent tax body shall take enforcement actions for the settlement of those liabilities, as per the provisions of this code, with the exception of the case in which there is a request for refund/reimbursement in process of settlement and the amount claimed therein is equal to or bigger than the tax liability owed by the debtor.

(2) The tax body which administers tax liabilities is authorized to implement the enforcement measures and to perform the enforcement proceeding.

(3) The budget receivables which are administered by public authorities or institutions, as provided by law, including those representing own revenues, can be enforced through tax executors organized in specialty departments, who can be authorized to take the enforcement measures and implement the enforcement proceeding in accordance with the provisions of this code.

(4) The bodies provided by para. (2) and (3) shall be hereinafter referred to as *enforcement bodies*.

(5) The enforcement bodies provided by para. (4) are also authorized to enforce the receivables provided

by art. 226 para. (3).

(6) In the case of tax receivables administered by the central tax body, for the purpose of performing the enforcement proceeding, the authorized body shall be the enforcement body with territorial authority over the assets that can be confiscated, and the entire enforcement activity shall be coordinated by the enforcement body authorized in accordance with art. 30. If the enforcement is made through garnishment, the enforcement measure shall be applied by the coordinating enforcement body provided by para. (7) - (9).

(7) The coordination of the enforcement in cases of joint liability with the debtor undergoing insolvency, as provided by art. 25, as well as in the case provided by art. 24 para. (1) letter b) shall be made by the enforcement body authorized in accordance with art. 30.

(8) The coordination of the enforcement in cases of liability of the members of management bodies, as per the provisions of the insolvency legislation, shall be made by the enforcement body authorized in accordance with art. 30 in whose territory the insolvent debtor has/had the tax domicile.

(9) The coordinating enforcement body in the case provided by art. 252 para. (2) shall be that in whose territory is the tax domicile of the debtor or where the debtor whose assets were adjudicated operates.

(10) If it was ordered in accordance with the law that the members of the management bodies are to be made liable, as per the provisions of the insolvency legislation, for tax receivables as well, by way of derogation from the provisions of art. 173 in the Law no. 85/2014, the enforcement shall be carried out in accordance with the provisions of this code by the

enforcement body provided herein. If the liability refers to both tax receivables administered by the central tax body and to tax receivables administered by the local tax body, the authorized body shall be the one with the bigger tax receivable. In this case, the enforcement body shall distribute the amounts it obtains in accordance with the order provided by the Law no. 85/2014.

(11) When it is found that there is a clear danger of sale, substitution or avoidance of the enforcement of the debtor's assets and revenues that can be confiscated, the enforcement body under whose territorial authority the tax domicile of the debtor is located may proceed to seize and enforce them, no matter where the assets are found.

(12) The coordinating enforcement body shall notify in writing the other bodies provided by para. (6) and serve them a certified copy of the writ of enforcement, the debtor's situation, the account into which the collected amounts are to be paid, as well as any other data which are useful for the identification of the debtor and of the assets or revenues thereof which can be confiscated.

(13) If enforcement was started with regard to the same revenues or assets of the debtor both for the writs of enforcement related to tax receivables and for writs of enforcement which are enforced in accordance with other legal provisions, the enforcement actions shall be connected and carried out in accordance with the provisions of this code by the enforcement body provided herein. In this case, the authorized body shall be the tax body with the bigger tax receivable. If there is a conflict between the enforcement tax bodies with regard to the connection of the enforcement actions, the provisions of art. 41-43 shall be applicable.

(14) The provisions of para. (13) shall not apply

in the following cases:

a) if the value of the debtor's assets covers only the receivables of other creditors that hold higher ranking collaterals compared to the tax creditor;

b) if the enforcement started by the judicial executor is in an advanced stage and the sale of the assets subject to enforcement ensures the full recovery of the tax receivables.

(15) If over the same assets of the debtor enforcement actions were started by a judicial executor and a tax enforcement body, the authorized court of law shall order the connection of the enforcement actions in accordance with the provisions of this article at the request of either the interested person or of any of the executors. The provisions of art. 654 para. (2) - (4) in the Code of Civil Proceedings, as republished, shall be properly applicable hereto.

(16) When it is found that the tax domicile of the debtor is located within the territory of another enforcement body, the writ of enforcement and the enforcement file shall be sent to that body and the body from which the writ of enforcement was received shall be informed in this respect, if applicable.

Special rules on the enforcement of tax receivables administered by the local tax body

Art. 221. - (1) Local public administration authorities have the obligation to collaborate and perform the enforcement proceeding of the tax receivables owed to the local budgets of the administrative-territorial units or, as applicable, of the administrative-territorial subdivisions of municipalities.

(2) If the debtor does not have assets which can be confiscated in the territory of that administrative-territorial unit or of the subdivision of the administrative-territorial unit of the municipality, the authority of performance of the enforcement

proceeding shall belong to the local tax body authorized over the territory where the assets that can be confiscated are found.

(3) The local tax body of the local public administration authority which administers the tax liabilities of the local budget of an administrative-territorial unit or, as applicable, a subdivision of an administrative-territorial subdivision of the municipality, referred to in this article as *requesting authority*, shall request in writing to the local tax body of the local public administration authority with authority over the territory where the movable or immovable assets are located, referred to in this article as *requested authority*, to carry out the enforcement proceeding.

(4) The request must include the following information:

a) the identification details of the debtor;

b) the value of the receivable that needs to be recovered;

c) the value of the ancillary tax receivables assessed in accordance with the law until the date of the request;

d) the account where the collected amounts must be transferred;

e) any data necessary for the identification of the assets that can be confiscated, if applicable.

(5) The request must be accompanied by a copy of the writ of enforcement.

(6) The requested authority shall confirm in writing the receipt of the request within 10 days as of receipt.

(7) The requested authority may refuse to perform the enforcement proceeding in the following cases:

a) the writ of enforcement is not valid;

b) the request does not contain all the information

provided by para. (4).

(8) The amounts obtained through the enforcement shall be transferred to the requesting authority. The provisions of art. 256 shall be properly applied.

Enforcement in the case of joint debtors

Art. 222. - (1) The coordinating enforcement body in the case of joint debtors is that with authority over the territory where the tax domicile of the debtor about whom there are clues that he/she holds more revenues or assets that can be confiscated is located.

(2) The enforcement in the case of joint liability as provided by art. 25 and 26 shall be coordinated by the enforcement body with authority over the territory where the tax domicile of the debtor undergoing insolvency is located or by the competent enforcement body appointed in accordance with art. 30, as applicable.

(3) The coordinating enforcement body shall register the entire debt in its records and take enforcement measures, informing the enforcement bodies with authority over the territory where the tax domiciles of the other co-debtors are located about the entire debt, with application of the provisions of art. 220.

(4) The notified enforcement bodies who were informed about the debt shall take enforcement measures and inform the coordinating enforcement body on the amounts obtained on the debtor’s account within 10 days as of obtaining them, after they register the debt in a nominal record.

(5) If the coordinating enforcement body which keeps the records of the entire debt finds that the debt was recovered through the enforcement measures taken by itself and the other bodies notified in accordance with para. (4), it shall have the obligation to request in

writing to these other bodies to stop the enforcement at once.

Tax executors

Art. 223. - (1) The enforcement shall be carried out by the authorized enforcement body through tax executors. The tax executors must hold an employee ID card they must present when they carry out their activities.

(2) The tax executors are authorized before the debtor and before third parties through the tax executor ID and the appointment order issued by the enforcement body.

(3) For the purpose of performance of the enforcement, tax executors may:

a) enter any business enclosure of the debtor, legal entity, or any other enclosures where it keeps its assets, in order to identify the assets or values that can be confiscated, as well as to verify the accounting records of the debtor so as to identify the third parties who owe or hold for keeping revenues or assets of the debtor;

b) enter all rooms where assets or values of the debtor, individual, are found, as well as check all places where he/she keeps his/her assets;

c) request and check any document or material element which could be evidence in establishing the assets owned by the debtor;

d) apply seals on the assets, and elaborate a protocol in this respect;

e) ascertain civil offenses and apply sanctions in accordance with the law.

(4) The tax executor may enter the rooms which represent the domicile or residence of an individual based on the individual’s consent and, if the individual refuses, the enforcement body shall request authorization from the authorized court of law, as

provided by the Code of Civil Proceedings.

(5) The tax executor may be provided access to the dwelling, business enclosure or any other room of the debtor, either individual or legal entity, between 6 AM and 8 PM, on any business day. An enforcement which started can be continued on the same day or on the following days. In cases justified by the danger of certain assets being alienated, the rooms of the debtor can be accessed at other hours than the aforementioned, as well as on non-business days, based on the authorization provided by para. (4).

(6) If the debtor is absent or if he/she refuses to grant access to any of the rooms provided by para. (3), the tax executor may enter those rooms in the presence of a representative of the police or of the gendarmerie or of another agent of the public force and of two adult witnesses, with application of the provisions of para. (4) and (5).

Enforcement against revenues of the general consolidated budget

Art. 224. - Taxes, charges, social contributions and any other revenues of the general consolidated budget cannot be confiscated by any creditor for any category of receivables within the enforcement proceeding.

Enforcement against an association without legal personality

Art. 225. - For the enforcement of the tax receivables owed by an association without legal personality, even if the writ of enforcement is made in the name of the association, both the movable and immovable assets of the association, as well as the personal assets of the members thereof can be enforced.

The writ of enforcement and the conditions for starting the enforcement

Art. 226. - (1) The enforcement of tax receivables is made on the basis of a writ of enforcement issued in accordance with the provisions of this code by the

authorized enforcement body in accordance with art. 30.

(2) The writ of execution issued in accordance with the law by the enforcement body provided by para. (1) mentions the tax receivables, both principal and ancillary, not paid when due, which are assessed and individualized in tax receivable documents elaborated and served in accordance with the law, as well as the budget receivables individualized in other documents which represent writs of execution in accordance with the law. No writ of execution can be issued in the absence of a tax receivable document issued and served in accordance with the law or of a document which represents a writ of enforcement in accordance with legal provisions.

(3) The enforcement of budget receivables resulting from contractual legal relationships is carried out on the basis of the court judgmenta or of another document which represents a writ of enforcement in accordance with the law.

(4) The receivable document becomes a writ of enforcement on the due date or payment term provided by law.

(5) The amendment of the receivable document leads to the corresponding amendment of the writ of enforcement.

(6) The writ of enforcement issued in accordance with para. (1) by the authorized enforcement body provides the following, apart from the elements mentioned at art. 46: the amount and type of the amounts owed and not paid, the description of the receivable document or of the deed which represents a writ of enforcement, as well as the legal grounds for the document’s enforcement power.

(7) The failure to transmit the reports of ascertaining and sanctioning of civil offenses within

90 days as of the service thereof to the offender triggers the liability of the persons at fault, as provided by law. The late transmission of the reports does not prevent their enforcement if the limitation period of the enforcement has not lapsed.

(8) If the writs of enforcement issued by other bodies than those provided by art. 30 para. (1) do not include any of the following elements: the first and last name or the denomination of the debtor, the personal numeric code, the sole registration code, the domicile or seat, the amount owed, the legal grounds, the signature of the issuing body and the proof of service thereof, the enforcement body shall return at once the writs to the issuing bodies.

(9) If the writ of enforcement was sent for enforcement purposes by another body, the enforcement body shall confirm its receipt within 30 days.

(10) Public institutions financed fully or partially from the State budget, the State social insurance budget, the budget of the National Single Fund of Health Insurance and the budget of unemployment insurance, as applicable, which do not have own enforcement bodies, shall send for enforcement purposes the writs of enforcement related to revenues of the general consolidated budget to the tax bodies subordinated to the A.N.A.F. The amounts thus obtained shall be a revenue of the State budget.

(11) Public institutions financed fully from own revenues which do not have own enforcement bodies may transmit the writs of enforcement related to own revenues to the central tax body or the local tax body, as applicable. The amounts thus obtained shall be a revenue of the State budget or of the local budget, as applicable.

(12) Public institutions fully or partially financed

from the local budget which do not have own enforcement bodies shall send the writs of enforcement related to revenues of the local budget to the local tax body for enforcement purposes. The amounts thus obtained shall be a revenue of the local budget.

(13) Public institutions subordinated to the administrative-territorial units/subdivisions financed fully from own revenues which do not have own enforcement bodies may send the writs of enforcement related to own revenues to the local tax body. The amounts thus obtained shall be a revenue of the local budget.

Rules related to enforcement

Art. 227. - (1) Enforcement can be extended to cover revenues and assets owned by the debtor which can be confiscated in accordance with the law and they shall be sold only to the extent necessary for the realization of the tax receivables and of the enforcement expenses. The enforcement of assets owned by the debtor which can be confiscated under the law shall be usually made within the limit of 150% of the value of the tax receivables, including the enforcement expenses, with the exception of the case in which for objective reasons related to the debtor's asset situation this level cannot be observed.

(2) Shall be subject to distraints and sale the assets owned by the debtor which can be confiscated and which he/she presents and/or are identified by the enforcement body, in the following order:

a) movable and immovable assets which are directly used in the activity which represents the main source of income;

b) assets which are directly dedicated to the performance of the activity which represents the main source of income;

c) movable and immovable assets which are temporarily held by other persons on the basis of lease

agreements, loan agreements, rent based agreements, concession agreements, leasing agreements and others;

d) the ensemble of assets, as provided by art. 246;

e) machine-tools, machines, raw materials and material and other movable assets, as well as immovable assets which are used in the activity that represents the main source of income;

f) finite products.

(3) The tax body may place distraints on the assets from the following category from those provided by para. (2) anytime the sale is not possible.

(4) The assets subject to special circulation regimes can be confiscated only under observance of the conditions provided by law.

(5) The means of enforcement provided by this code can be used successively or concurrently within the enforcement proceeding.

(6) The enforcement of tax receivables is not subject to obsolescence.

(7) The enforcement shall be carried out until the tax receivables registered in the writ of enforcement are settled, including ancillary tax receivables or other amounts owed or granted in accordance with the law through the writ of enforcement, and enforcement expenses.

(8) If the writ of enforcement provides, as applicable, ancillary tax receivables or other amounts and the sum thereof was not established, they shall be calculated by the enforcement body and shall be registered in a report which represents a writ of enforcement and shall be served to the debtor.

(9) With regard to third parties, including the State, real property collaterals and other real encumbrances over assets have a priority degree which is set as of the time they were made public through any of the methods provided by law.

The obligation of information

Art. 228. - In order to start the enforcement, the authorized enforcement body may use the means of evidence provided by art. 55 so as to determine the assets and revenues of the debtor. At the request of the tax body, the debtor has the obligation of supplying in writing the requested information, on his/her own liability.

Mentioning of the debt's nature

Art. 229. - All enforcement acts must mention the writ of enforcement and show the nature and amount of debt subject to enforcement.

The summons

Art. 230. - (1) Enforcement starts through the service of the summons. If the debt is not paid within 15 days as of service of the summons, the enforcement measures shall be continued. The summons is accompanied by one counterpart of the writ of enforcement issued by the enforcement body.

(2) The summons comprises, apart from the elements provided by art. 46, the following: the number of the enforcement file; the amount for which the enforcement is started; the term within which the person summoned must pay the amount provided by the writ of enforcement, as well as the consequence of not observing the aforementioned term.

(3) If the debtor has certain, liquid and chargeable amounts to collect from public authorities or institutions, the enforcement shall be continued through garnishment of these amounts anytime a document issued by that public authority or institution is submitted at the tax body after the service of the summons and certifies that the amounts in question are certain, liquid and chargeable. The provisions of art. 236 shall be properly applied.

(4) The amounts in litigation shall be not be

deemed chargeable and the provisions of para. (3) shall not be applicable thereto.

(5) If the document provided by para. (3) was submitted after certain enforcement measures were taken in accordance with this code, these measures shall be lifted after the application of the garnishment over the amounts provided by the document issued by the public authority or institution, within the limit of those amounts and under observance of the level provided by art. 227 para. (1).

(6) If the document provided by para. (3) was submitted after the settlement of the amounts for which the enforcement was started, it shall be taken into account for the following enforcements.

Rights and obligations of the third party

Art. 231. - The third party may oppose the seizing of assets of the debtor by invoking a right of pledge, a mortgage right or a privilege. The third party shall participate to the distribution of the amounts resulting from the sale of the asset, as per the legal provisions.

Assessment of the assets subject to enforcement

Art. 232. - (1) The assets shall be valued before being sold. The valuation shall be done by the enforcement body through own valuation experts or independent valuation experts. The independent valuation experts shall be appointed in accordance with art. 63. Both own valuers and independent valuers shall have the obligation to fulfill their duties as provided by this code and by the act ordering the expert investigation, as well as by their appointment document.

(2) The enforcement body shall update the valuation price by considering the inflation rate.

(3) When it is deemed necessary, the enforcement

body shall make a new valuation.

(4) The enforcement body may perform a new valuation in situations like: when amendments of the prices of circulation of the assets on the free market are noted, when the value of the asset has changed through deteriorations or through improvements. The provisions of para. (1) shall be properly applied.

Suspension of enforcement

Art. 233. - (1) The enforcement shall be suspended:

a) when the suspension was ordered by the court of law or by the creditor, as provided by law;

b) on the date of service of the payment facility approval, in accordance with the law;

c) in the case provided by art. 244;

d) for a term of at most 6 months, in exceptional cases, and only once for the same debtor, through Government decision;

e) in other cases provided by law.

(2) The enforcement shall be also suspended if, after the start thereof, an application for refund/reimbursement is submitted, and the amount claimed is equal to or bigger than the tax receivable for which the enforcement was started. In this case, the enforcement shall be suspended on the date of submission of the application.

(3) During the suspension of the enforcement, the acts of enforcement previously performed, as well as any other measures of enforcement, including those which make unavailable assets, revenues or amounts from bank accounts, shall remain valid.

(4) The suspension of the enforcement proceeding of bank account garnishment shall have the effect of ceasing the blocking of future amounts resulting from daily collections in accounts in Lei and foreign currency, as of the date and time of service to the credit

institutions of the notice of suspension of the enforcement through garnishment.

(5) The amounts found in the bank account on the date and time of service of the notice of suspension of the garnishment proceeding set by the tax body remain blocked and the debtor will be able to dispose of them only after he/she performs the payments for:

a) coverage of the tax liabilities administered by the authorized tax bodies;

b) salaries.

(6) In the case of garnished third parties, the suspension of the enforcement proceeding results in the unblocking of amounts owed by these third parties to the debtor, both present amounts and future ones, until the enforcement body serves a new notice regarding the continuance of the measures of enforcement through garnishment.

(7) If the garnishments set by the enforcement body make it impossible for the debtor to continue his/her economic activity and this has extraordinary social consequences, the tax body may order either a total or a partial suspension of the enforcement through garnishment, at the debtor’s request and considering the reasons invoked by the debtor. Suspension may be ordered only once in 2 calendar years and for a term of at most 6 consecutive months as of the date of service to the bank or to another garnished third party of the act of suspension of the garnishment.

(8) At the same time as the suspension request provided by para. (7) is submitted, the debtor must indicate the unencumbered assets offered for seizure or other collaterals provided by law which amount to the sum for which the enforcement was started.

(9) The provisions of para. (8) shall not apply if the value of the assets already confiscated by the enforcement body cover the value of the receivable for

which the enforcement through garnishment was started.

(10) If the tax receivables are not entirely settled on the expiration date of the period for which the suspension of the enforcement through garnishment was approved, the tax body authorized to administer these receivables shall use the collaterals provided by para. (8).

Termination of the enforcement and lifting of the enforcement measures

Art. 234. - (1) The enforcement shall be terminated if:

a) the tax liabilities provided by the writ of enforcement were fully settled, including the ancillary payment liabilities, the enforcement expenses and any other amounts established to be paid by the debtor, in accordance with the law;

b) the writ of enforcement was annulled;

c) in other cases provided by law.

(2) The enforcement measures applied in accordance with the provisions of this code shall be lifted through a decision elaborated by the enforcement body within at most two days as of the date when the enforcement was terminated. The failure to observe the aforementioned term shall trigger liability in accordance with art. 341 para. (2).

(3) If the tax receivables mentioned in writs of enforcement are settled through payment, garnishment or other means provided by this code, the distraints applied on the basis of those writs on the assets which have values lower than or equal to the amount of the tax receivables thus settled, shall be lifted through a decision elaborated by the enforcement body within at most two days as of the settlement date.

(4) The enforcement body shall lift the garnishment for the amounts which exceed the amount of receivables mentioned in the notice of establishment

of the garnishment if the information provided by banks reveals that the amounts blocked in favor of the enforcement body cover the tax receivables mentioned in the notice of establishment of the garnishment and the conditions for coverage of the receivable are fulfilled.

(5) Bank garnishment shall be also lifted if the enforcement body finds that the garnishment no longer has any object.

Suspension of the enforcement in case of presentation of a letter of guarantee/warranty insurance policy

Art. 235. - (1) In the case of appeals formulated against the administrative-tax documents establishing tax receivables as per the provisions of this code, including during the time of settlement of the action before the administrative courts, the enforcement shall be suspended or it shall not start for the appealed tax liabilities if the debtor submits before the competent tax body a letter of guarantee/warranty insurance policy which covers the appealed and unpaid tax liabilities. The validity of the letter of guarantee/warranty insurance policy must be of at least 6 months as of issuance date.

(2) If the appeal or administrative court action is dismissed, either in total or in part, during the term of validity of the letter of guarantee/warranty insurance policy, the tax body shall enforce the collateral on the last day of validity thereof if the following conditions are cumulatively fulfilled:

a) the taxpayer/payer fails to pay the tax liabilities for which the appeal or the administrative action was dismissed;

b) the taxpayer/payer does not submit a new letter of guarantee/warranty insurance policy;

c) the court of law did not order through an enforceable judgment the suspension of the administrative-tax document, as per the provisions of the Law no. 554/2004, as subsequently amended and supplemented.

(3) The letter of guarantee/warranty insurance policy no longer has an object in the following cases:

a) the appeal was fully admitted by the appeal settlement body;

b) the appealed administrative-tax document was fully annulled by the appeal settlement body;

c) the action filed with the administrative court was fully admitted;

d) the court of law admits through enforceable judgment the request of the taxpayer/payer of suspension of the enforcement of the administrative-tax document in accordance with the Law no. 554/2004, as subsequently amended and supplemented;

e) if, during the period of settlement of the appeal either through an administrative proceeding or before the administrative court, the taxpayer/payer pays in full the appealed tax liabilities.

(4) If the taxpayer/payer partially pays the appealed tax liabilities, he/she has the possibility of adequately resizing the collateral.

(5) During the term of suspension of the enforcement in accordance with this article, the tax receivables which are subject to suspension shall not be settled, with the exception of the case in which the debtor opts for their settlement in accordance with art. 165 para. (8).

SECTION 2

Enforcement through garnishment

Enforcement of amounts due to the debtors

Art. 236. - (1) Shall be subject to enforcement through garnishment any amounts which can be confiscated representing revenues and available funds in Lei and foreign currency, securities or other intangible movable assets, either held by and/or owed under any title to the debtor by third parties or which they will owe and/or hold in the future on the basis of

existing judicial relationships.

(2) The amounts representing non-reimbursable loans or financing received from international institutions or organizations for the implementation of programs or projects shall not be subject to enforcement through garnishment if the enforcement proceeding was started against the beneficiary thereof.

(3) In the case of amounts which can be confiscated representing revenues and available funds in foreign currency, the banks are authorized to convert the amounts in foreign currency into Lei without the consent of the account holder, at the exchange rate communicated by the banks on that day.

(4) The amounts which represent revenues in money of the individual debtor, which he/she obtains as employee, pensions of any kind, as well as aid or indemnities of special use, shall be subject to seizure only as provided by the Code of Civil Proceedings.

(5) The garnishment over revenues of individual debtors or legal entity debtors shall be established by the enforcement body through a letter which shall be served to the garnished third party, under observance of the term provided by art. 230 and after previously informing the debtor on the garnishment.

(6) Garnishment is not subject to validation.

(7) The garnishment previously established as a safeguarding measure becomes enforceable through service of the certified copy of the writ of enforcement to the garnished third party and the notification of the debtor in this respect.

(8) The garnishment shall be deemed established as of the time of receipt of the establishment notice by the garnished third party. In this respect, the garnished third party has the obligation of recording both the day and the time of receipt of the garnishment notice.

(9) After the garnishment is established, the

garnished third party has the obligation of:

a) paying to the tax body, at once or after the date when the receivable becomes chargeable, the amount withheld and due, into the account provided by the enforcement body;

b) blocking the garnished intangible movable assets and informing the enforcement body in this respect;

c) if the garnishment is established, with the exception of garnishment over amounts in bank accounts, it has the obligation of transferring the indicated amount to the tax body, either at once or after the date when the receivable becomes chargeable, into the collaterals account mentioned by the enforcement body. The transferred amount represents a collateral within the meaning of art. 211 letter a).

(10) If the garnished third party does not owe any amount of money to the debtor on the date of service of the garnishment notice or will not owe such amounts in the future on the basis of existing judicial relationships, it shall inform the enforcement body about this within 5 days as of receipt of the garnishment notice.

(11) If the amounts owed to the debtor are garnished by several creditors, the garnished third party shall inform in writing the creditors about this and shall distribute the amounts in accordance with the preference order provided by art. 258.

(12) The debtors holding bank accounts can be garnished for the purpose of settlement of tax liabilities and the provisions of para. (5) shall be properly applied thereto. In this case, by way of exception from the provisions of art. 230 para. (1), the garnishment cannot be established before the lapse of a term of 30 days as of the date of service of the summons.

(13) If necessary for the payment of the amount

owed on the date of notification of the bank as per para. (12), the existing amounts, as well as the future amounts from daily collections into the accounts in Lei and foreign currency shall be blocked within the limit of the amount necessary for the coverage of the enforced liability, as the liability results from the garnishment notice. Banks have the obligation of paying the amounts blocked into the account indicated by the enforcement body within 3 days as of blocking.

(14) As of the time of blocking, namely as of the date and time or receipt of the garnishment notice, the banks shall not proceed to settling the payment documents they received or to debiting the debtors' accounts and shall not accept other payments from the accounts thereof until full coverage of the tax liabilities provided by the garnishment notice, with the exception of:

a) amounts necessary for the payment of salaries, including the taxes and contributions related thereto and withheld at source, if, in accordance with the declaration on honor of the debtor or legal representative thereof, the debtor does not have other funds;

b) the amounts necessary for payment of excise duties by authorized warehouse-keepers. In this case, the debtor shall present to the credit institution the certified copy, true to the original, of the authorization of warehouse-keeper, at the same time as the payment order;

c) the amounts necessary for the payment of excise duties in the name of the authorized warehouse-keepers by the purchasers of energy products;

d) the amounts necessary for the payment of tax liabilities on which the maintenance of the facility's validity depends. In this case, the debtor shall present to the credit institution the certified copy, true to the

original, of the document approving the payment facility, at the same time as the payment order.

(15) During the term of the garnishment the banks accept payments into the accounts of the debtors garnished for the settlement of the amounts provided by para. (14), as well as for the settlement of the tax liabilities that correspond to the budgets administered by the tax body which established the garnishment.

(16) The violation of the provisions of para. (9), (11), (13), (14) and (18) shall render any payment null.

(17) If the enforcement is suspended or terminated in accordance with the law, the enforcement body shall send at once written notices to the credit institutions or to the garnished third party for the temporary stopping, either total or partial, of the blocking of accounts and amounts. Otherwise, the credit institution shall have the obligation of acting in accordance with the provisions of para. (13) and (14).

(18) If the writs of enforcement cannot be honored on the same day, the credit institutions shall trace their enforcement from daily collections made into the accounts of the debtor.

(19) The provisions of para. (11) shall be properly applied.

Enforcement of the garnished third party

Art. 237. - (1) If the garnished third party informs the enforcement body that he/she does not owe any amount of money to the debtor, but the information and documents held by the tax body reveal that the third party owes such amounts to the debtor, as well as if other irregularities are invoked with regard to the establishment of the garnishment, the court of law in whose territory the domicile or residence of the garnished third party is located shall rule with regard to either maintaining or terminating the garnishment, either at the request of the enforcement body or of

another interested party.

