

# **FISCAL CODE OF ROMANIA**

**Law No. 571/2003**

**As Published in Part I of the Official Gazette of Romania**

**No. 927 of December 23, 2003**

**(including table of contents that is not part of law)**

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**LAW**  
**regarding**  
**FISCAL CODE**

The Parliament of Romania adopts the present law:

**TITLE I. GENERAL PROVISIONS**

**CHAPTER I. Purpose and scope of application of fiscal code**

**Art. 1. Purpose and scope of application of fiscal code**

(1) The present code provides the legal framework for the taxes and fees provided in art. 2, which are revenues of the state budget and local budgets, specifies the taxpayers that must pay such taxes and fees, as well as the manner of calculating and paying such taxes and fees. The present code contains the procedure for modifying such taxes and fees. In addition, the Ministry of Public Finance is authorized to develop methodological norms, instructions and orders for the application of the present code and the conventions to avoid double taxation.

(2) The legal framework for administering the taxes and fees governed by the present code is provided by legislation regarding fiscal procedures.

(3) In fiscal matters, the provisions of the present code are to prevail over any provisions from other normative acts; in the case of conflict between such provisions, the provisions of the fiscal code are to apply.

(4) If any provision of the present code contradicts any provision of any treaty to which Romania is a party, the provision of such treaty is to apply.

(5) Any measure of a fiscal nature that constitutes state aid is to be granted according to the provisions of Law no. 143/1999, as regards state aid, with subsequent modifications and completions.

**Art. 2. Taxes and fees governed by fiscal code**

The taxes and fees governed by the present code are the following:

a) profit tax;

- b) income tax;
- c) tax on incomes of micro-enterprises;
- d) tax on incomes obtained from Romania by non-residents;
- e) tax on representative offices;
- f) value-added tax;
- g) excises;
- h) local taxes and fees.

## **CHAPTER II. Interpretation and modification of fiscal code**

### **Art. 3. Principles of taxation**

The taxes and fees governed by the present code are based on the following principles:

- a) neutrality of the fiscal measures as regards the various categories of investors and capital, forms of ownership, by ensuring equal conditions for investors and for Romanian and foreign capital;
- b) certitude of taxation, by developing clear legal norms, that do not lead to arbitrary interpretations, while the deadlines, manner and amounts payable are clear for each payer, respectively such payers may follow and understand their fiscal burden and may determine the impact of their financial management decisions on their fiscal burden;
- c) fiscal equity at the level of physical persons, by different taxation of incomes based on the size of the incomes;
- d) efficiency of taxation by providing long-term stability of the provisions of the fiscal code, so that such provisions do not to lead to unfavorable retroactive effects for physical and legal persons, in comparison with the taxation in force on the date when they adopt major investment decisions.

### **Art. 4. Modification and completion of fiscal code**

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

(2) Any modification or completion to the present code is to enter into force beginning with the first day of the year that follows the year in which it was adopted by law.

#### **Art. 5. Methodological norms, instructions and orders**

(1) The Ministry of Public Finance has the authority to develop the norms necessary for the consistent application of the present code.

(2) For purposes of the present code, *norms* are defined as methodological norms, instructions and orders.

(3) Methodological norms are to be approved by the Government by a decision and are to be published in Part I of the Official Gazette of Romania.

(4) Orders and instructions are to be issued by the Minister of Public Finance and are to be published in Part I of the Official Gazette of Romania.

(5) Public institutions under the subordination of the Government other than the Ministry of Public Finance may not develop and issue norms that relate to any provision of the present code, except as provided in the present code.

(6) On an annual basis, the Ministry of Public Finance is to collect and systematize all norms in force that relate to the provisions of the present code and is to make this official collection available to other persons for publication.

#### **Art. 6. Establishment and operation of central tax commission**

(1) The Ministry of Public Finance is to establish a central tax commission that is to be responsible for developing decisions regarding the consistent application of the present code.

(2) The rules of organization and operation of the central tax commission are to be approved by an order of the Minister of Public Finance.

(3) The central tax commission is to be coordinated by the State Secretary in the Ministry of Public Finance who is in charge of fiscal policy and fiscal legislation.

(4) Decisions of the central tax commission are to be approved by an order of the Minister of Public Finance.

### **CHAPTER III. Definitions**

## **Art. 7. Definitions of common terms**

(1) For purposes of the present code, the terms and expressions below have the following meaning:

1. *activity*—any activity carried out by a person for the purpose of obtaining income;
2. *dependent activity*—any activity carried out by a physical person within an employment relationship;
3. *dependent activity at the primary job*—any dependent activity that is declared as such by a physical person in accordance with the provisions of law;
4. *independent activity*—any activity carried out on a regular basis by a physical person other than a dependent activity;
5. *association without legal personality*—any association in participation, economic interest group, societate civila or other entity that is not a separate taxable person for purposes of the income tax and profit tax, according to norms issued in application;
6. *competent fiscal authority*—the fiscal organ within the Ministry of Public Finance and the specialized services of the local public administration authority, as the case may be, that has fiscal responsibility;
7. *finance leasing contract*—any leasing contract that satisfies at least one of the following conditions:
  - a) the risks and benefits of the right of ownership over the good that is subject to the lease are transferred to the user at the moment when the leasing contract enters into effect;
  - b) the leasing contract specifically provides for the transfer of the right of ownership over the good that is subject to the lease to the user at the moment when the contract expires; or
  - c) the period of the lease exceeds 75 percent of the normal period of use of the good that is subject to the lease; for purposes of this definition, the period of the lease includes any period for which the leasing contract may be extended;
8. *operational leasing contract*—any leasing contract entered into between a lessor and lessee that does not fulfill the conditions of a finance leasing contract;

9. *commission*—any payment in money or in kind made to a broker, general commissioner agent or other person assimilated to a broker or general commissioner agent, for intermediation services performed in connection with a commercial operation;
10. *mandatory social contributions*—any contributions that must be paid in accordance with legislation in force for the protection of unemployed persons, for health insurance or for social insurance;
11. *fiscal credit*—a reduction in the income tax or profit tax by the amount of the tax paid abroad, according to conventions for the avoidance of double taxation or as provided in the present code;
12. *dividend*—a distribution in money or in kind made by a legal person to a participant in the legal person as a consequence of the ownership of participation titles in such legal person, except for the following:
  - a) a distribution of additional participation titles that do not modify the percentage of ownership of the participation titles of any participant in the legal person;
  - b) a distribution in money or in kind made in connection with the redemption of participation titles in the legal person, other than a redemption that is part of a plan of redemption that does not modify the percentage of ownership of the participation titles of any participant in the legal person;
  - c) a distribution in money or in kind made in connection with the liquidation of a legal person;
  - d) a distribution in money or in kind made on the occasion of a reduction of social capital actually constituted by participants.

If the amount paid by a legal person for goods or services furnished by a participant in the legal person exceeds the market price for such goods or services, then the difference is to be treated as a dividend;
13. *interest*—any amount that is required to be paid or received for the use of money, regardless whether required to be paid or received in the framework of a debt obligation, in connection with a deposit, or in accordance with a finance leasing contract, installment sale or other deferred payment sale;

14. *franchise*—a system of trade based on a continuous collaboration between physical or legal persons, independent from a financial viewpoint, by which a person, denominated as the *franchiser*, grants to another person, denominated as the *beneficiary*, the right of exploitation or the right of development of a business, product, technology or service;
15. *know-how*—any information regarding industrial, commercial or scientific experience that is necessary for the production of a product or for the application of an existing process and that is not permitted to be disclosed to other persons without the authorization of the person that furnished such information; to the extent derived from experience, know-how represents everything that a producer may not know from a simple examination of the product and from a simple awareness of technical progress;
16. *fixed asset*—any tangible asset that is held for use in the production or delivery of goods or in the supply of services, for rental to others, or for administrative purposes, if the asset has a normal period of use of more than one year and has a value of more than the limit provided by Government decision;
17. *non-resident*—any foreign legal person and any non-resident physical person;
18. *non-profit organization*—any association, foundation or federation established in Romania in accordance with legislation in force, but only if the incomes and assets of the association, foundation or federation are used for an activity of general, community or non-patrimonial interest;
19. *participant*—any person that is the owner of a participation title;
20. *person*—any physical or legal person;
21. *affiliated persons*—a person is affiliated with another person if the relationship between them is defined in at least one of the following cases:
  - a) a physical person is affiliated with another physical person if such persons are relatives up to the third degree, inclusive;
  - b) a person is affiliated with a legal person if the person owns, directly or indirectly, including holdings of affiliated persons, a minimum of 33%, by value or by number, of the participation titles or voting rights in the legal person, or effectively controls the legal person;

c) a legal person is affiliated with another legal person if any other person owns, directly or indirectly, including holdings of affiliated persons, a minimum of 33%, by value or by number, of the participation titles or voting rights in each legal person, or effectively controls each legal person; for purposes of this definition, an association without legal personality is to be treated as a legal person;

22. *non-resident physical person*—any physical person who is not a resident physical person;

23. *resident physical person*—any physical person who satisfies at least one of the following conditions:

a) the person has his or her domicile in Romania;

b) the center of vital interests of the person is located in Romania;

c) the person is present in Romania for a period or periods that exceed in total 183 days during any period of 12 consecutive months ending in the calendar year in question;

d) the person is a Romanian citizen who is serving abroad as an official or employee of Romania in a foreign state.

As an exception to the provisions of lett. a) – d), a resident physical person is not to include a foreign citizen with diplomatic or consular status in Romania, a foreign citizen who is an official or employee of an international and intergovernmental organization that is accredited in Romania, a foreign citizen who is an official or employee of a foreign state in Romania and members of the family of such foreign citizens;

24. *Romanian legal person*—any legal person that has been established in accordance with the legislation of Romania or that has its place of exercise of effective management in Romania;

25. *foreign legal person*—any legal person that is not a Romanian legal person;

26. *market price*—the amount that an independent customer would pay to an independent supplier at the same time and place for the same or similar good or service under conditions of fair competition;

27. *immovable property*—any of the following:

a) any land;

b) any building or other construction erected or incorporated in land;

- c) any crop, timber, mineral deposit or other natural resource that is attached to land;
- d) any property that is accessory to property provided in lett. a) – c), including any livestock and any equipment used in agriculture or forestry;
- e) any right to property described in lett. a) – d), including the right to use or the right to obtain income from such property;

28. *royalty*—any amount required to be paid in money or in kind for the use of, or the right to use, any of the following:

- a) a copyright of a literary, artistic or scientific work, including of films or tapes for radio or television broadcasts, as well as for carrying out audio or video recordings;
- b) any patent, invention, innovation, license, trademark, trade name, franchise, drawing, design, model, plan, sketch, secret formula or production process, or software;

For purposes of the present law, a royalty does not include remuneration in money or in kind paid for the acquisition of software that is intended exclusively to operate such software, without modifications other than those necessary to install, implement, store or use such software. In addition, for purposes of the present law, a royalty does not include remuneration in money or in kind paid for the acquisition of the entire copyright of a computer program.

- c) any transmission, including public transmissions, direct or indirect, by cable, satellite, fiber-optic or other similar technology;
- d) any industrial, commercial or scientific equipment, any movable goods, means of transport or containers;
- e) any know-how;
- f) the name or image of any physical person or other similar rights with respect to a physical person.

In addition, a royalty includes any amount required to be paid in money or in kind for the right to record or broadcast in any manner a performance, show, sporting event or other similar activity.

29. *resident*—any Romanian legal person and any resident physical person;

30. *Romania*—the territory of the state of Romania, including the territorial waters and the air space above the territory and the territorial waters, over which the state of Romania exercises its sovereignty, as well the contiguous area, the continental plateau and exclusive economic area over which the state of Romania exercises its sovereign rights and jurisdiction, in accordance with its legislation and as provided in international legal norms and principles;
31. *participation title*—any share or other social part in a joint stock company, limited liability company, partnership, limited partnership by shares, limited partnership, or other legal person or an open investment fund;
32. *transfer*—any sale, assignment or cessation of the right of ownership, as well as the exchange of the right of ownership for services or for another right of ownership.
- (2) The criteria for determining whether an activity carried out by a physical person is an independent activity or a dependent activity are to be provided in norms.

#### **Art. 8. Definition of permanent establishment**

- (1) For purposes of the present code, a *permanent establishment* is a location through which the activity of a non-resident is wholly or partly carried out, either directly or through a dependent agent.
- (2) A permanent establishment includes a place of management, branch, office, factory, shop, workshop, as well as a mine, oil or gas well, quarry or other place of extraction of natural resources.
- (3) A permanent establishment includes a building site, a construction, assembly or installation project or supervisory activities in connection therewith only if the site, project, or activities last more than 6 months.
- (4) By way of derogation from the provisions of par. (1) – (3), a permanent establishment does not include the following:
- a) the use of a facility solely for the purpose of storage or display of products or goods belonging to a non-resident;
  - b) the maintenance of a stock of products or goods belonging to a non-resident solely for the purpose of storage or display;

- c) the maintenance of a stock of products or goods belonging to a non-resident solely for the purpose of processing by another person;
- d) the sale of products or goods belonging to a non-resident that have been displayed during a non-permanent or occasional fair or exhibition if the products or goods are sold no later than one month after the conclusion of the fair or exhibition;
- e) the maintenance of a fixed place of activity solely for the purpose of purchasing products or goods or collecting information for a non-resident;
- f) the maintenance of a fixed place of activity solely for the purpose of carrying out for a non-resident any activity of a preparatory or auxiliary nature;
- g) the maintenance of a fixed place of activity solely for any combination of activities provided in lett. a) – f), provided that the entire activity carried out at such fixed place is preparatory or auxiliary in nature.

(5) By way of derogation from the provisions of par. (1) and (2), a non-resident is considered to have a permanent establishment in Romania with respect to activities which a person, other than an agent with independent status, undertakes on behalf of the non-resident if the person is acting in Romania on behalf of the non-resident and if one of the following conditions is satisfied:

- a) the person is authorized and exercises in Romania the authority to conclude contracts on behalf of the non-resident, unless the activities in question are limited to those provided in lett. a) through f) of par. (4);
- b) the person maintains in Romania a stock of products or goods from which the person delivers products or goods on behalf of the non-resident.

(6) A non-resident is not considered to have a permanent establishment in Romania merely because it carries out activity in Romania through a broker, agent, general commissioner or any other agent intermediary with independent status, provided that the activity is the regular activity of the agent according to the description in the constitutive documents. If the activities of such an agent are carried out wholly or almost wholly on behalf of the non-resident and conditions exist between the non-resident and the agent in their commercial and financial relations which differ from those which would exist between independent persons, then the agent is not considered to be an agent with independent status.

(7) A non-resident is not considered to have a permanent establishment in Romania merely because it controls or is controlled by a resident or by a person that carries out an activity in Romania through a permanent establishment or otherwise.

(8) For purposes of the present code, the permanent establishment of a physical person is considered to be a fixed base.

## **CHAPTER IV. Rules of general application**

### **Art. 9. Currency for payment and for calculation of taxes and fees**

(1) Taxes and fees are to be paid using the national currency of Romania.

(2) Amounts shown on a tax declaration are to be expressed in the national currency of Romania.

(3) Amounts expressed in a foreign currency are to be converted into the national currency of Romania as follows:

- a) in the case of a person that carries out an activity in a foreign state and that maintains its accounting records for such activity in the currency of such foreign state, the taxable profit or the net income from independent activities and the tax paid to the foreign state are to be converted into the national currency of Romania by using an average of the currency exchange rates for the period to which the taxable profit or net income relates;
- b) in any other case, amounts are to be converted into the national currency of Romania by using the currency exchange rate on the date when the respective amounts are received or paid or on any other date as provided in norms.

(4) For purposes of par. (3), the *currency exchange rate* used to convert amounts expressed in foreign currency into the national currency of Romania is the currency market exchange rate as communicated by the National Bank of Romania, except as provided in norms.

### **Art. 10. Incomes in kind**

(1) For purposes of the present code, taxable incomes include incomes in cash and/or in kind.

(2) In the case of income in kind, the amount of income is to be determined on the basis of the quantity and the market price for such goods or services.

**Art. 11. Special provisions for application of fiscal code**

(1) In determining the amount of any tax or fee for purposes of the present code, the fiscal authorities may disregard a transaction that does not have an economic purpose or may re-characterize the form of a transaction to reflect the economic substance of the transaction.

(2) In the case of a transaction between affiliated persons, the fiscal authorities may adjust the amount of income or expense of either person as necessary in order to reflect the market price for the goods or services provided in the transaction. In determining the market price for transactions between affiliated persons, the most appropriate of the following methods is to be used:

- a) the comparable price method, by which the market price is determined based on prices paid to other persons that sell comparable goods or services to independent persons;
- b) the cost plus method, by which the market price is determined based on the costs of the good or service provided in the transaction, increased by an appropriate profit margin;
- c) the resale price method, by which the market price is determined based on the resale price of the good or service sold to an independent person, decreased by selling expenses and other expenses of the taxpayer and a profit margin;
- d) any other method recognized in the transfer pricing guidelines issued by the Organization for Economic Cooperation and Development.

