

# Tax & Legal Alert

ROMANIA 27 August 2007

## News regarding transitory measures in Customs

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The National Customs Authority ("NCA") recently sent the territorial customs offices instructions for discharging suspensive customs operations which were already in progress at the time of Romania's EU Accession.

Some of this information coming from the NCA contradicts existing legal provisions, e.g. the Customs Code, Romania's EU Accession Treaty and the Fiscal Code.

For example, according to the NCA's instructions, operations of temporary admission of non-Community goods in progress on the Accession date can be discharged only by releasing the goods for free circulation, if intended for dispatch to another EU Member State.

Thus, in this case, the title holder of the temporary admission is liable to pay import customs duties before dispatching the goods to another EU Member State which is not in line with the Customs Code.

Under the Customs Code and Romania's EU Accession Treaty, these goods can be, for example, dispatched to another EU Member State under the transit regime, accompanied by the INF6 form.

The implementation of the NCA instructions by customs offices may adversely affect operations which were in progress upon Accession.

Under the NCA instructions, the taxation elements applicable in this case (level of customs dutiable duties, exchange rate, customs value, etc.) are as those in the initial temporary admission declaration submitted. Moreover, in this case, compensatory interest and customs commissions are to be paid as well as import VAT (which might not be deductible for the company).

Also, according to NCA instructions, customs offices are required to reassess all operations which were in progress upon Romania's EU Accession and discharged from 1 January 2007 to date under conditions other than those specified in the instructions.

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