(2) The case shall be judged with emergency and priority.

(3) Based on the judgment of maintenance of the garnishment which represents a writ of enforcement, the enforcement body may start the enforcement against the garnished third party in accordance with the provisions of this code.

SECTION 3

Enforcement of movable assets

Enforcement of movable assets

Art. 238. - (1) Any movable assets of the debtor shall be subject to enforcement, with the exceptions provided by law.

(2) In the case of private individual debtors, the following shall not be subject to enforcement, since they are necessary for the debtor's life and work, as well as for his/her family:

a) movable assets of any kind which serve to the continuance of studies and professional training, as well as those strictly necessary for the exercise of the profession or of another permanent activity, including those necessary for the performance of agriculture, like tools, seeds, fertilizers, forage and v animals for production and work;

b) assets which are strictly necessary for personal or household use for the debtor and his/her family, as well as objects of religious cults, if there are not several of the same kind;

c) the food necessary for the debtor and his/her family for two months, and if the debtor deals exclusively with agriculture, the food strictly necessary until the new harvest;

d) the fuel necessary to the debtor and his/her family for heating and for food preparation, counted

for 3 months of winter;

e) the objects necessary for people with disabilities or dedicated to the care of the sick;

f) the assets declared to be not seizable through other legal provisions.

(3) The assets of the individual debtor necessary for the performance of activity in his/her capacity as professional are not exempt from enforcement.

(4) The enforcement of the movable assets shall be made through seizure and sale thereof, even if they are found with a third party. The distraint shall be established by means of a report. If motor vehicles are confiscated, the provisions of art. 740 in the Code of Civil Proceedings, as republished, shall be properly applicable.

(5) In the case of movable assets previously confiscated as safeguarding measure, a new seizing is not necessary.

(6) Upon starting the enforcement the tax executor shall be bound to verify if the assets provided by para. (5) are found in the place of application of the seal and whether they were substituted or degraded, as well as to seize other assets of the debtor if those found on the occasion of the verification are not sufficient to settle the receivable.

(7) The assets shall not be confiscated if the sale thereof were to cover only the enforcement expenses.

(8) Through the distraint placed on movable assets, the tax executor acquires a right of pledge which confers upon it the same rights relative to other creditors as the right of pledge defined by common law.

(9) The foreclosed assets shall be blocked as of the date of elaboration of the distraint report. As long as the enforcement lasts the debtor may not use these assets unless the authorized body authorizes him/her in

this respect in accordance with the law. The failure to observe this interdiction shall trigger the liability of the person at fault, as provided by law.

(10) The acts of alienation which would be concluded after the blocking provided by para. (9) shall be null and void.

(11) In the cases in which no safeguarding measures were taken for the full coverage of the tax receivable and it is found on the start of the enforcement that there is a danger of the debtor alienating, replacing or hiding the assets that can be confiscated, these assets shall be placed under distraint at the time of service of the summons.

The distraint report

Art. 239. - (1) The distraint report comprises:

a) the name of the enforcement body, the mentioning of the place, date and time when the distraint was placed;

b) the first and last name of the tax executor who places the distraint, the number of his/her ID and appointment order;

c) the number of the enforcement file, the date and registration number of the summons, as well as the writ of enforcement on the basis of which the enforcement is made;

d) the legal grounds on the basis of which the enforcement is made;

e) the amounts owed for whose enforcement the distraint is placed, including those representing ancillary tax liabilities, as well as the legislative act on the basis of which the tax liability was set;

f) the last name, the first name and the domicile of the individual debtor or, in lack thereof, of the adult who lives together with the debtor or the denomination and seat of the debtor, the last name, first name and domicile of other adults who were present at the time

of placement of the distraint, as well as other elements of identification of these persons;

g) the description of the movable assets under distraint and the indication of the estimate value of every one of them, as assessed by the tax executor, for the identification and individualization thereof, with mention of the state of use and the possible particulars of every asset, as well as a mention of whether measures were taken for the assets to be kept intact, like the placement of seals, custody or lifting from the place where they are found, or the administration of preservation thereof, as applicable;

h) the mention that the valuation shall be made before starting the sale proceeding, if the tax executor was not able to value the asset because specialty knowledge was required for the valuation;

i) the mention made by the debtor on the existence or nonexistence of a right of pledge, mortgage or a privilege, as applicable, set in favor of another person for the foreclosed assets;

j) the last name, first name and address of the person to whom the assets were left, as well as the place of storage thereof, as applicable;

k) the possible objections raised by the persons present at the time of placement of the distraint;

l) the mention that if the debtor does not pay the tax liabilities within a term of 15 days as of the date of conclusion of the distraint report, the assets under distraint shall be sold;

m) the signature of the tax executor who placed the distraint and of all the persons who were present at the time of placement thereof. If any of these persons is unable or refuses to sign, the tax executor shall make a mention of this.

(2) One counterpart of the distraint report shall be handed over to the debtor under signature or shall be

served thereto at the domicile or seat thereof, as well as, when applicable, to the custodian, the latter signing with mention of receipt of the assets for safekeeping.

(3) For the purpose of selling, the enforcement body has the obligation of verifying if the foreclosed assets are found at the place mentioned in the distraint report, as well as if they were replaced or degraded.

(4) When the foreclosed assets found on the occasion of the verification are not sufficient for the coverage of the tax receivable, the enforcement body shall perform the investigations necessary for the identification and seizing of other assets of the debtor.

(5) If it is found that the assets are not at the place mentioned in the distraint report or if they were replaced or degraded, the tax executor shall conclude an ascertaining report in this respect. For the assets found on the occasion of the investigations performed in accordance with para. (4) a distraint report shall be concluded.

(6) If assets are confiscated which are pledged as collaterals for receivables of other creditors, the enforcement body shall serve to these creditors one counterpart each of the distraint report.

(7) The tax executor who ascertains that the assets have been previously confiscated registers this in the report and attaches to the report a copy of the relevant distraint reports. Through the same report the tax executor shall declare other assets to be placed under distraint as well and shall identify them, when applicable.

(8) The assets registered in the distraint reports previously concluded shall be deemed confiscated in the new enforcement proceeding as well. For this purpose, an additional report shall be concluded, apart from those previously made, with mentioning of the writs of enforcement and of the amount of tax

liabilities born after the initial distraint report. The additional report shall be served to the debtor, as well as to the other interested parties who have real rights or encumbrances over the foreclosed asset and, as applicable, to the Land Register Office or the Electronic Archive for Security Interests in Movable Property. Through the report the tax creditor maintains the pledge right or the mortgage right conferred upon it by the distraint report relative to other creditors.

(9) If the tax executor finds that deeds were committed with regard to the foreclosed assets which could be deemed crimes, he/she mentions this in the distraint report and has the obligation of notifying the authorized judicial bodies at once.

The custodian

Art. 240. - (1) The foreclosed movable assets can be left in the custody of the debtor, of the creditor or of another person appointed by the enforcement body or by the tax executor, as applicable, or they can be lifted and stored by the tax executor. When the assets are left in the custody of the debtor or of another person appointed in accordance with the law and it is found that there is a danger of replacement or degradation thereof, the tax executor may apply seals on the assets.

(2) If the foreclosed assets consist of amounts of money in Lei or foreign currency, securities, objects made of precious metals, precious stones, art objects, valuable collections, they shall be lifted and deposited with the specialized units at the latest on the second business day. The assets which consist of confiscated amounts of money in Lei, securities, objects made of precious metals, precious stones, can be stored by the enforcement body or the tax executor, as applicable, with the territorial units of the State Treasury as well, which act as depositories thereof. The depository territorial units of the State Treasury, as well as the

proceeding on the deposit, handling and storage, shall be established through order of the minister of public finance.

(3) The person who receives the assets in custody shall sign the distraint report.

(4) If the custodian is not the debtor or the creditor, the enforcement body shall establish a payment for him/her, as consideration for his/her activity.

Replacement of the foreclosed assets

Art. 241. - At the debtor's request, the tax body may replace the distraint placed on an asset with a distraint placed on another asset, but only if the asset offered as replacement is unencumbered. The provisions of art. 227 para. (1) shall be properly applied.

SECTION 4

Enforcement of immovable assets

Enforcement of immovable assets

Art. 242. - (1) Immovable assets owned by the debtor shall be subject to distraints. If the debtor owns assets in co-ownership with other persons, the enforcement shall extend only on the assets awarded to the debtor following the judicial partition or on the balancing payment.

(2) The enforcement of immovable assets shall be extended by operation of law on the assets ancillary to the immovable asset, as provided by the Civil Code. Ancillary assets can be confiscated only at the same time as the immovable asset.

(3) In the case of individual debtors, the minimum living area used by the debtor and his/her family, as it is established in accordance with the legal provisions in force, cannot be subject to enforcement.

(4) The provisions of para. (3) shall not be applicable in the cases in which enforcement is made through settlement of tax receivables resulting from crimes.

(5) The tax executor who applies the distraint shall conclude a distraint report and the provisions of art. 238 para. (9) - (11), art. 239 para. (1) and (2) and art. 241 shall be applicable with regard thereto.

(6) The distraint applied on immovable assets in accordance with para. (5) shall represent a legal mortgage.

(7) The mortgage right confers upon the tax creditor the same rights relative to the other creditors as the mortgage right provided by common law.

(8) For the immovable assets subject to distraint, the enforcement body which placed the distraint shall request at once to the land registration office to make the mortgage registration, and shall attach one counterpart of the distraint report to this request.

(9) The land registration office shall inform the enforcement body within 10 days at the request hereof on the other real rights and encumbrances placed on the confiscated immovable asset, as well as the holders thereof, who must be notified by the enforcement bodies and called on the terms set for the sale of the immovable asset and the distribution of the price.

(10) The debtor’s creditors, other than the holders of the rights provided by para. (9), have the obligation of informing the enforcement body in writing on the titles they have on the immovable asset in question, within 30 days as of registration of the distraint report in the records of the land registration office.

Appointment of the receiver-manager

Art. 243. - (1) Upon the establishment of a distraint and throughout the enforcement proceeding, the enforcement body may appoint a receiver-manager

if this measure is necessary for the administration of the immovable asset subject to distraint, of the rent, lease and other revenues obtained from the administration thereof, including for the purpose of defense in litigations related to the immovable asset in question.

(2) The creditor, the debtor or another individual or legal entity can be appointed as receiver-manager.

(3) The receiver-manager registers the revenues collected in accordance with para. (1) with the authorized units and deposits the receipt with the enforcement body.

(4) If the receiver-manager is not the debtor or the creditor, the enforcement body shall establish a payment for him/her, as consideration for his/her activity.

(5) Anytime necessary, the receiver-manager shall have the obligation of presenting to the enforcement body a report on the revenues and expenses made for the administration of the immovable asset under distraint.

Suspension of the enforcement of immovable assets

Art. 244. - (1) After receiving the distraint report, the debtor may request to the enforcement body within 15 days as of service to approve that the entire payment of the tax receivables should be made out of the revenues of the immovable asset subject to distraint or out of other revenues thereof for a term of at most 6 months.

(2) As of the date of approval of the debtor’s request the enforcement started on the immovable asset shall be suspended.

(3) For solid reasons, the enforcement body may resume the enforcement of the immovable asset after the lapse of the 6 month term.

(4) If the legal entity debtor who was approved

the suspension in accordance with the provisions of para. (2) subsequently avoids the enforcement or causes its own insolvency, the provisions of art. 25 shall be properly applied.

SECTION 5

Enforcement of other assets

Enforcement of unpicked fruit and unharvested crops

Art. 245. - (1) The enforcement of unpicked fruit and unharvested crops which belong to the debtor shall be made in accordance with the provisions of this code related to immovable assets.

(2) For the purpose of enforcement of picked fruit and harvested crops, the provision of this code related to movable assets shall be applicable.

(3) The enforcement body shall decide, as applicable, to sell the unpicked fruit or the unharvested crops as they are or after harvesting.

Enforcement of a group of assets

Art. 246. - (1) Movable and/or immovable assets owned by the debtor can be sold individually and/or in groups if the enforcement body considers that the sale would be more advantageous.

(2) The enforcement body may change its choice in any stage of the enforcement, and resume the proceeding.

(3) For the purpose of enforcement of the assets provided by para. (1), the enforcement body shall seize them in accordance with the provisions of this code.

(4) The provisions of section 3 on enforcement of movable assets and those of section 4 on enforcement of immovable assets, as well as the provisions of art. 253 on payment in installments shall be properly applied.

SECTION 6

Sale of foreclosed assets

Manners of selling the foreclosed assets

Art. 247. - (1) If the tax receivable is not settled within 15 days as of the date of conclusion of the distraint report, the foreclosed assets will be sold, no other formality being necessary, with the exception of cases in which it was ordered under the law to annul the distraint or suspend the enforcement.

(2) For the purpose of obtaining the best possible results from the enforcement and considering both the legitimate and immediate interest of the creditor and the rights and obligations of the debtor, the enforcement body shall sell the foreclosed assets in one of the manners provided by the legal provisions in force and which proves to be more efficient given the concrete data of the case at hand.

(3) For the purpose of para. (2), the authorized enforcement body shall sell the confiscated goods as follows:

a) based on the parties' agreement;

b) through selling under consignment of movable assets;

c) through direct sale;

d) through auction sale;

e) by other means admitted by law, including the sale of assets through auction houses, real estate agencies or brokerage companies, as applicable.

(4) If perishable or degradable assets were confiscated, they can be sold under emergency regime. The valuation and selling of these assets shall be made by the tax bodies at market prices.

(5) The procedure of valuation and selling shall be approved as follows:

a) through order of the chairman of the A.N.A.F.,

in the case of tax receivables administered by the central tax body;

b) through common order of the minister of regional development and public administration and of the minister of public finance, in the case of tax receivables administered by the local tax body.

(6) If due to an appeal or an agreement of the parties the date, place or time of the direct or auction sale was changed by the enforcement body, other publications and announcements shall be made in accordance with art. 250.

(7) The foreclosed assets shall be sold only to individuals or legal entities that have no outstanding tax liabilities.

Sale of foreclosed assets on the basis of the parties' agreement

Art. 248. - (1) The sale of foreclosed assets on the basis of the parties' understanding shall be made by the debtor himself/herself, based on the consent of the enforcement body, so as to ensure an adequate recovery of the tax receivable. The debtor has the obligation of presenting in writing to the enforcement body the proposals he/she was made and the level of coverage of the tax receivables, and indicate the name and address of the possible purchaser, as well as the term within which the purchaser shall pay the proposed price.

(2) The price proposed by the purchaser and accepted by the enforcement body may not be lower than the valuation price.

(3) The enforcement body shall serve the approval of the sale after it analyzes all the proposals provided by para. (1) and shall indicate the term and the budget account where the price of the asset must be paid by the purchaser.

(4) The blockage provided by art. 238 para. (9) and (10) shall be lifted after the budget account

provided by para. (3) is credited.

Sale of foreclosed assets through direct sale

Art. 249. - (1) The foreclosed assets can be sold through direct sale in the following cases:

a) in the case of assets provided by art. 247 para. (4);

b) before the start of a sale through auction, if the entire tax receivable is recovered;

c) after completing an auction, if the foreclosed asset/assets were not sold and at least the valuation price is offered.

(2) Direct sale is carried out through the conclusion of a report which will be an ownership title.

(3) If the enforcement body registers several requests in accordance with the provisions of para. (1), it shall sell the asset to the person who offers the biggest price compared to the valuation price.

(4) Direct sale of assets shall be carried out even if only one purchaser comes.

Sale of foreclosed assets through auction

Art. 250. - (1) For the sale of foreclosed assets through auction the enforcement body has the obligation of publishing the sale at least 10 days before the date set for the auction.

(2) The sale shall be advertised by displaying the sale announcement at the seat of the enforcement body; of the city hall in whose territory the foreclosed assets are located; at the seat or domicile of the debtor; at the place of the sale, if it differs from that where the foreclosed assets are located; on the immovable asset offered for sale in the case of sales of immovable assets; and through announcements published in a widely circulated national daily, in a local daily, on the web page, or, as applicable, in the Official Gazette of Romania, Part IV, as well as through other means provided by law.

(3) The debtor, custodian, receiver-manager, as well as the holders of real rights and encumbrances over the foreclosed assets must be notified about the date, time and place of the auction.

(4) The announcement of the sale comprises the following elements:

a) the denomination of the issuing tax body;

b) the date when it was issued;

c) the name and signature of the proxies of the tax body, according to law, as well as the stamp of the issuing tax body;

d) the number of the enforcement file;

e) the assets which are offered for sale and a brief description thereof;

f) the valuation price or the starting price of the auction, in the case of sales through auction, for every asset offered for sale;

g) the mentioning, if applicable, of the real rights and privileges which encumber the assets;

h) the date, time and place of the sale;

i) the invitation for all who claim any right over the assets of informing the enforcement body about this before the date set for the sale;

j) the invitation for all those interested in purchasing the assets to come on the term set for the sale at the established place and to present purchase offers by that term;

k) the mention that the tenderers have the obligation of paying a participation fee or of submitting a letter of guarantee representing 10% of the auction’s starting price in the case of sales through auction within the term provided by para. (7);

l) the mention that all those interested in purchasing the assets must present written proof issued by the tax bodies that they do not have outstanding tax liabilities;

m) the date of display of the sale publication;

n) obligations of the purchaser provided by special laws, like the environmental obligation, the obligation of preservation of the national heritage or others alike;

o) other information of interest for the purchaser, if known to the tax body.

(5) The auction shall be held at the place where the foreclosed assets are located or at the place established by the enforcement body, as applicable.

(6) The debtor has the obligation of allowing the auction to be held in the spaces it owns, if they are adequate for this purpose.

(7) The tenderers must submit the following documents for their participation to the auction at least one day before the date of the auction:

a) the purchase offer;

b) the proof of payment of the participation fee or of creation of the collateral under the form of a letter of guarantee, according to para. (15) and (16);

c) the authorization of the person who represents the tenderer;

d) for Romanian legal entities, a copy of the sole registration certificate issued by the trade register office;

e) for foreign legal entities, the registration document translated into Romanian;

f) for Romanian individuals, a copy of their identity document;

g) for foreign individuals, a copy of their identity document/passport.

(8) The purchase offers can be submitted directly or sent by post. Offers made by phone, telegraph, sent by telex or fax shall not be admitted.

(9) The persons who registered for the auction can attend the auction through proxies who must justify

their capacity through an authenticated special power of attorney. The debtor may not participate to the auction either in person or through an intermediary.

(10) If the participation fee for the auction is paid through a bank transfer or a postal payment order, the tax executor shall verify on the auction date that the general current account of the State Treasury indicated by the enforcement body for the payment of the fee was credited with the relevant amount.

(11) The starting price of the auction is the valuation price for the first auction reduced by 25% for the second auction and by 50% for the following auctions.

(12) The auctions starts from the highest price of the written purchase offers, if this price is higher than the one provided by para. (11); otherwise, it starts from this latter price.

(13) The asset shall be sold to the participant who offered the highest price, but not less than the starting price. If only one tenderer comes to the auction, the commission may declare that tenderer to be the winner if he/she offers at least the starting price of the auction.

(14) If the asset is not sold on the third auction a new auction shall be organized. In this case, the asset can be sold at the highest price offered, even if this price is smaller than the auction's starting price.

(15) The participation fee represents 10% of the auction's starting price and shall be paid in Lei at the territorial State Treasury unit. Within 5 days as of the date of elaboration of the auction report, the tax body shall return the participation fee to the participants who submitted purchase offers and did not win the auction; the fee of the auction winner will be withheld on account of the price. The participation fee will not be returned to the tenderers who did not attend the auction, to the one who refused to conclude the award

report, as well as to the auction winner who did not pay the price. The participation fee which is not returned shall become a revenue of the State budget, with the exception of the case in which the enforcement is organized by the local tax body, in which case the participation fee shall become a revenue of the local budget.

(16) For the participation to an auction, the tenderers may also establish collaterals in accordance with the law, under the form of letters of guarantee.

(17) The letter of guarantee provided in accordance with para. (16) shall be used by the enforcement body if the tenderer wins the auction and/or in the cases provided by para. (15) third thesis.

The auction committee

Art. 251. - (1) The sale through auction of foreclosed assets is organized by a committee led by a chairman.

(2) The auction committee is made up of 3 persons appointed by the leader of the tax body.

(3) The auction committee shall verify and analyze the participation documents and shall display the list of tenderers that submitted the complete documentation of participation at the place of the auction at least one hour before the start of the auction.

(4) The tenderers shall identify themselves according to their order number on the list of participation, and then the chairman of the committee shall announce the object of the auction, as well as the manner of performance thereof.

(5) On the terms set for the auction the tax executor shall read first the sale announcement and then the written offers received by the date provided by art. 250 para. (7).

(6) If no tenderers came to the first auction or if not even the starting price of the auction as provided

by art. 250 para. (11) was obtained, the enforcement body shall set a term of at most 30 days for the second auction.

(7) If the starting price is not obtained for the second auction or no tenderers come to the auction, the enforcement body shall set a new term of at most 30 days for the third auction.

(8) On the third auction the creditors or the interveners may not be awarded the assets offered for sale for a price smaller than 50% of the valuation price.

(9) For every auction term a new sale advertising shall be made, in accordance with the provisions of art. 250.

(10) After every asset is auctioned, a report shall be elaborated with regard to the auction and the result thereof.

(11) The report provided by para. (10) shall mention, apart from the elements provided by art. 46, the following: the identification details of the purchaser; the number of the enforcement file; the mentioning of the awarded assets, of the price for which they were awarded and of the value-added tax corresponding thereto, if applicable; all those who participated to the auction and the amounts offered by every participant, as well as, if applicable, a mention of the cases in which the sale was not made.

The award

Art. 252. - (1) After the asset is awarded, the winner of the auction has the obligation of paying the price, less the participation fee, in Lei and cash, at a State Treasury unit or through bank transfer, within at most 5 days as of award date.

(2) If the winner does not pay the price, the auction shall be resumed within 10 days as of award date. In this case, the winner has the obligation of paying the costs generated by the new auction and the price difference, if the price obtained in the new

auction is smaller. The winner may pay the price offered initially and prove the payment thereof on or before the term provided by art. 250 para. (7), in which case he/she shall have the obligation to pay only the expenses generated by the new auction.

(3) The amounts collected from a possible price difference charged on the basis of para. (2) shall be used to settle the tax receivables mentioned in the writ of enforcement on the basis of which the enforcement was started.

(4) If the asset is not sold in the following auction, the former auction winner shall be required to cover all costs related to the foreclosure of the asset.

(5) The amount representing the price difference and/or the costs provided by para. (1) and (4) shall be established by the enforcement body through a report, which is a writ of enforcement in accordance with this code. The report can be appealed in accordance with the proceeding provided by title VIII.

(6) The term provided by para. (1) shall be also applied in the case of sales on the basis of the parties' agreement or direct sales.

Payment in installments

Art. 253. - (1) In the case of auction sales of immovable assets, the purchasers may request to pay the price in installments, in at most 12 monthly installments, with a minimum advance payment of at least 50% of the award price of the immovable asset and based on the payment of an interest or of an additional tax assessed for late payment, as applicable, set in accordance with this code. The enforcement body shall establish the conditions and payment terms of the price in installments.

(2) The purchaser may not alienate the immovable asset before paying the price in full and the interest or additional tax assessed for late payment which was set.

(3) If the advance payment provided by para. (1) is not paid, the provisions of art. 252 shall be properly applied.

(4) The amount which represents the interest or additional tax assessed for late payment, as applicable, does not settle the tax receivables for which the enforcement was started and shall be a revenue of the State or local budget, as applicable.

(5) In the case of payments in installments as provided by this article, the auction winner is a debtor for the price difference.

(6) The procedure of sale of assets with payment in installments shall be approved as follows:

a) through order of the chairman of the A.N.A.F., in the case of receivables administered by the central tax body;

b) through a common order of the minister of regional development and public administration and of the minister of public finance, in the case of tax receivables administered by the local tax bodies.

The award report

Art. 254. - (1) If immovable assets are sold, the enforcement body shall conclude an award report within at most 5 days as of the payment in full of the price or of the advance payment provided by art. 253 para. (1), if the asset was sold with payment in installments. The award report is a title of ownership and the transfer of ownership operates as of the date of conclusion thereof. One counterpart of the award report of the immovable asset shall be sent to the land registration office if the asset is paid in installments, in order for the land registration office to register the interdiction of alienation and encumbering of the asset until full payment of the price and of the interest or additional tax assessed for late payment, as applicable, set for the immovable asset in question, on the basis of

which the asset will be registered in the land book.

(2) The award report elaborated in accordance with para. (1) shall comprise, in addition to the elements provided by art. 46, the following mentions:

a) the number of the enforcement file;

b) the number and date of the auction report;

c) the identification details of the purchaser;

d) the identification details of the debtor;

e) the price for which the asset was sold and the value-added tax corresponding thereto, if applicable;

f) the manner of payment of the price difference if the sale was made with payment in installments;

g) the general identification details of the asset;

h) the mention that this document is a title of ownership and can be registered in the land book;

i) the mention that for the creditor the award report is the document on the basis of which the writ of enforcement against the purchaser who fails to pay the price difference shall be issued if the sale was made with payment in installments;

j) the signature of the purchaser or of the legal representative thereof, as applicable.

(3) If the purchaser who was accepted the payment of the price in installments fails to pay the rest of the price on the conditions and terms set, he/she may be subject to enforcement for the payment of the amount owed on the basis of the writ of enforcement issued by the competent enforcement body based on the award report.

(4) In the case of sales of movable assets, after the price is paid the tax executor shall elaborate an award report within 5 days and that report shall represent the title of ownership.

(5) The award reports elaborated in accordance with the provisions of para. (4) shall comprise, apart from the elements mentioned at art. 46, the elements

provided by para. (2) herein, with the exception of letters f), h) and i), as well as the mention that the report is a title of ownership. One counterpart of the award report shall be sent to the coordinating enforcement body and one to the purchaser.

(6) If the assets are sold through direct sale or auction, the asset shall be delivered to the purchaser by the enforcement body on the basis of a delivery-receipt protocol.

Resuming the proceeding of sale of foreclosed assets

Art. 255. - (1) If the assets subject to enforcement could not be sold through the means provided by art. 247, the procedure shall be the following:

a) in the case of immovable assets, the enforcement body shall maintain the measure of foreclosure until the lapse of the limitation period; within this term, the enforcement body may resume the sales procedure anytime and it may, as applicable, take the measure of appointment, maintenance or change of the receiver-manager.

b) in the case of movable assets, it is deemed that they have no market value and shall be returned to the debtor; once with the return of the movable asset, the tax body shall lift the distraint; the provisions of art. 234 para. (2) shall be properly applied hereto.

(2) In the case of the assets provided by para. (1) letter a), on the occasion of resuming the procedure within the limitation period, if the enforcement body considers that a new valuation is not necessary, the starting price of the auction cannot be smaller than 50% of the asset valuation price.

(3) If the debtors who are to be returned the assets are no longer found at their declared tax domiciles and cannot be identified, the tax body shall inform them through the proceeding provided for communication through advertising by art. 47, that the assets in

question are kept at the owner's disposal until the lapse of the limitation period, after which they will be sold in accordance with the legal provisions on the selling of assets passed in the private ownership of the state, unless otherwise provided by law.

(4) The mentions provided by para. (3) shall be registered in a report elaborated by the tax body.

(5) In the case of immovable assets, the report provided by para. (4) shall represent the legal grounds for filing before the competent court of law an action for acknowledgment of the State's private ownership over the asset in question.

CHAPTER IX
Expenses

Enforcement expenses

Art. 256. - (1) The expenses incurred for the performance of the enforcement proceeding are to be paid by the debtor.

(2) By way of exception from the provisions of para. (1), in the case of tax receivables administered by the central tax body, the expenses incurred for the service of the summons and of the garnishment notice shall be borne by the central tax body.

(3) The sum of enforcement expenses shall be set by the enforcement body through a report which represents a writ of enforcement in accordance with this code and is based on documents related to the expenses made.