**Art. 12. Incomes obtained from Romania**

The following incomes are to be considered as obtained from Romania, regardless whether the incomes are received in Romania or abroad:

- a) incomes attributable to a permanent establishment in Romania;
- b) incomes from dependent activity carried out in Romania;
- c) dividends from a Romanian legal person;
- d) interest from a resident;

- e) interest from a non-resident that has a permanent establishment in Romania, if the interest is an expense of the permanent establishment;
- f) royalties from a resident;
- g) royalties from a non-resident that has a permanent establishment in Romania, if the royalty is an expense of the permanent establishment;
- h) incomes from immovable property located in Romania, including incomes from the exploitation of natural resources located in Romania, incomes from the use of immovable property located in Romania and incomes from the transfer of the right of ownership to immovable property located in Romania;
- i) incomes resulting from the transfer of participation titles in a legal person, if the legal person is a Romanian legal person or if the majority of the value of the fixed assets of the legal person, either directly or through one or more legal persons, are immovable property located in Romania;
- j) incomes from pensions received from the social insurance budget or from the state budget;
- k) incomes from the performance of services in Romania;
- l) incomes from the performance of management, intermediation or consulting services in any field, if such incomes are obtained from a resident or if the respective incomes are an expense of a permanent establishment in Romania;
- m) incomes representing remuneration received by non-residents acting in the capacity of an administrator, founder or member of the administrative board of a Romanian legal person;
- n) commissions from a resident;
- o) commissions from a non-resident that has a permanent establishment in Romania, if the commission is an expense of the permanent establishment;
- p) incomes from sporting or entertainment activities carried out in Romania, regardless whether the incomes are received by the person that actually participates in such activity or by another person;
- q) incomes from international air, water, railway or road transport that is carried out between Romania and a foreign state;
- r) incomes from prizes granted at contests organized in Romania;
- s) incomes obtained from gambling in Romania;

t) any other incomes obtained from an activity carried out in Romania.

## TITLE II. PROFIT TAX

### CHAPTER I. General provisions

#### Art. 13. Taxpayers

The following persons, who are hereafter referred to as *taxpayers*, are required to pay the profit tax according to the present title:

- a) Romanian legal persons;
- b) foreign legal persons that carry out activity through a permanent establishment in Romania;
- c) foreign legal persons and non-resident physical persons that carry out activity in Romania in an association without legal personality;
- d) foreign legal persons that realize incomes from/or in connection with immovable property located in Romania or from the sale-assignment of participation titles in a Romanian legal person;
- e) resident physical persons associated with Romanian legal persons, for incomes realized both in Romania and abroad, from associations without legal personality. In this case, the tax payable by the physical person is to be computed, withheld and remitted by the Romanian legal person.

#### Art. 14. Scope of application of tax

The profit tax is to apply as follows:

- a) in the case of Romanian legal persons, to the taxable profit obtained from any source, both from Romania and from abroad;
- b) in the case of foreign legal persons that carry out activity through a permanent establishment in Romania, to the taxable profit attributable to the permanent establishment;
- c) in the case of foreign legal persons and non-resident physical persons that carry out activity in Romania in an association without legal personality, to the portion of the taxable profit of the association attributable to each person;
- d) in the case of foreign legal persons that realize incomes from/or in connection with immovable property located in Romania or from the sale-

assignment of a participation title in a Romanian legal person, to the taxable profit related to such incomes;

- e) in the case of resident physical persons associated with Romanian legal persons that realize incomes both from Romania and from abroad, from associations without legal personality, to the portion of the taxable profit of the association that is attributable to the resident physical person.

#### **Art. 15. Exemptions**

(1) The following taxpayers are exempt from the payment of profit tax:

- a) the state treasury;
- b) public institutions, for public funds, including for the own incomes and funds realized and used according to Law no. 500/2002, as regards public finances, with subsequent modifications, and Government Emergency Ordinance no. 45/2003, as regards local public finances, if not otherwise provided by law;
- c) Romanian legal persons that pay the tax on the incomes of micro-enterprises in accordance with the provisions of title IV;
- d) Romanian foundations established as a result of a legacy;
- e) religious cults, for incomes obtained from economic activities that are used for the support of activities with a charitable purpose;
- f) religious cults, for incomes obtained from the production and sale of objects and products necessary for the cult activity, according to law, and for incomes obtained from rents, provided that the respective amounts are used, during the current year or following years, for the maintenance and operation of the cult units, for construction, repair and consolidation works of cult houses and ecclesiastic buildings, for education and actions specific to religious cults, including incomes from cash compensations obtained as a result of reparatory measures as provided by laws regarding the reconstitution of the right of ownership;
- g) accredited private education institutions, as well as those authorized, for incomes utilized, during the current year or following years, according to Law on education no. 84/1995, republished, with subsequent modifications and completions, and Government Emergency Ordinance no. 174/2001, as

regards certain measures for the improvement of higher education financing, with subsequent modifications;

- h) owners associations established as legal persons and dwellers associations recognized as owners associations, according to Law on dwellings no. 114/1996, as republished, with subsequent modifications and completions, for incomes obtained from economic activities that are used or are to be used for the improvement of facilities and building efficiency, for maintenance and repair of common property;
- i) the guaranty fund for deposits in the banking system, as established according to law;
- j) the fund for compensation of investors, as established according to law.

(2) Non-profit organizations, trade unions and owners associations are exempt from the payment of profit tax for the following types of incomes:

- a) dues and registration fees of members;
- b) contributions in cash or in kind by members and supporters;
- c) registration fees established according to legislation in force;
- d) incomes obtained from sports visas, fees and penalties or from participation in sports competitions and demonstrations;
- e) donations, money or goods received through sponsorship;
- f) dividends, interest and incomes realized from the sale-assignment of participation titles, obtained from the investment of exempt incomes;
- g) incomes for which the tax on shows is payable;
- h) resources obtained from public funds or from non-reimbursable financing;
- i) incomes realized from occasional activities: fund-raising events with an admission fee, festivals, raffles, conferences, used for social or professional purposes, according to their organization statute;
- j) exceptional incomes resulting from the transfer of tangible assets owned by non-profit organizations, other than assets that are or have been used in an economic activity;
- k) incomes obtained from advertising and publicity, realized by non-profit organizations of public utility, according to the law of organization and operation, in the field of culture, scientific research, education, sport, health,

as well as by chambers of commerce and industry, trade unions and owners associations.

(3) Non-profit organizations, trade unions and owners associations are exempt from the payment of profit tax for incomes realized from economic activities that do not exceed the equivalent in ROL of 15,000 euro for a fiscal year, but not more than 10 percent of the total incomes exempt from the payment of profit tax as provided in par. (2). The organizations provided in the present paragraph owe profit tax for the portion of the taxable profit that corresponds to incomes other than those provided in par. (2) or the present paragraph, a tax that is computed by applying the rate provided in art. 17, par. (1), or art. 18, as the case may be.

#### **Art. 16. Fiscal year**

(1) The fiscal year is the calendar year.

(2) In the case of a taxpayer that is established or ceases to exist during a fiscal year, the taxable period is the period of the calendar year for which the taxpayer existed.

#### **Art. 17. Tax rates**

(1) The profit tax rate that is applied to taxable profit is 25%, with the exceptions provided in par. (2), art. 33 and art. 38.

(2) In the case of the National Bank of Romania, the profit tax rate is 80%.

#### **Art. 18. Minimum tax for night-bars, night-clubs, discotheques, casinos and sports betting**

Taxpayers that carry out activities in the nature of night-bars, night-clubs, discotheques, casinos or sports betting and for which the profit tax owed for the activities provided in this article is less than 5% of the respective incomes are required to pay a tax equal to 5% of such realized incomes.

### **CHAPTER II. Computation of taxable profit**

#### **Art. 19. General rules**

(1) The taxable profit is to be computed as the difference between incomes realized from any source and expenses effected for the purpose of the

realization of incomes, in a fiscal year, from which non-taxable incomes are deducted and to which non-deductible expenses are added. In determining the taxable profit, other elements similar to incomes and expenses are also to be taken into account according to norms of application.

(2) The accounting methods established by legal regulations in force as regards the removal of goods from inventory are to be recognized in computing taxable profit, with the exception of the cases provided in par. (3). The accounting methods for the valuation of inventory are not to be modified during a fiscal year.

(3) In the case of taxpayers that produce movable and immovable goods that are sold on the basis of an installment sales contract, the taxpayers may elect to take into account incomes relating to the contract in computing taxable profit as installments become receivable, according to the contract. The expenses corresponding to such incomes are deductible on the same dates, based on the proportion of installments recorded under the contract to the total value of the contract. The election is to be exercised at the time of the delivery of the goods and is irrevocable.

(4) In the case of taxpayers that carry out international service activities, on the basis of conventions to which Romania is a party, incomes and expenses effected for the purpose of realizing such incomes are to be taken into account in determining the taxable profit according to special norms established in accordance with regulations from these conventions.

#### **Art. 20. Non-taxable incomes**

The following incomes are not taxable in computing taxable profit:

- a) dividends received from a Romanian legal person. Also not taxable, after the date when Romania joins the European Union, are dividends received from a foreign legal person from a state of the European Community if a Romanian legal person holds a minimum of 25% of the participation titles in the foreign legal person for an uninterrupted period of at least 2 years that ends on the date of the payment of the dividend.
- b) favorable differences of value for participation titles that are recorded as the result of the incorporation of reserves, benefits or issuance premiums by the legal persons where the participation titles are held, as well as by the differences of valuation of long-term financial investments. Such differences

are taxable on the date of their transfer for free, assignment, withdrawal of the participation titles as well as on the date of the withdrawal of the social capital in the legal person in which the participation titles are held;

- c) incomes from the cancellation of the obligations of a legal person, if the obligations are cancelled in exchange for participation titles in such legal person;
- d) incomes from the cancellation of expenses for which no deduction was allowed, incomes from the reduction or cancellation of provisions for which no deduction was allowed and incomes from the recovery of nondeductible expenses;
- e) non-taxable incomes, expressly provided in accordance with memoranda approved by normative acts.

#### **Art. 21. Expenses**

(1) For the determination of taxable profit, expenses are deductible only if the expenses are effected for the purpose of the realization of taxable incomes, including those that are regulated by normative acts in force.

(2) Expenses effected for the purpose of the realization of incomes are also:

- a) expenses for acquiring packaging during the lifetime as established by the taxpayer;
- b) expenses effected, according to law, for labor protection and expenses effected for the prevention of labor accidents and professional illness;
- c) expenses for insurance premiums to insure against labor accidents, professional illness or professional risks;
- d) expenses of advertising and publicity effected in order to promote the firm, products or services, based on a written contract, as well as costs associated with the production of materials necessary for dissemination of publicity messages. Also included in the category of expenses of advertising and publicity are goods that are granted in the framework of a publicity campaign as samples, for testing the product and demonstrations at points of sale, as well as other goods and services granted in order to stimulate sales;

- e) expenses of transport and accommodation within the country and abroad effected by employees and administrators, in cases where the taxpayer realizes profit in the current financial exercise and/or from preceding years;
  - f) contributions to the mutual guarantee reserve of the central house of credit co-operatives;
  - g) subscription fees, dues and mandatory contributions, as regulated by normative acts in force, as well as contributions to the fund intended for the negotiation of the collective labor contract;
  - h) expenses for vocational and professional training of personnel employed;
  - i) expenses for marketing, market research, the promotion of existing or new markets, participation in fairs and exhibitions, business missions, publication of own informative materials, in the case where the taxpayer realizes profit in the current financial exercise and/or from preceding years, as well as in situations where this is within the period for the recuperation of fiscal losses, according to law;
  - j) expenses of research – development;
  - k) expenses for the improvement of management, information systems, introduction, maintenance and improvement of quality management systems, obtaining certifications of conformity with quality standards;
  - l) expenses for the protection of the environment and the conservation of resources;
  - m) registration fees, dues and contributions owed to chambers of commerce and industry, unions and owners associations;
  - n) losses recorded after January 1, 2007, when writing off from the records uncollected receivables, as a result of the completion of a bankruptcy proceeding, on the basis of a court decision that certifies such situation.
- (3) The following expenses have limited deductibility:
- a) protocol expenses within the limit of 2% of the difference between total taxable incomes and total expenses related to taxable incomes, other than protocol expenses and profit tax expenses;
  - b) reimbursement of travel allowances allowed to employees for travel in Romania and abroad, within the limit of 2.5 times the legal level established for public institutions, in cases where the taxpayer realizes profit in the

current financial exercise and/or from preceding years. Expenses of travel, accommodation and reimbursements allowed to employees in cases where the taxpayer realizes losses in the current financial exercise and/or from preceding years are limited to the legal level established for public institutions;

- c) social expenses, within the limit of up to 2% of the salary fund realized. Within this limit are included with priority assistance for child birth, assistance for funerals, and assistance for grave or incurable illnesses and prosthesis, as well as expenses for the proper operation of activities or units that are under the administration of taxpayers: kindergartens, nursery schools, health services granted in the case of professional illness and labor accidents until admission to health units, museums, libraries, canteens, sports clubs, clubs, buildings for unmarried persons, as well as the schools that are under their patronage. Within this limit may also be deducted expenses for: transport to and from the place of work of employees, gifts in money or in kind granted to minor children of employees, gifts in money or in kind granted to female employees, the cost of supplies for treatment and rest for own employees and their family members, including transport, assistance for employees who suffered household losses and contributions to the intervention funds of the professional association of miners, assistance for children in schools and orphanages;
- d) perishables, within the limits established by specialized bodies of the central administration, together with specialized institutions, with the endorsement of the Ministry of Public Finance;
- e) expenses for meal tickets granted by employers, within the limits provided in the annual state budget law;
- f) expenses for fees and dues to non-government organizations or professional associations, within the annual limit of the ROL equivalent of 2,000 euro, other than those provided in par. (2), lett. g) and m);
- g) expenses for provisions and reserves, within the limit provided in art. 22;
- h) expenses for interest and differences in the rate of exchange for foreign currency, within the limit provided in art. 23;
- i) depreciation, within the limit provided in art. 24;

- j) expenses effected on behalf of an employee to an optional occupational pension scheme, within the limit established by law;
- k) expenses for private health insurance premiums, within the limit established by law;
- l) expenses for the operation, maintenance and repair of job dwellings located in the locality of the official establishment or where the company has secondary establishments, deductible within the limit corresponding to the constructed areas as provided in the law on dwellings, which is increased from a fiscal viewpoint by 10%. The non-deductible difference must be recovered from beneficiaries, respectively lessees/users;
- m) expenses of operation, maintenance and repairs related to an establishment within a dwelling owned by a person who is a physical person, used for personal purposes, deductible within the limit corresponding to the areas made available to the company on the basis of contracts entered into between the parties, for this purpose;
- n) expenses of operation, maintenance and repairs related to cars used by employees with management or administrative positions of the legal person, deductible within the limit of at most a single car related to each physical person with such position. In order to be deductible for tax purposes, the expenses of company cars must be justified with legal documents.

(4) The following expenses are not deductible:

- a) own expenses of the taxpayer for the profit tax payable, including differences from preceding years or from the current year, as well as profit tax or income tax paid abroad. Non-deductible are also expenses for taxes that were not withheld at source on behalf of non-resident physical and legal persons, for incomes realized from Romania;
- b) fines, confiscations, late-payment additions and late-payment penalties payable to Romanian authorities, according to legal provisions. Fines, penalties or additions payable to foreign authorities, or within the framework of economic contracts concluded with non-resident persons in Romania and/or foreign authorities are non-deductible expenses, with the exception of additions the regime of which is regulated by the conventions for the avoidance of double taxation. Fines, late-payment additions and late-

payment penalties payable as a result of a clause provided in a commercial contract, other than those concluded with the authorities, are not subject to the provisions of lett. b);

- c) expenses relating to goods in the nature of inventory or tangible assets that are missing from stock or that are damaged and non-chargeable, for which an insurance contract was not entered into, as well as related value-added tax, if such tax is payable according to the provisions of title VI;
- d) expenses for value-added tax related to goods granted to employees as benefits in kind, if such values were not taxable by withholding at source;
- e) expenses made in favor of shareholders or associates, other than those generated by payments for goods delivered or services supplied to the taxpayer, at the market price for such goods or services;
- f) expenses recorded for accounting purposes that do not have as a basis a justifying document, according to law, by which are proved the carrying out of operations or the entry into inventory, as the case may be, according to norms;
- g) expenses recorded by agricultural companies, established on the basis of law, for the right to use agricultural land contributed by the members of the association, in excess of the share of distribution from the production realized from such use, as provided in the statutory or association contract;
- h) expenses determined due to unfavorable differences of value for participation titles in legal persons where the participation is held, as well as unfavorable differences of value related to long term bonds, with the exception of those determined due to their sale-assignment;
- i) expenses related to the non-taxable incomes provided in art. 20, with the exception of those provided in art. 20, lett. d);
- j) expenses of contributions paid in excess of established limits or that are not regulated by normative acts;
- k) expenses of insurance premiums paid by an employer on behalf of an employee that are not included in the salary income of the employee according to the provisions of title III;
- l) other expenses of salary and/or similar expenses that are not taxed to the employee, except as provided in title III;

- m) expenses for services of management, consulting, assistance or other supplies of services for which the taxpayer may not justify the necessity of such supply for the purpose of carrying out the own activity and for which contracts are not concluded;
- n) expenses of insurance premiums that are not related to the assets of the taxpayer as well as those that are not related to the object of activity, with the exception of those that relate to goods that serve as a bank guarantee for credits used in carrying out activities for which the taxpayer is authorized or those that are used within the framework of rental or leasing contracts, according to contractual clauses;
- o) losses recorded when writing off from the records doubtful or contested uncollected receivables, for the portion that is not covered by a provision according to art. 22, par. (1), lett. c). In this situation, taxpayers that write off from the records uncollected clients are required to inform in writing such clients as regards the respective receivables written off from the records, in order to re-compute the taxable profit of the debtor, as the case may be;
- p) expenses of sponsorship and/or mecenat, effected according to law.

