

Tax & Legal Alert

ROMANIA 24 July 2009

Procedure for assignment of VAT reimbursement or refund rights

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This Tax & Legal Alert is produced by
PricewaterhouseCoopers' tax department

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Order no. 1.308/2009 was published on 10 July 2009 (the "Order").

The Order introduces measures for resolving VAT reimbursements and settlement by offsetting or refunding VAT.

The Order introduces new elements in the methodology for resolving VAT returns with reimbursement option:

• **Deadline for cross inspections**

The Order sets a deadline of 45 days from the cross inspection being initiated to the results being communicated. This deadline can be extended by ANAF, in justified cases, by another 45 days.

• **Offsetting outstanding tax liabilities**

If the taxpayer for which a VAT reimbursement decision has been issued has outstanding tax liabilities, the authority "will offset them immediately".

• **Assignment of reimbursement or refund rights**

Taxpayers' reimbursement or refund rights can be assigned only after determined. Therefore, only amounts that definitely have to be refunded can be assigned.

The assignment takes effect after the assignee notifies the assignor's administrative tax authority of the assignment.

Assignees with outstanding tax liabilities must submit an offset request to the tax authority for these liabilities when submitting the assignment agreement notification.

National database of current reimbursement rights

The Order provides that a national database of taxpayers with reimbursement rights and their creditors is to be created. As a result, taxpayers are obliged to file the form "List of outstanding suppliers at ..." (presented in Appendix. 1 of the Order) to the tax authority.

The assignor also has to file the form "Notification of assignment of refund rights" with the competent tax authority.

According to the Order, the database is necessary to identify liaisons between taxpayers to compare the amounts notified with the budgetary obligations of the assignees and to establish income seizure actions.

VAT reimbursements with late settlement date

The Order applies equally to VAT returns with reimbursement option submitted before and after it comes into force.

VAT returns with reimbursement option and late settlement date are prioritised and dealt with in order of receipt, until all are processed.

[Source: Official Gazette no. 476 dated 10 July 2009]

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