(4) The enforcement expenses related to tax receivables shall be paid initially by the enforcement body from the budget thereof.

(5) The enforcement expenses which are not based on documents attesting that they were made for the purpose of the enforcement shall not be borne by

the debtor.

(6) The amounts recovered on account of the enforcement expenses shall be a revenue of the budget from which they were initially paid, with the exception of the amounts representing enforcement expenses of the tax receivables administered by the central tax body, which become a revenue of the State budget, unless otherwise provided by law.

CHAPTER X
Release and distribution of the amounts obtained through enforcement

Amounts obtained through enforcement

Art. 257. - (1) The amount obtained during the enforcement proceeding is the sum of amounts collected after the service of the summons through any means provided by this code.

(2) The amounts obtained through the enforcement in accordance with para. (1) shall settle the tax receivables by order of the age of the writs of enforcement, with the exception of the case provided by art. 230 para. (3) - (6). The principal tax receivables shall be settled first, by order of their age and then the ancillary tax receivables by order of their age. The provisions of art. 165 para. (3) related to age order shall be properly applicable hereto. The amounts obtained through the garnishment provided by art. 230 para. (3)-(6) shall settle the tax receivables included in the writs of enforcement for which this measure was applied.

(3) By way of exception from the provisions of para. (2), in the case of amounts obtained through payment or offsetting, the settlement shall be made in accordance with the provisions of art. 163 and 165.

(4) If the amount which represents both the tax receivable and the enforcement expenses is smaller than the amount obtained through the enforcement, the difference shall be used for offsetting in accordance with art. 167 or shall be refunded at the debtor's request, as applicable.

(5) The debtor must be informed at once about the amounts to be refunded.

Distribution order

Art. 258. - (1) If the enforcement was started by several creditors or when other creditors presented their writs of enforcement before the release or distribution of the amount obtained through the enforcement proceeding, the bodies provided by art. 220 shall distribute the amount in accordance with the following preference order, unless otherwise provided by law:

a) the receivables representing expenses of any kind made for the enforcement and preservation of the assets whose price is being distributed, including the expenses made in the common interest of the creditors;

b) the funeral expenses of the debtor, by considering his/her living conditions and state;

c) the receivables representing salaries and other debt assimilated thereto; pensions; amounts due to the unemployed according to law; aid for support or care for children; maternity aid; aid for temporary work incapacity; for the prevention of illness; for health recovery or strengthening; death aid granted by the State through the health insurance system, as well as the receivables representing the obligation to repair the damages caused through death, bodily injury or health damages;

d) the receivables resulted from obligations of support, child allowances or obligations of payment of periodical amounts for sustenance;

e) the tax receivables arising from taxes, charges, social contributions and other amounts established in accordance with the law and owed to the State budget, the budget of the State Treasury, the social insurance budget, the local budgets and the special funds budgets, including the fines due to the State budget or the local budgets;

f) the receivables resulted from loans granted by the State;

g) the receivables which represent compensation for the repair of damages caused to public property through unlawful acts;

h) the receivables resulting from bank loans, deliveries of products, provisions of services or performance of works, as well as from rents, royalties or leases;

i) other receivables.

(2) For the payment of receivables with the same preference order, the amount obtained from the enforcement shall be distributed to the creditors proportionally to their receivables, unless otherwise provided by law.

Rules related to release and distribution

Art. 259. - (1) The tax creditors who have a privilege by operation of law and who fulfill the requirement of registration in the land book or of possession over the movable asset have priority in accordance with the provisions of art. 227 para. (9) for the distribution of the amount resulted from the sale compared to other creditors who have real guarantees over that asset.

(2) The accessories of the principal receivable provided by the writ of enforcement follow the preference order of the principal receivable.

(3) If there are creditors who have rights of pledge, mortgage rights or other real rights over the

asset sold, and the enforcement body was informed about these rights in accordance with the provisions of art. 239 para. (6) and art. 242 para. (9), their receivables shall be paid before the receivables provided by art. 258 para. (1) letter b) when the amount resulting from the sale of the asset is distributed. In this case, the enforcement body has the obligation of informing ex officio the creditors in whose favor these encumbrances were preserved in order to participate to the distribution of the price.

(4) The creditors who participated to the enforcement may submit their writs in order to participate to the distribution of the amounts obtained through the enforcement only until the date when the enforcement bodies elaborate the report on the release or distribution of these amounts.

(5) The release or distribution of the amount which results from the enforcement shall be made only after the lapse of a term of 15 days as of the date of deposit of the amount, when the enforcement body shall release or distribute the amount and inform the parties and the creditors who presented their writs.

(6) The release or distribution of the amount resulting from the enforcement shall be registered at once by the tax executor in a report, which shall be signed by all those entitled.

(7) If anybody is not pleased with the manner in which the release or distribution of the amount resulting from the enforcement is made, that person may ask the tax executor to register his/her objections in the report.

(8) After the report provided by para. (6) is elaborated, no creditor shall be entitled to claim or to participate to the distribution of the amounts resulting from the enforcement.

CHAPTER XI
Appeal against enforcement

Appeal against enforcement

Art. 260. - (1) The interested persons may file an appeal against any enforcement act made by the enforcement bodies in violation of the provisions of this code, as well as if these bodies refuse to perform an act of enforcement as provided by law.

(2) The provisions related to the provisional suspension of enforcement of the Code of Civil Proceedings shall not be applicable hereto.

(3) The appeal can be also filed against the writ of enforcement on the basis of which the enforcement was started, if this writ is not a judgment of a court of law or of another jurisdictional body and if the law does not provide another appeal proceeding for it.

(4) The appeal shall be filed before the competent court of law and shall be judged according to the emergency proceeding.

Appeal term

Art. 261. - (1) The appeal can be filed within 15 days, subject to termination of this right, as of the date when:

a) the contesting party was informed about the enforcement or the act of enforcement it appeals on the basis of a summons or another notification it received or, in lack thereof, on the occasion of the actual enforcement or in another manner;

b) the contesting party was informed in accordance with letter a) about the refusal of the enforcement body of performing an act of enforcement;

c) the interested party was informed in accordance with letter a) about the release or distribution of the

amounts it appeals.

(2) The appeal through which a third party claims ownership or another real right over the foreclosed asset can be filed at the latest within 15 days as of the enforcement date.

(3) The failure to file the appeal within the term provided by para. (2) does not prevent the third party from obtaining the right through a separate claim, as provided by common law.

Judgment of the appeal

Art. 262. - (1) When it judges the appeal the court of law also subpoenas the enforcement body with territorial authority over the foreclosed assets, or with territorial authority over the seat or domicile of the garnished third party, in the case of enforcement through garnishment.

(2) At the request of the interested party, the court may rule in the appeal against enforcement with regard to the division of the assets owned by the debtor in common ownership with others.

(3) If it admits the appeal against enforcement, the court may rule, as applicable, on annulling the appealed enforcement act or correcting it; on annulling or terminating the enforcement itself; on annulling or explaining the writ of enforcement or on performing the act of enforcement whose fulfillment was refused.

(4) If the appealed enforcement act is annulled or the enforcement itself is terminated and the writ of enforcement is annulled, the court of law may rule through the same judgment that the entitled person should be refunded the amount due to him/her from the sale of the assets or the amounts blocked through the garnishment.

(5) If the appeal is dismissed, the contesting party may be ordered at the enforcement body’s request to pay compensation for the damages caused through the

delay of the enforcement and if the appeal was filed in bad faith, the contesting party may be ordered to pay a fine as well, in accordance with the provisions of art. 720 para. (3) in the Code of Civil Proceedings, as republished.

CHAPTER XII
Settlement of tax receivables through other means

Debts-against-assets exchange procedure

Art. 263. - (1) Tax receivables administered by the central tax body, with the exception of those withheld at source and of their accessories, of customs rights and other receivables forwarded for collection purposes to the central tax body, as well as the tax receivables administered by the local tax body, can be settled at any point in time at the debtor’s request and with the consent of the tax creditor, through passing in public ownership of the State or of the administrative-territorial unit, as applicable, of immovable assets representing construction and corresponding land plot, as well as land plots without constructions, as applicable, even if they are not subject to enforcement by the competent tax body as per the provisions of this code.

(2) In the case of tax receivables settled through the debt-against-assets exchange procedure, the date of settlement is the date of the report of passing in public ownership of the immovable asset.

(3) The provisions of para. (1) shall be also applied in the case of the debtors provided by art. 24 para. (1) letter a). In this case, by way of exception from the provisions of para. (1), the immovable assets offered for settlement purposes through the debt-against-asset exchange procedure must not be included in enforcement proceedings and must not be

encumbered in other ways than by a mortgage established in accordance with the provisions of art. 24 para. (1) letter a).

(4) Within 90 days as of the date of service of the report of passing in public ownership of the immovable asset, the institution which requested to be given the asset for administration has the obligation of taking the measures necessary for the issuance of the decision establishing the right of administration in accordance with art. 867 in the Civil Code.

(5) For the purpose provided by para. (1) the tax body shall send the request accompanied by its proposals to the committee appointed through order of the minister of public finance or, as applicable, through decision of the deliberative authority. The documentation which must accompany the request shall be established in the same manner.

(6) The committee provided by para. (5) shall analyze the request only if there is an application of takeover for administration of these assets, as provided by law, which proves that the assets in question are to be used for public interests and only if a tax audit was carried out with regard to that taxpayer. The committee shall settle the request through a decision. If the request is admitted, the committee shall order to the competent tax body to conclude a report of passing in public ownership of the immovable asset and of settlement of the tax receivables. The committee may dismiss the request if the immovable assets offered are not dedicated to public use or interests.

(7) The report of passing in public ownership of the immovable asset is a title of ownership.

(8) If the operation of transfer of ownership in immovable assets through the debt-against-assets exchange procedure is taxable with a certain value established under the law, plus the value-added tax, the

value-added tax corresponding to the debt-against-assets exchange procedure shall be settled with priority.

(9) Immovable assets passed in public ownership in accordance with para. (1) shall be given for administration as stipulated by law, provided the assets are kept in public use for a term of 5 years. The immovable asset shall be in custody of the institution which requested its takeover for administration until the act ordering the takeover enters into force. The institution which has the asset in custody is required to include it in its inventory in accordance with legal provisions.

(10) On the date of elaboration of the report of passing in public ownership the immovable asset, the measure of foreclosure thereof shall be lifted and the people appointed under the law as receiver-managers, if applicable, shall no longer act as such.

(11) The possible administrative expenses incurred during the time interval between the date of conclusion of the report of passing the immovable assets in the public ownership of the State and the takeover for administration through Government decision shall be borne by the requesting public institution. If the Government decides to give the asset for administration to another public institution than the requesting one, the administrative expenses shall be borne by the public institution which was given the asset for administration.

(12) If the immovable assets passed in public ownership in accordance with this code were claimed and returned under the law to third parties, the debtor shall be required to pay the amounts settled by this means. The tax receivables shall reappear on the date when the immovable assets were returned to the third party.

(13) If the committee provided by para. (6) finds out during the limitation period of tax receivables certain aspects related to the immovable assets which were not known on the date of approval of the debtor's request, it may decide on the basis of the status quo to revoke, either in total or in part, the decision that approved the settlement of certain tax receivables by passing the immovable assets in public ownership, and the provisions of para. (12) shall be properly applied.

(14) In the situations provided by para. (12) and (13), for the time interval comprised between the date of passing in public ownership and the date when the tax receivables reappeared, i.e. the date of revocation of the decision approving the debt-against-assets exchange procedure, no interests, late payment penalties or additional tax assessed for late payment, as applicable, shall be owed.

Conversion into shares of the tax liabilities

Art. 264. - (1) In the case of taxpayers/payers where the State is a full or majority shareholder, the conversion into shares of the principal tax liabilities administered by the central tax body and representing taxes, charges, compulsory social contributions and other amounts owed to the general consolidated budget, including fines of any kind which become revenues of the State budget, as well as the ancillary tax liabilities owed and not paid, with the exception of the principal tax liabilities withheld at source and the accessories thereto and the tax liabilities to the risk fund resulting from external loans secured by the State, can be approved under the law and under observance of the proceedings related to State aid.

(2) For the purpose of enforcement of para. (1), the Government shall approve through decision the taxpayers/payers whose tax liabilities are to be converted into shares.

(3) The conversion into shares provided by para. (1) shall be made only under observance of the

preference right of existing shareholders, as provided by law and by the articles of incorporation.

(4) The public institution which acts as shareholder in the name of the State on the date of performance of the conversion shall exercise the rights and obligations of the Romanian State in its capacity as shareholder for the shares issued in favor of the State by the economic operators provided by para. (1) and shall register these shares in its accounting records.

(5) In the case of taxpayers/payers fully or majority owned by the State for which the insolvency proceeding was opened in accordance with the law, the conversion of budget receivables into shares can be provided through the reorganization plan, in accordance with the law and based on the express written consent of the creditor. The provisions of para. (4) remain applicable.

(4) For the purpose of settling through conversion into shares the liabilities provided by para. (1), the competent tax body shall issue the tax ascertaining certificate ex officio.

(7) The tax ascertaining certificate issued in accordance with para. (6) shall be served to the taxpayers/payers provided by para. (1).

(8) The conversion of the liabilities provided by the tax ascertaining certificate shall be made at the nominal value of the shares.

(9) The date of settlement of the liabilities provided by para. (1) is the date of conversion.

(10) The taxpayer/payer shall register the conversion into shares of the receivables provided by para. (1) into its accounting records on the basis of the tax ascertaining certificate issued by the competent tax body in accordance with para. (6) and served to the taxpayer/payer as provided by para. (7).

(11) As of the date of issuance of the tax ascertaining certificate, no ancillary liabilities shall be calculated or paid for the principal tax liabilities owed by the taxpayer/payer which are converted into shares.

(12) With regard to the liabilities to which this

article refers, the enforcement shall be suspended on the date of entry into force of the Government decision provided by para. (2) and shall be terminated on the date when the receivables are converted into shares.

(13) The public institution with authority over the taxpayer/payer shall exercise the rights and obligations of the Romanian State in its capacity as sole shareholder or majority shareholder, as applicable, and shall register the shares issued by the taxpayer/payer in favor of the State as a result of the conversion of the receivables provided by para. (1); it shall keep separate records of these shares, in accordance with the regulations related to accounting of public institutions in force.

(14) In the case of taxpayers/payers where an administrative-territorial unit/administrative-territorial subdivision is a full or majority shareholder it can be approved under the law and under observance of the proceedings related to State aid the conversion into shares of the principal tax liabilities administered by the local body and representing taxes, local charges and other amounts owed to the local budget, including fines of any kind which become revenues of the local budget, as well as the ancillary tax liabilities owed and not paid.

(15) For the purpose of enforcement of para. (14), the deliberative authority shall approve through decision the taxpayers/payers whose tax liabilities are to be settled through conversion into shares.

(16) The provisions of para. (3) - (13) shall be properly applicable to the conversion provided by para. (14).

Conduct of the tax body in case of insolvency and opening of the insolvency proceeding in accordance with the Law

Art. 265. - (1) For the purpose of this code, the debtor whose revenues or assets that can be foreclosed have a lower value than the tax liabilities thereof or who has no revenues or assets that can be foreclosed shall be deemed insolvent.

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(2) For the tax liabilities of the debtors declared insolvent who have no revenues or assets that can be foreclosed, the leader of the enforcement body shall order that the receivable be removed from the current records and passed into separate records on the basis of the insolvency report.

(3) In the case of the debtors provided by para. (2), the enforcement shall be interrupted. The tax body is required to perform an enquiry on the state of these taxpayers at least once a year; this enquiry shall not be an act of enforcement.

(4) If it is found that the debtors have revenues or assets that can be foreclosed, the enforcement bodies shall take the measures necessary to pass them from the separate records to the current records and start the enforcement.

(5) For the purpose of recovering the tax receivables from the debtors who are undergoing insolvency in accordance with the Law no. 85/2014, the tax body shall request to be registered in the table of creditors with the taxes, charges and social contributions existing in the records of tax receivables on the date of insolvency declaration.

(6) The provisions of para. (5) shall be applied for the purpose of recovery of the tax receivables from the debtors undergoing liquidation in accordance with the law.

(7) The requests of the tax bodies of opening the insolvency proceeding are exempt from the establishment of a surety.

(8) If the central tax body holds at least 50% of the total value of the receivables, the A.N.A.F. may decide to appoint a judicial administrator/liquidator and set the payment thereof. The syndic-judge shall confirm the judicial administrator/liquidator appointed by the A.N.A.F. in accordance with the provisions of art. 45 para. (1) letter e) in the Law no. 85/2014.

(9) In the cases in which the tax body holds at

least 50% of the total value of the receivables, it shall be entitled to verify the activity of the judicial administrator/liquidator and to request documents related to the activity thereof and the related fees charged.

Annulment of tax receivables

Art. 266. - (1) In the cases in which the enforcement expenses, exclusive of those related to service by post, are bigger than the tax receivables subject to enforcement, the leader of the enforcement body may approve the annulment of the debts in question.

(2) In the case provided by art. 265 para. (2), if it is found at the end of the limitation period that the debtor did not acquire assets or revenues that can be foreclosed, the enforcement bodies shall annul the tax liabilities.

(3) The annulment shall be also made when the tax body finds that the individual debtor is missing or deceased and did not leave behind any revenues or assets that can be foreclosed.

(4) The tax liabilities owed by the debtors legal entities that were removed from the records where they had to be registered under the law shall be annulled after the removal if no other persons were made liable for the payment of those liabilities in accordance with the law.

(5) The outstanding tax liabilities administered by the central tax body which are found in the balance on December 31 of the relevant year and are smaller than Lei 40 shall be annulled. The ceiling mentioned above shall be applied to the total amount of debt owed and not paid by the debtors.

(6) In the case of tax liabilities administered by the local tax body, the deliberative authorities may set through a decision the ceiling of tax liabilities which

can be annulled and this ceiling cannot exceed the maximum limit provided by para. (5).

(7) The provisions of para. (6) shall be applied to the total amount of tax receivables owed and not paid by the debtors which are found in the balance on December 31 of the year.

CHAPTER XIII
Special provisions regarding collection

Special provisions regarding collection

Art. 267. - The provisions of this title shall be applied as well to the collection of fines of any kind and of other budget receivables, on the basis of writs of enforcement for budget receivables transferred for recovery purposes to the tax body.

TITLE VIII
Settlement of appeals against administrative-tax documents

CHAPTER I
Right to appeal

Possibility of filing an appeal

Art. 268. - (1) An appeal can be filed in accordance with this title against the tax receivable document, as well as against other administrative-tax documents. The appeal is an administrative means of appeal and does not eliminate the right to action of those who consider that their rights were violated through an administrative-tax document.

(2) The right to appeal belongs only to those who consider that their rights were violated through an administrative-tax document.

(3) The tax base and the tax receivable assessed through a tax assessment shall be appealed only

together.

(4) The tax base no change decisions which do not assess tax receivables can be appealed as well in accordance with the provisions of para. (3).

(5) In the case of decisions related to the tax base which are regulated in accordance with art. 99 para. (1), the appeal can be filed by any person who participates to the obtaining of the revenue.

(6) The tax bases provided separately in a decision related to the tax base can be appealed only through an appeal against that decision.

Form and content of the appeal

Art. 269. - (1) The appeal shall be formulated in writing and shall comprise:

a) the identification details of the contesting party;

b) the object of the appeal;

c) the reasons in fact and in law;

d) the evidence on which it is based;

e) the signature of the contesting party or of the proxy thereof. The quality of proxy of the contesting party, be it an individual or a legal entity, shall be proven in accordance with the law.

(2) The object of the appeal shall refer only to the amounts and measures established and registered by the tax body in the appealed tax receivable document or administrative-tax document.

(3) The appeals which refer to amounts shall specify the total amount appealed, distributed on categories of tax receivables, as well as accessories thereto. If it is found that this obligation was not observed, the competent appeal settlement body shall request to the contesting party in writing to mention the individualized appealed amount within 5 days as of service of the request. If the contesting party does not communicate the amount, it shall be deemed that the entire administrative-tax document was appealed.

(4) The appeal shall be filed with the tax body which issued the appealed administrative-tax document and it does not imply any extra-judiciary stamp duty.

Term of submission of the appeal

Art. 270. - (1) The appeal shall be submitted within 45 days as of the date of service of the administrative-tax document, subject to termination of this right.

(2) If the appeal is not submitted to the issuing tax body, it shall be transferred within at most 5 days as of receipt to the tax body which issued the appealed administrative-tax document.

(3) If the authority of settlement does not belong to the body which issued the appealed administrative-tax document, the appeal shall be forwarded by it within 5 days as of registration to the competent settlement body.

(4) If the administrative-tax document does not contain the elements provided by art. 46 para. (2) letter i), the appeal can be submitted within 3 months as of the date of service of the administrative-tax document to the tax body which issued the appealed administrative-tax document.

Withdrawal of the appeal

Art. 271. - (1) The appeal can be withdrawn by the contesting party before it is settled. In this case, the competent settlement body shall serve to the contesting party the decision of acknowledgment of the waiver of appeal.

(2) The right of submitting a new appeal within the term provided by art. 270 shall not be lost through the withdrawal of the first appeal.

CHAPTER II
Appeal settlement authority Settlement decision

Authorized body

Art. 272. - (1) Appeals formulated against tax assessments; administrative-tax documents assimilated to tax assessments; decisions of regularization of the situation issued in accordance with the customs legislation; those against the measure of reduction of tax loss established through order of measures, as well as against the re-verification decision issued by the central tax body, shall be settled by the specialized appeal settlement structures.

(2) The specialized appeal settlement structure with the general regional directorates of public finance with territorial authority over the tax domicile of the contesting parties has the authority to settle the appeals whose object refers to:

a) tax receivables amounting to up to Lei 5 million;

b) the measure of reduction of tax loss and the re-verification decisions, with the exception of those for which the structure provided by para. (4) is the settlement authority.

(3) The appeals formulated by nonresident taxpayers who do not have a permanent seat in Romania which refer to tax receivables amounting to up to Lei 5 million shall be settled by the specialized appeal settlement structure of the general regional directorates of public finance which is competent to administer the debts of that nonresident taxpayer. If the authority of administration of the debts owed by the nonresident taxpayer belongs to the General Directorate of Administration of Large Taxpayers, the appeal settlement authority shall belong to the general directorate provided by para. (4).

(4) The general directorate of settlement of appeals of the A.N.A.F. is competent to settle the appeals referring to:

a) tax receivables amounting to up to Lei 5

million or more;

b) the measure of reduction of tax loss amounting to Lei 5 million or more;

c) tax receivables and the measure of reduction of tax loss irrespective of the amount, as well as the re-verification decisions, in the case of appeals formulated by large taxpayers;

d) tax receivables and the measure of reduction of tax loss irrespective of the amount, as well as the re-verification decisions, in the case of appeals formulated by taxpayers against the acts issued by the tax bodies from the central unit of the A.N.A.F..

(5) The appeals formulated against other administrative-tax documents than those provided by para. (1) shall be settled by the issuing tax bodies.

(6) The authority of settlement of appeals formulated against the administrative-tax documents issued by the central tax body provided by para. (2)-(4) can be delegated to another settlement body in accordance with the provisions of the relevant order of the chairman of the A.N.A.F. The contesting party and the persons introduced in the appeal settlement proceeding shall be informed about the change of the appeal settlement authority.

(7) The appeals formulated against administrative-tax documents issued by the local tax bodies shall be settled by these tax bodies.

(8) The appeals formulated against the administrative-tax documents issued by other public authorities which administer tax receivables in accordance with the law shall be settled by these authorities.

Settlement decision

Art. 273. - (1) The competent appeal settlement body shall rule through a decision.

(2) The decision issued for the settlement of the

appeal shall be definitive in the system of administrative means of appeal and compulsory for the tax body which issued the appealed administrative-tax documents.

The form and content of the appeal settlement decision

Art. 274. - (1) The appeal settlement decision shall be issued in written form and shall comprise: the recitals, the considerations and the operative part.

(2) The recitals include: the name of the body competent to settle the appeal, the identification details of the contesting party, the registration number of the appeal with the competent appeal settlement body, the object of the case, as well as a summary of the parties' allegations when the competent appeal settlement body is not the body which issued the appealed document.

(3) The considerations comprise the reasons in fact and in law which formed the conviction of the competent appeal settlement body when issuing the decision.

(4) The operative part comprises the solution that was rendered, the means of appeal, the term within which the means of appeal can be exercised and the court of law competent to settle it.

(5) The decision shall be signed by the leader of the appeal settlement structure or the leader of the tax body which issued the appealed administrative-tax document or the substitutes thereof, as applicable.

CHAPTER III
Procedural Provisions

Introducing other persons in the settlement proceeding

Art. 275. - (1) The competent appeal settlement body may introduce other persons in the settlement of the appeal, either ex officio or upon request, as applicable, if the judicial interests of tax nature of

those persons are affected through the issuance of the appeal settlement decision. Before introducing the aforementioned persons, the contesting party will be heard in accordance with art. 9.

(2) The persons who participate to the obtaining of revenue in the sense of art. 268 para. (5) and did not file an appeal will be introduced ex officio.

(3) The person introduced in the appeal proceeding will be served all the requests and declarations of the other parties. This person has the rights and obligations of the parties which result from the fiscal law relationship which forms the object of the appeal and he/she is entitled to submit own requests.

(4) The provisions of the Code of Civil Proceedings related to forced and voluntary intervention shall be applicable hereto.

Appeal settlement

Art. 276. - (1) In the process of settlement of the appeal, the competent body shall verify the reasons in fact and in law which led to the issuance of the administrative-tax document. The appeal shall be analyzed relative to the parties' allegations, to the legal provisions they invoked and the documents found in the case file. The appeal shall be settled only with regard to what was claimed.

(2) The competent settlement body may request for the clarification of the case:

a) the opinion of the specialty directorates of the Ministry of Public Finance, of the A.N.A.F. or of other institutions and authorities which are competent to issue opinions in those cases;

b) that an on-the-spot verification should be made in accordance with the provisions of art. 65.

(3) The contesting party may not be placed in a more difficult situation through the settlement of

his/her own appeal.

(4) The contesting party, the interveners or proxies thereof, may submit new evidence in support of their case. In this situation, the tax body which issued the appealed administrative-tax document or the body which carried out the audit activity, as applicable, shall be offered the possibility of issuing an opinion with regard thereto.

(5) The contesting party may request to the competent appeal settlement body to present his/her appeal verbally. In this case, the appeal settlement body shall set a term and convene at the seat thereof the contesting party and the representative of the tax body which issued the appealed administrative-tax document. This request can be addressed to the competent appeal settlement body within at most 30 days as of the date of registration of the appeal, subject to termination of this right.

(6) The competent appeal settlement body shall rule first on the procedural exceptions and then on exceptions of merits, and when it is found that the exceptions are grounded, the case will no longer be analyzed on the merits.

(7) The appeals formulated in accordance with this title shall be settled within the term provided by art. 77.

Suspension of the appeal settlement proceeding by administrative means

Art. 277. - (1) The competent appeal settlement body may suspend the settlement of the case on the basis of a motivated decision, when:

a) the body which carried out the audit activity notified the competent bodies about the existence of clues that a crime was committed with regard to the means of evidence relevant for the establishment of the tax base and if the crime is found to have been indeed committed it will have a decisive influence on the

solution that is to be given in the administrative proceeding;

b) the settlement of the case depends, either in total or in part, on the existence or nonexistence of a right which forms the object of another trial.

(2) At the contesting party's request, the competent appeal settlement body shall suspend the proceeding and set the suspension term. The suspension term cannot be longer than 6 months as of setting date. Suspension can be requested only once.

(3) The administrative proceeding shall be resumed when the reason that caused the suspension is no longer valid or, as applicable, upon expiry of the term set by the competent appeal settlement body in accordance with para. (2), irrespective if the reason which caused the suspension is still valid or not.

(4) The definitive judgment of the criminal court which settles the civil action shall be opposable to the competent settlement bodies with regard to the amounts for which the State registered itself as civil party.