## **Art. 22. Provisions and reserves**

(1) The taxpayer is allowed a deduction for reserves and provisions only in accordance with the present article, as follows:

- a) the legal reserve is deductible within the limit of 5% of the accounting profit, before the determination of the profit tax, from which non-taxable incomes are deducted and to which expenses related to such non-taxable incomes are added, until the reserve fund equals one-fifth of the subscribed and paid-in social capital or of the patrimony, as the case may be, according to laws of organization and operation. In the case where this is used to cover losses or is distributed in any form, the subsequent reconstitution of the reserve is no longer deductible in computing taxable profit. As an exception, the reserve constituted by legal persons that furnish utilities to companies that are undergoing restructuring, reorganization or privatization may be used to cover the losses of value of share packages obtained further to the

procedure of conversion of receivables and the amounts intended for subsequent reconstitution are deductible in computing taxable profit;

- b) provisions for guarantees of good performance granted to customers;
- c) provisions established within the limit of 20% beginning with January 1, 2004, 25% beginning with January 1, 2005, 30% beginning with January 1, 2006, of the value of receivables from customers, recorded by taxpayers other than those provided in par. (1), lett. d), f), g) and i), that cumulatively satisfy the following conditions:
  - 1. they are recorded after January 1, 2004;
  - 2. they are not paid for a period of more than 270 days from the due date;
  - 3. they are not guaranteed by another person;
  - 4. they are payable by a person that is not an affiliated person of the taxpayer;
  - 5. they were included in the taxable incomes of the taxpayer.
- d) specific provisions, as provided by laws of organization and operation, in the case of banking companies or other authorized credit institutions as well as for mortgage credit and financial service companies;
- e) reserves established by banking companies or other authorized credit institutions, as well as by mortgage credit companies, as provided by laws of organization and operation;
- f) provisions established by guarantee funds, as provided by norms of the National Bank of Romania;
- g) legal reserves and provisions established by the National Bank of Romania, in accordance with legislation in force;
- h) technical reserves established by insurance and re-insurance companies, as provided by legal provisions of organization and operation. For insurance contracts that are ceded in reinsurance, the reserves are to be reduced by so that the level of the reserves cover the portion of the risk that remains with the insurer, after the deduction of re-insurance;
- i) risk provisions for financial market operations, established as provided in the regulations of the National Commission on Securities;

j) provisions established within the limit of 100% of the value of receivables from customers, recorded by taxpayers other than those provided in par. (1), lett. d), f), g) and i), that cumulatively fulfill the following conditions:

1. they are recorded after January 1, 2007;
2. the receivable is held at a legal person over which a procedure to open bankruptcy is declared, on the basis of a court decision that certifies such situation;
3. they are not guaranteed by another person;
4. they are payable by a person that is not an affiliated person of the taxpayer;
5. they were included in the taxable incomes of the taxpayer.

(2) Taxpayers that are authorized to carry out activities in the field of exploitation of natural resources are required to record in the accounting records and to deduct provisions for the restoration of damaged lands and for their return to the economic, forestry or agricultural circuit, within the limit of 1 percent of the difference between incomes and expenses from exploitation, during the entire period of the operation and exploitation of the natural resources.

(3) For titulars of oil agreements that carry out petroleum operations in maritime areas that include waters deeper than 100 meters, the rate of the provision established for the dismantling of wells, installations and annexes, as well as for environment rehabilitation, is 10 percent of the difference between recorded incomes and expenses, during the entire period of the petroleum operations.

(4) The regia autonoma "Romanian Administration of Air Traffic Services" - ROMATSA is to establish on a quarterly basis a provision, as provided by legal provisions, for the difference between incomes from operations that are effectively realized from airline activity and the effective costs of the airline activity, which is to be used to cover expenses of operation that exceed the tariffs annually established by EUROCONTROL.

(5) A reduction or cancellation of any provision or reserve that was previously deducted is to be included in taxable incomes, regardless whether the reduction or cancellation is attributable to a change in the destination of the provision or reserve, a distribution of the provision or reserve to participants in any form, the liquidation, division or merger of the taxpayer, or any other reason. The

provisions of this paragraph are not to apply if another taxpayer takes over a provision or reserve in connection with a division or merger and the rules of this article continue to apply to such provision or reserve.

(6) Amounts recorded as legal reserves and reserves representing fiscal facilities may not be used to increase the social capital or to cover losses. In the case where the provisions of this paragraph are not observed, the profit tax is to be re-calculated for such amounts and interest and late-payment penalties are to be determined from the date when such facilities applied, as provided by law. Reserves for the impacts of the rate of exchange for foreign currency related to the appreciation of foreign currency amounts that are established according to law and that are recorded by banking companies, Romanian legal persons and branches of foreign banks that carry out activity in Romania are not subject to tax.

(7) For purposes of the present article, the establishment of a provision or reserve is to include the increase of a provision or reserve.

### **Art. 23. Interest expense and differences in the rate of exchange for foreign currency**

(1) Interest expenses are fully deductible in the case where the degree of indebtedness of the capital is less than 1. The degree of indebtedness of the capital is to be determined as the proportion of borrowed capital with a period of reimbursement of more than one year to the own capital, as the average of existing values at the beginning of the year and at the end of the period for which the profit tax is determined. *Borrowed capital* means the total credits and loans with a period of reimbursement of more than one year in accordance with contractual clauses. Beginning with January 1, 2006, interest expenses are fully deductible in the case where the degree of indebtedness of the capital is less than three.

(2) In the case where the degree of indebtedness of the capital is more than 1, inclusively, interest expenses and net losses from differences in the rate of exchange for foreign currency are deductible up to the level of incomes from interest plus 10% of the other incomes of the taxpayer. Interest expenses and net losses from differences in the rate of exchange for foreign currency that are

not deductible are to be carried over to the following period, under the same conditions, until fully deducted.

(3) In the case where expenses from differences in the rate of exchange for foreign currency of the taxpayer exceed incomes from differences in the rate of exchange for foreign currency, the difference is to be treated as interest expense for purposes of par. (1) and (2), and the deductibility of such difference is subject to the limitations provided in such paragraphs. Expenses from differences in the rate of exchange for foreign currency that are limited in accordance with this paragraph are those related to the loans that were taken into account in determining the degree of indebtedness of the capital.

(4) Interest and losses from differences in the rate of exchange for foreign currency that relate to loans obtained directly or indirectly from international development banks and similar organizations specified in norms and loans guaranteed by the state are not subject to the provisions of the present article.

(5) In the case of loans obtained from other entities, with the exception of Romanian or foreign banking companies, branches of foreign banks, credit co-operatives, leasing companies for leasing operations, mortgage credit companies, and legal persons that grant credits according to law, deductible interest expenses are limited to:

- a) the level of the reference interest rate of the National Bank of Romania that corresponds to the last month in a quarter, for loans denominated in ROL; and
- b) the level of an annual interest rate of 9%, for loans denominated in foreign currency. This level of interest rate is to apply in determining the taxable profit related to fiscal year 2004. The level of interest rate for loans denominated in foreign currency is to be updated by Government decision.

(6) The limit provided in par. (5) is to apply separately for each loan, before applying the provisions of par. (1) and (2).

(7) The provisions of par. (1) – (3) are not to apply to banking companies, Romanian legal persons, branches of foreign banks that carry out activity in Romania, leasing companies for leasing operations, mortgage credit companies, as well as credit institutions.

(8) In the case of a foreign legal person that carries out activity through a permanent establishment in Romania, the provisions of the present article are to apply by considering the own capital.

#### **Art. 24. Fiscal depreciation**

(1) Expenses related to the acquisition, production, construction, assembly, installation or improvement of depreciable fixed assets are to be recovered from a fiscal viewpoint by depreciation deductions as provided by the provisions of the present article.

(2) A depreciable fixed asset is any tangible immobilization that cumulatively satisfies the following conditions:

- a) it is held and used in production, delivery of goods or supply of services, for rental to third parties, or for administrative purposes;
- b) it has an entry value of more than the limit established by Government decision;
- c) it has a normal period of use of more than one year.

For tangible immobilizations that are used in lots, sets or that form a single body, lot or set, the entire value of the body, lot or set is to be taken into account in determining depreciation. For components that enter into the structure of a tangible asset and that have a normal period of use different from the resulting asset, the depreciation is to be determined in part for each component.

(3) In addition, depreciable fixed assets include:

- a) investments effected to fixed assets that are the subject of a contract of rental, concession, administration or other similar;
- b) fixed assets put into partial operation, for which the recording as tangible immobilization has not been completed; they are to be included in the groups in which they are recorded, at the value resulting from the addition of the actual expenses occasioned by their realization;
- c) investments effected for excavations, in order to derive value from useful mineral substances, as well as for works of opening and works of preparation of extraction, underground and at the surface;
- d) investments effected to existing fixed assets, under the form of subsequent expenses realized in order to improve initial technical parameters and that

lead to the obtaining of future economic benefits, by increasing the value of fixed assets;

- e) investments effected from own sources that result in new goods of the nature of those belonging to the public domain, as well as the development and modernization of goods under public ownership;
- f) land improvements.

(4) Depreciable fixed assets do not include:

- a) land, including land with forests;
- b) pictures and art objects;
- c) goodwill;
- d) ponds, pools, and lakes that do not result from an investment;
- e) goods from the public domain that are financed from budgetary sources;
- f) any fixed asset that does not lose value over time due to use, as provided by norms;
- g) own houses of rest, dwellings of protocol, ships, aircraft, cruise ships, other than those used for the purpose of realizing incomes.

(5) The *entry value of fixed assets* means:

- a) the cost of acquisition, for fixed assets acquired for consideration;
- b) the cost of production, for fixed assets constructed or produced by the taxpayer;
- c) the market price, for fixed assets acquired for free.

(6) The depreciation regime for a depreciable fixed asset is to be determined in accordance with the following rules:

- a) in the case of constructions, the straight-line method of depreciation is to apply;
- b) in the case of technological equipment, respectively machines, tools, and installations, as well as for computers and equipment peripheral to computers, the taxpayer may elect to use the straight-line method of depreciation, the declining balance method of depreciation or the accelerated method of depreciation;
- c) in the case of any other depreciable fixed asset, the taxpayer may elect to use the straight-line method of depreciation or the declining balance method of depreciation.

(7) In the case of the straight-line method of depreciation, the depreciation is to be determined by applying the straight-line rate of depreciation to the entry value of the depreciable fixed asset. The straight-line rate of depreciation is to be computed by dividing 100 by the normal period of use of the fixed asset.

(8) In the case of the declining balance method of depreciation, the depreciation is to be computed by multiplying the straight-line rates of depreciation by one of the following coefficients:

- a) 1.5, if the normal period of use of the depreciable fixed asset is between 2 and 5 years;
- b) 2.0, if the normal period of use of the depreciable fixed asset is between 5 and 10 years;
- c) 2.5, if the normal period of use of the depreciable fixed asset is more than 10 years.

(9) In the case of the accelerated method of depreciation, the depreciation is to be computed as follows:

- a) for the first year of use, the depreciation is not to exceed 50% of the entry value of the fixed asset;
- b) for subsequent years of use, the depreciation is to be computed by dividing the remaining depreciable value of the fixed asset by the remaining normal period of use of the asset.

(10) Expenses related to the acquisition of patents, copyrights, licenses, trademarks or production marks and other similar values are to be recovered through straight-line depreciation deductions over the period of the contract or the period of use, as the case may be. Expenses related to the acquisition or production of software are to be recovered through straight-line depreciation deductions over a period of 3 years. The depreciation for patents may be determined by using the declining balance method of depreciation or the accelerated method of depreciation.

(11) Fiscal depreciation is to be computed as follows:

- a) beginning with the month that follows the month in which the depreciable fixed asset is put into operation;
- b) for investment expenses effected from own sources to fixed assets from the public domain, over the normal period of use, over the remaining normal

period of use or over the period of the contract of concession or rental, as the case may be;

- c) for investment expenses effected to fixed assets under concession, rental or under the administration of the person that effected the investment, over the period of the contract or over the normal period of use, as the case may be;
- d) for investment expenses effected for the improvement of land, on a straight-line basis over a period of 10 years;
- e) the depreciation of mining buildings and constructions, salt mines with extraction in solution by wells, quarries, current exploitations, for solid mineral substances and those in the industry of oil extraction, for which the period of use is limited by the duration of the reserves and which may not be given other uses after the exhaustion of the reserves, as well as investments for uncovering, is to be computed per unit of product, depending on the exploitable reserve of useful mineral substance. The depreciation per unit of product is to be computed as follows:
  - 1. every 5 years for mines, quarries, oil extraction, as well as investment expenses for uncovering;
  - 2. every 10 years for salt mines;
- f) means of transport may be depreciated also based on the number of kilometers or the number of hours of operation as provided in technical books, for those acquired after January 1, 2004;
- g) for job dwellings, depreciation is fiscally deductible up to the level corresponding to the constructed area as provided by the law on dwellings;
- h) only for cars used under the conditions provided in art., 21, par. (3), lett. n).

(12) Taxpayers that invest in a depreciable fixed asset or in depreciable patents which are destined for activities for which they are authorized and which do not apply the regime of accelerated depreciation may deduct a depreciation expense equal to 20% of the entry value of such asset, on the date that the fixed asset or patent is put into operation. The remaining value is to be recovered over the normal period of use and is to be determined by subtracting an amount equal to the 20% deduction from the entry value. For acquisitions of animals and plants, the 20% deduction is to be allowed as follows:

- a) for animals, on the date of acquisition;

b) for plants, on the date of the final receipt of the acceptance of the plantation. Also subject to the present paragraph are fixed assets acquired on the basis of a finance leasing contract with a final clause for the transfer of the right of ownership of the good at the expiration of the finance leasing contract. Taxpayers that benefit from the facilities provided in the present paragraph are required to retain the depreciable fixed assets in their patrimony at least for a period equal to one half their normal period of use.

(13) For investments made in industrial parks before December 31, 2006, a supplementary deduction is to be allowed from taxable profit in an amount equal to 20% of the value of the investment for the construction or rehabilitation of constructions, internal infrastructure and infrastructure for connection to public utility networks, taking into account legal provisions in force as regards the classification and normal periods of use of depreciable fixed assets. Taxpayers that benefit from the facilities provided in par. (12) may not benefit from the facilities provided in the present paragraph.

(14) Expenses related to the discovery, exploration, development or other activity that is preparatory to the exploitation of natural resources are to be recovered in equal amounts over a period of 5 years, beginning with the month in which the expenses are effected. Expenses related to the acquisition of any right to exploit natural resources are to be recovered as the natural resources are exploited, based on the proportion of the value of resources recovered to the estimated total value of resources.

(15) For depreciable fixed assets, depreciation deductions are to be determined without taking into account the depreciation for accounting purposes and without regard to any revaluation of assets for accounting purposes. The gain or loss resulting from the sale or from the removal from operation of such fixed assets is to be computed based on the fiscal value of such fixed assets, which is the entry value of the fixed assets reduced by fiscal depreciation. For fixed assets for which the accounting value is recorded in stock on December 31, 2003, the depreciation is to be computed based on the remaining not depreciated value by using the depreciation methods that were applied until this date.

(16) Taxpayers that invest in fixed assets that are destined for the prevention of labor accidents and professional illness, as well as for the creation and

operation of medical cabinets, may deduct the entire value of the investment in computing taxable profit on the date when it is put into operation or may recover these expenses by depreciation deductions, as provided by the provisions of the present article.

(17) In the case of a tangible immobilization with an entry value of less than the limit established by Government decision, the taxpayer may elect to deduct the expenses relating to the immobilization or recover such expenses by depreciation deductions, as provided by the provisions of the present article.

(18) Expenses relating to the acquisition or production of containers or packaging that circulate between a taxpayer and customers are to be recovered by straight-line depreciation deductions over the normal period of use as established by the taxpayer that retains the right of ownership over the containers or packaging.

(19) The Ministry of Public Finance is to develop norms regarding the classification and normal period of use of fixed assets.

(20) The regia autonoma "ROMATSA" is to update annually the remaining not depreciated value of fixed assets and intangible immobilizations that are included in the balance sheet for the fiscal year, taking into account the inflation rate of the preceding year, as communicated by the National Institute for Statistics. The value of tangible and intangible assets that are acquired during a fiscal year is to be updated based on the change in the inflation rate during the period of time between the month in which such assets are acquired and the end of the fiscal year. The value of assets and own patrimony of regia autonoma "ROMATSA" is to be increased by the differences resulting from the annual revaluation. The depreciation of the capital of ROMATSA, as committed and immobilized in tangible and intangible assets, is to be established by the straight-line method of depreciation. The remaining not depreciated value that relates to fixed assets of the regia autonoma "ROMATSA" that were removed from operation before the completion of the normal period of use, reduced by amounts resulted from any disposition, is to be recorded as an expense of operation and is deductible from a fiscal viewpoint.

(21) For titulars of petroleum agreements and their sub-contractors that carry out petroleum operations in maritime areas which include waters deeper than

100 meters, the depreciation of tangible and intangible assets related to petroleum operations, for which the period of use is limited for the period of the reserve, for a unit of product with a degree of use of 100%, is to be computed based on the exploitable reserve of useful mineral substance, over the period of the petroleum agreement. Expenses related to investments in process, tangible and intangible assets effected for petroleum operations, are to be reflected in the accounting system both in ROL and in euro; such expenses that are recorded in ROL in the accounting system are to be reevaluated by the end of each financial exercise based on the values that are recorded in the accounting system in euro, at the euro/ROL exchange rate communicated by the National Bank of Romania for the last day of each financial exercise.

