

Tax & Legal Alert

ROMANIA 12 March 2008

Government Emergency Ordinance no.19/2008 for the modification and completion of Government Ordinance no.92/2003 regarding the Fiscal Procedure Code

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GEO no. 19/2008 contains amendments to the Fiscal Procedure Code, of which the most important are the following:

1. Legal persons or entities without legal personality which fail to file due tax returns for two consecutive terms are declared inactive under the Fiscal Code, unless they have prior written consent from the authorities to be exempted from fulfilling such obligations.

2. Similar to microcompanies, associations without legal personality established between individuals and individuals that are employers will pay salary related taxes and contributions quarterly, by the 25th of the month following the end of the quarter (this legal provision comes into force on 1 July 2008).

3. GEO no.19/2008 also contains the following provisions regarding the assignment of tax receivables administered by ANAF:

- the receivable may only be assigned subsequent to a notification sent to the assigned debtor and not for a price below their nominal value (in case of more tenderers, a bid will be set)
- ANAF guarantees the existence of the receivable until the assignment agreement is signed (if the receivable is challenged, ANAF has no further obligation)
- the assignee of the receivable takes over all the assignor's rights, with the exception of those deriving from the capacity of a budgetary creditor

4. Concerning the insolvency procedure, if the Tax Authority owns more than 50% of the

receivable over the debtor, it may assign a legal manager / official receiver and verify its activity.

5. The provisions of art. 83(5) from the Fiscal Procedure Code are suspended until 1 January 2010 and legal persons may register Annual Tax Statements without the certification of a fiscal consultant (excepting those for which the audit is mandatory).

6. Claims against financial control acts are to be settled by ANAF's General Directorate for the Settlement of Challenges (including pending claims that verify the stated conditions).

7. The provisions regarding misdemeanours and their related sanctions to the legal regime of excisable products have also been completed and amended.

The following are considered misdemeanours, carrying fines of between RON 20,000 and RON 100,000 as well as confiscation of the tanks, containers and means of transport used for the transportation of the excisable products:

- transportation of excisable products accompanied by an AAD with erroneous or incomplete data about the quantity, tariff code or the means of transport;
- retail sale of excisable products from a fiscal warehouse.

The following constitute misdemeanours, carrying fines of between RON 20,000 and RON 100,000:

- trading of excisable products in a tax warehouse without the approval of the tax authorities while the authorisation is suspended, revoked or invalidated;
- retail of excisable products in a tax warehouse.

The following also constitute misdemeanours, carrying fines of between RON 1,000 and RON 5,000:

- not transmitting the AAD to the tax authorities in due time, if the excisable products are dispatched under duty suspension arrangement;
- the reception of excisable products without presenting the AAD.

[Source: The Romanian Official Gazette no. 163/03.III.2008, part I]

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