Suspension of the enforcement of the administrative-tax document

Art. 278. - (1) The filing of an administrative appeal does not suspend the enforcement of the administrative-tax document.

(2) The provisions of this article do not affect the right of the contesting party of requesting the suspension of the administrative-tax document's enforcement in accordance with the Law no. 554/2004, as subsequently amended and supplemented. The competent court of law may suspend the enforcement if a surety is deposited, as provided below:

a) of 10%, if the value provided by the administrative-tax document is of up to Lei 10,000;

b) of Lei 1,000 plus 5%, for what exceeds Lei 10,000;

c) of Lei 5,500 plus 1%, for what exceeds Lei 100,000;

d) of Lei 14,500 plus 0.1%, for what exceeds Lei 1,000,000.

(3) If the enforcement of the administrative-tax document is suspended through an order of the courts of law on the basis of the provisions of Law no. 554/2004, as subsequently amended and supplemented, all the effects of the administrative-tax document shall be suspended throughout the suspension term and the tax receivables shall not be registered in the tax ascertaining certificate.

(4) By way of exception from the provisions of art. 173, if the administrative court of law admits the request of the taxpayer/payer of suspending the enforcement of the administrative-tax document in accordance with the Law no. 554/2004, as subsequently amended and supplemented, no additional tax assessed for late payment shall be owed for the suspension period. In the case of receivables administered by the local tax body, late payment penalties of 0.5% per month or a fraction of the month, representing the equivalent of the prejudice, shall be owed during the suspension period.

(5) The suspension of the administrative-tax document's enforcement ordered in accordance with art. 14 in the Law no. 554/2004, as subsequently amended and supplemented, shall be terminated by operation of law and with no need for any other formality, if the action for annulment of the administrative-tax document was not filed within 60 days as of the date of service of the appeal settlement decision.

CHAPTER IV
Appeal solutions

Appeal solutions

Art. 279. - (1) The appeal settlement decision

may admit the appeal, either in total or in part, or dismiss it.

(2) If the appeal is admitted it shall be decided to annul the appealed document, either in total or in part, as applicable.

(3) The appeal settlement decision may annul in total or in part the appealed administrative-tax document if the documents found in the case file and after the measures taken by the tax body which issued the appealed document are not sufficient to establish the factual situation in the case to be settled by reference to the legal grounds invoked by the issuing body and by the contesting party. In this case, the tax body which issued the annulled document shall conclude a new administrative-tax document which must strictly refer to the considerations of the appeal settlement decision. For one type of tax receivable and one period of taxation the administrative-tax document can be annulled only once.

(4) The annulment solution shall be enforced within 30 days as of the date of service of the decision, and the new administrative-tax document issued shall strictly refer to the same period and the same object of appeal for which the annulment solution was rendered.

(5) The appeal settlement decision may suspend the settlement of the case in accordance with the provisions of art. 277.

(6) The appeal settlement decision may ascertain the nullity of the appealed document.

(7) In the case of annulment solutions, the provisions of art. 129 para. (3) shall be properly applied for all the categories of appealed administrative-tax documents, even if on the date the audit/inspection is redone the limitation period would have lapsed.

Dismissal of the appeal for failure to observe the procedural requirements

Art. 280. - (1) If the competent appeal settlement body finds that a procedural requirement was not fulfilled, it shall dismiss the appeal without analyzing its merits.

(2) The appeal may not be dismissed if it was wrongly named.

Service of the decision and means of appeal

Art. 281. - (1) The appeal settlement decision shall be served to the contesting party, to the persons introduced in the appeal settlement proceeding, as well as to the tax body which issued the appealed administrative document.

(2) The decisions issued for the settlement of appeals, together with the administrative-tax documents they refer to, can be appealed by the contesting party or by the persons introduced in the appeal settlement proceeding before the competent administrative court of law, in accordance with legal provisions.

(3) If the decision that orders the annulment of the appealed administrative-tax document is appealed before the competent administrative court in accordance with para. (2), the new administrative-tax document concluded as a result of the annulment solution rendered in the appeal settlement proceeding shall be issued within 30 days as of the date when the tax body was informed about the annulment decision.

(4) If the competent administrative court of law as per para. (2) admits, either in total or in part, the action provided by para. (3), the issuing tax body shall properly annul the new administrative-tax document as well as the subsequent administrative documents, as applicable, and the contesting party shall be returned to the situation he/she was in prior to the issuance of the annulment decision.

(5) If the appeal is not settled within 6 months as

of submission, the contesting party may address the competent administrative court of law to annul the document. The time intervals during which the appeal settlement proceeding is suspended in accordance with art. 277 shall not be included in the calculation of this term.

(6) The appeal settlement proceeding shall cease on the date when the tax body finds out about the administrative action formulated by the taxpayer/payer.

(7) If the decision through which the tax body dismissed the appeal without analyzing the merits of the fiscal law relationships is attacked before the administrative court of law as provided by para. (2) above and the court of law finds that the solution adopted by the tax body is illegal and/or ungrounded, it will also rule on the merits of the fiscal law relationship.

TITLE IX
Amicable proceeding for avoidance/elimination of double taxation

Amicable proceeding

Art. 282. - (1) Pursuant to the provisions of the convention or agreement of avoidance of double taxation, the taxpayer/payer who is a resident of Romania and considers that taxation in the other contracting state does not comply with the provisions of the understanding or agreement in question, he/she may request to the A.N.A.F. to start the amicable proceeding.

(2) The A.N.A.F. shall also carry out the amicable proceeding at the request of the competent authority of the state that concluded a convention or agreement of avoidance of double taxation with Romania.

(3) The provisions of para. (1) and (2) shall be

supplemented with the provisions of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (90/436/EEC), of the Revised code of conduct for the effective implementation of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (2009/C322/01), as well as of the conventions or agreements of avoidance of double taxation concluded by Romania with other countries.

(4) The manner of performance of the amicable proceeding shall be approved through order of the chairman of the A.N.A.F..

Proceeding for elimination of double taxation between Romanian affiliates

Art. 283. - (1) For the purpose of this article, double taxation means the situation in which the same taxable revenue/profit is taxed at two or several Romanian affiliates who concluded transactions between them.

(2) In the case of transactions between Romanian affiliates, the adjustment/estimation of the revenue or expense of one of the affiliates made by the competent tax body that administers the receivables owed by that affiliate is opposable to the tax body that administers the receivables of the other affiliate.

(3) The adjustment/estimation shall be decided by the competent tax body through the issuance of the tax assessment for the audited taxpayer/payer. In order to avoid double taxation in the case of adjustment/estimation of revenues/expenses of one of the Romanian affiliates, after the tax assessment becomes definitive in the system of administrative and judicial means of appeal, the competent tax body that administers the audited taxpayer/payer shall issue an adjustment/estimation decision.

(4) The adjustment/estimation decision shall be

served both to the other Romanian affiliate(s) and to the competent tax body which administers the receivables owed by the other Romanian affiliate(s) and shall be opposable to the tax body only if the other Romanian affiliate(s) applied the provisions of para. (5), making the corrections for avoidance of double taxation.

(5) For the purpose of eliminating double taxation as a result of the adjustment/estimation of the revenues or expenses, the other affiliate may correct in accordance with the adjustment/estimation decision, the tax statement that corresponds to the tax period during which the transaction in question was performed. This situation is a requirement which imposes the correction of the tax base in accordance with the provisions of art. 105 para. (6).

(6) The model and content of the adjustment/estimation decision, the manner of issuance thereof, as well as the adjustment/estimation proceeding, shall be approved through order of the chairman of the A.N.A.F..

TITLE X
International aspects

CHAPTER I
Administrative cooperation in the tax field

SECTION 1
General Provisions

Purpose

Art. 284. - (1) This chapter regulates the norms and proceedings according to which Romania cooperates with the other Member States of the European Union, hereinafter referred to as *Member*

States, in order to make an exchange of information which is predictably relevant for the administration and enforcement of domestic laws of the Member States with regard to the taxes and charges provided by art. 285.

(2) This chapter also contains provisions related to the exchange of information provided by para. (1) through electronic means, as well as norms and proceedings according to which Romania cooperates with the European Commission on themes related to coordination and assessment.

(3) This chapter does not affect the enforcement in Romania of the norms related to mutual assistance on criminal matters and does not supersede any obligations of Romania based on other judicial instruments, including bilateral or multilateral agreements related to extended administrative cooperation.

Scope

Art. 285. - (1) This chapter applies to all types of taxes and charges levied by the State, the administrative-territorial units or administrative-territorial subdivisions of the municipalities, or on their behalf.

(2) Notwithstanding the provisions of para. (1), this chapter does not apply to:

a) value-added tax, custom duties and excises, which form the object of other pieces of legislation of the European Union on administrative cooperation between Member States;

b) the compulsory contributions in the social security system payable to the State or to social security institutions of public law.

(3) Taxes and charges, as they are provided by para. (1), shall not be interpreted in any case so as to include:

a) charges, like those for certificates and other documents issued by the public authorities;

b) dues of a contractual nature, such as consideration for public utilities.

(4) This chapter shall apply to the taxes and charges provided by para. (1) levied within the territories where the treaties of the European Union are applicable on the basis of art. 52 in the Treaty of the European Union.

Definitions

Art. 286. - For the purposes of this chapter, the terms and expressions below have the following meanings:

a) *competent authority of a Member State* - authority which was appointed as such by the Member State in question. If it acts on the basis of this chapter, a central liaison office, a liaison department or an competent officer is also deemed to be a competent authority by delegation, in accordance with art. 287;

b) *central liaison office* - an office which was appointed to be the main responsible for keeping contact with other Member States in the field of administrative cooperation;

c) *liaison department* - any office, other than the central liaison office, which was appointed as such for direct exchange of information in accordance with this chapter;

d) *authorized officer* - any officer who is authorized to make direct exchange of information on the basis of this chapter;

e) *requesting authority* - the central liaison office, a liaison department or any authorized officer of a Member State that submits a request of assistance in the name of the competent authority;

f) *requested authority* - the central liaison office, a liaison department or any authorized officer of a

Member State that receives a request of assistance in the name of the competent authority;

g) *administrative enquiry* - all the controls, verifications and other actions taken by the Member States in the exercise of their duties, in order to ensure the correct enforcement of tax law;

h) *exchange of information upon request* - transmission of information made on the basis of a request addressed by the requesting Member State to the requested Member State in a specific case;

i) *automatic exchange of information* - systematic communication of predefined information related to the residents of other Member States to the relevant Member State of residence, with no prior request, at pre-established regular intervals. For the purpose of art. 291, the available information refers to information from the tax files of the Member States which communicate that information, which can be accessed in accordance with the proceedings of collection and processing of information of that Member State. For the purpose of art. 291 para. (4) and (7), of art. 304 para. (2) and of art. 308 para. (2) and (3), any capitalized term has the meaning assigned to it in accordance with the corresponding definitions provided in appendix no. 1 to this code;

j) *spontaneous exchange of information* - a non-systematic communication of information to another Member State, made at any point in time and with no prior request;

k) *person* - any individual or legal entity, any association of persons recognized as having the capacity to perform legal acts but lacking the legal status of a legal entity, or any other entity, irrespective of its nature or form and no matter if it has legal personality or not, which holds or manages assets that, together with the revenue they generate, are subject to taxes or charges referred to by this chapter;

l) *electronic means* - using electronic equipment

for the processing, including digital compression, and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means;

m) *CCN network* - a common platform based on the common communication network (CCN) developed by the European Union in order to ensure all the transmissions through electronic means between the competent authorities in the customs and tax field.

Competent Romanian authority

Art. 287. - (1) The competent Romanian authority for the enforcement of the provisions of this chapter, as well as for keeping contact with the European Commission, is the *A.N.A.F*.

(2) The central liaison office shall be appointed through order of the chairman of the A.N.A.F. The competent Romanian authority is responsible for informing the European Commission and the other Member States on the appointment of the central liaison office.

(3) Through the order provided by para. (2), the central liaison office can be appointed in charge with keeping contact with the European Commission as well. The competent Romanian authority is responsible for informing the European Commission about this.

(4) The competent Romanian authority may appoint liaison offices with duties distributed in accordance with its national legislation or policy. The central liaison office is responsible for updating the list of liaison departments and making it available to the central liaison offices in the other interested Member States, as well as to the European Commission.

(5) The competent Romanian authority may appoint authorized officers. The central liaison office is responsible for updating the list of authorized officers and making it available to the central liaison offices in

the other interested Member States, as well as to the European Commission.

(6) The officers involved in administrative cooperation on the basis of this chapter are deemed in any situation to be authorized officers in this respect, according to the requirements provided by the competent authorities.

(7) If liaison departments or authorized officers appointed in accordance with para. (4) or (5) send or receive a request or a response to a request for cooperation, they shall inform the central liaison office in Romania in accordance with the proceedings provided by the latter.

(8) If liaison departments or authorized officers appointed in accordance with para. (4) or (5) receive a request for cooperation which requires an action outside the authority delegated thereto in accordance with the Romanian national legislation or policy, they shall send without delay the request in question to the central liaison office in Romania and inform the requesting authority. In this case, the time interval provided by art. 290 starts on the date following the transmission of the request for cooperation to the central liaison office.

SECTION 2

Exchange of information

§1. Exchange of information upon request

Proceeding applicable to the exchange of information upon request

Art. 288. - At the request of the requesting authority from another Member State, the requested authority in Romania shall send it any information provided by art. 284 para. (1) it holds or it obtains following the administrative enquiries.

Administrative investigations

Art. 289. - (1) The requested authority in Romania ensures the performance of any administrative enquiries necessary to obtain the information provided by art. 288.

(2) The request provided by art. 288 may contain the motivated request for a specific administrative enquiry. If the requested Romanian authority decides that it is not necessary to perform any administrative enquiry, it shall inform the requesting authority from another Member State at once on the reasons for its decision.

(3) In order to obtain the requested information or to perform the requested administrative enquiry, the requested Romanian authority shall perform the same proceedings as when it acts on its own initiative or at the request of another Romanian authority.

(4) If the requesting authority from another Member State expressly requests it, the requested Romanian authority shall send original documents, provided this does not contravene to the legal provisions in force in Romania.

Terms for the exchange of information upon request

Art. 290. - (1) The requested Romanian authority shall provide the information mentioned by art. 288 within the shortest time possible, but not later than 6 months as of the date of receipt of the request. If the requested Romanian authority already has the requested information, it shall send it within two months as of receipt of the request.

(2) For certain special cases, the requesting authority from another Member State and the requested Romanian authority may agree on different terms than those provided by para. (1).

(3) The requested Romanian authority shall confirm, if possible by electronic means, to the

requesting authority from another Member State that it received the request without delay, but not later than 7 business days as of receipt.

(4) Within one month as of receipt of the request, the requested Romanian authority shall notify the requesting authority from another Member State on any irregularities of the request, as well as on the need for possible additional information. In such a case, the terms provided by para. (1) shall be calculated as of the day following that when the requested Romanian authority receives the necessary additional information.

(5) If the requested Romanian authority is not able to respond on the established term, it shall notify the requesting authority from another Member State without delay, but not later than 3 months as of receipt of the request, on the reasons why it did not observe the term and on the date when it considers that it will be able to offer a response.

(6) If the requested Romanian authority does not have the requested information and it is not able to respond or refuses to respond to a request for information due to the reasons provided by art. 300, it shall notify the requesting authority from another Member State on its reasons without delay, but not later than one month as of receipt of the request.

§2. *Compulsory automatic exchange of information*

Scope and conditions for the compulsory automatic exchange of information

Art. 291. - (1) The competent Romanian authority shall send to the competent authority of any other Member State by means of automatic exchange the information related to the taxation periods starting after January 1, 2014 which is available with regard to the residents of that Member State and to the following specific categories of revenues and capital, as these are

understood on the basis of the national Romanian legislation:

a) revenues from work;

b) payments and other benefits of administrators and other persons assimilated thereto;

c) life insurance products not covered by other judicial instruments of the European Union, in the case of exchange of information or other similar measures;

d) pensions;

e) ownership in immovable assets and revenues from immovable assets.

(2) The competent Romanian authority shall inform the European Commission on the specific categories of revenues and capital provided by para. (1) about which it has information, as well as on any subsequent amendments thereto.

(3) The competent Romanian authority may indicate to the competent authority of any other Member State that it does not want to receive information related to one or several of the categories of revenues and capital provided by para. (1) and Romania shall inform the European Commission in this respect. If Romania does not inform the European Commission about any of the categories with regard to which it has information, it may be considered to be a state which does not want to receive information as provided by para. (1).

(4) The Reporting Financial Institutions in Romania are required to apply the reporting and precautionary norms included in appendices 1 and 2 which are an integral part of this code and to make sure of the effective enforcement and observance of these norms in accordance with Section IX in appendix no. 1 to this code. Pursuant to the applicable reporting and precautionary norms provided in appendices 1 and 2 to this code, the competent Romanian authority shall send to the competent

authority from any other Member State through automatic exchange of information, as provided by para. (6) letter b), the following information related to the taxable periods starting on January 1, 2016 related to an Account which is subject to reporting:

a) the name, address, tax identification number(s) (TINs), as well as the date and place of birth (for individuals) of every Person who is subject to reporting and who is a Holder of that account and, in the case of an Entity which is an Account holder and which is identified after the application of the precautionary norms provided in the appendices to this code as having one or several Controlling Persons and which is a Reportable Person, the name, address and TIN of the Entity, as well as the name, address, TIN and the date and place of birth of every Reportable Person;

b) the account number (or its functional equivalent in the absence of an account number);

c) the name and identification number, if applicable, of the Reporting Financial Institution;

d) the account balance or value, including the Cash value in the case of a Cash Value Insurance Contract or of a Life Annuity Contract, at the end of the relevant calendar year or of another adequate reporting period or, if the account was closed during the year or during that time interval, the closing of the account;

e) in the case of any Custody agreement:

(i) the gross amount of the interests, the total gross amount of dividends and the total gross amount of other revenues generated with regard to the assets held in the account, in every case paid or credited into that account or with regard to that account during the calendar year or another adequate reporting period;

(ii) the total gross collections from the sale or recovery of the Financial Assets paid or credited into

the account during the calendar year or another adequate reporting period with regard to which the Reporting Financial Institution acted as custodian, broker, representative or any other type of attorney-in-fact of the Account Holder;

f) in the case of any Deposit account, the total gross amount of the interests paid or credited into the account during the calendar year or another adequate reporting period;

g) in the case of any other account than those provided by letters e) or f), the total gross amount paid or credited to the Account Holder with regard to that account during the calendar year or another adequate reporting period with regard to which the Reporting Financial Institution is the debtor, including the aggregate amount of any redemptions paid to the Account Holder during the calendar year or another adequate reporting period. For the purpose of exchange of information pursuant to this paragraph, in the absence of contrary provisions of this paragraph or of the appendices to this code, the amount and description of the payments made in connection to an Account which is subject to reporting shall be established in accordance with the national legislation of the Member State which communicates the information. The first and second line of this paragraph have priority over para. (1) letter c) or any other judicial instrument of the European Union, including over the provisions of chapter IV of title VI in the Tax Code which transposes Directive 2003/48/EC of the Council of June 3, 2003 on taxation of savings income in the form of interest payments, to the extent the exchange of information in question would fall under the provisions of para. (1) letter (c) or of any other judicial instrument of the European Union, including over the provisions of the Tax Code which transpose Directive

2003/48/EC.

(5) Before July 1, 2016, the competent Romanian authority shall make available yearly to the European Commission statistics on the volume of automatic exchanges of information and, to the extent possible, information related to the administrative costs and benefits and other relevant benefits related to the exchanges that occurred and any possible amendments both for the tax administrations and for third parties.

(6) The information shall be communicated as follows:

a) in the case of the categories provided by para. (1): at least once a year, within 6 months as of the end of the tax year in the Member State in question during which the information became available;

b) in the case of the information provided by para. (4): yearly, within 9 months as of the end of the calendar year or of another adequate reporting period to which the information refers.

(7) For the purpose of letter B point 1 letter c) and letter C point 17 letter g) in section VIII of appendix no. 1 to this Code, the competent Romanian authority shall provide to the European Commission the list of entities and accounts which must be treated as Non-reporting Financial Institutions or as Excluded Accounts. The competent Romanian authority shall also inform the European Commission if amendments occur in this respect. Romania guarantees the fact that these types of Non-reporting Financial Institutions and Excluded Accounts fulfill all the requirements listed at letter B point 1 letter c) and letter C point 17 letter g) in section VIII of appendix no. 1 to this Code and, especially, that the statute of a Financial Institution of being a Non-reporting Financial Institution or of an account of being an Excluded Account does not breach the objectives of this chapter.

(8) If Romania agrees with other Member States to make automatic exchanges of information regarding additional categories of revenues and capital through bilateral or multilateral agreements it concludes, Romania shall inform the European Commission on those agreements and the Commission shall make them available to all the other Member States.

§3. *Spontaneous exchange of information*

Scope and conditions for the spontaneous exchange of information

Art. 292. - (1) The competent Romanian authority shall inform the competent authority in any other interested Member State about the information provided by art. 284 para. (1), in any of the following situations:

a) the competent Romanian authority has proof on the basis of which it presupposes that there can be tax losses in another Member State;

b) a taxable person obtains a tax discount or exemption in Romania, which could cause an increase of a tax or of the liability to pay tax in another Member State;

c) business dealings between a Romanian taxable person and a taxable person from another Member State are conducted through one or more countries in such a way that a saving in tax may result in Romania or in the other Member State or in both;

d) the competent Romanian authority has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;

e) information forwarded to one Member State by the competent authority of another Member State has enabled information to be obtained which may be relevant in assessing liability to tax in the latter

Member State.

(2) The competent Romanian authority may communicate through spontaneous exchanges to the authorized authorities of the other Member States any information it knows which could be useful thereto.

Terms for the spontaneous exchange of information

Art. 293. - (1) The competent Romanian authority which is made available the information provided by art. 292 para. (1) shall send that information to the competent authority of any other interested Member State as soon as possible, but not later than one month as of the date when the information were made available to it.

(2) The competent Romanian authority which is communicated the information pursuant to art. 292 confirms, if possible by electronic means, that it received the information to the authority which provided it, without delay, but not later than 7 business days as of receipt.

SECTION 3

Other forms of administrative cooperation

§1. Presence in the administrative offices and participation to administrative enquiries

Scope and conditions

Art. 294. - (1) Based on an agreement between the requesting authority of another Member State and the requested authority in Romania and on the conditions established by the latter, the officers authorized by the requesting authority of another Member State may be present in the offices where the Romanian administrative authorities operate and/or may participate to the administrative enquiries performed in Romania, for the purpose of the exchange of information provided by art. 284 para. (1). If the

requested information is included in the documents to which the officers of the requested Romanian authority have access, the officers of the requesting authority of another Member State shall receive copies of these documents.

(2) To the extent this is allowed in accordance with the Romanian legislation, the agreement provided by para. (1) may provide that, when the officers of the requesting authority of another Member State are present during the administrative enquiries, they may interview different persons and may verify different registers. The refusal of a person subject to enquiry of observing the control measures taken by the officers of the requesting authority of another Member State shall be treated by the requested Romanian authority as a refusal directed against its own officers.

(3) The officers authorized by the requesting Member State present in Romania in accordance with the provisions of para. (1) must be capable of presenting at any point in time a written power of attorney mentioning their identity and official quality.

§2. Administrative cooperation through simultaneous controls

Simultaneous controls

Art. 295. - (1) If Romania agrees with one or several Member States to perform simultaneous controls, every one of them on their own territory, with regard to one or several persons of common or complementary interest, with a view to exchanging the information obtained, the provisions of para. (2) - (4) shall be applied.

(2) The competent Romanian authority shall independently identify the persons for whom it intends to propose simultaneous controls. It notifies the competent authorities in the other Member States

involved about any cases for which it proposes the performance of a simultaneous control and indicates the reasons for making this choice, as well as the period of performance thereof.

(3) The competent Romanian authority decides whether it wants to participate to the simultaneous controls and confirms to the competent authority which proposed the simultaneous control its consent or motivated refusal.

(4) The competent Romanian authority shall appoint a representative in charge with the supervision and coordination of the control operation.

§3. Administrative notifications

Notification requests

Art. 296. - (1) At the request of the competent authority of a Member State, the competent Romanian authority shall notify the addressee in accordance with art. 47 of any instruments and decisions which emanate from the administrative authorities of the requesting Member State and concern the application in its territory of legislation on taxes and charges regulated by this chapter.

(2) Requests for notification shall indicate the subject of the instrument or decision to be notified and shall specify the name and address of the addressee, together with any other information which may facilitate identification of the addressee.

(3) The requested Romanian authority shall inform the requesting authority from another Member State immediately of its response and, in particular, of the date of notification of the instrument or decision to the addressee.

(4) The requesting Romanian authority shall only make a request for notification pursuant to this article

when it is unable to notify in accordance with the rules governing the notification of the instruments concerned in Romania, or where such notification would give rise to disproportionate difficulties. The competent Romanian authority may notify any document by registered mail or electronically directly to a person within the territory of another Member State.

§4. Feedback

Conditions

Art. 297. - (1) If the competent Romanian authority provides information in accordance with art. 288 or art. 292, it may request the competent authority which receives the information to send feedback thereon. If feedback is requested, the competent Romanian authority which received the information shall, without prejudice to the rules on tax secrecy and data protection applicable in Romania, send feedback to the competent authority which provided the information as soon as possible and no later than 3 months after the outcome of the use of the requested information is known.

(2) The competent Romanian authority shall send feedback on the automatic exchange of information to the other Member States concerned once a year, in accordance with practical arrangements agreed upon bilaterally.

§5. Sharing of best practices and experience

Scope and conditions

Art. 298. - (1) The competent Romanian authority shall, together with the European Commission, examine and evaluate administrative cooperation pursuant to this chapter and shall share their experience, with a view to improving such cooperation

and, where appropriate, drawing up rules in the fields concerned.

(2) The competent Romanian authority may, together with the European Commission and the other Member States, produce guidelines on any aspect deemed necessary for sharing best practices and sharing experience.

SECTION 4

Conditions governing administrative cooperation

Disclosure of information and documents

Art. 299. - (1) The information communicated to Romania by the Member States in any form pursuant to this chapter shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under Romanian law. Such information may be used for the administration and enforcement of the Romanian laws concerning the taxes and charges referred to in art. 285. Such information may also be used for the assessment and enforcement of other taxes and charges covered by article 311 or for the assessment and enforcement of compulsory social security contributions. In addition, it may be used in connection with judicial and administrative proceedings that may involve penalties, initiated as a result of infringements of tax law, without prejudice to the general rules and provisions governing the rights of perpetrators, suspects or defendants or civil offenders, and of the witnesses in such proceedings.

(2) With the permission of the competent authority of the Member State communicating information pursuant to this chapter, and only in so far as this is allowed under Romanian legislation, information and documents received by Romania pursuant to this chapter may be used for other purposes

than those referred to in paragraph (1). Such permission shall be granted by Romania if the information can be used for similar purposes in Romania.

(3) If the competent Romanian authority considers that information which it has received from the competent authority of another Member State is likely to be useful for the purposes referred to in paragraph (1) to the competent authority of a third Member State, it may transmit that information to the latter competent authority, provided that transmission is in accordance with the rules and procedures laid down in this chapter. The competent Romanian authority shall inform the competent authority of the Member State from which the information originates about its intention to share that information with a third Member State. If Romania is the Member State from which the information originates, it may oppose such a sharing of information within 10 working days of receipt of the communication from the Member State wishing to share the information.

(4) Permission to use information pursuant to paragraph (2), which has been transmitted pursuant to paragraph (3), may be granted only by the competent Romanian authority.

(5) Information, reports, statements and any other documents, or certified true copies or extracts thereof, obtained by the requested authority and communicated to the requesting Romanian authority in accordance with this chapter may be invoked as evidence by the competent Romanian bodies on the same basis as similar information, reports, statements and any other documents provided by a Romanian authority.