(22) The provisions of Law no. 15/1994, as regards the depreciation of capital immobilized in tangible and intangible assets, as republished, with subsequent modifications, are not to apply in computing taxable profit, with the exception of the provisions of art. 3, par. (2), lett. a) and art. 8 of the law.

#### **Art. 25. Leasing contracts**

(1) In the case of finance leasing, the lessee is treated from a fiscal viewpoint as the owner, while in the case of operational leasing, the lessor has such capacity. The depreciation of the goods that are the subject of a leasing contract is to be made by the lessee in the case of finance leasing and by the lessor in the case of operational leasing and the expenses are deductible as provided by art. 24.

(2) In the case of finance leasing, the lessee deducts the interest, while in the case of operational leasing, the lessee deducts the rent (lease installment).

#### **Art. 26. Fiscal losses**

(1) Annual loss, as established by the profit tax declaration, is to be recovered from the taxable profits obtained during the following 5 consecutive years. The recovery of losses is to be made in the sequence that such losses are recorded, at each deadline for the payment of the profit tax, as provided by the legal provisions in force for the year when such loss is recorded.

(2) The fiscal loss recorded by a taxpayer that ceases to exist due to division or merger may not be recovered by any newly formed taxpayer or by those that take over the patrimony of the absorbed company, as the case may be.

(3) In the case of foreign legal persons, the provisions of par. (1) are to apply by taking into account only the incomes and expenses attributable to a permanent establishment in Romania.

(4) Taxpayers that were required to pay income tax and that previously realized a fiscal loss are subject to provisions of par. (1) starting from the date when they return to the taxation system regulated by the present title. Such loss is to be recovered over the period between the date of recording the fiscal loss and the 5-year limit.

#### **Art. 27. Reorganizations, liquidations and other transfers of assets and participation titles**

(1) In the case of a contribution of assets to the capital of a legal person in exchange for participation titles in such legal person, the following rules are to apply:

- a) the contributions are not taxable transfers for purposes of the provisions of the present title and the provisions of title III;
- b) the fiscal value of the assets received by the legal person is to equal the fiscal value of such assets to the person that contributed the asset;
- c) the fiscal value of the participation titles received by the person that contributed the assets is to equal the fiscal value of the assets contributed by such person.

(2) The distribution of assets by a Romanian legal person to participants, whether in the form of a dividend or in connection with an operation of liquidation, is to be treated as a taxable transfer, except as provided in par. (3).

(3) The provisions of the present article are to apply to the following operations of reorganization, if they do not have as a principal objective the evasion of taxes or the avoidance of taxes:

- a) a merger between two or more Romanian legal persons, in the case where the participants in each legal person that is merged receive participation titles in the successor legal person;

- b) a division of a Romanian legal person into two or more Romanian legal persons, in the case where the participants in the initial legal person benefit from a proportional distribution of participation titles in the successor legal persons;
  - c) an acquisition by a Romanian legal person of all the assets and liabilities belonging to one or more economic activities of another Romanian legal person solely in exchange for participation titles;
  - d) an acquisition by a Romanian legal person of a minimum of 50% of the participation titles in another Romanian legal person, in exchange for participation titles in the acquiring legal person, and, if applicable, a cash payment that does not exceed 10% of the nominal value of the participation titles issued in exchange.
- (4) In the case of an operation of reorganization provided in par. (3), the following rules are to apply:
- a) the transfer of assets and liabilities is not to be treated as a taxable transfer for purposes of this title;
  - b) the exchange of participation titles in a Romanian legal person for participation titles in another Romanian legal person is not to be treated as a taxable transfer for purposes of the present title and title III;
  - c) the distribution of participation titles in connection with a division of a Romanian legal person is not to be treated as a dividend;
  - d) the fiscal value of an asset or liability that is described in lett. a) for the person that receives such asset is to equal the fiscal value of such asset to the person that transferred it;
  - e) the fiscal depreciation of an asset described in lett. a) is to continue to be determined in accordance with the rules provided in art. 24 that would have applied to the person that transferred the asset if the transfer had not occurred;
  - f) the transfer of a provision or reserve is not to be considered a reduction or cancellation of the provision or reserve, as provided by art. 22, par. (5), if another taxpayer takes them over and maintains them at the value before the transfer;

- g) the fiscal value of the participation titles described in lett. b) that are received by a person is to equal the fiscal value of the participation titles that are transferred by such person;
- h) the fiscal value of the participation titles described in lett. c) that were owned prior to the distribution is to be allocated among such participation titles and the distributed participation titles in proportion to the market price of the participation titles immediately after the distribution.

(5) If a Romanian legal person owns more than 25% of the participation titles in another Romanian legal person that transfers assets and liabilities to the first legal person in an operation provided in par. (3), then the cancellation of such participation titles is not to be considered a taxable transfer.

(6) After the date that Romania joins the European Union, the provisions of the present article are to apply to foreign legal persons that are resident in any member state of the European Union. In such case, the transfer of assets and liabilities is not to be considered a taxable transfer if either of the following conditions is satisfied:

- a) the assets and liabilities are effectively connected with a permanent establishment in Romania and continue to be used for the generation of taxable profit in Romania;
- b) the assets and liabilities are effectively connected with a permanent establishment of the person that transfers the assets and liabilities, which is located outside Romania.

By way of derogation from the provisions of par. (4), lett. f), the transfer of a provision or a reserve is to be considered a taxable reduction of such provision or reserve if the provision or reserve is derived from a permanent establishment located outside Romania.

(7) For purposes of the present article, *the fiscal value of an asset, liability or participation title* is the value that is used to compute depreciation and gain or loss for purposes of the income tax or profit tax.

### **Art. 28. Associations without legal personality**

(1) In the case of an association without legal personality, recorded incomes and expenses are to be attributed to each associate based on the share of participation in the association.

(2) Any association without legal personality between foreign legal persons that carries out activity in Romania must designate one of the parties that is to satisfy the obligations of each associate provided by the present title. The designated person is responsible for the following:

- a) the registration of the association with the competent fiscal authority, before starting to carry out activity;
- b) the maintenance of the accounting records of the association;
- c) the payment of tax on behalf of the associates, according to art. 34, par. (1);
- d) the submission of quarterly fiscal declarations to the competent fiscal authority that contain information regarding the portion of incomes or expenses of the association that is attributable to each associate, as well as the tax that was paid to the budget on behalf of each associate;
- e) the provision of information in writing to each associate regarding the portion of the incomes and expenses of the association that is attributable to such associate, as well as the tax that was paid to the budget on behalf of such associate.

(3) In an association without legal personality with a Romanian legal person, the Romanian legal person must satisfy the obligation of each associate, as provided by the present title.

## **CHAPTER III. International fiscal aspects**

### **Art. 29. Incomes of a permanent establishment**

(1) Foreign legal persons that carry out activity through a permanent establishment in Romania are required to pay the profit tax for the taxable profit that is attributable to the permanent establishment.

(2) The taxable profit is to be determined in accordance with the rules provided in chapter II of the present title under the following conditions:

- a) only incomes that are attributable to the permanent establishment are to be included in taxable incomes;
  - b) only expenses that are effected for the purpose of obtaining such incomes are to be included in deductible expenses;
  - c) expenses of management and general expenses of administration, irrespective of the place where effected, charged to a foreign legal person and recorded by a permanent establishment are deductible within the limit of 10% of the salary incomes of the employees of the permanent establishment.
- (3) The taxable profit of a permanent establishment is to be determined by treating the permanent establishment as a separate person and by using the transfer pricing rules to establish the market price for transfers between the foreign legal person and its permanent establishment.
- (4) Before carrying out activity through a permanent establishment in Romania, the legal representative of the foreign legal person provided in par. (1) must register the permanent establishment with the competent fiscal authority.

**Art. 30. Incomes obtained by foreign legal persons from immovable property and from the sale/assignment of participation titles**

- (1) Foreign legal persons that obtain incomes from immovable property located in Romania or from the sale-assignment of participation titles in a Romanian legal person are required to pay the profit tax for the taxable profit related to such incomes.
- (2) Incomes from immovable property located in Romania include the following:
- a) incomes from the rental or the grant of use of immovable property located in Romania;
  - b) gain from the sale-assignment of rights of ownership or other rights related to immovable property located in Romania;
  - c) gain from the sale-assignment of participation titles in a legal person, if a minimum of 50% of the value of the fixed assets of the legal person is, either directly or through one or more legal persons, immovable property located in Romania;

d) incomes obtained from the exploitation of natural resources located in Romania, including gain from the sale-assignment of any right related to such natural resources.

(3) Any foreign legal person that obtains incomes from immovable property located in Romania or from the sale-assignment of participation titles in a Romanian legal person is required to pay the profit tax according to art. 34 and submit profit tax declarations according to art. 35. Any foreign legal person may appoint a fiscal representative to satisfy such obligations.

(4) Any Romanian legal person or any foreign legal person with a permanent establishment in Romania that pays incomes described in par. (1) to a foreign legal person is required to withhold the tax computed from the paid incomes and remit the withheld tax to the state budget.

(5) In the case of gains provided in art. 33 resulting from the sale-assignment of immovable property or participation titles, the tax that must be withheld is to be determined by applying a tax rate of 10% to the gain resulting from such sale-assignment. The provisions of the present paragraph are to apply only in the case where the payer of the income obtains from the taxpayer adequate documentation as regards the application of the provisions of art. 33.

(6) The provisions of art. 119 are to apply to persons that are required to withhold tax in accordance with the present article.

### **Art. 31. Fiscal credit**

(1) If a Romanian legal person obtains incomes from a foreign state through a permanent establishment or incomes subject to tax by withholding at source and the incomes are taxed both in Romania and in the foreign state, then the tax paid to the foreign state, whether paid directly, or indirectly by withholding and remittance by another person, is to be deducted from the profit tax determined as provided by the provisions of the present title.

(2) The deduction for taxes paid to a foreign state for a fiscal year may not exceed the profit tax computed by applying the profit tax rate provided in art. 17, par. (1), to the taxable profit obtained from the foreign state, as determined in accordance with the rules provided in the present title, or to the income obtained from the foreign state.

(3) The tax paid to a foreign state is deductible only if the Romanian legal person submits adequate documentation, according to law, from which results the fact that tax was paid to the foreign state.

(4) Taxpayers that effect sponsorship and/or acts of mecenat, according to the provisions of laws regarding sponsorship and law libraries, are to deduct the related amounts from the profit tax owed, if the following conditions are cumulatively satisfied:

a) they are within the limit of 0.3% of the business turnover;

b) they do not exceed more than 20% of the profit tax owed.

(5) Within the respective limits are also included: expenses of sponsorship of public law libraries, for the purpose of the construction of locations, facilities, the acquisition of information technology and specific documents, the financing of professional training programs for librarians, exchanges of specialists, scholarships, participation in international congresses.

#### **Art. 32. External fiscal losses**

(1) Any loss realized through a permanent establishment from abroad is deductible only from incomes obtained from abroad.

(2) Losses realized through a permanent establishment from abroad are to be deducted only from such incomes, separately for each source of income. Losses that are not recovered are to be carried over and recuperated during the following 5 consequent fiscal years.

### **CHAPTER IV. Special rules applicable to the sale-assignment of immovable property and participation titles**

#### **Art. 33. Special rules applicable to the sale-assignment of immovable property and participation titles**

(1) The provisions of the present article apply to Romanian and foreign legal persons that sell-assign immovable property located in Romania or participation titles in a Romanian legal person.

(2) If the gains resulting from the sale-assignment of immovable property located in Romania and from participation titles in a Romanian legal person

exceed the losses resulting from such sale-assignment, then the profit tax is to be determined by applying a 10% rate of tax to the resulting difference.

(3) Losses resulting from the sale-assignment of immovable property located in Romania and from participation titles in a Romanian legal person are to be recovered from the taxable profits resulting from operations of the same nature during the following 5 consecutive fiscal years.

(4) The gain resulting from the sale-assignment of immovable property or participation titles is the positive difference between:

- a) the value realized from the sale-assignment of such immovable property or participation titles; and
- b) the fiscal value of such immovable property or participation titles.

(5) The loss resulting from the sale-assignment of immovable property or participation titles is the negative difference between:

- a) the value realized from the sale-assignment of such immovable property or participation titles; and
- b) the fiscal value of such immovable property or participation titles.

(6) For purposes of par. (4) and (5), the value realized from a sale-assignment is to be reduced by any commissions, fees or other amounts paid in connection with the sale-assignment.

(7) The fiscal value for immovable property or for participation titles is to be determined as follows:

- a) in the case of immovable property, the fiscal value is the cost of acquisition, construction or improvement of the property, reduced by the fiscal depreciation related to such property;
- b) in the case of participation titles, the fiscal value is the cost of acquisition of the participation titles, including any commissions, fees or other amounts paid in connection with the acquisition of such participation titles.

(8) The present article is to apply in the case of immovable property or participation titles only if the following conditions are satisfied:

- a) the taxpayer owned the immovable property or participation titles for a period of more than two years;
- b) the person that acquired the immovable property or participation titles is not an affiliated person of the taxpayer;

- c) the taxpayer acquired the immovable property or participation titles after December 31, 2003.

## **CHAPTER V. Payment of tax and submission of tax declarations**

### **Art. 34. Payment of tax**

(1) Taxpayers are required to pay the profit tax on a quarterly basis, on or before the 25<sup>th</sup> of the month that follows the quarter for which the tax is computed, except as otherwise provided in the present article.

(2) The National Bank of Romania, banking companies, Romanian legal persons and branches in Romania of banks foreign legal persons, are required to pay the profit tax on a monthly basis on or before the 25<sup>th</sup> of the month that follows the month for which the tax is computed, except as otherwise provided in the present article.

(3) Non-profit organizations are required to pay the profit tax on an annual basis on or before February 15<sup>th</sup> of the year that follows the year for which the tax is computed.

(4) Taxpayers that obtain a majority of incomes from the cultivation of cereals and technical plantations, fruit trees and vineyards are required to pay the profit tax annually, on or before February 15<sup>th</sup> of the year that follows the year for which the tax is computed.

(5) For purposes of par. (1) and (2), the taxable profit and the profit tax are to be computed and recorded on a quarterly basis, respectively on a monthly basis in the case of the National Bank of Romania, banking companies, Romanian legal persons and branches in Romania of banks foreign legal persons, cumulatively from the beginning of the fiscal year.

(6) Taxpayers that make quarterly, and respectively monthly, payments are to pay for the last quarter, or for the month of December in the case of the National Bank of Romania, banking companies, Romanian legal persons and branches in Romania of banks foreign legal persons, an amount equal to the tax computed and recorded for the third quarter of the same fiscal year, respectively an amount equal to the tax computed and recorded for the month of November of the same fiscal year, following which the final payment of the profit tax for such

fiscal year is to be made by the date provided as the deadline for the submission of the financial statements of the taxpayer.

(7) Taxpayers that conclude the financial exercise for the prior year before February 15<sup>th</sup> are to submit the annual profit tax declaration and pay the profit tax related to the closed fiscal year on or before February 15<sup>th</sup> of the following year.

(8) Legal persons that cease to exist are required to submit a profit tax declaration and pay the profit tax on or before the date that is 10 days before the date of recording the cessation of existence of the legal person with the trade registry.

(9) The provisions of par. (3), (4), and (7) are to apply for the profit tax owed beginning with fiscal year 2004. The rectification of profit tax related to fiscal year 2003 is to be performed as provided in the legislation in force on December 31, 2003.

(10) The fiscal obligations regulated by the present title are revenues of the state budget. As an exception, the profit tax, late-payment interest/additions and fines owed by regies autonomes subordinated to local councils and county councils, as well as those owed by companies in which the local councils and/or county councils are majority shareholders are revenues of the respective local budget.

### **Art. 35. Submission of profit tax declarations**

(1) Taxpayers are required to submit an annual profit tax declaration by the date provided for the submission of financial reports, with the exception of taxpayers provided in art. 34, par. (3), (4) and (7), which are to submit an annual profit tax declaration on or before February 15<sup>th</sup> of the following year. During a fiscal year, taxpayers are required to submit a tax declaration on or before the date provided for the payment of the profit tax.

(2) With the annual profit tax declaration, taxpayers are required to submit a declaration regarding payments and commitments to non-resident persons, which includes the purpose, the amount of each payment and the name and address of the beneficiary. Amounts committed or paid for imported goods or for international transport are not to be included in this declaration.

(3) Taxpayers are responsible for the calculation of the profit tax.

## **CHAPTER VI. Withholding of tax on dividends**

### **Art. 36. Withholding of tax on dividends**

(1) A Romanian legal person that pays a dividend to a Romanian legal person is required to withhold tax and to remit the withheld tax on dividends to the state budget as provided in the present article.

(2) The tax on dividends is to be determined by applying a tax rate of 10% to the gross dividend paid to a Romanian legal person.

(3) The tax that must be withheld is to be paid to the state budget on or before the 20<sup>th</sup> of the month that follows the month in which the dividend is paid. In the case where allocated dividends are not paid by the end of the year in which the annual financial reports have been approved, the tax on dividends is to be paid by December 31<sup>st</sup> of such year.

(4) The provisions of the present article are not to apply to dividends that are paid by a Romanian legal person to another Romanian legal person, if the beneficiary of the dividends owns a minimum of 25% of the participation titles in such legal person on the date when the dividend is paid, for a period of two years ending on the date when the dividend is paid. The provisions of the present paragraph are to apply after the date of Romania joining the European Union.