Limits

Art. 300. - (1) The Romanian requested authority shall provide a requesting authority in another Member

State with the information referred to at art. 288 provided that the requesting authority has exhausted the usual sources of information which it could have used in the circumstances for obtaining the information requested, without running the risk of jeopardizing the achievement of its objectives. The Romanian requested authority shall request the information referred to at art. 288 to the requested authority of another Member State only if it has exhausted the usual sources of information which it could have used in the circumstances for obtaining the information requested, without running the risk of jeopardizing the achievement of its objectives.

(2) This chapter shall impose no obligation upon Romania to carry out enquiries or to communicate information, if it would be contrary to its legislation to conduct such inquiries or to collect the information requested for its own purposes.

(3) The competent Romanian authority may decline to provide information where the requesting Member State is unable, for legal reasons, to provide similar information.

(4) The provision of information may be refused where it would lead to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.

(5) The requested Romanian authority shall inform the requesting authority from another Member State of the grounds for refusing a request for information.

Obligations

Art. - 301. - (1) If information is requested by a Member State in accordance with this chapter, Romania shall use its measures aimed at gathering information to obtain the requested information, even

though it may not need such information for its own tax purposes. That obligation is without prejudice to art. 300 para. (2)-(4), the invocation of which shall in no case be construed as permitting Romania to decline to supply information solely because it has no domestic interest in such information.

(2) The provisions of art. 300 para. (2) and (4) shall in no case be construed as permitting the requested Romanian authority to decline to supply information solely because that information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

(3) Notwithstanding para. (2), Romania may refuse the transmission of requested information where such information concerns taxable periods prior to January 1, 2011 and where the transmission of such information could have been refused on the basis of Article 8(1) of Directive 77/799/EEC of December 19, 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums if it had been requested before March 11, 2011.

Extension of wider cooperation provided to a third country

Art. 302. - If Romania provides a wider cooperation to a third country than that provided for under this chapter, Romania may not refuse to provide such wider cooperation to any other Member State wishing to enter into such mutual wider cooperation with Romania.

Standard forms and computerized formats

Art. 303. - (1) Requests for information and for administrative enquiries pursuant to art. 288 and their replies, acknowledgments, requests for additional background information, inability or refusal pursuant to article 290 shall, as far as possible, be sent using a

standard form adopted by the European Commission in accordance with the procedure referred to in art. 5 and 10 of the Regulation (EU) no. 182/2011 of the European Parliament and of the Council of February 16, 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. The standard forms may be accompanied by reports, statements and any other documents, or certified true copies or extracts thereof.

(2) The standard form referred to in para. (1) shall include at least the following information to be provided by the requesting authority:

a) the identity of the person under examination or investigation;

b) the tax purpose for which the information is sought.

(3) The requesting Romanian authority may, to the extent known and in line with international developments, provide the name and address of any person believed to be in possession of the requested information as well as any element that may facilitate the collection of information by the requested authority from another Member State.

(4) Spontaneous information and its acknowledgment pursuant to article 292 and art. 293, respectively, requests for administrative notifications pursuant to article 296 and feedback information pursuant to article 297 shall be sent using the standard form adopted by the European Commission in accordance with the procedure referred to in art. 5 and 10 of the Regulation (EU) no. 182/2011.

(5) The automatic exchange of information pursuant to article 291 shall be sent using a standard computerized format aimed at facilitating such automatic exchange and based on the existing

computerized format pursuant to the article on automatic exchange of information in title VI of the Tax Code, which transposes article 9 of Council Directive 2003/48/EC of the Council of June 3, 2003 on taxation of savings income in the form of interest payments, to be used for all types of automatic exchange of information, adopted by the European Commission in accordance with the procedure referred to in art. 5 and 10 of the Regulation (EU) no. 182/2011.

Practical arrangements

Art. 304. - (1) Information communicated pursuant to this chapter shall, as far as possible, be provided by electronic means using the CCN network.

(2) If the European Commission makes whatever development of the CCN network, Romania shall be responsible for performing whatever development of its systems necessary for allowing the exchange of information of this type through the CCN network and ensuring the security of its systems. The competent Romanian authority shall notify every person subject to reporting on the infringement of the security of his/her data when that infringement is such that it might have a negative effect on personal data protection or on the private life of that person. Romania shall waive all claims for the reimbursement of expenses incurred in applying this chapter except, where appropriate, in respect of fees paid to experts.

(3) Requests for cooperation, including requests for notification, and attached documents may be made in any language agreed between the requested and requesting authority. Those requests shall be accompanied by a translation into the official language or one of the official languages of the Member State of the requested authority only in special cases when the requested authority states its reason for requesting a

translation.

Specific obligations

Art. 305. - The competent Romanian authority shall take all necessary measures to:

a) ensure effective internal coordination within the organization referred to in article 287;

b) establish direct cooperation with the authorities of the other Member States referred to in article 287;

c) ensure the smooth operation of the administrative cooperation arrangements provided for in this chapter.

SECTION 5

Relations with the European Commission

Evaluation

Art. 306. - (1) The competent Romanian authority shall examine and evaluate the functioning of the administrative cooperation provided for in this chapter.

(2) The competent Romanian authority shall communicate to the European Commission any relevant information necessary for the evaluation of the effectiveness of administrative cooperation in accordance with this chapter in combating tax evasion and tax avoidance.

(3) The competent Romanian authority shall communicate to the European Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in art. 291, as well as the practical results achieved.

(4) The information communicated to the European Commission by the competent Romanian authority in accordance with para. (2) and (3), as well as any report or document elaborated by the European Commission on the basis of this information can be sent to other Member States. Such information sent to

Romania be covered by the obligation of official secrecy and enjoy the protection extended to similar information under Romanian law. The reports and documents elaborated by the European Commission can be used by Romania only for analytical purposes, and they will not be made public or made available to any other person or any other body without the express consent of the European Commission.

SECTION 6

Relations with third countries

Exchange of information with third countries

Art. 307. - (1) Where the competent authority of Romania receives from a third country information that is foreseeably relevant to the administration and enforcement of Romanian laws concerning the taxes and charges referred to in art. 285, the competent Romanian authority may, in so far as this is allowed pursuant to an agreement with that third country, provide that information to the competent authorities of Member States for which that information might be useful and to any requesting authorities from another Member State.

(2) The competent Romanian authority may communicate, in accordance with its domestic provisions on the communication of personal data to third countries, information obtained in accordance with this chapter to a third country, provided that all of the following conditions are met:

a) the competent authority of the Member State from which the information originates has consented to that communication;

b) the third country concerned has given an undertaking to provide the cooperation required to gather evidence of the irregular or illegal nature of

transactions which appear to contravene or constitute an abuse of tax legislation.

SECTION 7
General and final provisions

Data protection

Art. 308. - (1) All exchanges of information made on the basis of this chapter shall be made under observance of the provisions of Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, as subsequently amended and supplemented.

(2) Reporting Financial Institutions and competent Romanian authorities are personal data operators in accordance with the provisions of the Law no. 677/2001, as subsequently amended and supplemented.

(3) Notwithstanding para. (1), every Reporting Financial Institution in Romania shall inform every Person who is subject to reporting on the fact that the information related thereto provided by art. 291 para. (4) is selected and transferred in accordance with this chapter and shall supply to that person all the information the person is entitled to on the basis of Law no. 677/2001, as subsequently amended and supplemented, in due time so as to allow the person to exercise the rights related to personal data protection before the Reporting Financial Institution sends the information provided at art. 291 para. (4) to the competent Romanian authority.

Preservation of information

Art. 309. - Information processed in accordance with this chapter shall be preserved for a term not exceeding the period necessary to reach the objectives of this chapter and, in any case, as provided by the

Romanian legislation on the limitation period for every data operator.

CHAPTER II
Mutual assistance for the recovery of claims relating to taxes, charges, rights and other measures

SECTION 1
General Provisions

Purpose

Art. 310. - This chapter sets rules on assistance for recovery in Romania of certain claims assessed in another Member State of the European Union, as well as assistance for recovery in another Member State of the European Union of claims assessed in Romania.

Scope

Art. 311. - (1) This chapter applies to the following claims:

a) all taxes, charges and rights of any kind levied by or on behalf of a Member State or its territorial or administrative subdivisions, including the local authorities, or on behalf thereof or of the European Union;

b) refunds, interventions and other measures forming part of the system of total or partial financing of the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD), including sums to be collected in connection with these actions;

c) levies and other duties provided for under the common organization of the market for the sugar sector.

(2) This chapter also applies to:

a) administrative penalties, fines, charges and surcharges relating to the claims for which mutual

assistance may be requested in accordance with paragraph (1), imposed by the administrative authorities that are competent to levy the taxes, charges or rights concerned or carry out administrative enquiries with regard to them, or confirmed by administrative or judicial bodies at the request of those administrative authorities;

b) fees for certificates and similar documents issued in connection with administrative procedures related to taxes, charges and rights;

c) interest and costs relating to the claims for which mutual assistance may be requested in accordance with paragraph (1) or point (a) or (b) of this paragraph, as applicable.

(3) This chapter shall not apply to:

a) compulsory social security contributions payable to the Member State or a subdivision of the Member State, or to social security institutions established under public law;

b) charges not referred to in paragraph (2);

c) dues of a contractual nature, such as consideration for public utilities;

d) criminal penalties imposed on the basis of a public prosecution or other criminal penalties not covered by paragraph (2) letter a).

Definitions

Art. 312. - For the purposes of this chapter, the terms and expressions below have the following meanings:

a) *applicant authority* - means a central liaison office, a liaison office or a liaison department of a Member State which makes a request for assistance concerning a claim referred to in article 311;

b) *requested authority* - means a central liaison office, a liaison office or a liaison department of a Member State to which a request for assistance is

made;

c) *person* - any individual or legal entity, any association of persons recognized as having the capacity to perform legal acts but lacking the legal status of a legal entity, or any other entity, irrespective of its nature or form and no matter if it has legal personality or not, which holds or manages assets that, together with the revenue they generate, are subject to taxes, charges or rights referred to by this chapter;

d) *electronic means* - using electronic equipment for the processing, including digital compression, and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means;

e) *CCN network* - means the common platform based on the common communication network (CCN) developed by the European Union for all transmissions by electronic means between competent authorities in the area of customs and taxation.

Competent Romanian authority

Art. 313. - (1) The competent Romanian authorities for the application of the provisions of this chapter are:

a) the A.N.A.F., in the case of claims provided by art. 311 para. (1) letters a) and b);

b) the Agency for Payments and Intervention for Agriculture, for the claims provided by art. 311 para. (1) letter c).

(2) The authorities provided by para. (1) are also competent with regard to assistance for recovery of the claims provided by art. 311 para. (2) that correspond to the principal claims for whose assistance for recovery they are competent.

(3) The chairman of the A.N.A.F. shall establish by means of an order the central liaison office in charge with keeping contact with other Member States

in the area of mutual assistance which is provided by this chapter, as well as for keeping contact with the European Commission.

(4) The competent Romanian authorities may appoint liaison offices to be responsible for keeping contact with other Member States in the area of mutual assistance with regard to one or several specific types or categories of taxes, charges and rights provided by art. 311.

(5) If a liaison office receives an application for mutual assistance which requires measures for which it is not competent, it shall forward the application without delay to the competent office, if it knows it, or to the central liaison office and shall properly inform the applicant authority.

(6) The competent Romanian authorities shall inform the European Commission of its central liaison office and any liaison offices it appointed.

(7) Every communication shall be sent by or on behalf or, on a case by case basis, with the agreement of the central liaison office, which shall ensure effectiveness of communication.

SECTION 2

Exchange of information

Supply of information

Art. 314. - (1) At the request of the applicant authority, the requested authority shall provide any information which is foreseeably relevant to the applicant authority in the recovery of its claims as referred to in art. 311. For the purpose of providing that information, the requested authority shall arrange for the carrying-out of any administrative enquiries necessary to obtain it.

(2) The requested authority shall not be obliged to

supply information:

a) which it would not be able to obtain for the purpose of recovering similar claims arising in the requested Member State;

b) which would disclose any commercial, industrial or professional secrets;

c) the disclosure of which would be liable to prejudice the security of or be contrary to the public policy of the requested Member State.

(3) The requested authority shall not be permitted to decline to supply information solely because that information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

(4) The requested authority shall inform the applicant authority of the grounds for refusing a request for information.

Exchange of information without prior request

Art. 315. - Where a refund of taxes, charges or rights, other than value-added tax, relates to a person established or resident in another Member State, the Member State from which the refund is to be made may inform the Member State of establishment or residence of the upcoming refund.

Presence in the administrative offices and participation to administrative enquiries

Art. 316. - (1) By agreement between the applicant authority and the requested authority and in accordance with the arrangements laid down by the requested authority, officials authorized by the applicant authority may, with a view to promoting mutual assistance provided for in this chapter:

a) be present in the offices where the administrative authorities of the requested Member State carry out their duties;

b) be present during administrative enquiries

carried out in the territory of the requested Member State;

c) assist the competent officials of the requested Member State during court proceedings in that Member State.

(2) In so far as it is permitted under the legislation in force in the requested Member State, the agreement referred to in paragraph (1) letter b) may provide that officials of the applicant Member State may interview individuals and examine records.

(3) Officials authorized by the applicant authority who make use of the possibilities offered by paragraphs (1) and (2) shall at all times be able to produce written authority stating their identity and their official capacity.

SECTION 3

Assistance for the notification of documents

Request for notification of certain documents relating to claims

Art. 317. - (1) At the request of the applicant authority, the requested authority shall notify to the person it is addressed to, hereinafter referred to as the *addressee*, all instruments and decisions, including those of a judicial nature, which emanate from the applicant Member State and which relate to a claim.

(2) The request for notification provided by para. (1) shall be accompanied by a standard form containing at least the following information:

a) the name, address and other data relevant to the identification of the addressee;

b) the purpose of the notification and the period within which notification should be effected;

c) a description of the attached document and the nature and amount of the claim concerned;

d) the name, address and other contact details

regarding the office responsible with regard to the attached document, and, if different,
the office where further information can be obtained concerning the notified document or concerning the possibilities to contest the payment obligation.

(3) The applicant authority shall make a request for notification pursuant to this chapter only when it is unable to notify in accordance with the rules governing the notification of the document concerned in the applicant Member State, or when such notification would give rise to disproportionate difficulties.

(4) The requested authority shall forthwith inform the applicant authority of any action taken on its request for notification and, more especially, of the date of notification of the document to the addressee.

Means of notification

Art. 318. - (1) The requested authority shall ensure that notification in the requested Member State is effected in accordance with the national laws, regulations and administrative practices in force in the requested Member State.

(2) Paragraph (1) shall be without prejudice to any other form of notification made by a competent authority of the applicant Member State in accordance with the rules in force in that Member State.

(3) A competent authority established in the applicant Member State may notify any document directly by registered mail or electronically to a person within the territory of another Member State.

SECTION 4

Recovery or precautionary measures

Request for recovery

Art. 319. - (1) At the request of the applicant authority, the requested authority shall recover claims

which are the subject of an instrument permitting enforcement in the applicant Member State.

(2) As soon as any relevant information relating to the matter which gave rise to the request for recovery comes to the knowledge of the applicant authority, it shall forward it to the requested authority.

Conditions governing a request for recovery

Art. 320. - (1) The applicant authority may not make a request for recovery if and as long as the claim and/or the instrument permitting its enforcement in the applicant Member State are contested in that Member State, except in cases where the third subparagraph of art. 323 para. (6) applies.

(2) Before the applicant authority makes a request for recovery, appropriate recovery procedures available in the applicant Member State shall be applied, except in the following situations:

a) where it is obvious that there are no assets for recovery in the applicant Member State or that such procedures will not result in the payment in full of the claim, and the applicant authority has specific information indicating that the person concerned has assets in the requested Member State;

b) where recourse to such procedures in the applicant Member State would give rise to disproportionate difficulty.

Writ of enforcement and other accompanying documents

Art. 321. - (1) Any request for recovery shall be accompanied by a uniform instrument permitting enforcement in the requested Member State. This uniform instrument permitting enforcement in the requested Member State shall reflect the substantial contents of the initial instrument permitting enforcement, and constitute the sole basis for the recovery and precautionary measures taken in the requested Member State. It shall not be subject to any

act of recognition, supplementing or replacement in that Member State.

(2) The uniform instrument permitting enforcement shall contain at least the following information:

a) information relevant to the identification of the initial instrument permitting enforcement, a description of the claim, including its nature, the period covered by the claim, any dates of relevance to the enforcement process, and the amount of the claim and its different components such as principal and ancillary tax claims owed;

b) the name, address and other data relevant to the identification of the debtor;

c) the name, address and other contact details regarding the office responsible for the assessment of the claim, and, if different, the office where further information can be obtained concerning the claim or concerning the possibilities to contest the payment obligation.

(3) The request for recovery of a claim may be accompanied by other documents relating to the claim issued in the applicant Member State.

Recovery of the claim

Art. 322. - (1) For the purpose of the recovery in the requested Member State, any claim in respect of which a request for recovery has been made shall be treated as if it was a claim of the requested Member State, except where otherwise provided for in this Directive. The requested authority shall make use of the powers and procedures provided under the laws, regulations or administrative provisions of the requested Member State applying to claims concerning the same or, in the absence of the same, a similar tax or duty, except where otherwise provided for in this chapter.

(2) If the requested authority considers that the same or similar taxes, charges or rights are not levied on its territory, it shall make use of the powers and procedures provided under the laws of the requested Member State which apply to claims concerning the tax levied on personal income, except where otherwise provided for in this chapter.

(3) The requested Member State shall not be obliged to grant other Member States' claims preferences accorded to similar claims arising in that Member State, except where otherwise agreed between the Member States concerned or provided in the law of the requested Member State. A Member State which grants preferences to another Member State's claims may not refuse to grant the same preferences to the same or similar claims of other Member States on the same conditions.

(4) The requested Member State shall recover the claim in its own currency.

(5) The requested authority shall inform the applicant authority with due diligence of any action it has taken on the request for recovery.

(6) From the date on which the recovery request is received, the requested authority shall charge interest for late payment in accordance with the laws in force in the requested Member State. The provisions of art. 174 shall be applicable for Romania.

(7) The requested authority may, where the laws in force in the requested Member State so permit, allow the debtor time to pay or authorize payment by installments and it may charge interest in that respect. It shall subsequently inform the applicant authority of any such decision.

(8) Without prejudice to the provisions of art. 329 para. (1), the requested authority shall remit to the applicant authority the amounts recovered with respect

to the claim and the interest referred to in paragraphs (6) and (7).

Disputes

Art. 323. - (1) Disputes concerning the claim, the initial instrument permitting enforcement in the applicant Member State or the uniform instrument permitting enforcement in the requested Member State and disputes concerning the validity of a notification made by a competent authority of the applicant Member State shall fall within the competence of the competent bodies of the applicant Member State. If, in the course of the recovery procedure, the claim, the initial instrument permitting enforcement in the applicant Member State or the uniform instrument permitting enforcement in the requested Member State is contested by an interested party, the requested authority shall inform that party that such an action must be brought by the latter before the competent body of the applicant Member State in accordance with the laws in force there.

(2) Disputes concerning the enforcement measures taken in the requested Member State or concerning the validity of a notification made by a competent authority of the requested Member State shall be brought before the competent body of that Member State in accordance with its laws.

(3) Where an action as referred to in paragraph (1) has been brought before the competent body of the applicant Member State, the applicant authority shall inform the requested authority thereof and shall indicate the extent to which the claim is not contested.

(4) As soon as the requested authority has received the information referred to in paragraph (3), either from the applicant authority or from the interested party, it shall suspend the enforcement procedure, as far as the contested part of the claim is

concerned, pending the decision of the body competent in the matter, unless the applicant authority requests otherwise in accordance with paragraph (6).

(5) At the request of the applicant authority, or where otherwise deemed to be necessary by the requested authority, and without prejudice to art. 325, the requested authority may take precautionary measures to guarantee recovery in so far as the laws or regulations in force in the requested Member State allow such action.

(6) The applicant authority may, in accordance with the laws in force in the applicant Member State, ask the requested authority to recover a contested claim or the contested part of a claim, in so far as the relevant laws, regulations and administrative practices in force in the requested Member State allow such action. Any such request shall be reasoned. If the result of contestation is subsequently favorable to the debtor, the applicant authority shall be liable for reimbursing any sums recovered, together with any compensation due, in accordance with the laws in force in the requested Member State.

(7) If a mutual agreement procedure has been initiated by the competent authorities of the applicant Member State or the requested Member State, and the outcome of the procedure may affect the claim in respect of which assistance has been requested, the recovery measures shall be suspended or stopped until that procedure has been terminated, unless it concerns a case of immediate urgency because of fraud or insolvency. If the recovery measures are suspended or stopped, the provisions of para. (5) shall apply.

Amendment or withdrawal of the request for recovery

Art. 324. - (1) The applicant authority shall inform the requested authority immediately of any subsequent amendment to its request for recovery or of

assistance

the withdrawal of its request, indicating the reasons for amendment or withdrawal.

(2) If the amendment of the request is caused by a decision of the competent body referred to in art. 323 para (1), the applicant authority shall communicate this decision together with a revised uniform instrument permitting enforcement in the requested Member State. The requested authority shall then proceed with further recovery measures on the basis of the revised instrument. Recovery or precautionary measures already taken on the basis of the original uniform instrument permitting enforcement in the requested Member State may be continued on the basis of the revised instrument, unless the amendment of the request is due to invalidity of the initial instrument permitting enforcement in the applicant Member State or the original uniform instrument permitting enforcement in the requested Member State. The provisions of art. 321 and art. 323 shall be properly applied.

Request for precautionary measures

Art. 325. - (1) At the request of the applicant authority, the requested authority shall take precautionary measures, if allowed by its national laws and in accordance with its administrative practices, to ensure recovery where a claim or the instrument permitting enforcement in the applicant Member State is contested at the time when the request is made, or where the claim is not yet the subject of an instrument permitting enforcement in the applicant Member State, in so far as precautionary measures are also possible, in a similar situation, under the national law and administrative practices of the applicant Member State. The document drawn up for permitting precautionary measures in the applicant Member State and relating to the claim for which mutual assistance is requested, if

any, shall be attached to the request for precautionary measures in the requested Member State. This document shall not be subject to any act of recognition, supplementing or replacement in that Member State.

(2) The request for precautionary measures may be accompanied by other documents relating to the claim, issued in the applicant Member State.

Rules governing the request for precautionary measures

Art. 326. - For the purpose of application of the provisions of art. 325 the provisions of art. 319 para. (2), art. 322 para. (1) - (5), art. 323 and 324, shall be properly applicable.

Limits to the requested authority's obligations

Art. 327. - (1) The requested authority shall not be obliged to grant the assistance provided for in articles 319 to 325 if recovery of the claim would, because of the situation of the debtor, create serious economic or social difficulties in the requested Member State, in so far as the laws, regulations and administrative practices in force in that Member State allow such exception for national claims.

(2) The requested authority shall not be obliged to grant the assistance provided for in article 314 and art. 316-325, if the initial request for assistance pursuant to Article 314, 316, 317, 319 or art. 325 is made in respect of claims which are more than 5 years old, dating from the due date of the claim in the applicant Member State to the date of the initial request for assistance. However, in cases where the claim or the initial instrument permitting enforcement in the applicant Member State is contested, the 5-year period shall be deemed to begin from the moment when it is established in the applicant Member State that the claim or the instrument permitting enforcement may no longer be contested. Moreover, in cases where a postponement of the payment or installment plan is granted by the competent authorities of the applicant

Member State, the 5-year period shall be deemed to begin from the moment when the entire payment period has come to its end. However, in those cases the requested authority shall not be obliged to grant the assistance in respect of claims which are more than 10 years old, dating from the due date of the claim in the applicant Member State.

(3) A Member State shall not be obliged to grant assistance if the total amount of the claims covered by this chapter, for which assistance is requested, is less than EUR 1 500.

(4) The requested authority shall inform the applicant authority of the grounds for refusing a request for assistance.

Questions on limitation

Art. 328. - (1) Questions concerning periods of limitation shall be governed solely by the laws in force in the applicant Member State.

(2) In relation to the suspension, interruption or prolongation of periods of limitation, any steps taken in the recovery of claims by or on behalf of the requested authority in pursuance of a request for assistance which have the effect of suspending, interrupting or prolonging the period of limitation according to the laws in force in the requested Member State shall be deemed to have the same effect in the applicant Member State, on condition that the corresponding effect is provided for under the laws in force in the applicant Member State.

(3) If suspension, interruption or prolongation of the period of limitation is not possible under the laws in force in the requested Member State, any steps taken in the recovery of claims by or on behalf of the requested authority in pursuance of a request for assistance which, if they had been carried out by or on behalf of the applicant authority in its Member State,

would have had the effect of suspending, interrupting or prolonging the period of limitation according to the laws in force in the applicant Member State shall be deemed to have been taken in the latter State, in so far as that effect is concerned.

(4) The provisions of para. (2) and (3) shall not affect the right of the competent authorities in the applicant Member State to take measures to suspend, interrupt or prolong the period of limitation in accordance with the laws in force in that Member State.

(5) The applicant authority and the requested authority shall inform each other of any action which interrupts, suspends or prolongs the limitation period of the claim for which the recovery or precautionary measures were requested, or which may have this effect.

Costs

Art. 329. - (1) In addition to the amounts referred to in article 322 para. (8), the requested authority shall seek to recover from the person concerned and retain the costs linked to the recovery that it incurred, in accordance with the laws and regulations of the requested Member State.

(2) Member States shall renounce all claims on each other for the reimbursement of costs arising from any mutual assistance they grant each other pursuant to this chapter.

(3) However, where recovery creates a specific problem, concerns a very large amount in costs or relates to organized crime, the applicant and requested authorities may agree reimbursement arrangements specific to the cases in question.

(4) Notwithstanding paragraphs (2) and (3), the applicant Member State shall remain liable to the requested Member State for any costs and any losses

incurred as a result of actions held to be unfounded, as far as either the substance of the claim or the validity of the instrument permitting enforcement and/or precautionary measures issued by the applicant authority are concerned.

SECTION 5

General rules governing all types of assistance requests

Standard forms and means of communication

Art. 330. - (1) Requests pursuant to art. 314 para. (1) for information, requests pursuant to art. 317 para. (1) for notification, requests pursuant to Article 319 para. (1) for recovery or requests pursuant to art. 325 para. (1) for precautionary measures shall be sent by electronic means, using a standard form, unless this is impracticable for technical reasons. As far as possible, these forms shall also be used for any further communication with regard to the request.

(2) The uniform instrument permitting enforcement in the requested Member State, the document permitting precautionary measures in the applicant Member State and the other documents referred to in articles 321 and 325 shall also be sent by electronic means, unless this is impracticable for technical reasons.

(3) Where appropriate, the standard forms may be accompanied by reports, statements and any other documents, or certified true copies or extracts thereof, which shall also be sent by electronic means, unless this is impracticable for technical reasons.

(4) Standard forms and communication by electronic means may also be used for the exchange of information pursuant to article 315.

(5) The provisions of para. (1) - (4) shall not apply to the information and documentation obtained

through the presence in administrative offices in another Member State or through the participation in administrative enquiries in another Member State, in accordance with article 316.

(6) If communication is not made by electronic means or with use of standard forms, this shall not affect the validity of the information obtained or of the measures taken in the execution of a request for assistance.

Use of languages

Art. 331. - (1) All requests for assistance, standard forms for notification and uniform instruments permitting enforcement in the requested Member States shall be sent in, or shall be accompanied by a translation into, the official language, or one of the official languages, of the requested Member State. The fact that certain parts thereof are written in a language other than the official language, or one of the official languages, of the requested Member State, shall not affect their validity or the validity of the procedure, in so far as that other language is one agreed between the Member States concerned.

(2) The documents for which notification is requested pursuant to article 317 may be sent to the requested authority in an official language of the applicant Member State.

(3) Where a request is accompanied by documents other than those referred to in paragraphs (1) and (2), the requested authority may, where necessary, require from the applicant authority a translation of such documents into the official language, or one of the official languages of the requested Member State, or into any other language bilaterally agreed between the Member States concerned.

Disclosure of

Art. 332. - (1) Information communicated in any

information and documents

form pursuant to this Directive shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it. Such information may be used for the purpose of applying enforcement or precautionary measures with regard to claims covered by this chapter. It may also be used for assessment and enforcement of compulsory social security contributions.

(2) Persons duly accredited by the Security Accreditation Authority of the European Commission may have access to this information only in so far as it is necessary for care, maintenance and development of the CCN network.

(3) The Member State providing the information shall permit its use for purposes other than those referred to in paragraph (1) in the Member State receiving the information, if, under the legislation of the Member State providing the information, the information may be used for similar purposes.

(4) Where the applicant or requested authority considers that information obtained pursuant to this Directive is likely to be useful for the purposes referred to in paragraph (1) to a third Member State, it may transmit that information to that third Member State, provided this transmission is in accordance with the rules and procedures laid down in this chapter. It shall inform the Member State of origin of the information about its intention to share that information with a third Member State. The Member State of origin of the information may oppose such a sharing of information within 10 working days of the date at which it received the communication from the Member State wishing to share the information.

(5) Permission to use information pursuant to paragraph (3) which has been transmitted pursuant to

paragraph (4) may be granted only by the Member State from which the information originates.

(6) Information communicated in any form pursuant to this chapter may be invoked or used as evidence by all authorities within the Member State receiving the information on the same basis as similar information obtained within that State.

SECTION 6

Final provisions

Application of other agreements on assistance

Art. 333. - (1) This chapter shall be without prejudice to the fulfillment of any obligation to provide wider assistance ensuing from bilateral or multilateral agreements or arrangements, including for the notification of legal or extra-legal acts.

(2) Where the Member States conclude such bilateral or multilateral agreements or arrangements on matters covered by this chapter other than to deal with individual cases, they shall inform the European Commission thereof without delay.

(3) When providing such greater measure of mutual assistance under a bilateral or multilateral agreement or arrangement, Romania may make use of the electronic communication network and the standard forms adopted for the implementation of this chapter.

Implementing provisions

Art. 334. - The implementing provisions of art. 313 para. (3) and (4), art. 314 para. (1), art. 317, 319, art. 321 para. (1) and (2), art. 322 para. (5) - (8), art. 324, art. 325 para. (1) and art. 330 para. (1) - (4) shall be the rules approved by the European Commission.

Reporting

Art. 335. - (1) Romania, acting through the central liaison office, shall inform the European Commission

annually by 31 March of the following:

a) the number of requests for information, notification and recovery or for precautionary measures which it sends to each requested Member State and which it receives from each applicant Member State each year;

b) the amount of the claims for which recovery assistance is requested and the amounts recovered.

(2) Romania, acting through the central liaison office, may also provide any other information that may be useful for evaluating the provision of mutual assistance under this chapter.

TITLE XI
Sanctions

Civil offenses

Art. 336. - (1) The following acts shall be deemed civil offenses, provided they were not committed in such a way that would make them crimes in accordance with the law:

a) the taxpayer's/payer's failure to submit the tax returns, the declaration of cancellation of the registration for tax purposes or the declarations of mentions on the terms provided by law;

B) the taxpayer's/payer's failure to fulfill on time the declaratory obligations provided by law with regard to taxable assets and revenues or, as applicable, taxes, charges, contributions and other amounts, as well as any other information related to taxes, charges, contributions, taxable assets and revenues, if the law provides that it should be declared;

c) the failure of the taxpayer/payer, as well as of the persons it has or had economic or judicial relations with, to observe the obligation of making available to the tax body registers, records, business documents and

any other documents in the place indicated by the tax body in accordance with art. 64, as well as the failure of the taxpayer/payer to observe the obligation provided by art. 65 para. (3);

b) the failure of the taxpayer/payer to observe the obligation provided by art. 118 para. (7);

e) the failure of the taxpayer/payer to observe the obligations of elaborating the transfer pricing file on the conditions and terms provided by the order of the chairman of the A.N.A.F., as well as the failure of the taxpayer/payer to present the transfer pricing file at the request of the central tax body in accordance with the provisions of art. 108 para. (2);

f) the failure of the taxpayer/payer to observe the obligation of keeping, as well as the obligation of presenting to the tax body, the data archived in electronic form and the software used for generating them, in accordance with art. 109 para. (4);

g) the failure to fulfill the measures ordered on the terms and conditions established by the tax audit body in accordance with art. 118 para. (8);

h) the failure of the taxpayer/payer to supply on time the periodical information requested by the tax body in accordance with art. 59;

i) the failure of credit institutions to observe any obligation of supply of information in accordance with art. 61, as well as the failure of the banks of observing the transfer obligations, as provided by art. 172;

j) the failure of any entity of observing the obligation related to the supply of information, as provided by art. 61;

k) the failure of the garnished third party to observe his/her obligations, in accordance with art. 236 para. (9) - (11);

l) the failure of the Land Registration Office of fulfilling on time the communication obligation

provided by art. 242 para. (9);

m) the refusal of the debtor subject to enforcement of handing over the assets to the enforcement body in order to be foreclosed or to make them available to it for identification and valuation;

n) the refusal of the taxpayer/payer of presenting to the tax body the material assets subject to taxes, charges, social contributions, for the establishment of the reality of the tax return;

o) the failure of the payers of tax liabilities of withholding in accordance with the law the amounts representing taxes and charges that have to the withheld at source;

p) the failure of the payers of tax liabilities of withholding and paying the amounts representing taxes and charges that have to the withheld at source;

r) the failure of the taxpayer/payer or of the proxy thereof, as well as the failure of the persons with whom the taxpayer/payer has or has had economic or judicial relations, to fulfill the obligation of supplying to the tax body the information necessary for establishing the tax state of affairs, in accordance with art. 58 para. (1);

s) the failure of a person subject to a verification of one’s personal tax situation to fulfill the requirement of submitting the asset and income declaration in accordance with art. 138 para. (8);

ss) the performance of intra-Community operations by persons who have the obligation of registering in the Register of intra-Community Operators and are not registered therein as provided by law;

t) the failure of the requesting institution of observing the obligation of initiating the decision of establishment of the right of administration in accordance with art. 263 para. (4);

tt) the failure of the financial institutions of

sending on the term provided by law the information provided by art. 62 or the fact that they send incorrect or incomplete information.

(2) The civil offenses provided by para. (1) shall be sanctioned as follows:

a) by a fine between Lei 25,000 and Lei 27,000 for legal entities included in the category of medium and large taxpayers, and by a fine between Lei 6,000 and Lei 8,000 for the other legal entities, as well as for individuals, if they commit the acts provided by para. (1) letter c);

b) by a fine between Lei 5,000 and Lei 7,000 for legal entities included in the category of medium and large taxpayers, and by a fine between Lei 1,000 and Lei 1,500 for the other legal entities, as well as for individuals, if they commit the acts provided by para. (1) letter d);

c) by a fine between Lei 12,000 and Lei 14,000 for legal entities included in the category of medium and large taxpayers, and by a fine between Lei 2,000 and Lei 3,500 for the other legal entities, as well as for individuals, if they commit the acts provided by para. (1) letters e)-h);

d) by a fine between Lei 1,000 and Lei 5,000 for legal entities included in the category of medium and large taxpayers, and by a fine between Lei 500 and Lei 1,000 for the other legal entities, as well as for individuals, if they commit the acts provided by para. (1) letters a), b), i) - m) and tt);

e) by a fine between Lei 4,000 and Lei 10,000 for legal entities included in the category of medium and large taxpayers, and by a fine between Lei 2,000 and Lei 5,000 for the other legal entities, as well as for individuals, if they commit the acts provided by para. (1) letters n) and r);

f) by a fine between Lei 4,000 and Lei 6,000 for legal entities included in the category of medium and large taxpayers, and by a fine between Lei 1,000 and Lei 1,500 for the other legal entities, as well as for individuals, if they commit the acts provided by para.

(1) letters o) and p), if the tax liabilities not paid are of up to and including Lei 50,000;

g) by a fine between Lei 12,000 and Lei 14,000 for legal entities included in the category of medium and large taxpayers, and by a fine between Lei 4,000 and Lei 6,000 for the other legal entities, as well as for individuals, if they commit the acts provided by para. (1) letters o) and p), if the tax liabilities not paid are between Lei 50,000 and Lei 100,000, inclusive;

h) by a fine between Lei 25,000 and Lei 27,000 for legal entities included in the category of medium and large taxpayers, and by a fine between Lei 6,000 and Lei 8,000 for the other legal entities, as well as for individuals, if they commit the acts provided by para. (1) letters o) and p), if the tax liabilities not paid are over Lei 100,000;

i) by a fine between Lei 10,000 and Lei 50,000 if the act provided by para. (1) letter s) is committed;

j) by a fine between Lei 1,000 and Lei 5,000 if the act provided by para. (1) letter ss) is committed;

k) by a fine between Lei 1,000 and Lei 5,000 if the act provided by para. (1) letter t) is committed;

(3) In the case of individuals, the failure to submit the tax returns on the terms provided by law is a civil offense and it is sanctioned by a fine between Lei 50 and Lei 500.

(4) In the case of associations and other entities without legal personality, the civil offenses provided by para. (1) shall be sanctioned by the fine provided for individuals.

(5) The failure to submit on time the tax returns for the liabilities owed to the local budgets shall be sanctioned in accordance with the Tax Code.

(6) The amounts collected in accordance with this title shall be a revenue of the State budget or of the local budgets, as applicable.

Civil offenses in the case of recapitulative statements

Art. 337. - (1) The following acts shall be deemed civil offenses:

a) the failure to submit the recapitulative statements on the terms provided by law and regulated as such by the norms of the Tax Code on value-added tax;

b) the submission of incorrect or incomplete recapitulative statements.

(2) The civil offenses provided by para. (1) shall be sanctioned as follows:

a) by a fine between Lei 1,000 and Lei 5,000 if the act provided by letter a) is committed;

b) by a fine between Lei 500 and Lei 1,500 if the act provided by letter b) is committed;

(3) Shall not be sanctioned for civil offenses:

a) the persons who correct the recapitulative statement by the legal term of submission of the following recapitulative statement, if the act provided by para. (1) letter b) was not ascertained by the tax body prior to the correction;

b) the persons who correct the statements after the legal term of submission thereof, due to a fact which is not imputable to the taxable person.

Ascertaining of civil offenses and application of sanctions

Art. 338. - (1) The ascertaining of civil offenses and the application of sanctions shall be made by the competent tax bodies, with the exception of the civil offense provided by art. 336 para. (1) letter t) for which the ascertaining of the offense and the application of the sanction shall be done by the persons established through order of the minister of public finance or, as applicable, by decision of the deliberative authority.

(2) The sanctions for civil offenses provided by art. 336 and 337 shall be applied to individuals and legal entities, as applicable. In the case of associations

and other entities without legal personality, the sanctions shall be applied to their representatives.

(3) The civil offender may pay on the spot or within at most 48 hours as of the date of conclusion of the report or, as applicable, as of the date of service thereof, half of the minimum fine provided by this code, and the ascertaining agent shall mention this possibility in the report.

Applicable provisions

Art. 339. - The provisions of this title shall be supplemented with the provisions of Government Ordinance no. 2/2001 on the judicial regime of civil offenses, approved as amended and supplemented through the Law no. 180/2002, as subsequently amended and supplemented.

TITLE XII
Transitional and final provisions

Provisions related to the customs regime

Art. 340. - The failure to pay the customs duties on the legal term provided by law, with the exception of those stipulated at art. 157 para. (2), shall lead to an interdiction of performance of the customs operations until the duties are fully paid.

Provisions related to public servants of the tax bodies

Art. 341. - (1) In the performance of their job duties, public servants of the tax bodies are authorized to exercise public authority and benefit from protection in accordance with the law.

(2) The State and the administrative-territorial units shall be liable with their assets for the prejudice caused to the taxpayer by the public servants of the tax bodies in the exercise of their duties.

(3) If the public servants are guilty of breaching their job duties, they shall be liable in accordance with

the Law no. 188/1999 on the Statute of public servants, as republished, as subsequently amended and supplemented. The provisions of art. IX in the Government Emergency Ordinance no. 46/2009 on improving the tax proceedings and reducing tax evasion, approved as amended and supplemented through the Law no. 324/2009, shall remain applicable.

Legislative acts of enforcement

Art. 342. - (1) The necessary forms and instructions of use thereof related to the administration of tax receivables by the central tax body, as well as any norms and instructions necessary for the unitary application of this code shall be approved through order of the chairman of the A.N.A.F.

- (2) The necessary forms and instructions of use thereof related to the administration of tax receivables by the local tax body, as well as any norms and instructions necessary for the unitary application of this code shall be approved through common order of the minister of regional development and public administration and of the minister of public finance.

(3) The necessary forms and instructions of use thereof related to the realization of the receivables of the general consolidated budget administered by other public authorities which administer tax receivables shall be approved through order of the line ministry or of the leader of the public institution, as applicable.

(4) The orders of the minister of public finance, of the chairman of the A.N.A.F., as well as the other orders provided by this code, shall be published in the Official Gazette of Romania, Part I, with the exception of the orders which regulate exclusively internal work norms referring to duties and exchange of information between the structures of the tax body.

Exemption of the tax

Art. 343. - Tax bodies are exempt from paying

bodies from payment of charges

charges, tariffs, fees or sureties for the applications, actions and any other measures they carry out in order to administer tax receivables, with the exception of those related to the service of the administrative-tax document.

Exemption from the payment of extra-judiciary stamp duties

Art. 344. - The certificates, receipts and other documents for which the law provides payment of extra-judiciary stamp duties, which are issued by the tax bodies, shall be exempt from the payment of extra-judiciary stamp duties.

Registration of receivables in the Electronic Archive for Security Interests in Movable Property

Art. 345. - the A.N.A.F. is authorized as operator which registers in the Electronic Archive for Security Interests in Movable Property the security interests for the tax receivables administered by the central tax body and by the local tax bodies, acting through the specialty structures authorized to administer tax receivables, including the units subordinated to the A.N.A.F., acting as authorized agents.

Temporal conflict of legislative acts

Art. 346. - (1) The regulations issued on the basis of the legislative acts provided by art. 354 shall remain applicable until the date of approval of the legislative acts of enforcement of this code, unless they contravene to the provisions hereof.

(2) The references made through other legislative acts to Government Ordinance no. 92/2003 on the Tax Procedures Code, as republished, as subsequently amended and supplemented, shall be deemed to be made to this code.

Provisions related to terms

Art. 347. - The terms in progress on the date of entry into force of this code shall be calculated in accordance with the legal norms in force on the date when they started to run.

Confiscations

Art. 348. - (1) The confiscations ordered under the law shall be implemented by the bodies which ordered them. The confiscations ordered by the courts of law shall be implemented by the Ministry of Public Finance, the Ministry of Internal Affairs or, as applicable, other public authorities provided by law, by the competent bodies established through common order of the leaders of the institutions in question, and the sale shall be implemented by other public authorities authorized by law, under observance of the legal provisions in force.

(2) If the confiscations refer to amounts expressed in foreign currency, the amounts shall be converted into Lei at the exchange rate communicated by the National Bank of Romania valid on the date when the measure of confiscation became definitive.

(3) The confiscated amounts, as well as those obtained from the sale of foreclosed assets, less the expenses imposed by the implementation and sale, shall become a revenue of the State budget or of the local budgets, as applicable, in accordance with the law.

Ascertaining of acts which can be deemed crimes

Art. 349. - (1) Anytime the tax bodies find clues that crimes have been committed with regard to states of affairs which fall under the ascertaining authority of the tax bodies, they shall elaborate investigation reports/acts on the basis of which they shall notify the criminal prosecution bodies with regard thereto.

(2) The investigation report or act concluded in accordance with the duties of the tax bodies, the documents taken and the written explanations they request in accordance with the law, as applicable, as well as other written documents with probationary value in criminal trials, shall be sent to the criminal prosecution bodies at the same time as the notification act.

Collaboration with the criminal prosecution bodies

Art. 350. - (1) At the request of the criminal prosecution bodies, when there is a danger of disappearance of means of evidence or of exchange of a state of affairs and it is necessary to urgently clarify certain facts or circumstances of the case, the staff appointed from the A.N.A.F. shall perform tax audits.

(2) In thoroughly justified cases, the A.N.A.F. may be requested to perform tax audits after the start of the criminal prosecution and based on the endorsement of the prosecutor, in accordance with the established objectives. 3

(3) The result of the audits provided by para. (1) and (2) shall be registered in reports which represent means of evidence. The reports shall not represent tax receivable documents within the meaning of this code.

Settlement of means of appeal in the case of administrative-tax documents related to debtors undergoing insolvency

Art. 351. - By way of derogation from the provisions of art. 75 in the Law no. 85/2014, the administrative-tax documents issued before and after the entry into insolvency shall be subject to verification by the institutions specializing in administrative and tax litigations.

Application of the new law and ultra-activity of the old law

Art. 352. - (1) The provisions of this code shall apply only to administration proceedings started after its entry into force.

(2) The administration proceedings started before the entry into force of this code shall continue to be governed by the old law.

(3) The provisions of art. 181 shall be applicable to tax receivables born after January 1, 2016.

Entry into force

Art. 353. - This code enters into force on January 1, 2016.

Repeals

Art. 354. - The following shall be repealed on the date of entry into force of this code:

a) Government Ordinance no. 92/2003 on the Tax Procedures Code, republished in the Official Gazette of Romania, Part I, no. 513 of July 31, 2007, as subsequently amended and supplemented;

b) Government Emergency Ordinance no. 29/2011 regulating payments in installments, published in the Official Gazette of Romania, Part I, no. 200 of March 22, 2011, approved through the Law no. 15/2012, as subsequently amended and supplemented;

c) Government Decision no. 1.050/2004 approving the Methodological Norms of enforcement of Government Ordinance no. 92/2003 on the Tax Procedures Code, published in the Official Gazette of Romania, Part I, no. 651 of July 20, 2004;

d) Government Decision no. 529/2007 approving the Procedure of issuance of the individual tax ruling and of the advance pricing agreement, published in the Official Gazette of Romania, Part I, no. 395 of June 12, 2007;

e) art. 1-5 in the Law no. 161/2003 on certain measures to ensure transparency in the exercise of public offices, of public functions and in the business environment, on preventing and sanctioning corruption, published in the Official Gazette of Romania, Part I, no. 279 of April 21, 2003, as subsequently amended and supplemented;

f) Government Decision no. 248/2011 approving the Procedure of enforcement of indirect methods of assessment of the adjusted tax base, published in the Official Gazette of Romania, Part I, no. 191 of March 18, 2011, as subsequently amended and supplemented.

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The provisions of Chapter I of Title X transpose Directive 2011/16/EU of the Council of February 15, 2011 on administrative cooperation on tax matters and repealing Directive 77/799/EEC, published in the Official Journal of the European Union, Series L no. 64 of March 11, 2011, as amended through Directive 2014/107/EU of the Council of December 9, 2014 amending Directive 2011/16/EU on the automatic exchange of information in the field of taxation, published in the Official Journal of the European Union, Series L no. 359 of December 16, 2014.

The provisions of Chapter II of Title X transpose Directive 2010/24/EU of the Council of March 16, 2010 on mutual assistance for the recovery of claims relating to taxes, charges and other measures, published in the Official Journal of the European Union, Series L no. 84 of March 31, 2010 and rectified in the Official Journal of the European Union, Series L no. 100 of April 22, 2010.

APPENDIX no. 1

REPORTING AND PRECAUTIONARY NORMS FOR THE EXCHANGE OF INFORMATION RELATED TO FINANCIAL ACCOUNTS

This appendix establishes the reporting and precautionary norms which must be applied by the Reporting Financial Institutions in order to allow Romania to communicate the information provided by art. 291 para. (4) through automatic exchange. This appendix also provides the administrative norms and proceedings which must be in force in Romania in order to ensure the efficient enforcement and the observance of the reporting and precautionary proceedings presented hereinbelow.

SECTION I

General reporting requirements

A. Subject to the provisions of letters C-E of this section, every Reporting Financial Institution must report to the competent Romanian authority the following information related to every Reportable Account of that Reporting Financial Institution:

1. the name, address, Member State (Member States) of residence, the tax identification number (numbers) (TIN) and the date and place of birth (in the case of individuals) of every Reportable Person who is an Account Holder of that account and, in the case of an Entity which is an Account Holder and which, after the enforcement of the precautionary proceedings provided by sections V, VI and VII, is identified as having one or several Controlling Persons which are Reportable Persons, the name, address, Member State (Member States) of residence and the tax identification number (numbers) (TIN) of the Entity, as well as the name, address, Member State (Member States) of residence and the tax identification number (numbers) (TIN), and date and place of birth of every Reportable Person;

2. the account number (or its functional equivalent in the absence of an account number);

3. the name and identification number, if applicable, of the Reporting Financial Institution;

4. the account balance or value, including the Redemption value in the case of an Insurance agreement with redemption value or of a Life annuity agreement, at the end of the relevant calendar year or of another adequate reporting period or, if the account was closed during the year or during that time interval, the closing of the account;

5. in the case of any Custody Account:

a) the gross amount of the interests, the total gross amount of dividends and the total gross amount of other revenues generated with regard to the assets held in the account, in every case paid or credited into that account or with regard to that account during the calendar year or another adequate reporting period;

b) the total gross collections from the sale or recovery of the Financial Assets paid or credited into the account during the calendar year or another adequate reporting period with regard to which the Reporting Financial Institution acted as custodian, broker, representative or any other type of attorney-in-fact of the Account Holder;

6. in the case of any Deposit account, the total gross amount of the interests paid or credited into the account during the calendar year or another adequate reporting period;

7. in the case of any other account than those provided by points 5 or 6, the total gross amount paid or credited to the Account Holder with regard to that account during the calendar year or another adequate reporting period with regard to which the Reporting Financial Institution is the debtor, including the aggregate amount of any redemptions paid to the Account Holder during the calendar year or another adequate reporting period.

B. The reported information must identify the currency in which every amount is expressed.

C. Without prejudice to point 1 of letter A, with regard to every Account subject to reporting which is not Preexisting Account, it is not compulsory to report the TIN or the date of birth if they are not provided by the registers of the Reporting Financial Institution and there is no other requirement imposing on that Reporting Financial Institution to collect this information on the basis of domestic law or any other judicial instrument of the Union. Nevertheless, a Reporting Financial Institution is required to make reasonable efforts to obtain the TIN and the date of birth for the Preexistent Accounts by the end of the second calendar year following the year in which those Preexistent Accounts were identified as Accounts subject to reporting.

D. Without prejudice to point 1 of letter A, there is no obligation of reporting the TIN if such a number is not issued by the relevant Member State or by another jurisdiction of residence.

E. Without prejudice to point 1 of letter A, there is no requirement of reporting the place of birth, with the exception of the following cases:

1. The Reporting Financial Institution is required to obtain and report in another way this information on the basis of the Romanian legislation or the Reporting Financial Institution is or has been required in another way to obtain and report this information on the basis of any other judicial instrument of the Union in force or which was in force on January 5, 2015;

2. the information is available and can be searched in the electronic databases kept by the Reporting Financial Institution.

SECTION II

General precautionary requirements

A. An account is deemed to be a Reportable Account as of the date when it is identified as such in accordance with the precautionary proceedings provided by sections II-VII and, unless otherwise provided, the information related to an Account which is subject to reporting must be reported annually, in the calendar year following that to which the information refers.

B. The balance or value of an account shall be established as that valid on the last day of the calendar year or of another adequate reporting period.

C. If the balance or value ceiling shall be set on the last day of a calendar year, the balance or value in question must be set on the last day of the reporting period which ends with or in that calendar year.

D. The Reporting Financial Institutions may use services providers in order to fulfill the reporting and precautionary obligations imposed on them, as provided by the national legislation, but the responsibility for those liabilities continues to belong to the Reporting Financial Institutions.

E. The Reporting Financial Institutions may apply the precautionary proceedings for the New Accounts in the case of Preexistent Accounts as well, as well as the precautionary proceedings for the High Value Accounts in the case of Lower Value Accounts. The provisions related to Preexistent Accounts shall be properly applicable.

SECTION III
Precaution with regard to preexistent individual accounts

A. Foreword The following proceedings shall be applied for the purpose of identification of the Accounts subject to reporting among the Preexistent Individual Accounts.

B. Lower Value Accounts. In the case of Lower Value Accounts, the provisions presented below shall be applied.

1. Residence address. If the Reporting Financial Institution has a current residence address in its records for the Individual Account Holder based on Supporting Documents, the Reporting Financial Institution may consider the Individual Account Holder to have his/her tax residence in Romania or in another jurisdiction where the address is located, in order to establish whether that Individual Account Holder is a Reportable Person.

2. Searching in the electronic register. If a Reporting Financial Institution does not rely in a current residence address of the Individual Account Holder based on Supporting Documents, as provided by point 1, the Reporting Financial Institution

must analyze the available data for electronic search kept by the Reporting Financial Institution with regard to all the clues presented hereinbelow and apply points 3 to 6:

a) identification of the Account Holder as resident of another Member State;

b) the current mailing address or residence address, including a mailbox, from a Member State;

c) one or several telephone numbers in a Member State and no telephone number in Romania;

d) the permanent instructions, other than those related to a Deposit Account, for transferring funds into an account administered in Romania;

e) a valid power of attorney or delegation of signature granted to a person whose address is in a Member State;

f) an address bearing the mention “general delivery” or “to the attention of” in a Member State, if the Reporting Financial Institution does not have any other address for the Account Holder.

3. If none of the clues listed at point 2 is found through the electronic search, no additional measure shall be necessary until the time when a change of circumstances intervenes which would lead either to the association of one or several clues with the account, or to the transformation of the account into a High Value Account.

4. If any of the clues listed at point 2 letters (a)-(e) is found through the electronic search system or if a change of circumstances arises which leads to the association of one or several clues with the account, the Reporting Financial Institution must consider the Account Holder to be a resident of every Member State for which a clue is identified, unless it chooses to apply point 6 and one of the exceptions provided by that point applies to that account.

5. If an address bearing the mention “general delivery” or “to the attention of” is discovered through the electronic search and no other address or any of the clues listed at point 2 letters (a)-(e) is identified with regard to the Account Holder, the Reporting Financial Institution must perform the search in the paper register provided at point 2 of letter C or try to obtain from the Account Holder a self-certification or Supporting Documents in order to establish the tax residence (tax residences) of that Account Holder, in the most adequate order of circumstances. I no clue is found through the file search and the attempt at obtaining the self-certification or the Supporting Documents does not generate results, the Reporting Financial Institution must report the account to the competent Romanian authority as an undocumented account.

6. Subject to finding certain clues on the basis of point 2, a Reporting Financial Institution is not required to consider an Account Holder as resident of a Member State if:

(a) the information related to the Account Holder contain a current mailing or residence address in that Member State, one or several telephone numbers in that Member State (and no telephone number in Romania) or permanent instructions (related to Financial Accounts, other than Deposit Accounts) for the transfer of funds into an account administered in a Member State and the Reporting Financial Institution obtains or previously verified and keeps a record of the following information:

(i) a declaration on honor of the Account Holder related to the Member State (Member States) or another jurisdiction (other jurisdictions) of residence of the Account Holder, which does not include the Member State in question; and

(ii) Supporting Documents establishing the statute of the Account Holder as not being subject to reporting;

(b) the information related to the Account Holder contain a valid power of attorney or delegation of signature granted to a person whose address is in that Member State and the Reporting Financial Institution obtains or has previously verified and keeps a record of the following information:

(i) a declaration on honor of the Account Holder related to the Member State (Member States) or another jurisdiction (other jurisdictions) of residence of the Account Holder, which does not include the Member State in question; and

(ii) Supporting Documents establishing the statute of the Account Holder as not being subject to reporting.

C. Procedures of elaborate analysis for High Value Accounts. The following procedures of elaborate analysis shall be applied with regard to High Value Accounts.

1. Searching in the electronic register. With regard to High Value Accounts, the Reporting Financial Institution must analyze the data available for electronic search kept by the Reporting Financial Institution with regard to any of the clues described at point 2 of letter B.