(5) The provisions of the present article are not to apply to dividends that are paid to a non-resident and that are subject to the provisions of title V.

## **CHAPTER VII. Transitional and final provisions**

### **Art. 37. Fiscal losses from exemption periods**

Any net fiscal loss that arose during a period in which a taxpayer was exempt from profit tax may be recovered from future taxable profits, as provided in art. 26. The net fiscal loss is the difference between total fiscal losses for the exemption period and total taxable profit for the same period.

### **Art. 38. Transitional provisions**

(1) In the case of legal persons that before July 1, 2002, obtained a permanent certificate of investor in a disadvantaged zone, the exemption from profit tax related to a new investment is to continue to apply for the period of existence of the disadvantaged zone.

(2) Taxpayers that effected investment expenses before July 1, 2002, according to Government Ordinance 27/1996, as regards the granting of facilities to persons who are domiciled or work in certain locations in the Apuseni Mountains and in the Biosphere Reservation "Danube Delta", republished, with subsequent modifications, and that continue the investments according to the mentioned ordinance, are to continue to benefit from the deduction from taxable profit of expenses made for such investments, distinctively recorded, without exceeding December 31, 2006.

(3) Taxpayers that carry out activities in a free zone on the basis of a license and that realized before July 1, 2002, investments in the free zone of depreciable tangible assets used in the manufacturing industry in an amount of at least 1 million U.S. dollars are to benefit from a profit tax exemption until June 30, 2007. The provisions of the present paragraph are no longer to apply in situations where there is a change in the ownership structure of the taxpayer. For purposes of the present paragraph, *a change in ownership for listed companies* is a change in ownership of more than 25% of the shares during the course of a calendar year.

(4) Except as provided in par. (3), taxpayers that obtain incomes from activities carried out on the basis of a license in a free zone are required to pay profit tax at a rate of 5% of the taxable profit that corresponds to such incomes until December 31, 2004.

(5) Taxpayers that benefit from the facilities provided in par. (1) – (4) may not benefit from accelerated depreciation or from the deduction of art. 24, par. (12).

(6) Units of protection intended for handicapped persons, as defined by Government Emergency Ordinance no. 102/1999, as regards special protection and employment of handicapped persons, approved with modifications and completions by Law no. 519/2002, with subsequent modifications, are exempt from the payment of profit tax if a minimum of 75% of the amounts obtained by

the exemption are reinvested in connection with the acquisition of technological equipment, machines, tools, installations and/or for the equipment of protected workplaces. The exemption from the payment of profit tax is to apply until December 31, 2006.

(7) Taxpayers that are directly involved in the production of cinematographic films, registered as such in the Cinematographic Registry, benefit from the following until December 31, 2006:

- a) exemption from the payment of profit tax for the share-part of the gross profit that is reinvested in the field of cinematography;
- b) reduction of the profit tax by 20%, in the case where new work positions are created and an increase of the registered number of employees of at least 10% compared to the preceding financial year occurs.

(8) The national company "*Nuclearelectrica*"- S.A. benefits from an exemption from the payment of profit tax until December 31, 2010, provided that the profit is used exclusively to finance investment works for the objective *Nuclear Power Plant Cernavoda – Unit 2*, as provided by law.

(9) The company "*Automobile Dacia*" S.A. benefits from an exemption from the payment of profit tax until October 1, 2007.

(10) The company *Combinatul Siderurgic "Sidex"* S.A. benefits from an exemption from the payment of profit tax until December 31, 2006.

(11) The national company "*Aeroportul International Bucuresti – Otopeni*"- S.A. benefits from an exemption from the payment of profit tax until December 31, 2012.

(12) For the calculation of taxable profit, the following incomes are not taxable until December 31, 2006:

- a) incomes realized from activities that are carried out for the objective *Nuclear Power Plant Cernavoda – Unit 2*, until it is put into operation;
- b) incomes realized from the application of an invention that is patented in Romania, including incomes from manufacturing the product or from the application of the procedure, for a period of 5 years from the date of first application, computed from the date of starting the application and included in the period of validity of such patent, as provided by law;
- c) incomes realized from the practice of apiculture.

(13) For direct investments with a significant impact on the economy that are made before December 31, 2006, according to law, taxpayers may deduct an additional rate of 20% of their value. The deduction is to be computed for the month in which the investment is realized. In situations where a fiscal loss is realized, it is to be recovered according to provisions of art. 26. For realized investments, accelerated depreciation may be computed, with the exception of investments in buildings. Taxpayers that benefit from the facilities provided in this paragraph may not apply the provisions of art. 24, par. (12).

(14) Fiscal facilities regarding the profit tax from normative acts mentioned in the present article, as well as those that are derived from other normative acts for the application of such facilities are to remain in force until the deadlines and under the conditions stipulated in such acts.

## TITLE III. INCOME TAX

### CHAPTER I. General provisions

#### Art. 39. Taxpayers

The following persons are to pay tax according to the present title and are hereafter referred to as *taxpayers*:

- a) resident physical persons;
- b) non-resident physical persons who carry out independent activity through a permanent establishment in Romania;
- c) non-resident physical persons who carry out dependent activity in Romania;
- d) non-resident physical persons who obtain incomes provided in art. 95.

#### Art. 40. Scope of application of tax

(1) The tax in the present title, which is hereafter referred to as *income tax*, applies to the following incomes:

- a) in the case of Romanian resident physical persons, with domicile in Romania, incomes obtained from any source, both from Romania and from outside Romania;
- b) in the case of resident physical persons, other than those provided in lett. a), only incomes obtained from Romania, which are taxed at the level of each source from the categories of incomes provided in art. 41;
- c) in the case of non-resident physical persons who carry out independent activity through a permanent establishment in Romania, the net income attributable to the permanent establishment;
- d) in the case of non-resident physical persons who carry out dependent activity in Romania, the net salary income from such dependent activity;
- e) in the case of non-resident physical persons who obtain incomes described in art. 39, lett d), the income determined in accordance with the rules of the present title that correspond to the respective category of income.

(2) Physical persons who satisfy the conditions of a resident provided in art. 7, par. (1), pt. 23, lett. b) or c) of title I for a period of three consecutive years are

subject to the income tax for incomes obtained from any source, both from Romania and from outside Romania beginning with the fourth fiscal year.

#### **Art. 41. Categories of incomes that are subject to the income tax**

The categories of incomes that are subject to the income tax as provided by the provisions of the present title are the following:

- a) incomes from independent activities, as defined in art. 47;
- b) incomes from salaries, as defined in art. 56;
- c) incomes from the grant of the use of goods, as defined in art. 65;
- d) incomes from investments, as defined in art. 69;
- e) incomes from pensions, as defined in art. 72;
- f) incomes from agricultural activities, as defined in art. 75;
- g) incomes from prizes and from gambling, as defined in art. 79;
- h) incomes from other sources, as defined in art. 83.

#### **Art. 42. Non-taxable incomes**

For purposes of the income tax, the following incomes are not taxable:

- a) assistance, allowances and other forms of support with special destination, granted from the state budget, the state social insurance budget, the budgets of special funds, the local budgets and from other public funds, including maternity allowances and allowances for the care of children, as well as similar forms of support received from other persons, with the exception of allowances for temporary work incapacity;
- b) amounts collected from insurance of any kind as compensations, insured amounts, as well as any other rights, with the exception of gains received from the insurance companies as a result of insurance contracts concluded between the parties on the occasion of “tragerilor de amortizare”. Compensation in money or in kind that are received by a physical person as a result of a material damage suffered by such person, including compensation for moral damages, are not taxable incomes.
- c) amounts received as compensations for damages incurred as a result of natural disasters, as well as for cases of disability or death, according to law;

- d) pensions for invalids of war, orphans, widows/widowers of war, fixed amounts for the care of pensioners who have been categorized as 1<sup>st</sup> degree invalids, as well as pensions, other than pensions that are paid from funds established from mandatory contributions to a social insurance system, including those from optional occupational pensions, and those financed from the state budget;
- e) the counter-value of coupons that are “bonuri de valoare” that are granted for free to physical persons according to legislation in force;
- f) amounts or goods received in the form of sponsorship or mecenat;
- g) incomes received as the result of the transfer of the right of ownership with respect to immovable and movable tangible goods from personal patrimony, other than gains from the transfer of securities;
- h) rights in cash and in kind received by military recruits on term or on reduced term, students and pupils of educational units from the sector of national defense, public order, and national and civil security, as well as those of officers and soldiers on duty or mobilized;
- i) scholarships received by persons who follow any form of education or professional training within an institutionalized framework;
- j) amounts or goods received as inheritance or donations;
- k) incomes from agriculture or forestry, with the exceptions provided in art. 75;
- l) incomes received by members of diplomatic missions or consular offices for activities carried out in Romania in their official capacity, under conditions of reciprocity, in virtue of the general rules of international law or the provisions of special agreements to which Romania is a party;
- m) net incomes denominated in foreign currency received by members of diplomatic missions, consular offices and cultural institutions of Romania located abroad, in accordance with legislation in force;
- n) incomes received by officials of international bodies and organizations from activities carried out in Romania in their official capacity, on the condition that the position of the official is confirmed by the Ministry of Foreign Affairs;
- o) incomes received by foreign citizens for consulting activities carried out in Romania in accordance with agreements of non-reimbursable financing

entered into by Romania with other states, with international bodies and non-governmental organizations;

- p) incomes received by foreign citizens from activities carried out in Romania in the capacity of press correspondents, on the condition that reciprocal treatment is granted to Romanian citizens for incomes from such activities and on the condition that the position of such persons is confirmed by the Ministry of Foreign Affairs;
- q) amounts in the form of subsidized interest for credits received in accordance with legislation in force;
- r) subsidies received for the acquisition of goods if the subsidies are granted in accordance with legislation in force;
- s) incomes in the form of benefits in money and/or in kind received by handicapped persons, veterans of war, invalids and widows of war, persons injured by war outside military service, persons persecuted for political reasons by the dictatorship beginning March 6, 1945, those deported abroad or declared prisoners, heirs of hero-martyrs, persons who were injured, and persons who fought for the victory of the Revolution of December 1989, as well as persons persecuted for ethnic reasons by the ruling regimes of Romania between September 6, 1940, and March 6, 1945;
- t) prizes obtained by sports persons medallists in world and European championships and the Olympic games;

Non-taxable incomes are prizes, bonuses and sport allowances granted to sports persons, coaches, technicians and other specialists as provided in legislation on such matters, in order to achieve objectives of superior performance:

- obtaining a place on the victory podium at European championships, world championships and Olympic games;
- qualification and participation in the tournament finals at world and European championships, the first group, as well as the Olympic games, in the case of sports games.

Non-taxable incomes are bonuses and sport allowances granted to sports persons, coaches, technicians and other specialists as provided in legislation

on such matters, in order to train and participate in official international competitions as representative teams of Romania.

- u) prizes and other rights in the form of accommodations, meals, transport and other similar, that are obtained by pupils and students in domestic and international competitions, including non-resident pupils and students in competitions carried out in Romania;
- v) other incomes that are not taxable as provided in each category of income.

#### **Art. 43. Tax schedule**

(1) The annual tax schedule for fiscal year 2004 for the computation of anticipatory payments is provided in the following table:

<b>Annual Taxable Income (ROL)</b>	<b>Annual Tax (ROL)</b>
Up to 28,000,000	18%
28,000,001 – 69,600,000	5,184,000 + 23% of the amount over 28,800,000 ROL
69,600,001 – 111,600,000	14,568,000 + 28% of the amount over 69,600,000 ROL
111,600,001 – 156,000,000	26,328,000 + 34% of the amount over 111,600,000 ROL
Over 156,000,000	41,424,000 + 40% of the amount over 156,000,000 ROL

The monthly schedule for the determination of the monthly tax on incomes from salaries and pensions is to be established by an order of the Minister of Public Finance and is to have as the base of computation the annual schedule above.

(2) For the year 2004, the annual tax is to be computed by applying to the taxable annual global income the annual schedule provided in par. (1), corrected, as provided by an order of the Minister of Public Finance, by the rate of inflation realized for the year 2004, diminished by  $\frac{1}{2}$  of the forecasted rate of inflation for this year.

(3) Beginning with fiscal year 2005, the annual and monthly schedules for the computation of anticipatory payments of taxes are to be determined by taking into account in the computation  $\frac{1}{2}$  of the forecasted rate of inflation for such year applied to the tax schedule constructed on the basis of the actual rate of inflation realized for the period January – October and the forecast for the months November – December of the preceding year. Such schedules are to be approved by an order of the Minister of Public Finance.

(4) Beginning with fiscal year 2005, the annual schedule for the computation of the tax on taxable annual global income is to be established by an order of the Minister of Public Finance, based on the annual schedule provided in par. (3),

corrected with the variation of the actual rate of inflation compared to the forecasted rate of inflation for the taxable period.

#### **Art. 44. Taxable period**

(1) The taxable period is the fiscal year that corresponds to the calendar year.

(2) As an exception to par. (1), the taxable period is less than the calendar year in situations where the taxpayer dies during the course of the year.

#### **Art. 45. Personal deductions**

(1) Taxpayers provided in art. 40, par. (1), lett. a), and par. (2) have the right to deduct from the annual global income certain amounts in the form of a basic personal deduction and supplementary personal deductions, allowed for each month of the taxable period.

(2) The basic personal deduction beginning with the month of January 2004 is fixed at the amount of 2,000,000 ROL per month.

(3) The supplementary personal deduction for the spouse, children or other family members, who are supported, is 0.5 multiplied by the basic personal deduction.

(4) In addition to the amounts resulting from the computation provided in par. (2) and (3), taxpayers also benefit from supplementary personal deductions depending on their own situation or the situation of persons who are supported, as follows:

a) 1.0 multiplied by the basic personal deduction for a 1<sup>st</sup> degree invalid and a person with a grave handicap;

b) 0.5 multiplied by the basic personal deduction for a 2<sup>nd</sup> degree invalid or a person with a severe handicap.

(5) Persons whose incomes, taxable and non-taxable, exceed the amounts of personal deductions according to par. (3) and (4) are not considered as persons who are supported. In the case of a person who is supported by more than one taxpayer, the amount of the personal deduction of such person is to be divided equally among such taxpayers, except if they agree to a different division of such amount. Minor children, who have not attained age 18, of a taxpayer are considered as supported and the amount of the supplementary personal

deduction is allowed for the persons who are supported by the taxpayer for the taxable period during the fiscal year in which they are supported. The period is to be rounded to whole months in favor of the taxpayer.

(6) The following persons are not considered as being supported:

- a) physical persons who own agricultural land or forestry land with a surface area of more than 10,000 square meters within hill and highland zones and more than 20,000 square meters within mountain zones;
- b) physical persons who obtain incomes from the cultivation and sale of flowers and vegetables in greenhouses, in solaria specially designed for this purpose and/or in an irrigated system, from the cultivation and sale of shrubs, decorative plants, and mushrooms, as well as from the operation of a viticultural nursery and tree nursery, irrespective of their surface area;

(7) In determining the incomes realized by physical persons who are supported as provided in par. (5), the income determined according to legislation regarding the minimum guaranteed income is to be taken into account.

(8) Other family members as provided in par. (3) are relatives of the taxpayer or relatives of the taxpayer's spouse up to the second degree, inclusively.

(9) The personal deductions provided in par. (2), (3), and (4) are to be summed. The total personal deduction allowed in the computation of tax may not exceed three times the basic personal deduction and is to be allowed within the limit of the income realized.

(10) Personal deductions established by the present article are not allowed to personnel sent on permanent missions abroad, as provided by law.

#### **Art. 46. Updating personal deductions and fixed amounts**

(1) The monthly basic personal deduction, as well as other fixed amounts expressed in ROL, are to be determined according to the procedure provided in art. 45.

(2) Beginning with fiscal year 2004, fixed amounts expressed in ROL, other than the basic personal deduction, are to be determined according to the procedure provided in art. 43, par. (3).

(3) Fixed amounts are to be approved by an order of the Minister of Public Finance.

(4) Amounts and income tax schedules are to be computed by rounding to ROL 100,000, which means fractions under ROL 100,000 are to be increased to ROL 100,000.

## **CHAPTER II. Incomes from independent activities**

### **Art. 47. Definition of incomes from independent activities**

(1) Incomes from independent activities include commercial incomes, incomes from free professions and incomes from intellectual property rights, realized individually and/or in the form of an association, including incomes from adjacent activities.

(2) Commercial incomes are incomes from acts of trade of the taxpayer, from supplies of services, other than the ones provided in par. (3), as well as from the practice of a trade.

(3) Incomes from free professions are incomes obtained from the exercise of professions as a physician, lawyer, notary, financial auditor, tax consultant, expert accountant, certified accountant, consultant for investments in securities, architect or other regulated professions, carried out in an independent manner, in accordance with legal conditions.

(4) Incomes from the sale in any manner of intellectual property rights are derived from patents, drawings and models, samples, production marks and trademarks, technical procedures, know-how, copyrights and rights connected with copyrights and other similar rights.

### **Art. 48. Non- taxable incomes**

The following are not taxable incomes:

- a) incomes obtained from the actual application in the country by the titular or, as the case may be, by his licensees, of an invention patented in Romania, including the manufacture of the product or, as the case may be, the application of the procedure, during the first 5 years from the first application, computed from the date of beginning the application and included in the period of validity of the patent;
- b) income obtained by the titular of the patent by assigning it.

(2) Physical persons who exploit the invention, respectively the titular of the applied patent, are to benefit from the provisions of par. (1).

**Art. 49. General rules regarding the determination of net income from independent activities based on the simple entry accounting system**

(1) The net income from independent activities is to be determined as the difference between the gross income and the expenses related to the realization of the income, deductible, on the basis of the data from the simple entry accounting system, with the exception of the provisions of art. 50 and 51.

(2) Gross income includes:

- a) amounts collected and the equivalent in ROL of the in-kind incomes from carrying out the activity;
- b) incomes in the form of interest from trade receivables or from other receivables used in connection with an independent activity;
- c) gains from the transfer of assets from the business patrimony used within an independent activity, including the counter-value of goods that remain after the final termination of the activity;
- d) incomes from the commitment not to carry out an independent activity or not to compete with another person;
- e) incomes from the cancellation or exemption of certain payment obligations incurred in connection with an independent activity.

(3) The following are not considered to be gross income:

- a) contributions in cash or the equivalent in ROL of contributions in kind made at the inception of an activity or in the course of carrying out such activity;
- b) amounts received in the form of bank credits or loans from physical or legal persons;
- c) amounts received as compensation;
- d) amounts or goods received in the form of sponsorship, mecenat or donations.

(4) Expenses related to incomes must satisfy the following general conditions in order to be allowed as deductions:

- a) they are to be effected within the framework of activities carried out for the purpose of realizing income, as justified by documents;

- b) they are to be included in the expenses of the financial exercise for the year in which they were paid;
  - c) they are to follow the rules regarding depreciation as provided in title II;
  - d) expenses for insurance premiums are to be effected for:
    - 1. tangible or intangible assets from the business patrimony;
    - 2. assets that serve as bank guarantees for the credits used in carrying out the activity for which the taxpayer is authorized;
    - 3. professional diseases, professional risk and risk against labor accidents;
    - 4. persons who obtain incomes from salaries, according to the provisions of chapter III of the present title, on the condition that the amount of the insurance premium is taxed to the beneficiary at the moment of the payment by the payer.
- (5) The following expenses have limited deductibility:
- a) expenses of sponsorship and mecenat effected according to law, within the limit of 5% of the computation base determined according to par. (6);
  - b) protocol expenses, within the limit of 2% of the computation base determined according to par. (6);
  - c) amount of expenses for allowance received for the period of delegation and temporary assignment in another locality, in the country and abroad, for job purposes, within the limit of 2.5 times the legal level provided for public institutions;
  - d) social expenses, within the limit of the amount obtained by applying a rate of up to 2% to the salary fund annually realized;
  - e) losses related to perishable goods, within the limits provided in normative acts on this matter;
  - f) expenses for luncheon coupons granted by employers, as provided by law;
  - g) contributions effected on behalf of employees to optional occupational pensions schemes, in accordance with legislation in force, within the limit of the equivalent in ROL of 200 euro annually for a person;
  - h) insurance premium for private health insurance, within the limit provided by law;

- i) expenses effected for an independent activity and for personal purposes of the taxpayer or associates are deductible only for the portion of the expense that is related to the independent activity;
- j) expenses for mandatory social contributions for employees and taxpayers, as provided by law;
- k) interest related to loans from physical and legal persons used in carrying out the activity, based on the contract concluded between the parties, within the limit of the reference interest level of the National Bank of Romania;
- l) expenses effected by the user, which consist of rent – leasing installment – in the case of operational leasing contracts, respectively expenses of depreciation and interest for finance leasing contracts, according to the provisions regarding leasing operations and leasing companies.

(6) The computation base is to be determined as the difference between the gross incomes and deductible expenses, other than expenses of sponsorship, mecenat and protocol expenses.

(7) The following expenses are not deductible:

- a) amounts or goods that are used by the taxpayer for personal or family use;
- b) expenses that correspond to non-taxable incomes, the source of which are the territory of Romania or abroad;
- c) income tax owed as provided by the present title, including the tax on income realized abroad;
- d) expenses of insurance premiums, other than those provided in par. (4), lett. d), and par. (5), lett. h);
- e) donations of any type;
- f) fines, confiscations, interest, late-payment penalties and penalties payable to Romanian and foreign authorities, according to legal provisions, other than those paid according to clauses of commercial contracts;
- g) installments related to contracted credits;
- h) interest related to contracted credits for the acquisition of tangible immobilizations in the nature of fixed assets, in the case where the interest is included in the entry value of the tangible immobilizations, according to legal provisions;

- i) expenses of acquisition or of production of depreciable goods and rights from the register-inventory;
- j) expenses relating to goods discovered as missing from inventory or that are damaged and non-chargeable, if the inventory is not covered by an insurance policy;
- k) amounts or value of goods confiscated as a result of violating legal provisions in force;
- l) income tax borne by the payer of the income on behalf of the beneficiaries of income;
- m) other amounts as provided by legislation in force.

(8) Taxpayers who obtain incomes from independent activities are required to organize and maintain accounting records in simple entry, respecting the rules in force regarding accounting records and the completion of the register-journal of receipts and payments, the register of inventory and other accounting documents provided by legislation on this matter.

(9) All goods and rights related to the carrying out of activities are to be mentioned in the register of inventory.

#### **Art. 50. Determination of net income from independent activities based on income norms**

(1) The net income from an independent activity that is designated according to par. (2) and that is carried out by a taxpayer, individually, without employees, is to be determined based on income norms.

(2) The Ministry of Public Finance is to develop norms that contain the nomenclature of the activities for which the net income is to be determined based on income norms and is to specify rules that are to be used in establishing such income norms.

(3) The territorial General Directorates of Public Finance are required to establish and publish annually the income norms before January 1<sup>st</sup> of the year to which such norms are to apply.

(4) If a taxpayer carries out a designated independent activity only for periods that are less than a calendar year, then the income norm related to such activity

is to be adjusted to reflect the period during the calendar year that such activity was carried out.

(5) If a taxpayer carries out two or more designated activities, then the net income from these activities is to be determined based on the highest income norm for such activities.

(6) If a taxpayer carries out an activity that is described in par. (1) and another activity that is not described in par. (1), then the net income from the independent activities carried out by the taxpayer is to be determined based on the simple entry accounting system, according to art. 49.

(7) The net income from the activity of transporting persons and goods under a taxi regime is to be determined based on income norms.

(8) If a taxpayer carries out the activity of transporting persons and goods under a taxi regime and also carries out another independent activity, then the net income from the independent activities carried out by the taxpayer is to be determined based on data from the simple entry accounting system, according to art. 49. In such case, the net income from such activities may not be less than the net income determined based on the income norm for the activity of transporting physical persons and goods under a taxi regime.

(9) Taxpayers who carry out activities for which the net income is determined based on income norms are not required to organize and maintain accounting records in simple entry for such activity.

#### **Art. 51. Determination of net income from intellectual property rights**

(1) The net income from intellectual property rights is to be determined by subtracting the following expenses from the gross income:

- a) a deductible expense equal to 60% of the gross income;
- b) the mandatory social contributions paid.

(2) In the case of incomes derived from the creation of works of monumental art, the net income is to be determined by deducting the following expenses from the gross income:

- a) a deductible expense equal to 70% of the gross income;
- b) the mandatory social contributions paid.

(3) In the case of the exploitation by an heir of intellectual property rights, as well as in the case of remuneration that is “drept de suita” and compensatory remuneration for private copy, the net income is to be determined by subtracting from the gross income the amounts that are payable to the collective administration bodies or other payers of such incomes, according to law, without applying the forfeit rate of expense provided in par. (1) and (2).

(4) In order to determine the net income from intellectual property rights, taxpayers are to complete only the part of the register-journal of receipts and payments that refers to receipts. This regulation is optional for those who consider that they may satisfy their declaration obligations based directly on the documents issued by the payer of income. These taxpayers have the obligation to archive and maintain the justifying documents at least for the period of the statute of limitation provided by law.

#### **Art. 52. Election to determine net income using the data from the simple entry accounting system**

(1) Taxpayers who obtain incomes from independent activities that are taxed based on income norms, as well as those who obtain incomes from intellectual property rights, may elect to determine the net income under the real system, as provided in art. 49.

(2) The election to determine net income based on data from the simple entry accounting system is compulsory for the taxpayer for a period of 2 consecutive fiscal years and is considered as renewed for a new period unless an application of renunciation is submitted by the taxpayer.

(3) The application to elect to determine net income under the real system is to be submitted to the competent fiscal organ on or before January 31<sup>st</sup> in the case of a taxpayer who also carried out the activity in the preceding year, and on or before the 15<sup>th</sup> day after the inception of the activity in the case of a taxpayer who began the activity during the fiscal year.

**Art. 53. Withholding at source of tax for certain incomes from independent activities**

(1) Payers of the following incomes are required to compute, withhold and remit the tax withheld at source, representing anticipatory payments, from the incomes paid:

- a) incomes from intellectual property rights;
- b) incomes from the sale of goods under a consignment regime;
- c) incomes from activities carried out on the basis of agency contracts, commission contracts, or trade mandates;
- d) incomes from activities carried out on the basis of civil contracts/conventions concluded as provided in the civil code;
- e) incomes from the activity of accounting and technical expertise, judicial expertise and extra-judicial expertise;
- f) the income obtained by a physical person from an association with a legal person that is a taxpayer according to title II, that does not generate a legal person;
- g) the income obtained by a physical person from an association with a legal person that is a taxpayer according to title IV, that does not generate a legal person.

(2) The tax that must be withheld is to be determined as follows:

- a) in the case of the income described in par. (1), lett. a), by applying a tax rate of 15% to the gross income;
- b) in the case of the income described in par. (1), lett. f), by applying the tax rate for the profit tax to the profit allocable to the physical person associate;
- c) in the case of the income described in par. (1), lett. g), by applying the tax rate for the taxation of incomes of micro-enterprises to the income received by the physical person from the association;
- d) in the case of other incomes described in par. (1), by applying a tax rate of 10% to the gross income.

(3) The tax that must be withheld is to be remitted to the state budget on or before the 25<sup>th</sup> of the month that follows the month in which the income is paid, with the exception of the tax relating to incomes described in par. (1), lett. f) and g), for which the payment deadline is regulated as provided by title II and IV.

**Art. 54. Anticipatory payments of the tax on incomes from independent activities**

A taxpayer who carries out an independent activity is required to make anticipatory payments on account of the annual tax owed to the state budget, as provided in art. 88, with the exception of incomes provided in art. 53, for which the anticipatory payment is to be made by withholding at source.

**Art. 55. Inclusion of net income from independent activities in annual global income**

The net income from independent activities is to be included in annual global income and is to be taxed according to the provisions of chapter X.

**CHAPTER III. Incomes from salaries**

**Art. 56. Definition of incomes from salaries**

(1) Incomes from salaries are all incomes in money and/or in kind obtained by a physical person who carries out an activity based on an individual labor contract or a special statute as provided by law, irrespective of the period to which it refers, the denomination of incomes or the manner they are granted, including allowances for temporary work incapacity.

(2) In view of taxation, the following are assimilated to salaries:

- a) allowances from activities carried out as a result of a position of a public official, as provided by law;
- b) allowances from activities carried out as a result of an elected position within the framework of legal persons without profitable purposes;
- c) rights of monthly military pay, allowances, premiums, bonuses, benefits and other rights of military personnel, granted according to law;
- d) gross monthly allowances, as well as the amount from the net profit, due to administrators of national firms/companies, companies where the state or an authority of the local public administration is a majority shareholder, as well as regies autonomes;

- e) amounts received by founding members of companies established by public subscription;
- f) amounts received by members of the general board of shareholders, members of the board of directors and members of the audit commission;
- g) amounts received by representatives of the tripartite bodies, as provided by law;
- h) monthly allowances of the sole shareholder, at the level of the value recorded in the social insurance declaration;
- i) amounts granted by legal persons without patrimonial purpose and other entities that are not payers of the profit tax, over the limit of 2.5 times the legal level established for allowances received for the period of delegation or temporary assignments in another locality, in the country or abroad, for job purposes, for employees of public institutions;
- j) any other amounts or benefits in the nature of salary or assimilated to salaries.

(3) Benefits, with the exception of those provided in par. (4), received in connection with a dependent activity include, but are not limited to, the following:

- a) the use of any good, including a vehicle of any type, from the business patrimony, for personal purposes, with the exception of transport along the two-way distance from the domicile to the work place;
- b) accommodation, food, clothes, personnel for household works, as well as other goods or services provided for free or at a price that is less than the market price;
- c) non-reimbursable credits and the favorable difference between the preferential interest and the reference interest of the National Bank of Romania, for deposits and credits;
- d) the cancellation of a receivable of the employer over the employee;
- e) telephone subscriptions and the cost of telephone calls, including telephone cards, for personal purposes;
- f) travel permits by any transport means, used for personal purpose;
- g) insurance premiums paid by the payer for own employees or another beneficiary of incomes from salaries, at the moment of the payment of such premium, other than mandatory ones.

(4) The following amounts are not included in salary incomes and are not taxable for purposes of the income tax:

- a) assistance for funerals, assistance for losses resulting to one's own household as a result of natural disasters, assistance for grave and incurable illness, assistance for child birth, incomes in the form of gifts for minor children of employees, gifts granted to female employees, the counter-value of transport to and from the place of work of the employee, the cost of supplies for treatment and rest, including transport, for own employees and their family members, granted by employers for own employees or other persons, as provided by the labor contract. Gifts granted by employers for the benefit of minor children of employees on the occasion of Easter, June 1<sup>st</sup>, Christmas and similar holidays of other religious cults, as well as gifts granted to female employees on the occasion of March 8<sup>th</sup>, are not taxable to the extent that the value of the gifts granted with respect to each person for any of the above occasions does not exceed ROL 1,200,000. Incomes of the nature of those provided above realized by physical persons are not included in salary incomes and are not taxable incomes if these incomes are received on the basis of a special law and are financed from the budget;
- b) meal tickets and rights to food granted by employers to employees, in accordance with legislation in force;
- c) the counter-value of the use of a job dwelling or a dwelling within the premises of the unit, according to the job allocation, assignment according to law, or the specifications of the activity by normative act specific to the scope of activity, compensation of the rent for personnel from the sector of national defense, public order and national safety, as well as the compensation of the difference of rent borne by physical persons, according to special laws;
- d) accommodation and the counter-value of the rent for dwellings made available to public officials, consular and diplomatic employees employed abroad, in accordance with legislation in force;
- e) the counter-value of technical equipment, individual protection and work equipment, protective food, medicines, hygienic-sanitary materials, and other rights of labor protection, as well as mandatory uniforms and equipment rights, that are granted according to the legislation in force;

- f) the counter-value of expenses of travel for transport between the locality where employees have the domicile and the locality of the place of work of such employees, at the level of one monthly subscription, for situations where the dwelling or the counter-value of the rent is not provided, according to law;
- g) amounts received by employees to cover expenses of transport and accommodation, allowances received for the period of delegation or temporary assignments in another locality, in the country or abroad, for job purposes. Amounts granted by legal persons without a patrimonial purpose and by other entities that are not payers of the profit tax that exceed the limit of 2.5 times the allowance granted to employees of public institutions are excepted from these provisions;
- h) amounts received, as provided by law, to cover the expenses of moving for work purposes;
- i) allowances of establishment that are granted on a single occasion in connection with new employment in a unit located at a locality other than the domicile, during the first year of activity after graduation, within the limit of one basic salary when employed, as well as allowances of establishment and moving granted, as provided by special laws, to personnel of public institutions and to those that establish domicile in localities within a disadvantaged zone, as provided by law, where they have their place of work;
- j) compensatory payments, computed on the basis of average net salary of the unit, received by persons whose individual labor contracts are cancelled as the result of a collective lay-off, as well as compensatory payments computed on the basis of average net salary of the economic unit, received by civil personnel from the sector of national defense, public order and national safety at the termination of the relationship of work or job, as a result of reductions and restructurings, granted as provided by law;
- k) compensatory payments, computed on the basis of net monthly military pay, granted to military personnel who are placed in reserve or for which the contract is terminated as the result of reductions and restructuring, as well as allowances provided based on net monthly military pay, granted to such

persons when placed in reserve or direct withdrawal, to persons with the right to pensions or to persons who do not fulfill the conditions for pensions, as well as assistance or compensatory payments received by policemen that are under similar situations, whose amount is to be determined in relation to the net monthly salary, granted as provided in legislation on such matter;

- l) incomes from salaries as a result of the activity of creating computer programs; the framing of the activity of creating computer programs is to be made by a joint order of the Minister of Labor, Social Solidarity and Families, the Minister of Communication and Information Technology and the Minister of Public Finance;
- m) amounts or benefits received by physical persons from dependent activities carried out in a foreign state, regardless of the fiscal treatment by such state. Exceptions are salary incomes paid by or on behalf of an employer that is a resident of Romania or that has a permanent establishment in Romania, which are subject to the globalization procedure, regardless of the period of carrying out activities abroad;
- n) expenses effected by an employer for professional education and training of employees in connection with the activity carried out by such person for the employer;
- o) the cost of telephone subscriptions and telephone calls, including telephone cards, effected in order to satisfy the conditions of the job;
- p) benefits in the form of the right to *stock options plan*, at the moment of employment and implicitly at the moment of grants.

(5) Benefits received in money and in kind and charged to such employee are not taxable.

(6) The tax computed on income provided in par. (2), lett. g), is final in cases where the taxpayer who realizes such income justifies with documentation the remittal of the income to the entity that the taxpayer represents.