2. Search in the paper register. If the database of data available for electronic search of the Reporting Financial Institution includes fields dedicated to all the information provided at point 3 and all that information, it is not necessary to perform an additional search in the paper register. If the electronic databases do not include all the that information, then the Reporting Financial Institution must analyze with regard to High Value Accounts the current principal file of the client as well, and if the

information in question is not included in the current principal file of the client, then it shall analyze the following documents associated with the account and obtained by the Reporting Financial Institutions in the last 5 years for any of the clues provided at point 2 of letter B.

(a) the most recent Supporting Documents collected with regard to that account;

(b) the most recent agreement or the most recent documentation related to the opening of the account;

(c) the most recent documentation obtained by the Reporting Financial Institution in accordance with the AML/KYC procedures or for other regulatory purposes;

(d) any valid forms of power of attorney or delegation of signature; and

(e) any permanent instructions in force (other than those related to a Deposit Account) regarding the transfer of funds.

3. Unless the databases contain sufficient information. A Reporting Financial Institution is not required to make a search in the paper register provided by point 2 if the information available to it for electronic search include:

(a) the statute of the Account Holder with regard to residence;

(b) the residence address and the mailing address of the Account Holder, currently on file with the Reporting Financial Institution:

(c) the telephone number (numbers) of the Account Holder, currently on file with the Reporting Financial Institution, if applicable;

(d) in the case of Financial Accounts different from Deposit Accounts, if there are permanent instructions for the transfers of funds from that account into another account (including an account opened with another branch of the Reporting Financial Institution or another Financial Institution);

(e) if there is a mention of “general delivery” or “to the attention of” for the Account Holder; and

(f) if there is any power of attorney or delegation of signature for that account.

4. Asking the customer relations officer in order to obtain correct information. Apart from the search in the electronic register and the search in the paper register provided by points 1 and 2, the Reporting Financial Institution must consider any High Value Account allocated to a customer relations officer (including any aggregate Financial Accounts of that High Value Account) to be a Reportable

Account if the customer relations officer has concrete information according to which the Account Holder is a Reportable Person.

5. Effects of finding clues:

(a) If none of the clues listed at point 2 of letter B is found after the elaborate analysis of the High Value Accounts and the account is not identified as being held by a Reportable Person, as described at point 4, then additional actions shall be necessary until the time when a change in circumstances arises which would lead to that account being associated one or several clues.

(b) If any of the clues listed at point 2 letters (a)-(e) of letter B is found through the elaborate analysis of High Value Accounts, or if a change of circumstances arises afterwards which leads to the association of one or several clues with the account, the Reporting Financial Institution must consider the Account to be an account subject to reporting in every Member State for which a clue is identified, unless it chooses to apply point 6 of letter B and one of the exceptions provided by that point applies to that account.

(c) If the elaborate analysis reveals an address bearing the mention “general delivery” or “to the attention of” and no other address is identified for the Account Holder or any of the other clues listed at letter B point 2 letters (a) - (e), the Reporting Financial Institution must obtain from that Account Holder a self-certification or Supporting Documents in order to establish the tax residence (tax residences) of that Account Holder. If a Reporting Financial Institution is not able to obtain the self-certification or those Supporting documents, it must report the account to the competent authority in its own Member State as undocumented account.

6. If a Preexisting Individual Account is not a High Value Account on December 31, 2015, but becomes a High Value Account as of the last day of the following calendar year, the Reporting Financial Institution must complete the procedures of elaborate analysis with regard to that account in the calendar year following that when the account becomes a High Value Account. If this analysis reveals that an account is a Reportable Account, the Reporting Financial Institution has the obligation of reporting on a yearly basis the necessary information with regard to that account for the year when it is identified as Account subject to reporting and for the following years, with the exception of the case in which the Account Holder is no longer a Reportable Person.

7. Once a Reporting Financial Institution applies the elaborate analysis procedures for a High Value Account, the Reporting Financial Institution in question shall not be required to apply those procedures again, except for consulting the

customer relations officer as provided by point 4 with regard to the same High Value Account on any subsequent year, except for the case in which the account is undocumented, when the Reporting Financial Institution should apply those procedures again on a yearly basis until the moment when that account ceases to be undocumented.

8. If a change in circumstances appears with regard to a High Value Account and leads to the association with that account of one or several clues provided by point 2 of letter B, the Reporting Financial Institution must consider this account as a Reportable Account with regard to every Member State for which a clue is identified, except for the case in which it chooses to apply point 6 of letter B and when one of the exceptions provided by the aforementioned point applies for that account.

9. A Reporting Financial Institution must apply procedures that ensure that a customer relations official identifies any change of circumstances related to an account. For example, if the customer relations officer is informed that an Account Holder has a new mailing address in a Member State, the Reporting Financial Institution is required to consider the new address as a change in circumstances and if it chooses to apply point 6 of letter B it will be required to obtain the adequate documents from the Account Holder.

D. The analysis of the Preexistent High Value Individual Accounts must be completed by December 31, 2017. The analysis of the Preexistent Lower Value Individual Accounts must be completed by December 31, 2017.

E. Any Preexistent Individual Account which was identified as a Reportable Account on the basis of this section must be deemed a Reportable Account in all subsequent years, with the exception of the case in which the Account Holder ceases to be a Reportable Person.

SECTION IV
Precaution with regard to new individual accounts

The following proceedings shall be applied for the purpose of identification of the Accounts subject to reporting among the New Individual Accounts.

A. With regard to New Individual Accounts, at the time of opening the account the Reporting Financial Institution must obtain a self-certification which can be part of the account opening documentation, which allows the Reporting Financial Institution to establish the tax residence (tax residences) of the Account Holder and to confirm the reasonableness of that self-certification on the basis of the information

obtained by the Reporting Financial Institution with regard to the opening of the account, including the possible documents collected in accordance with the AML/KYC procedures.

B. In a self-certification establishes that the Account Holder is a tax resident of a Member State, the Reporting Financial Institution must consider the account as Account subject to reporting and the self-certification must also include the TIN of the Account Holder for that Member State (subject to the provisions of section I letter D) and the date of birth thereof.

C. If a change in circumstances arises with regard to a New Individual Account following which the Reporting Financial Institution finds out or has reasons to find out that the initial self-certification is incorrect or inviable, the Reporting Financial Institution cannot rely on the initial self-certification and must obtain a valid self-certification to establish the tax residence (tax residences) of the Account Holder.

SECTION V
Precaution with regard to preexistent entity accounts

The following proceedings shall be applied for the purpose of identification of the Accounts subject to reporting among the Preexistent Entity Accounts.

A. Entity Accounts which are not subject to the requirement of analysis, identification or reporting. Except if the Reporting Financial Institution decides otherwise, either with regard to all Preexistent Entity Accounts or separately, with regard to any clearly identified group of such accounts, a Preexistent Entity Account with an aggregate balance or account value not in excess of the equivalent in Lei of USD 250,000 at December 31, 2015 shall not be subject to the obligation of analysis, identification or reporting as a Reportable Account until the time when the aggregated balance or the aggregated value of the account exceeds that amount on the last day of any subsequent calendar year.

B. Entity accounts subject to analysis. A Preexistent Entity Account with a balance or aggregated value of the account in excess of the equivalent in Lei of USD 250,000 at December 31, 2015 and a Preexisting Entity Account which does not exceed the equivalent in Lei of USD 250,000 at December 31, 2015 but has a balance or aggregated value of the account over this amount on the last day of any subsequent calendar year must be analyzed in accordance with the proceedings provided by letter D.

C. Entity Accounts subject to the requirement of reporting. With regard to the Preexistent Entity Accounts provided by letter B, only the accounts held by one or several Entities which are Reportable Persons or by passive NFE (Non-financial Entities) with one or several Controlling Persons which are Reportable Persons are deemed as Accounts subject to reporting.

D. Analysis proceedings for the identification of Entity Accounts subject to the requirement of reporting. For the Preexistent Entity Accounts provided by letter B, a Reporting Financial Institution must apply the following analysis procedures in order to establish whether the account is held by one or several Reportable Persons or by a passive NFE with one or several Controlling Persons which are Reportable Persons:

1. To establish if the Entity is a Reportable Person:

(A) To analyze the information kept for regulatory purposes or customer relations (including information collected in accordance with the AML/KYC Proceedings) in order to establish if the information indicates that the Account Holder is a resident of a Member State. For this purpose, the information which indicate that the Account Holder is a resident of a Member State include a place or registration or of establishment or an address in a Member State.

(b) If the information indicates that the Account Holder is a resident of a Member State, the Reporting Financial Institution must consider the account as a Reportable Account, unless it obtains a self-certification from the Account Holder or establishes in a reasonable manner based on the information available to it or which is publicly available that the Account Holder is not a Reportable Person.

2. To establish whether an Entity is a passive NFE with one or several controlling Persons which are Reportable Persons. With regard to an Account Holder of a Preexisting Entity Account (including an Entity which is a Reportable Person), the Reporting Financial Institution must establish whether the Account Holder is a passive NFE with one or several controlling Persons which are Reportable Persons. If any of the Controlling Persons of a passive NFE is a Reportable Person, then the account must be considered to be a Reportable Account. During the time it takes to establish these elements, the Reporting Financial Institution must observe the guidelines of point 2 letters (a) - (c) in the order most adequate to the circumstances:

(a) To establish whether the Account Holder is a passive NFE. In order to establish whether the Account Holder is a passive NFE, the Reporting Financial Institution must obtain a self-certification from the Account Holder so as to establish the statute thereof, with the exception of the case in which it has information or certain information is publicly available on the basis of which it is able to reasonably

establish that the Account Holder is an active NFE or a Financial Institution, other than an Investment Entity provided in section VIII letter A point 6 letter (b) which is not a Financial Institution from a Participating Jurisdiction.

(B) To establish the Controlling Persons of an Account Holder. In order to establish the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on the information collected and stored in accordance with the AML/KYC Proceedings.

(c) To establish whether a Controlling Person of a passive NFE is a Reportable Person. In order to establish whether a Controlling Person of a passive NFE is a Reportable Person, a Reporting Financial Institution may rely on:

(i) information collected and kept in accordance with the AML/KYC procedures in the case of a Preexisting Entity Account held by one or several NFE with an aggregate balance or value not in excess of the equivalent in Lei of USD 1,000,000; or

(ii) a self-certification from the Account Holder or a Controlling Person regarding the Member State (or Member States) or another jurisdiction (other jurisdictions) where the Controlling Person has its tax residence.

E. The schedule of implementation of the analysis and additional procedures applicable to Preexisting Entity Accounts:

1. The analysis of Preexisting Entity Accounts with an aggregate balance or value in excess of the equivalent in Lei of USD 250,000 at December 31, 2015 must be completed by December 31, 2017.

2. The analysis of the Preexisting Entity Accounts with an aggregate account balance or value not in excess of the equivalent in Lei of USD 250,000 at December 31, 2015, but in excess of this amount at December 31 of a subsequent year must be completed in the calendar year following that when the aggregate account balance or value exceeds this amount.

3. If a change in circumstances arises with regard to a Preexisting Entity Account following which the Reporting Financial Institution finds out or has reasons to find out that the self-certification or other documents associated with an account are incorrect or inviable, the Reporting Financial Institution must establish once again the status of the account in accordance with the proceedings provided at letter D.

SECTION VI

Precaution with regard to new entity accounts

The following procedures shall be applied for the purpose of identification of the Accounts subject to reporting among the New Entity Accounts.

Analysis procedures for the identification of Entity Accounts subject to the requirement of reporting. For the New Entity Accounts, a Reporting Financial Institution must apply the following analysis procedures in order to establish whether the account is held by one or several Reportable Persons or by a passive NFE with one or several Controlling Persons which are Reportable Persons:

1. To establish if the Entity is a Reportable Person:

(a) to obtain a self-certification which can be part of the account opening documentation, which allows the Reporting Financial Institution to establish the tax residence (tax residences) of the Account Holder and to confirm the reasonableness of that self-certification on the basis of the information obtained by the Reporting Financial Institution with regard to the opening of the account, including the possible documents collected in accordance with the AML/KYC procedures. If the Entity certifies that it does not have a tax residence, the Reporting Financial Institution may rely on the address of the principal office of the Entity in order to establish the residence of the Account Holder.

(b) If the self-certification indicates that the Account Holder is a resident of a Member State, the Reporting Financial Institution must consider the account as a Reportable Account, with the exception of the case in which it establishes in a reasonable manner based on the information available to it or which is publicly available that the Account Holder is not a Reportable Person with regard to that Member State.

2. To establish whether an Entity is a passive NFE with one or several Controlling Persons which are Reportable Persons. With regard to an Account Holder of a New Entity Account (including an Entity which is a Reportable Person), the Reporting Financial Institution must establish whether the Account Holder is a passive NFE with one or several Controlling Persons which are Reportable Persons. If any of the Controlling Persons of a passive NFE is a Reportable Person, then the account must be considered to be a Reportable Account. During the time it takes to establish these elements, the Reporting Financial Institution must observe the guidelines of letters (a) - (c) in the order most adequate to the circumstances:

(a) To establish whether the Account Holder is a passive NFE. In order to establish whether the Account Holder is a passive NFE, the Reporting Financial Institution must rely on a self-certification from the Account Holder so as to establish the statute thereof, with the exception of the case in which it has information or

certain information is publicly available on the basis of which it is able to reasonably establish that the Account Holder is an active NFE or a Financial Institution, other than an Investment Entity provided in section VIII letter A point 6 letter (b) which is not a Financial Institution from a Participating Jurisdiction.

(B) To establish the Controlling Persons of an Account Holder. In order to establish the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on the information collected and stored in accordance with the AML/KYC procedures.

(c) To establish whether a Controlling Person of a passive NFE is a Reportable Person. In order to establish whether a Controlling Person of a passive NFE is a Reportable Person, a Reporting Financial Institution may rely on a self-certification of the Account Holder or of the Controlling Person in question.

SECTION VII
Special precautionary norms

The following additional norms of enforcement of the aforementioned precautionary procedures shall be applied:

A. Resorting to self-certifications and Supporting Documents. A Reporting Financial Institution may not rely on self-certification or on Supporting Documents if the Reporting Financial Institution knows or has reasons to know that the self-certification or the Supporting Documents are incorrect or inviable.

B. Alternative procedures for the Financial Accounts held by the individual beneficiaries of a Cash Value Insurance Contract or of a Life Annuity Contract or of Group Cash Value Insurance Contracts or Group Life Annuity Contracts. A Reporting Financial Institution may presuppose that an individual beneficiary (other than the holder) of a Cash Value Insurance Contract or a Life Annuity Contract who benefits from a death allowance is not a Reportable Person and may considers such a Financial Account not to be a Reportable Account, unless the Reporting Financial Institution knows or has reasons to know that the beneficiary is a Reportable Person. A Reporting Financial Institution has reasons to know that the beneficiary of a Cash Value Insurance Contract or of a Life Annuity Contract is a Reportable Person if the information collected by the Reporting Financial Institution or associated to that beneficiary contains clues as those provided in section III letter B. If a Reporting Financial Institution has concrete information or reasons to know that the beneficiary is a Reportable Person, the Reporting Financial Institution must observe the

procedures in Section III letter B. A Reporting Financial Institution may consider a Financial Account which consists of the share of a member of a group in a Group Cash Value Insurance Contract or a Group Life Annuity Contract not to be a Reportable Financial Account until the date when that amount must be paid to the employee/certificate holder or the beneficiary, if the Financial Account which consists of the share of a member of a Group Cash Value Insurance Contract or a Group Life Annuity Contract fulfills the following requirements:

(i) the Group Cash Value Insurance Contract or the Group Life Annuity Contract is issued to an employer and insures at least 25 employees/certificate holders;

(ii) the employee/certificate holder is entitled to benefit of any value registered in the contract with regard to his/her share and appoint beneficiaries for the indemnity payable to the employee upon his/her death; and

(iii) the aggregate amount payable to any employee/certificate holder or beneficiary does not exceed the equivalent in Lei of USD 1,000,000.

The term "Group Cash Value Insurance Contract" means a Cash Value Insurance Contract which: (i) insures individuals who are affiliated through an employee, a professional organization, a trade union or another association or group; and (ii) imposes the payment of a premium by each member of the group (or member of a category within the group), which is established without taking into account the individual health characteristics thereof, other than age, sex and smoking habits of that member of the group (or of the category of members).

The term "Group Life Annuity Contract" means an Annuity Contract where the creditors are individuals affiliated through an employer, a professional organization, a trade union or another association or group.

C. Norms related to the Aggregation of account balances and Currency Conversion

1. Aggregation of Individual Accounts. In order to establish the aggregate balance or value of the Financial Accounts held by an individual, a Reporting Financial Institution is required to aggregate all the Financial Accounts administered by the Reporting Financial Institution or by an affiliated Entity, but only if the information systems of the Reporting Financial Institution show a connection between the Financial Accounts by reference to a data element, like the client number or the TIN and allow the aggregation of the balances or values of the accounts. Every holder of a Financial Account held in common shall be allocated the full balance or value of the Financial Account held in common for the purpose of applying the aggregation requirements provided by this point.

2. Aggregation of Entity Accounts. In order to establish the aggregate balance or value of the Financial Accounts held by an Entity, a Reporting Financial Institution is required to consider all the Financial Accounts administered by the Reporting Financial Institution or by an affiliated Entity, but only if the information systems of the Reporting Financial Institution show a connection between the Financial Accounts by reference to a data element, like the client number or the TIN and allow the aggregation of the balances or values of the accounts. Every holder of a Financial Account held in common shall be allocated the full balance or value of the Financial Account held in common for the purpose of applying the aggregation requirements provided by this point.

3. Special norms related to the aggregation of accounts applicable to customer relations officers. In order to establish the aggregate balance or value of the Financial Accounts held by a person so as to determine whether a Financial Account is a High Value Account, a Reporting Financial Institution is also required to aggregate the Financial Accounts with regard to which the customer relations officer knows or has reasons to know that they are directly or indirectly held, controlled or established (other than as fiduciary) by the same person.

4. All amounts expressed in the currencies of different Member States shall be read to include the equivalent amounts in Lei.

SECTION VIII
Definitions of the terms

The following terms are defined below:

A. Reporting Financial Institution

1. The term “Reporting Financial Institution” means any Financial Institution in Romania which is not a Non-reporting Financial Institution. The term “Romanian Financial Institution” means: (i) any Financial Institution which is a resident of Romania, but excludes any branch of that Financial Institution which is outside the territory of Romania, and (ii) any branch of a Financial Institution which is not a resident of Romania, if the branch in question is located in Romania.

2. The term “Financial Institution from a Participating Jurisdiction” means: (i) any Financial Institution which is a resident of a Participating Jurisdiction, but excludes any branch of that Financial Institution which is outside the territory of the Participating Jurisdiction, and (ii) any branch of a Financial Institution which is not a

resident of a Participating Jurisdiction, if the branch in question is located in a Participating Jurisdiction.

3. The term “Financial Institution” means a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company.

4. The term “Custodial Institution” means any Entity which holds Financial Assets on account of third parties as a substantial part of its activity. An Entity holds Financial Assets on account of third parties as a substantial part of its activity if the gross revenues of the Entity attributable to the holding of Financial Assets and related financial services is equal to or higher than 20% of the gross revenues of the Entity during the shortest of the following periods: (i) the period of three years ending on December 31 (or on the last day of an accounting period which is not a calendar year) before the year when the calculation is made or (ii) the period during which the Entity existed.

5. The term “Depository Institution” means any Entity which attracts deposits in the usual framework of the banking activity or of a similar activity.

6. The term “Investment Entity” means any Entity:

(a) which carries out one or several of the following activities or operations as its main activity for or in the name of a client:

(i) transactions with instruments on the monetary market (checks, treasury bills, certificates of deposit, derivatives, etc.); currency exchange; currency exchange instruments, interest rate and stock exchange indexes; transferable securities; or forward transactions with commodities;

(ii) individual and collective portfolio management; or

(iii) which invests, administers or manages in another way Financial Assets or money in the name of other persons;

or

(b) whose gross revenues come mainly from investment, reinvestment or trading activities in Financial Assets, if the Entity is administered by another Entity which is a Depository Institution, a Custodial Institution, a Specified Insurance Company or an Investment Entity, as they are provided by letter (a).

An Entity is deemed to carry out as main activity one or several of the activities provided by letter (a) or the gross revenue of an Entity is attributable mainly to activities of investment, reinvestment or trading of Financial Assets within the meaning of this letter if the gross revenues of the Entity attributable to the relevant activities is equal to or higher than 50% of the gross revenues of the Entity on the shortest period of the following: (i) the period of three years ending on December 31

before the year when the calculation is made or (ii) the period during which the Entity existed. The term “Investment Entity” does not include an Entity which is an active NFE, because the Entity in question fulfills any of the criteria provided by letter D point 8 letters (d)-(g).

This point shall be interpreted in a manner consistent with the similar language used in the definition of the term “Financial Institution” from the recommendations of the Financial Action Group.

7. The term “Financial Asset” includes a security (for example, shares in the capital of a trading company; shares in own capitals or the right to benefits in a partnership held by several shareholders or listed at the stock exchange or in a trust; promissory notes, bonds or debt titles), rights generated by a partnership, a commodity, a swap (for example, interest rate swap, currency swap, basic swap, interest rate with maximum ceiling, interest rate with minimum ceiling, commodities swap, shares swap, swap of exchange indexes, and similar agreements), an Insurance Agreement or a Life Annuity Agreement or any interest (including a futures or forward agreement or an option), related to a security, rights generated by a partnership, a commodity, a swap, an Insurance Agreement or a Life Annuity Agreement. The term “Financial Asset” does not include direct rights over immovable assets which are not debt titles.

8. The term “Specified Insurance Company” means any Entity which is an insurance company (or the holding company of an insurance company) which issues or is required to make payments with regard to an Insurance Agreement with Redemption value or a Life Annuity Agreement.

B. Non-reporting Financial Institutions

1. The term “Non-reporting Financial Institution” means any Financial Institution which is:

(a) a Government entity, an International organization or a Central bank, apart from the situations which refer to a payment deriving from an obligation incumbent with regard to a commercial financial activity of the type of those carried out by a Specified Insurance Company, a Custodial Company or a Depository Institution;

(b) a Broad participation retirement fund; a Narrow participation retirement fund; a Retirement fund of a Government entity, of an International organization or of a Central Bank; or a Qualified Credit Card Issuer;

(c) any other Entity which poses a low risk of being used for tax evasion has similar general characteristics with any of the Entities provided by letters (a) and (b)

and is included on the list of Non-reporting Financial Institutions provided by art. 291 para. (7), provided the status of that Entity as Non-reporting Financial Institution does not prejudice the objectives of chapter I of title X;

(b) an Exempt Collective Investment Vehicle; or

(e) a trust, to the extent the fiduciary is a Reporting Financial Institution and reports all information which must be reported in accordance with Section I with regard to all the Reportable Trust Accounts.

2. The term "Government Entity" means the Government of Romania or of another jurisdiction, any political subdivision of Romania or of another jurisdiction (which, for avoidance of any ambiguity, includes a State, a province, a county or a locality) or any body or agency held fully by Romania or by another jurisdiction or one or several of the aforementioned subdivisions (each of them representing a "Government Entity"). This category is made up of integral parts, controlled entities and political subdivisions of Romania or of another jurisdiction:

(a) an "integral part" of Romania or of another jurisdiction means any person, organization, agency, office, fund, public body or another body, irrespective of its denomination, which represents an administrative authority of Romania or of another jurisdiction. The net revenues of the administrative authority must be credited into its own account or other accounts of Romania or of another jurisdiction and no part thereof must be transferred to the benefit of any private person. An integral part does not include any individual who is a member of the Government, a public servant or administrator acting privately or personally.

(b) a Controlled Entity means an Entity which is formally separated by Romania or another jurisdiction or which is in any other manner a separate legal entity, provided:

(i) the Entity is held or fully controlled by one or several Government Entities, either directly or through one or several controlled entities;

(ii) the net revenues of the Entity are credited into its own account or other accounts thereof or of another Government Entity and no part thereof is transferred to the benefit of any private person; and

(iii) the assets of the Entity belong to one or several Government Entities at the time of its dissolution.

(c) The revenues do not inure to the benefit of the individuals if those persons are the target beneficiaries of a government program, and the activities of the program are carried out for the general public for general interests or refer to the administration of a part of the government. Nevertheless, subject to the previous

provisions, it is considered that the revenues inure for the benefit of the individuals if they are obtained through the use of a Government Entity in order to carry out a commercial activity, like a commercial banking activity, which provides financial services to individuals.

3. The term “International Organization” means any international organization or agency or body held entirely by such an organization. This category includes any intergovernmental organization (including a supranational organization): (i) which is made up first of all of governments; (ii) which has in force an agreement related to its seat or a fundamentally similar agreement with Romania; and (iii) whose revenues do not inure to the benefit of private persons.

4. The term “Central Bank” means the National Bank of Romania.

5. The term “Broad participation retirement fund” means a fund established to provide retirement benefits, disability allowances or death allowances or any combination thereof to beneficiaries who are current or former employees (or the persons appointed by those employees) of one or several employers, in exchange for the supply of certain services, provided that the fund:

(a) does not have one beneficiary entitled to more than 5% of the fund’s assets;

(b) is subject to governmental norms and reports information to the tax authorities; and

(c) fulfills at least one of the following requirements:

(i) the fund is generally exempt from the payment of tax on investment revenues or the taxation of these revenues is postponed or taxed at a reduced rate, due to its status as retirement fund or retirement regime;

(ii) the fund receives at least 50% of its total contributions [other than transfers of assets from other regimes provided at points 5 to 7 or from the retirement accounts provided at letter C point 17 letter (a)] from the employers that finance them;

(iii) the payments or withdrawals from the fund are allowed only if events occur which are related to retirement, disability or death [with the exception of periodical payments to other retirement funds provided at letter B points 5 to 7 and of retirement accounts provided at letter C point 17 letter (a)], or, if payments or withdrawals are made before the established events, then sanctions are applied; or

(iv) the contributions of the employees (other than authorized contributions) to the fund are limited in accordance with the revenue earned by the employee or they cannot exceed on a yearly basis the equivalent in Lei of USD 50,000 by applying the

norms provided in Section VII letter C on Account Aggregation and Monetary Conversion.

6. The term “Narrow participation retirement fund” means a fund established to provide retirement benefits, disability allowances or death allowances to beneficiaries who are current or former employees (or the persons appointed by those employees) of one or several employers, in exchange for the supply of certain services, based on the following requirements:

(a) the fund should have less than 50 participants;

(b) the fund should be financed by one or several employers that are not Investment Entities or passive NFE;

(c) the contributions of the employee and of the employer to the fund [other than transfers of assets from the retirement accounts provided at letter C point 17 letter (a)] should be limited in accordance with the revenue earned and with the payment of the employees, respectively;

(d) the participants who are not residents of the Member State where the fund is established should not be entitled to more than 20% of the fund’s assets; and

(e) the fund should be subject to governmental norms and should report information to the tax authorities.

7. The term “Retirement fund of a Government Entity, of an International Organization or of a Central Bank” means a fund established by a Government Entity, an International Organization or a Central Bank in order to provide retirement benefits or disability allowances or death allowances to beneficiaries or participants who are current or former employees (or the persons appointed by those employees), or who are not current or former employees, if those benefits are granted to such beneficiaries or participants in exchange for personal services provided for the Government Entity, International Organization or Central Bank in question.

8. The term “Qualified Credit Card Issuer” means a Financial Institution which fulfills the following requirements:

(a) the Financial Institution is a Financial Institution only because it is a credit card issuer which attracts deposits only when a client makes a payment in excess of the balance owed in relation to the card and the payments in excess are not returned to the client immediately; and

(b) prior to January 1, 2016 or starting on this date, the Financial Institution implements politics and procedures, either to prevent a client from making an excess payment which exceeds the equivalent in Lei of USD 50,000 or to ensure that any excess payment made by a client over that amount is returned to the client within 60

days, applying in every case the norms provided by Section VII letter C on Account Aggregation and Monetary Conversion. In this respect, an excess payment of the client does not refer to credit balances that correspond to contested debts, but it includes credit balances resulting from returns of commodities.