#### **Art. 57. Determination of net annual income from salaries**

The net annual income from salaries of a taxpayer is to be determined by deducting from the gross salary income the following expenses:

- a) mandatory contributions payable by the taxpayer, as the case may be;

- b) a rate of 15% of the basic personal deduction related to each month, allowed at the same time as the basic personal deduction, denominated as professional expenses, at the primary place of work.

**Art. 58. Monthly determination of tax on incomes from salaries**

(1) Beneficiaries of incomes from salaries owe a monthly tax in the form of anticipatory payments, which are to be computed and withheld at source by the payers of incomes.

(2) The monthly tax provided in par. (1) is to be determined as follows:

- a) at the location of the primary job, by applying the monthly tax schedule provided in art. 43, par. (1), respectively par. (3), to the computation base, which is determined as the difference between the net income from salaries, related to a month, computed by deducting from the gross income of the taxpayer the mandatory contributions and the professional expenses, and the personal deductions allowed for such month;
- b) for the incomes obtained in other cases, by applying the monthly tax schedule provided in art. 43 to the computation base, which is determined as the difference between the gross income and the mandatory contributions for each place where such incomes were realized.

**Art. 59. Salary incomes established by court decisions**

In the case of salaries or differences of salaries that are established on the basis of a final and irrevocable court decision, beneficiaries of such incomes owe a final tax that is to be computed and withheld at source by the payers of incomes, by applying a rate of 20% to the computation base, which is determined as the difference between the gross income and the mandatory contributions provided by law, and they are not to be added to the other salary rights of the month in which paid.

**Art. 60. Deadline for payment of tax**

Payers of salaries and incomes assimilated to salaries are required to compute and withhold the tax related to the income of each month, on the date of

payment of such incomes, as well as to remit it to the state budget on or before the 25<sup>th</sup> of the month that follows the month for which such incomes are paid.

**Art. 61. Annual rectification of tax withheld for certain incomes in the nature of salary**

(1) Payers of incomes in the nature of salary have the following obligations:

a) to determine the taxable net annual income from salaries, which is the difference between net annual incomes from salaries and the following:

1. personal deductions established according to art. 45;
2. union dues paid according to law.

b) to determine the difference between the tax computed at the level of a year and the tax computed and withheld monthly in the form of anticipatory payments during the fiscal year, up to the last working day of the month of February of the following fiscal year;

c) to rectify such differences of tax within 90 days of the date of the deadline provided in lett. b), only for physical persons who cumulatively satisfy the following conditions:

1. they were permanent employees of the payer during such year, in a primary job;
2. they have no other source of income that is included in taxable annual global income;
3. they do not apply for other deductions as provided by art. 86, par. (1), with the exception of the personal deductions and the union dues paid, as provided by law.

(2) The tax differences that result from operations of rectification are to modify the payment obligation to the state budget of the income tax on salaries of the employer, for the month during which the rectification occurs, resulting in tax to be remitted for such month.

(3) Amounts that represent proper personal deductions, but are not allowed by the employers during the fiscal year, as well as allowed personal deductions, that are not proper, are to be rectified on the occasion of determining the annual income tax.

(4) When computing the taxable annual income from salaries, also deductions provided in art. 86, par. (1), lett. c) – f) are to be taken into account, as the case may be, in which case the operation of rectification is to be made by the fiscal organ of domicile. In this case, the taxpayer is to communicate to the employer, during the period of January 1<sup>st</sup> – 15<sup>th</sup> of the following year, not to carry out such operation.

(5) The payable annual tax on income from salaries is computed by applying the annual schedule of tax provided in art. 43, par. (2), respectively par. (4), to the taxable net annual income realized from salaries.

#### **Art. 62. Inclusion of annual salary income in annual global income**

(1) If the tax withheld from the salary incomes of a taxpayer is rectified according to art. 61, then the withheld tax is the final income tax of the taxpayer with respect to such salary incomes.

(2) If the tax withheld from the salary incomes of a taxpayer is not rectified in accordance with art. 61, then the net salary income of the taxpayer is to be included in annual global income and is to be taxed according to the provisions of chapter X.

#### **Art. 63. Fiscal fiches**

(1) Information referring to the computation of tax on incomes from salaries is to be included in fiscal fiches.

(2) The payer of incomes is required to complete the forms provided in par. (1), during the entire period that the payer makes payments of salaries, and, as the case may be, to re-compute and to rectify the salary tax on an annual basis.

The payer is required to maintain the fiscal fiches for the entire period of employment and to transmit to the competent fiscal organ and the employee, against his/her signature, a copy for each fiscal year, on or before the last day of the month of February of the current year for the expired fiscal year.

#### **Art. 64. Anticipatory payments of tax for certain salary incomes**

(1) The provisions of this article are to apply to taxpayers who carry out their activity in Romania and who obtain incomes in the form of salaries from abroad,

as well as to Romanian physical persons who obtain incomes from salaries as a result of activities carried out at diplomatic missions and consular offices accredited in Romania.

(2) Any taxpayer described in par. (1) is required to declare and pay tax to the state budget on a monthly basis on or before the 25<sup>th</sup> of the month that follows the month in which the income is realized, either directly or through a fiscal representative. The tax in the form of anticipatory payments related to a month is to be determined according to art. 58.

(3) Diplomatic missions and consular offices accredited in Romania, as well as representative offices of international bodies or representative offices of companies and foreign economic organizations, authorized as provided by law to carry out their activity in Romania, may elect for their employees, who realize taxable incomes from salaries in Romania, to fulfill the obligation as regards the computation, withholding and remittance of tax on incomes from salaries. The provisions of par. (2) are not to apply to taxpayers in cases where the above-mentioned election is expressed.

(4) A legal or physical person or any other entity for which the taxpayer carries out activity as provided in par. (1) is required to submit information to the competent fiscal organ regarding the date of beginning to carry out the activities of the taxpayer and, respectively, the termination of such, within 15 days after such event takes place.

#### **CHAPTER IV. Incomes from the grant of the use of goods**

##### **Art. 65. Definition of taxable incomes from the grant of the use of goods**

Incomes from the grant of the use of goods are incomes, in money and/or in kind, resulting from the grant of the use of movable and immovable goods, obtained by the owner, the usufruct holder or other legal holder, other than incomes from independent activities.

##### **Art. 66. Determination of net income from the grant of the use of goods**

(1) Gross income is the total amount in money and/or in the equivalent of ROL of in kind incomes and is to be determined based on the rent or the rent for land

as provided in the contract concluded between the parties for each fiscal year, regardless of the moment of the receipt of the rent or the rent for land. The gross income is to be increased by the value of expenses that are to be borne, according to legal provisions, by the owner, the usufruct holder or other legal holder, if such expenses are effected by the other contracting party. In the case where the land rent is expressed in kind, the evaluation in ROL is to be made based on average prices of agricultural products, as established by decisions of the county councils and, respectively, the General Council of the Municipality of Bucharest, as a result of proposals received from the specialized territorial directorates of the Ministry of Agriculture, Forestry, Water and Environment, decisions which must be issued before the beginning of the fiscal year. Such decisions are to be transmitted within the same deadline to the general directorates of public finance of counties and the municipality of Bucharest in order to be communicated to the subordinated fiscal units.

(2) The net income from the grant of the use of goods is to be determined by deducting the following expenses from the gross income:

- a) in the case of constructions, a rate of deductible expenses related to the income in the amount of 50% of the gross income; or
- b) in other cases, a rate of deductible expenses related to the income in the amount of 30% of the gross income.

(3) As an exception to the provisions of par. (1) and (2), taxpayers may elect to determine the net income from the grant of the use of goods under the real system, based on data from the simple entry accounting system.

(4) The provisions regarding the election provided in art. 52, par. (2) and (3), are to apply in the case of taxpayers specified in par. (3).

#### **Art. 67. Anticipatory payments of tax on incomes from the grant of the use of goods**

A taxpayer who realizes incomes from the grant of the use of goods during a year, with the exception of incomes from the rental of land, owes anticipatory payments of tax on account of the income tax to the state budget, according to art. 88.

**Art. 68. Inclusion of net income from the grant of the use of goods in annual global income**

The net income from the grant of the use of goods is to be included in annual global income and is to be taxed in accordance with the provisions of chapter X.

**CHAPTER V. Incomes from investments**

**Art. 69. Definition of incomes from investments**

(1) Incomes from investments include:

- a) dividends;
- b) taxable incomes from interest;
- c) gains from the transfer of securities;
- d) incomes from sale-purchase operations of foreign currency on deadline, based on a contract, as well as any other similar operations.

A security is any security, participation title in an open investment fund or any other financial instrument that is qualified as such by the National Commission of Securities, as well as social parts.

(2) Taxable incomes from interest are all incomes in the form of interest other than:

- a) incomes from interest from current account deposits and deposits with mutual assistance houses;
- b) incomes from interest related to state securities, as well as municipal obligations, obligations of the National Agency for Dwellings, and obligations of other entities that issue obligations with respect to the construction of dwellings.

**Art. 70. Determination of income from investments**

(1) Gain from the transfer of securities, other than participation titles in open investment funds and social parts, is the positive difference between the sale price and the purchase price for types of securities, diminished, as the case may be, by commissions payable to intermediaries. In the case of transactions with shares received by physical persons for free, as part of the *Mass Privatization Program*, the purchase price for the first transaction is to be treated as equal to

the par value of such shares. In the case of transactions with shares that were purchased at a preferential price within the *stock option plan* system, the gain is to be determined as the difference between the sale price and the preferential purchase price, diminished by commissions payable to intermediaries.

(2) In the case of the transfer of the right of ownership to participation titles in open investment funds, the gain is determined as the positive difference between the redemption price and the purchase/subscription price. The redemption price is the price that the investor is entitled to upon withdrawal from the fund. The purchase/subscription price is the price paid by the investor physical person for the acquisition of the participation title.

(3) In the case of the transfer of the right of ownership to social parts, the gain from the disposal of social parts is determined as the positive difference between the sale price and the par value/purchase price. Beginning with the second transaction, the par value is to be replaced by the purchase price, which also includes expense of commissions, fees related to the transaction and other similar expenses that are justified with documents.

(4) The determination of gain as provided by par. (1) – (3) is to be made on the date of the conclusion of the transaction, based on the contract concluded between the parties.

(5) Incomes obtained in the form of gains from sale-purchase operations of foreign currency on deadline, based on a contract, as well as from any other operations of this type, are the favorable differences of the rate of exchange that result from such operations at the moment when the operation is concluded and recorded in the account of the customer.

#### **Art. 71. Withholding of tax from incomes from investments**

(1) Incomes in the form of dividends, including amounts received as a result of holding participation titles in closed investment funds, are to be taxed with a rate of 5% of the amount of such incomes. Legal persons are required to compute and to withhold tax on incomes in the form of dividends at the same time as the payment of such dividends to shareholders or partners. The deadline for the remittance of the tax is on or before the 25<sup>th</sup> day of the month that follows the month in which the payment is made. In the case of distributed dividends that

were not paid to shareholders or partners by the end of the year during which the balance sheet is approved, the deadline for the payment of dividend tax is on or before December 31<sup>st</sup> of such year.

(2) Incomes in the form of interest are to be taxed with a rate of 1% of the amount of such incomes. For incomes in the form of interest, the tax is to be computed and withheld by the payers of such incomes, at the moment of recording in the current account or deposit account of the titular, in the case of capitalized interests, respectively the moment of redemption, in the case of saving instruments. In situations where the amount received in the form of interest for loans is granted based on civil contracts, the computation of tax payable is to be made at the moment of the payment of interest. The remittance of tax for incomes from interest is to be made monthly, on or before the 25<sup>th</sup> day of the month that follows the recording/redemption in the case of saving instruments, respectively, at the moment of the payment of interest for incomes of such nature based on civil contracts.

(3) The computation, withholding, and remittance of the tax on incomes from investments, other than those provided in par. (1) and (2), are to be performed as follows:

- a) in the case of gain from the transfer of the right of ownership to securities, other than participation titles in open investment funds and social parts, the intermediaries or other payers of income, as the case may be, are required to compute, withhold and remit the tax; in the case of gain from sale-purchase operations of foreign currency on deadline, based on a contract, as well as any other similar operations, the intermediaries or other payers of income, as the case may be, are required to compute, withhold and remit the tax;
- b) in the case of gain from the redemption of participation titles in an open investment fund, the company that administers the investments is required to compute, withhold and remit the tax.
- c) in the case of gain from the transfer of the right of ownership to social parts and securities in the case of closed companies, the acquirer of social parts or securities is required to compute and withhold the tax, at the moment

when the transaction is concluded, based on the contract concluded between the parties.

When the acquirer of securities is not a Romanian physical person with the domicile in Romania, then the Romanian physical person with domicile in Romania who realizes the income is required to compute and remit the tax, unless the acquirer appoints a fiscal representative in Romania.

The deadline for the remittance of tax for payers of such incomes is the date when the documents for the transcription of the right of ownership to social parts or securities are submitted to the trade registry or the registry of shareholders, as the case may be, operations that may not be effected without proof of the remittance of tax to the state budget;

- d) the tax is to be computed by applying a rate of 1% to the gain from the transfer of securities, as well as from sale-purchase operations of foreign currency on deadline based on a contract and any other similar operations;
- e) the tax computed and withheld at source, as provided by lett. d), is to be remitted to the state budget by the 25<sup>th</sup> day of the month that follows the month when the tax was withheld, with the exception of lett. c);
- f) the rate of exchange that is necessary for the conversion to ROL of amounts denominated in foreign currency in the case of the transfer of the right of ownership to securities is the rate of exchange of the foreign currency market as communicated by the National Bank of Romania for the day prior to the payment of the income.

In situations where the parties agree upon installment payments, then the rate of exchange to be used is the rate of exchange of the foreign currency market as communicated by the National Bank of Romania for the day prior to each payment.

(4) The tax withheld according to par. (1) – (3) is the final income tax for the income provided by such paragraphs.

(5) Losses recorded from the transfer of the right of ownership to securities, as well as from sale-purchase operations of foreign currency on deadline, based on a contract, and any other similar operations are not recognized from the fiscal viewpoint, are not to be compensated, and represent final losses of the taxpayer.

(6) In applying the provisions of the present article, norms regarding the determination, withholding and remittance of tax on capital gain from the transfer of securities obtained by physical persons are to be used, which are to be issued by the National Commission of Securities with the endorsement of the Ministry of Public Finance.

## **CHAPTER VI. Incomes from pensions**

### **Art. 72. Definition of incomes from pensions**

Incomes from pensions are amounts received as pensions from funds established from mandatory social contributions made to a social insurance system, including those from optional occupational pensions schemes and those financed by the state budget.

### **Art. 73. Determination of taxable income from pensions**

The monthly taxable income from pensions is to be determined by subtracting a monthly non-taxable amount of 8,000,000 ROL from the income from pensions.

### **Art. 74. Withholding of tax from incomes from pensions**

(1) Any payer of incomes from pensions is required to compute on a monthly basis the tax related to such income, to withhold tax and to remit the withheld tax to the state budget, according to the provisions of the present article.

(2) The tax is to be computed by applying the monthly tax schedule provided in art. 43, par. (1), respectively par. (3), to the monthly taxable income from pensions.

(3) The computed tax is to be withheld on the date of actual payment of the pension and is to be remitted to the state budget on or before the 25<sup>th</sup> of the month that follows the month in which the pension is paid.

(4) The withheld tax is the final income tax of the taxpayer for incomes from pensions.

(5) In the case of a pension that is not paid on a monthly basis, the tax that must be withheld is to be determined by allocating the pension paid to each of the months to which the pension relates.

(6) Outstanding pension rights are to be broken down to the months to which they relate in order to compute the owed tax, to withhold and remit it.

(7) Incomes from successor pensions are to be individualized based on the number of successors and the taxation is to be made in accordance with the rights due to each successor.

## **CHAPTER VII. Incomes from agricultural activities**

### **Art. 75. Definition of incomes from agricultural activities**

Incomes from agricultural activities are incomes from the following activities:

- a) the cultivation and sale of flowers and vegetables, in greenhouses and solaria specially designed for such purpose and/or in an irrigated system;
- b) the cultivation and sale of shrubs, decorative plants and mushrooms;
- c) the operation of a viticultural nursery and tree nursery and similar to them.

### **Art. 76. Determination of net income from agricultural activities based on income norms**

(1) The net income from an agricultural activity is to be determined based on income norms. The income norms are to be established by the specialized territorial directorates of the Ministry of Agriculture, Forestry, Water and Environment and are to be approved by the territorial general directorates of public finance of the Ministry of Public Finance. The income norms are to be established, endorsed and published at the latest by May 31<sup>st</sup> of the year to which such income norms are to apply.

(2) The income norms are to be established per unit of surface area.

(3) If an agricultural activity is carried out by a taxpayer for a period of less than a calendar year – beginning, termination and other fractions of the year – then the income norm related to such activity is to be adjusted to reflect the period during the calendar year that the activity is carried out.

(4) If an agricultural activity of a taxpayer records a loss due to a natural disaster, then the income norm related to such activity is to be reduced to reflect such loss.

(5) Taxpayers who carry out activities for which the net income is determined based on income norms are not required to organize and maintain accounting records in simple entry for such activity.

**Art. 77. Election to determine net income by using data from the simple entry accounting system**

(1) A taxpayer who carries out an agricultural activity described in art. 75 may elect to determine the net income from such activity based on data from the simple entry accounting system, as provided in art. 49.

(2) The provisions regarding the election provided in art. 52, par. (2) and (3), are to apply in the case of taxpayers specified in par. (1).