9. The term "Exempt Collective Investment Vehicle" means an Investment Entity which is regulated as a collective investment vehicle, provided all the rights over the collective investment vehicle are held by or through individuals or Entities which are not Reportable Persons, with the exception of a passive NFE with Controlling Persons that are Reportable Persons.

The mere fact that the collective investment vehicle issued physical bearer shares does not prevent an Investment Entity which is regulated as a collective investment vehicle from being classified as an Exempt Collective Investment Vehicle in the following circumstances:

(a) the collective investment vehicle should not have issued or issue any kind of physical bearer shares after December 31, 2015;

(b) the collective investment vehicle should withdraw all those shares in case of redemption;

(c) the collective investment vehicle should fulfill the precautionary procedures provided in sections II-VII and report any information which is requested and which must be reported with regard to any such shares when those shares are presented for redemption or other forms of payment; and

(d) the collective investment vehicle should have established policies and procedures in order to make sure such shares are redeemed or blocked as soon as possible but, in any case, prior to January 1, 2018.

C. Financial Account

1. The term "Financial Account" means an account administered by a Financial Institution and includes a Deposit Account, a Custody Account, and:

(a) in the case of an Investment Entity, any capital or debt related rights belonging to the Financial Institution. Without prejudice to the previous provisions, the term "Financial Account" does not include any capital or debt related right of an Entity which is an Investment Entity only for the reason that it: (i) provides an investment advice service and acts in the name of or (ii) administers portfolios of a client and acts in its name in order to perform investments, to manage or administer the Financial Assets deposited in the client's name with a Financial Institution, other than that Entity;

(b) in the case of a Financial Institution which is not provided at letter (a), any capital or debt related right of the Financial Institution, if the category of rights was established in order to avoid reporting in accordance with Section I; and

(c) any Cash Value Insurance Contract and any Life Annuity Contract issued or administered by a Financial Institution, other than immediate life annuity not related to investments, not transferable, which is issued to an individual and corresponds to a pension or a disability allowance supplied within an account which is an Excluded Account.

The term "Financial Account" does not include any account which is an Excluded Account.

2. The term "Deposit Account" includes any commercial, debit, savings, term, consignment account or an account whose existence is documented through a certificate of deposit, savings, investments, an indebtedness certificate or another similar instrument kept by a Financial Institution in the usual framework of its banking activity or of another similar activity. A Deposit Account also includes an amount held by an insurance company on the basis of a secured investment contract or another similar contract whose purpose is the payment or crediting of interests to the holder.

3. The term "Custody Account" means an account (other than an Insurance Contract or a Life Annuity Contract) which contains one or several Financial Assets to the benefit of another person.

4. The term "Share in own capitals" means holding a share in either the capital or the profit of the partnership, in the case of a partnership which is a Financial Institution. In the case of a trust which is a Financial Institution, a Share in own capitals is considered to be held by any person assimilated to a founder or beneficiary of the entire trust or of part thereof, or to any other individual who exercises definitive and effective control over the trust. A Reportable Person will be considered a beneficiary of a trust if that Reportable Person is entitled to receive, either directly or indirectly (for example, through an attorney-in-fact), a compulsory share or may receive, either directly or indirectly, a discretionary distribution of the trust.

5. The term "Insurance Contract" means a contract (other than a Life Annuity Contract) according to which the issuer agrees to pay an amount when a specified insured event occurs which is related to mortality, morbidity, accident, civil liability or material damage to property.

6. The term "Life Annuity Contract" means a contract in accordance with which the issuer agrees to make payments for a certain period of time, either in total

or in part, according to the life expectancy of one or several individuals. The term also includes a contract which is considered to be a Life Annuity Contract in accordance with the laws, regulations or practice of the Member State or of another jurisdiction where the contract was issued, and according to which the issuer agrees to make the payments for a period of several years.

7. The term “Cash Value Insurance Contract” means an Insurance Contract (other than a reinsurance contract concluded between two insurance companies) which has a Cash Value.

8. The term “Cash Value” means the highest value of: (i) the amount the holder of the insurance policy is entitled to receive if the contract is redeemed or terminated (calculated without deducting the possible redemption charges or loans from the policy) and (ii) the amount the holder of the insurance policy may borrow on the basis of the contract or in connection therewith. Without prejudice to the previous provisions, the term “Cash Value” does not include the amount payable on the basis of an Insurance Contract:

(a) only due to the death of an individual insured on the basis of a life insurance contract;

(b) as allowance for bodily injury, disease or another remedy payment for economic loss which arises at the time of occurrence of the insured event;

(c) as repayment of a previously paid premium (less the cost of insurance charges, whether they are effectively applied or not) in accordance with an Insurance Contract (other than a life insurance contract with investment component or a Life Annuity Contract) as a result of the contract’s annulment or termination, of the reduction of the risk exposure during the term when the contract is effectively in force or resulting from the correction of an error of registration or of a similar error related to the premium provided by the contract;

(d) as dividend to the benefit of the insurance policy holder (except for dividends transferred upon the contract’s termination), provided those dividends are related to an Insurance Contract in accordance with which the only payable allowances are those provide by letter (b); or

(e) as refund of an advance premium or a premium deposit for an Insurance Contract whose premium must be paid at least once a year, if the amount representing the advance premium or the premium deposit does not exceed the amount of the annual premium payable for the following year on the basis of the contract.

9. The term “Preexisting Account” means:

(a) a Financial Account administered by a Reporting Financial Institution as of December 31, 2015;

(b) any Financial Account of an Account Holder, irrespective of the date when that Financial Account was opened, if:

(i) the Account Holder also has a Financial Account with a Reporting Financial Institution (or an Affiliated Entity from the same Member State as a Reporting Financial Institution) which is a Preexisting Account in accordance with letter (a);

(ii) the Reporting Financial Institution (and, as applicable, the Affiliated Entity from the same Member State as the Reporting Financial Institution) treats both the aforementioned Financial Accounts and any other Financial Accounts of the Account Holder which are considered as Preexisting Accounts on the basis of letter (b) as a single Financial Account for the purpose of observing the standards in terms of know your customer requirements provided in section VII letter A and for the purpose of establishing the balance or value of any of the Financial Accounts when any of the ceilings applies with regard to the account;

(iii) with respect to a Financial Account subject to the AML/KYC Procedures, the Reporting Financial Institution is authorized to observe those AML/KYC Procedures with regard to the Financial Account by relying on the AML/KYC Procedures carried out for the Preexisting Account provided by letter (a);

(iv) the opening of the Financial Account does not imply any requirement of supplying information about a new client, which is supplementary or amended by the Account Holder, apart from those necessary for the purpose of chapter I of title X.

10. The term "New Account" means a Financial Account administered by a Reporting Financial Institution opened on January 1, 2016 or afterwards, unless it is considered a Preexisting Account on the basis of letter (b).

11. The term "Preexisting Individual Account" means a Preexisting Account held by one or several individuals.

12. The term "New Individual Account" means a New Account held by one or several individuals.

13. The term "Preexisting Entity Account" means a Preexisting Account held by one or several Entities.

14. The term "Lower Value Account" means a Preexisting Individual Account with an aggregate account balance or value which does not exceed the equivalent in lei of USD 1,000,000 at December 31, 2015.

15. The term “High Value Account” means a Preexisting Individual Account with an aggregate account balance or value which exceeds the equivalent in lei of USD 1,000,000 at December 31, 2015 or at December 31 of any subsequent year.

16. The term “New Entity Account” means a New Account held by one or several Entities.

17. The term “Excluded Account” means any of the following accounts:

(a) a retirement account which fulfills the following requirements:

(i) the account is regulated as a personal retirement account or is part of a pension plan regulated for the supply of benefits as pensions or allowances (including disability or death allowances);

(ii) the account benefits from a favorable tax treatment (namely, the contributions to the account which would normally be taxed are deductible or excluded from the gross revenues of the Account Holder or taxed at a low rate, or the taxation of the investment revenues generated by that account is postponed or the investment revenues are taxed at a lower rate);

(iii) it is compulsory to report the information related to the account to the tax authorities;

(iv) the withdrawals are conditioned on reaching a certain retirement age, having a disability or dying, or sanctions are applied if withdrawals are made before such established events; and

(v) either (i) the annual contributions are limited to the equivalent in Lei of USD 50,000 or less, or (ii) there is a maximum limit of contribution throughout the life, equal to the equivalent in Lei of USD 1,000,000 or lower, and in each case the norms provided by Section VII letter C on Account Aggregation and Monetary Conversion are applicable.

A Financial Account which fulfills in any other manner the requirement of this sub-point shall not cease to fulfill it only due to the fact that the Financial Account in question may receive assets or funds transferred from one or several Financial Accounts which fulfill the requirements of this letter or of letter (b) from one or several retirement funds that fulfill the requirements of any of the points 5 to 7 of letter B;

(b) an account which fulfills the following requirements:

(i) the account is regulated as an investment vehicle for other purposes than retirement and it is regularly traded on a regulated securities market or the account is regulated as a savings instrument for other purposes than retirement;

(ii) the account benefits from a favorable tax treatment (namely, the contributions to the account which would normally be taxed are deductible or excluded from the gross revenues of the Account Holder or taxed at a low rate, or the taxation of the investment revenues generated by that account is postponed or the investment revenues are taxed at a lower rate);

(iii) the withdrawals are conditioned on the fulfillment of specific criteria related to the purpose of the investment or savings account (for example, granting of medical benefits or educational benefits) or sanctions apply in the case of withdrawals made before these criteria are fulfilled; and

(iv) the annual contributions are limited to the equivalent in Lei of USD 50,000 or less, and the norms provided in Section VII letter C on Account Aggregation and Monetary Conversion apply.

A Financial Account which fulfills in any other manner the requirement of letter (a) sub-point (iv) shall not cease to fulfill it only due to the fact that the Financial Account in question may receive assets or funds transferred from one or several Financial Accounts which fulfill the requirements of letter (a) or of this letter or from one or several retirement funds that fulfill the requirements of any of the points 5 to 7 of letter B;

(c) a life insurance contract for a period which ends before the insured person turns 90 years, provided the contract fulfills the following requirements:

(i) the premiums are periodical, they do not decrease in time, are paid at least once a year during the period when the contract is in force or until the time the insured turns 90 years, whichever of these periods is shorter;

(ii) no person may have access to the contract’s value (through withdrawal, loan, or otherwise) unless the contract is terminated;

(iii) the amount (other than a death allowance) which must be paid in case of annulment or termination of the contract cannot exceed the total premiums paid for the contract, minus the amount representing charges due to mortality, morbidity and the expenses (no matter if they were effectively applied or not) for the period or periods during which the contract is in force and any amounts paid before the annulment or termination of the contract; and

(iv) the contract is not held by an assignee for consideration;

(d) an account which is exclusively held by an inheritance patrimony if the documentation for that account includes a copy of the will or death certificate of the deceased;

(e) an account created with regard to any of the following elements:

(i) a court order or a court judgment;

(ii) a sale, an exchange, the lease of a real estate or personal estate, provided this account fulfills the following requirements:

- the account is financed exclusively with an advance payment, an amount representing an anticipatory payment which creates an account, a corresponding account for ensuring a liability directly connected to a transaction or a similar payment, or it is financed with a Financial Asset which is deposited into an account with regard to the sale, assignment or lease of the estate;

- the account is established and used exclusively to secure the obligation of the purchaser of paying the procurement price of the estate, the obligation of the seller of paying any unpredictable debt or the obligation of the lessee or lessor of paying any compensation related to the leased estate, as it was agreed through the lease agreement;

- the assets of the account, including the revenues earned from these assets, will be paid or otherwise distributed to the benefit of the seller, purchaser, lessor or lessee (including for the purpose of fulfilling an obligation of that person) when the asset is sold, assigned or delivered or when the lease agreement is terminated;

- the account is not a margin account or a similar account created with regard to the sale or trade of a Financial Asset; and

- the account is not associated to an account provided by letter (f);

(iii) the obligation of a Financial Institution which pays the installments of a loan secured with real estate assets of reserving part of the payment exclusively in order to facilitate the payment of taxes or of the insurance for that real estate asset at a subsequent moment in time;

(iv) the obligation of a Financial Institution of facilitating the payment of taxes at a subsequent moment in time;

(f) a Deposit Account which fulfills the following requirements:

(i) the account exists only for the reason that a client makes a payment in excess of the debit balance of a credit card or of another renewable credit facility and the excess payment is not returned immediately to the client; and

(ii) on January 1, 2016 or before this date, the Financial Institution implements politics and procedures, either to prevent a client from making an excess payment which exceeds the equivalent in Lei of USD 50,000 or to ensure that any excess payment made by a client over that amount is returned to the client within 60 days, applying in every case the norms provided by Section VII letter C on Account

Aggregation and Monetary Conversion. In this respect, an excess payment of a client does not refer to credit balances that correspond to contested debts, but it includes credit balances resulting from returns of commodities.

(g) any account which poses a low risk of being used for tax evasion, has characteristics substantially similar to any of the accounts provided by letter C point 17 letters (a) - (f) and is included in the list of Excluded Accounts mentioned by art. 291 para. (7), provided the status of that account as Excluded Account does not prejudice the objectives of chapter I of title X;

D. Reportable Account

1. The term "Reportable Account" means a Financial Account which is administered by a Reporting Financial Institution of Romania and is held by one or several Reportable Persons or by a passive NFE with one or several Controlling Persons who are Reportable Persons, provided it was identified as such on the basis of the precautionary procedures provided by Sections II-VII.

2. The term "Reportable Person" means a Romanian Person who is not: (a) a company whose capital is regularly traded on one or several regulated securities markets; (ii) any company which is an affiliated Entity to a company provided at letter (i); (iii) a Governmental Entity; (iv) an International Organization; (v) a Central Bank; or (vi) a Financial Institution.

3. The term "Person from another Member State" from Romania's perspective is an individual or Entity which has the residence in any other Member State pursuant to the tax legislation of the jurisdiction of that Member State, or the inheritance estate of a deceased who was a resident of any other Member State. In this respect, an Entity like a civil company, a limited liability company or a similar judicial construction which does not have tax residence is considered to reside in the jurisdiction where the seat of its effective management is located.

4. The term "Participating Jurisdiction" means with regard to Romania:

(a) any other Member State;

(b) any other jurisdiction: (i) Romania has an agreement in force with on the basis of which that jurisdiction will provide the information mentioned in Section I; and (ii) which is identified on a list published by Romania and notified to the European Commission;

(c) any other jurisdiction: (i) Romania has an agreement in force with on the basis of which that jurisdiction will provide the information mentioned in Section I; and (ii) which is identified on a list published by the European Commission.

5. The term “Controlling Persons” means the individuals who control an Entity. In the case of a trust, this term means the founder (founders), the fiduciary (fiduciaries), the protector (protectors) (if applicable), the beneficiary (beneficiaries) or the class (classes) of beneficiaries, as well as any other individual who exercises definitive effective control over the trust and, in the case of a judicial construction which is not a trust, this term refers to the persons on equivalent or similar positions. The term “Controlling Persons” must be interpreted in a consistent manner with the recommendations of the Financial Action Group.

6. The term “NFE” means any Entity which is not a Financial Institution.

7. The term “Passive NFE” means any: (i) NFE which is not an active NFE; or (ii) an Investment Entity provided at letter A point 6 letter (b) which is not a Financial Institution from a participating jurisdiction.

8. The term “Active NFE” means any NFE which fulfills any of the following criteria:

(a) less than 50% of the gross revenues of the NFE for the previous calendar year or another adequate reporting period are passive revenues and less than 50% of the assets held by the NFE during the previous calendar year or another adequate reporting period are assets which produce or are held in order to produce passive revenues;

(b) the NFE shares are regularly traded on a regulated securities market or the NFE is an Affiliated Entity of an Entity whose shares are regularly traded on a regulated securities market;

(c) the NFE is a Governmental Entity, an International Organization, a Central Bank or an Entity held fully by one or several of the aforementioned entities;

(d) all the activities of the NFE consist in essence of holding (either in total or in part) the subscribed shares issued by one or several subsidiaries whose transactions or activities are different from the activities of a Financial Institution or of financing and providing services to those subsidiaries. Nevertheless, an Entity does not have the status of active Entity if it operates (or presents itself) as an investment fund, like an investment fund in non-listed companies, a risk capital fund, a procurement fund through company indebtedness or any other investment vehicle whose purpose is to purchase or finance companies and to hold capital in those companies which represent capital assets for investment purposes;

(e) the NFE does not carry out commercial activities yet and has not carried out commercial activities ever before, but it invests capital in assets with the intention of carrying out a commercial activity, other than that of a Financial Institution,

provided the NFE does not qualify for this exception after the lapse of 24 months as of the initial date of establishment of the NFE;

(f) the NFE was not a Financial Institution in the last 5 years and it is in process of liquidation of its assets or of restructuring with the intention of continuing or resuming its operations in other activities than those of a Financial Institution;

(g) the activities of the NFE consist mainly of financing and risk coverage operations with or for affiliated Entities which are not Financial Entities, and the NFE does not provide financing services or risk coverage services to any other Entity which is not an affiliated Entity, provided the group those affiliated Entities are part of mainly carries out a different activity than that of a Financial Institution; or

(h) the NFE fulfills all the following requirements:

(i) it is established and operates in Romania or in another jurisdiction of residence exclusively for religious, charity, scientific, artistic, cultural, sports or educational purposes; or it is established and operates in Romania or in another jurisdiction of residence and it is a professional organization, a business association, a chamber of commerce, a labor organization, an organization in the agriculture or horticulture sector, a civic association or an organization which operates exclusively for the promotion of social welfare;

(ii) it is exempt from the personal income tax in Romania or another jurisdiction of residence;

(ii) it does not have shareholders or members who have ownership rights or benefits related to its assets or revenues;

(iv) the legislation of Romania applicable to NFE or another jurisdiction of residence of the NFE or the incorporation documents of the NFE do not allow for a revenue or any asset of the NFE to the distributed or used to the benefit of a private individual or non-charitable Entity in any other manner than for the purpose of performance of charitable activities of the NFE, or as payment of reasonable compensation for services provided, or as payment representing the just market value of the property purchased by the NFE; and

(v) the legislation of Romania applicable to the NFE or to another jurisdiction of residence of the NFE or the incorporation documents of the NFE impose that all its assets should be distributed at the time of its liquidation or dissolution to a Governmental Entity of another non-profit organization, or they should belong to the Government of Romania or another jurisdiction of residence of the NFE or of any political subdivision thereof.

E. Miscellaneous

1. The term “Account Holder” means the person included on a list or identified as the holder of a Financial Account by the Financial Institution keeping the account. A person, other than a Financial Institution, which keeps a Financial Account for the benefit or in the name of another person as agent, custodian, attorney-in-fact, signatory, investment adviser or agent, is not considered to be an account holder for the purpose of chapter I of title X, but the other person is considered to be the account holder. In the case of a Cash Value Insurance Contract or of a Life Annuity Contract, the Account Holder is any person entitled to access the cash value or to change the beneficiary of the contract. If no person may have access to the cash value or change the beneficiary, the Account Holder is any person appointed as owner in the contract and any person entitled to payment in accordance with the contractual terms. On the maturity of a Cash Value Insurance Contract or a Life Annuity Contract, every person entitled to receive a payment in accordance with the contract is considered to be an Account Holder.

2. The term “AML/KYC Procedures (”anti-money laundering” - combating money laundering/”know-your-client” - knowing one’s clients)” means the precautionary procedures related to the clients of a Reporting Financial Institution in accordance with the requirements related to combating money laundering or with similar requirements which apply to that Reporting Financial Institution.

3. The term “Entity” means a legal entity or a judicial construction, for example a company, a partnership, a trust or a foundation.

4. An Entity is an “Affiliated Entity” of another Entity if: (i) either of the two Entities has control over the other; (ii) the two Entities are under common control; or (iii) the two Entities are Investment Entities provided by letter A point 6 letter (b) in this section, they are under common management and that management is the one ensuring the observance of the precautionary requirements applicable to such investment Entities. In this respect, the notion of control includes the notion of direct or indirect holding of over 50% of the votes and of the value of an Entity.

5. The term “TIN” means tax identification number (or its functional equivalent if there is no tax identification number).

6. The term “Supporting Documents” includes any of the following:

(a) a residence certificate issued by an authorized government body of the Member State or of another jurisdiction in which the payment beneficiary affirms to be residing;

(b) with regard to an individual, any valid identification issued by an authorized government body, which includes the name of the person and is usually used for identification purposes;

(c) with regard to an Entity, any official document issued by an authorized government body (for example, a government or an agency thereof or a commune), which includes the name of the Entity and either the address of its principal seat in the Member State or another jurisdiction where it affirms to reside or the Member State or another jurisdiction where the entity was registered or incorporated;

(d) any audited financial statement, credit report made by a third party, declaration of bankruptcy or a report of a regulatory authority of the securities market.

With regard to a Preexisting Entity Account, the Reporting Financial Institution may use as Supporting Documents any classification which is mentioned in the registers of the Reporting Financial Institution with regard to the Account Holder which was determined on the basis of a standardized coding system of activity fields, that was registered by the Reporting Financial Institution in accordance with its usual business practices in order to apply the AML/KYC Procedures or for other regulatory purposes (other than tax purposes) and which was implemented by the Reporting Financial Institution before the date used to classify the Financial Account as a Preexisting Account, provided that Reporting Financial Institution did not find out or does not have reasons to find out that the classification in question is incorrect or inviable. The term “Standardized coding system of activity fields” means a coding system used to classify the units according to the type of their activity for other purposes than tax purposes.

SECTION IX
Effective implementation

In accordance with art. 291 para. (4), Romania must establish norms and administrative procedures meant to ensure the effective implementation and the observance of the reporting and precautionary procedures mentioned above, including:

1. norms that would prevent any Financial Institutions, persons or agents from adopting practices dedicated to avoiding the reporting and precautionary procedures;

2. norms that impose to the Reporting Financial Institutions to keep records of the measures they take and any evidence on which they based the performance of

the aforementioned procedures, as well as to order adequate measures for obtaining these records;

3. administrative procedures to verify the observance by the Reporting Financial Institution of the reporting and precautionary procedures; administrative procedures to monitor a Reporting Financial Institution if undocumented accounts are reported;

4. administrative procedures to ensure that the Entities and accounts defined in the national legislation as Non-reportable Financial Institutions and Excluded Accounts, respectively, continue to pose low risk of being used for tax evasion; and

5. effective provisions of assuring observance, for the approach of cases of non-conformity.

SECTION X

Dates of implementation with regard to Reporting Financial Institutions located in Austria

In the case of Reporting Financial Institutions located in Austria, all references to "2016" and "2017" in this appendix shall be interpreted as references to "2017" and "2018", respectively.

In the case of Preexisting accounts held by Reporting Financial Institutions located in Austria, all references to "December 31, 2015" in this appendix shall be interpreted as references to "December 31, 2016".

APPENDIX no. 2

ADDITIONAL REPORTING AND PRECAUTIONARY NORMS FOR THE EXCHANGE OF INFORMATION RELATED TO FINANCIAL ACCOUNTS

1. Change in circumstances

A "change in circumstances" includes any change whose result is an addition of relevant information related to the status of a person or which contradicts in some other way the status of that person. In addition, a change in circumstances includes

any amendment or supplementation of the information related to the Account Holder (including the adding or substitution of an Account Holder, any other amendment related thereto) or any amendment or supplementation of the information regarding any account associated with such an account (by applying the norms related to account aggregation provided in appendix no. 1 to Section VII letter C points 1-3), if such an amendment or supplementation of information affects the status of the Account Holder.

If a Reporting Financial Institution applied the test related to the address of residence provided in appendix no. 1 Section III letter B point 1 and a change in circumstances arises following which the Reporting Financial Institution finds out or has reasons to find out that the initial Supporting Documents (or any other equivalent documents) are incorrect or inviable, the Reporting Financial Institution must obtain, by the last day of the relevant calendar year or of another adequate reporting period, or within 90 calendar days as of the notification or discovery of such a change in circumstances, whichever is more recent, a self-certification and new Supporting Documents in order to establish the tax residence (tax residences) of the Account Holder. If a Reporting Financial Institution is unable to obtain the self-certification and new Supporting Documents by that date, it must apply the search procedure in the electronic register provided in appendix no. 1 Section III letter B points 2-6.

2. Self-certification for New Entity Accounts

With regard to New Entity Accounts, in order to establish whether a Controlling Person of a passive NFE is a Reportable Person, a Reporting Financial Institution may rely only on a self-certification of the Account Holder or of the Controlling Person in question.

3. Residence of a Financial Institution

A Financial Institution is a “resident” of Romania if it is under Romanian jurisdiction (namely, Romania may impose reporting by the Financial Institution). In general, if a Financial Institution has its tax residence in a Member State, it is under the jurisdiction of that Member State and as such it is a Financial Institution of that Member State. In the case of a trust which is a Financial Institution (no matter if it is a tax resident of a Member State), the trust shall be deemed to be under the jurisdiction of a Member State if one or several fiduciaries are residents of that Member State, except if the trust reports to another Member State all the information that must be reported on the basis of chapter I of title X with regard to the Reportable Accounts administered by the trust, by virtue of the fact that the trust has its tax residence in that Member State. Nevertheless, if a Financial Institution (which is not a trust) does

not have its tax residence (for example, because it is considered transparent from a tax perspective or because it is in a jurisdiction where there is no personal income tax), it shall be deemed that it is under the jurisdiction of a Member State and therefore it is a Financial Institution of the Member State, if:

(a) it is incorporated on the basis of the legislation of that Member State;

(b) has the seat of its effective management (including the effective administrative seat) in a Member State; or

(c) is subject to financial supervision in that Member State.

If a Financial Institution (which is not a trust) is a resident of two or several Member States, that Financial Institution is subject to the reporting and precautionary requirements of the Member State where it keeps its Financial Account/Accounts.

4. Administered Account

In general, it can be deemed that an account is administered by a Financial Institution in the following situations:

(a) in the case of Custody Account, by the Financial Institution having custody over the assets in that account (including a Financial Institution which holds assets under «street name» regime for an Account Holder in that institution);

(b) in the case of a Deposit Account, by the Financial Institution which is required to make payments with regard to that account (with the exception of a representative of a Financial Institution, no matter if this representative is a Financial Institution or not);

(c) in the case of any capital or debt title over a Financial Institution which establishes a Financial Account, by that Financial Institution;

(d) in the case of a Cash Value Insurance Contract or a Life Annuity Contract, by the Financial Institution which is required to make payments with regard to that account.

5. Trusts which are not passive NFE

An Entity like a civil company, a limited liability company or a similar judicial construction which does not have tax residence in accordance with appendix no. 1 Section VIII letter D point 3, is considered to reside in the jurisdiction where the seat of its effective management is located. In this respect, a legal entity or a judicial construction is deemed to be “similar” to a civil society and to a limited liability company if it is not treated as a taxable unit in Romania pursuant to the Romanian tax legislation. Nevertheless, in order to avoid double reporting (considering the large scope of the term “Controlling Person” in the case of trusts), a trust which is a passive NFE may not be considered to be a similar judicial construction.

6. Address of the principal seat of the Entity

One of the requirements provided by appendix no. 1 Section VIII letter E point 6 letter (c) is that the official documentation related to an Entity includes either the address of the principal seat of the entity in the Member State or in another jurisdiction where it affirms to be residing, or in the Member State or another jurisdiction where the Entity was registered or incorporated. The address of the principal seat of the Entity is generally the place where the seat of effective management thereof is located. The address of a Financial Institution where the Entity administers an account, a mailbox or an address used exclusively for correspondence is not the address of the principal seat of the Entity, except if that address is the only address used by the Entity and is mentioned as social address of the Entity in the incorporation documents thereof. Moreover, an address supplied with the mention “general delivery” is not the address of the principal seat of the Entity.

This law was adopted by the Parliament of Romania under observance of the provisions of art. 75 and of art. 76 para. (2) in the Constitution of Romania, as republished.

PRESIDENT OF THE CHAMBER OF DEPUTIES	PRESIDENT OF THE SENATE
VALERIU-ŞTEFAN ZGONEA	**CĂLIN POPESCU-TĂRICEANU**

Bucharest,
No.