**Art. 78. Computation and payment of tax for incomes from agricultural activities**

(1) The tax on net income from agricultural activities is to be computed by applying a tax rate of 15% to the net income, determined based on income norms and under a real system and the tax is final.

(2) Any taxpayer who carries out an agricultural activity specified in art. 75 for which the income is determined based on income norms is required to submit on an annual basis a declaration of income to the competent fiscal organ on or before June 30<sup>th</sup> of the fiscal year for the current year. In the case of an activity that a taxpayer begins to carry out after June 30<sup>th</sup>, the declaration of income is to be submitted on or before the 15<sup>th</sup> day after the date on which the taxpayer begins to carry out the activity.

(3) In the case of a taxpayer who determines the net income from agricultural activities based on data from the simple entry accounting system, such taxpayer is required to make anticipatory payments of tax related to such incomes to the state budget by the deadlines provided in art. 88, par. (3). The anticipatory payments of tax are to be rectified by the competent fiscal organ by May 31<sup>st</sup> of the following year.

## **CHAPTER VIII. Incomes from prizes and from gambling**

### **Art. 79. Definition of incomes from prizes and from gambling**

For the purpose of the present title, incomes from prizes and from gambling include incomes from contests and gambling, other than those realized as a result of participating in casino-type gambling, electronic machines with gains and other than those provided in art. 42.

### **Art. 80. Determination of net income from prizes and from gambling**

- (1) The net income is the difference between the incomes from prizes, respectively from gambling, and the amount of the non-taxable income.
- (2) Losses recorded from gambling are not recognized from the fiscal viewpoint, are not to be compensated, and represent final losses of the taxpayer.

### **Art. 81. Withholding of tax from incomes from prizes and from gambling**

- (1) The income in the form of prizes from a single contest is to be taxed by withholding at source at a rate of 10% applied to the net income.
- (2) Incomes from gambling are to be taxed by withholding at source at a rate of 20% applied to the net income.
- (3) The payers of incomes are required to compute, withhold and remit the tax.
- (4) Incomes obtained from prizes and from gambling, in money and/or in kind, that are below the established non-taxable amount of ROL 7,600,000 for each gain realized from the same organizer or payer during a single day, are not taxable.
- (5) The tax computed and withheld at the moment of the payment of the income is to be remitted to the state budget on or before the 25<sup>th</sup> of the month that follows the month in which the income was withheld.

### **Art. 82. Non-inclusion of net income from prizes and from gambling in annual global income**

The net income from prizes and from gambling is not to be included in annual global income and the tax is final.

## **CHAPTER IX. Incomes from other sources**

### **Art. 83. Definition of incomes from other sources**

(1) In this category are included, but are not limited, the following incomes:

- a) insurance premiums borne by an independent physical person or any other entity, within an activity for a physical person in connection with the bearer does not have a relationship that generates incomes from salaries according to chapter III of the present title;
- b) gains received from insurance companies as a result of the insurance contract concluded between the parties on the occasion of “trageri de amortizare”;
- c) incomes received by physical persons pensioners in the form of differences of price for certain goods, services and other rights, former employees, according to clauses of labor contracts or on the basis of special laws;
- d) incomes received by physical persons that are fees from activities of commercial arbitration.

(2) Incomes from other sources are any incomes identified as being taxable by norms established by the Ministry of Public Finance, other than incomes that are non-taxable in accordance with the present title.

### **Art. 84. Computation of tax and payment deadline**

(1) The income tax is to be computed by withholding at source by the payers of incomes, by applying a rate of 10% to the gross income. Excepted are the incomes provided in art. 83, par. (1), lett. a), for which a rate of tax of 40% applies to the gross income.

(2) The tax that is withheld is to be remitted to the state budget on or before the 25<sup>th</sup> day of the month following the realization of such income.

### **Art. 85. Income from other sources not included in annual global income**

The tax computed according to art. 84 is a final tax.

## **CHAPTER X. Annual global income**

## **Art. 86. Determination of annual global income**

(1) The taxable annual global income is to be determined by deducting from the annual global income the following, in this sequence:

- a) carried-over fiscal losses;
- b) personal deductions as determined according to art. 45;
- c) expenses for the rehabilitation of the dwelling of domicile, intended to reduce losses of heat for the purpose to improve the thermal comfort, within the limit of ROL 15,000,000 annually, according to procedures established by Government Decision, at the initiative of the Ministry of Transport, Construction and Tourism;
- d) insurance premiums for the dwelling of domicile, within the limit of the equivalent in ROL of 200 euro per year;
- e) contributions to optional occupational pension schemes, within the limit of the equivalent in ROL of 200 euro per year;
- f) contributions for private health insurance, with the exception of those entered into for cosmetic purposes, within the limit of the equivalent in ROL of 200 euro per year;
- g) union dues paid according to legislation on this matter.

(2) The annual global income includes the following:

- a) net income from independent activities;
- b) net income from salaries;
- c) net income from the grant of the use of goods.

(3) The taxable income that is realized during a portion of a year or during different periods that are portions of the same year is to be considered taxable annual income.

(4) The annual fiscal loss recorded from independent activities may compensate the positive results of the other categories of incomes included in the annual income, other than those from salaries and assimilated to salaries, which are obtained during the same fiscal year. The loss that remains uncompensated during this fiscal year becomes loss that is carried over. Losses derived from abroad by resident physical persons are to compensate incomes of the same nature, from abroad, for each country, recorded during the same fiscal year or

are to be carried over for the following 5 years against incomes realized from such country.

(5) Rules for the carrying over of losses are as follows:

- a) the carrying over is to be made chronologically, based on the age of the loss, during the following 5 consecutive years;
- b) the right to carry over is personal and non-transmittable;
- c) the carried over loss that is not used as compensation before the expiration of the period provided in lett. a) represents the final loss of the taxpayer;
- d) the compensation of the carried over loss is to be made only from incomes provided in par. (2), lett. a) and c).

#### **Art. 87. Declarations of estimated income**

(1) Taxpayers, as well as associations without legal personality, that begin an activity during a fiscal year are required to submit a declaration to the competent fiscal organ regarding the estimated incomes and expenses to be realized for such fiscal year, within 15 days after the occurrence of such event. Excepted from the provisions of this paragraph are taxpayers who realize incomes for which the tax is to be withheld at source.

(2) Taxpayers who obtain incomes from the grant of the use of goods from the personal patrimony are required to submit a declaration regarding estimated income, within 15 days after the date on which the contract between the parties is concluded. The declaration regarding estimated income is to be submitted to the fiscal organ at the same time as the registration of the contract concluded between the parties.

(3) Taxpayers who during the preceding year realized losses and those who realized incomes for periods of less than a fiscal year, as well as those who from objective reasons estimate that they will realize incomes that differ from the incomes of the prior year by at least 20% are to submit a declaration of estimated income at the same time as the special declaration.

(4) Taxpayers who determine the net income based on incomes norms, as well as those whose expenses are determined under a forfeit system, and who have elected to determine net income under the real system, are to submit a declaration of estimated income at the same time as the election application.

**Art. 88. Determination of anticipatory payment of tax**

(1) Taxpayers who realize incomes from independent activities, from the grant of the use of goods, except the incomes derived from the rental of land, as well as incomes from agricultural activities, are required to make anticipatory payments of tax during the course of the year, except in the case of incomes for which the anticipatory payments are made by withholding at source.

(2) The competent fiscal organ is to determine the anticipatory payments for each category of income and place of realization, taking as the computation base the estimated annual income or the net income realized during the preceding year, as the case may be. For determinations made after the expiration of the deadlines provided in par. (3), the amounts payable are to be determined at the level of the amount payable for the last payment deadline of the preceding year. The difference between the computed annual tax for the net income realized during the preceding year and the amount of the anticipatory payment at the level of the fourth quarter of the preceding year is to be allocated to each of the following deadlines within the fiscal year. For declarations of estimated income that are submitted in the month of December, anticipatory payments are not to be determined, the net income related to the period until the end of the year is subject to tax based on the decision issued for the declaration of global income. Anticipatory payments for incomes from the grant of the use of goods, with the exception of incomes from the rental of lands, are to be determined by the fiscal organ as follows:

- a) based on the contract concluded between the parties; or
- b) based on the incomes determined according to the data in the simple entry accounting system, according to the election.

In the case where, according to contractual clauses, the income from the grant of the use of goods is expressed in the equivalent in ROL of an amount denominated in foreign currency, the determination of the estimated annual income is to be made based on the foreign currency market exchange rate as communicated by the National Bank of Romania on the day prior to the day when the determination is made.

(3) The anticipatory payments are to be made in 4 equal installments, on or before the 15<sup>th</sup> day of the last month of each quarter, with the exception of the tax on incomes from the rental of lands, for which the payment of tax is to be made according to the decision issued based on the declaration of global income. Taxpayers who determine the net income from agricultural activities as provided in art. 76 and 77 owe anticipatory payments to the state budget for the tax related to such income in two equal installments, as follows: 50% of the tax on or before September 1<sup>st</sup> and 50% of the tax on or before November 15<sup>th</sup>.

(4) The deadlines and procedure for the issuance of decisions for anticipatory payments are to be established by an order of the Minister of Finance.

(5) For the determination of anticipatory payments, the fiscal organ is to use as the computation base the estimated annual income, in all situations where a declaration regarding the estimated income for the current year was submitted, or the income from the special declaration for the preceding fiscal year, as the case may be. When determining the anticipatory payments, the annual tax schedule provided in art. 43, par (1) and (3) is to be used, with the exception of the tax on the income from agricultural activities, for which the anticipatory payments are to be determined by applying a 15% rate to the estimated net income.

#### **Art. 89. Declaration of global income and special declarations**

(1) Taxpayers provided in art. 40, par. (1), lett. a), and those who satisfy the conditions provided in art. 40, par. (2), with the exception of taxpayers provided in par. (4) of the present article, are required to submit a declaration of global income to the competent fiscal organ for each fiscal year. The declaration of global income is to be submitted at the same time as the special declarations for the fiscal year, on or before May 15<sup>th</sup> of the year that follows the year in which the income is realized.

(2) Taxpayers, other than those provided in par. (1), are to submit only special declarations for the fiscal year, on or before May 15<sup>th</sup> of the year that follows the year in which the income is realized. In the case of income from salaries, the fiscal fiches are to be submitted within the same deadline as the special declarations.

(3) Special declarations are to be completed for each category and place of realization of income. Special declarations are to be submitted by all taxpayers who realize, either individually or within the form of an association, incomes from independent activities, as well as incomes from the grant of the use of goods, including incomes from agricultural activities that are determined under a real system. In the case of incomes from salaries, with the exception of those specified in par. (4), lett. a), realized by taxpayers other than Romanian physical persons with domicile in Romania and those who satisfy the conditions provided in art. 40, par. (2), the fiscal fiche is to be submitted for each place of realization of income, within the same deadline as the special declarations. For incomes realized through the form of an association, the declared income is the net income/loss allocated by the association. The submission of special declarations is not required for the following categories of incomes:

- a) incomes in the form of salaries and incomes assimilated to salaries, for which the information is included either in fiscal fiches, which have the regime of declarations of taxes and fees, or in monthly declarations, which are submitted by the taxpayers as provided in art. 64;
- b) incomes from investments and incomes from prizes and from gambling, for which the tax is final;
- c) incomes from pensions;
- d) net incomes determined based on income norms;
- e) incomes from other sources.

(4) Taxpayers are not required to submit a declaration of global income to the competent fiscal organ if:

- a) they obtain incomes only from a single source, in the form of salaries obtained from the primary job, during the entire fiscal year, for activities carried out in Romania, in situations where the employer has performed the operations of rectification as provided in art. 61;
- b) they obtain only incomes from investments, pensions, incomes from agricultural activities, incomes from prizes and from gambling, incomes from other sources for which the tax is final;
- c) they obtain incomes provided in art. 40, par. (1), lett. b) – e), together with par. (2).

### **Art. 90. Determination and payment of tax on annual global income**

(1) The tax on annual global income owed is to be computed by the competent fiscal organ based on the declaration of global income, by applying the annual tax schedule provided in art. 43, par. (2), respectively par. (4), to the taxable annual global income for such fiscal year.

(2) Taxpayers may decide upon the designation of an amount of up to 1% of the annual income tax payable for the sponsorship of non-profit entities that operate under the conditions of Government Ordinance no. 26/2000, as regards associations and foundations, with subsequent modifications and completions.

(3) The employer or the competent fiscal organ, as the case may be, is required to compute, withhold and remit the amount of up to 1% of the annual income tax payable.

(4) The procedure for the application of the provisions of par. (2) and (3) is to be established by an order of the Minister of Public Finance.

(5) The fiscal organ is to determine the annual tax that is payable for the preceding year and is to issue a tax decision during the period of time and in the manner established by an order of the Minister of Public Finance.

(6) Differences of tax remaining to be paid according to the annual tax decision are to be paid no later than the 60<sup>th</sup> day after the date of communication of the tax decision, the period for which the amounts provided according to regulations on such matter as regards the collection of budgetary debts are not to be computed and are not payable.

## **CHAPTER XI. Joint ownership and associations without legal personality**

### **Art. 91. Income from goods or rights that are jointly held**

The net income obtained from the exploitation of goods or rights of any type, held jointly, is considered as obtained by the owners, usufruct holders or other legal holders, recorded in an official document, and is to be allocated proportionately with the share-portion that they hold in such property or equally, in situations where these are not known.

## **Art. 92. Rules regarding associations without legal personality**

(1) For associations without legal personality, other than those provided in art. 28, the provisions of the present article are to apply.

(2) The provisions of the present article do not apply to investment funds that are established as associations without legal personality.

(3) Within each association without legal personality, that is established according to law, the associates are required to conclude contracts of association in writing, at the inception of the activity, that are to include data as regards:

- a) the contractual parties;
- b) the object of activity and the location of the association;
- c) the contribution of each associate in goods and rights;
- d) the rate of participation of each associate in the incomes or losses from the association corresponding to the contributions of each;
- e) the designation of the associate who is responsible for fulfilling the obligations of the association to the public authorities;
- f) the conditions for termination of the association.

The contributions of associates according to the contract of association are not considered incomes of the association.

The contract of association is to be registered with the territorial fiscal organ in whose jurisdiction the association is located, by the 15<sup>th</sup> day after the date of conclusion of such contract. In case where contracts do not include the required data according to par. (1), the fiscal organ has the right to refuse the registration of the contract.

(4) In the case where the members of the association are related up to the 4<sup>th</sup> degree, inclusively, the parties are required to submit evidence that they participate in the realization of incomes with goods or rights over which they hold the right of ownership. Physical persons who have acquired limited capacity of practice may also be members of the association.

(5) Associations are required to submit to the competent fiscal organ, by March 15<sup>th</sup> of the following year, annual income declarations, according to the model established by the Ministry of Public Finance, which are to include the allocation of net income/losses for associates.

(6) The annual income/loss, realized by the association, is to be allocated to associates in proportion to the rate of participation corresponding to their contribution, according to the contract of association.

(7) The fiscal treatment of the income realized from an association, in cases other than associations with a legal person, is to be established in the same manner as for the category of incomes within which it is framed.

(8) The profit/income attributable to a physical person from an association with a Romanian legal person, payer of the profit tax or the tax on micro-enterprises, that does not generate a legal person, as determined by observing the rules provided in title II or, respectively, in title IV, is to be assimilated, in connection with the taxation at the level of the physical person, with the income from independent activities, from which are deducted mandatory contributions with respect to the net income obtained.

(9) The tax withheld by a legal person for the account of a physical person for incomes realized from an association with a Romanian legal person that does not generate a legal person, is an anticipatory payment on account of the annual income tax. The Romanian legal person is required to compute, withhold and remit the tax, determined according to the methodology provided in the legislation regarding the profit tax or the tax on the incomes of micro-enterprises.

## **CHAPTER XII. International fiscal aspects**

### **Art. 93. Incomes of non-resident physical persons from independent activities**

(1) Non-resident physical persons who carry out an independent activity through a permanent establishment in Romania are taxed as provided in the present title on the net income from the independent activity that is attributable to the permanent establishment.

(2) The net income from an independent activity that is attributable to a permanent establishment is to be determined according to art. 49, under the following conditions:

- a) only incomes that are attributable to the permanent establishment are included in taxable incomes;
- b) only expenses related to the realization of such incomes are included in deductible expenses.

**Art. 94. Incomes of non-resident physical persons from dependent activities**

Non-resident physical persons who carry out dependent activities in Romania are taxed according to the provisions of chapter III of the present title, only if at least one of the following conditions is satisfied:

- a) the non-resident physical person is present in Romania for a period or periods which exceed in total 183 days during any period of 12 consecutive months that ends in the calendar year in question;
- b) the salary incomes are paid by or on behalf of an employer that is a resident;
- c) the salary incomes are a deductible expense of a permanent establishment in Romania.

**Art. 95. Other incomes of non-resident physical persons**

(1) Non-resident physical persons who obtain incomes other than those provided in art. 93, 94 and title V are to pay tax as provided in the rules of title III.

(2) Incomes subject to taxation from the categories mentioned in par. (1) are to be determined for each source, according to the specific rules of each category of income and the tax is final.

(3) Except for the payment of the income tax by withholding at source, taxpayers non-resident physical persons who realize incomes from Romania according to the present title are required to declare and pay the tax corresponding to each income source, either directly or through a fiscal representative.

**Art. 96. Incomes obtained from abroad for which the taxation in Romania is final**

(1) Physical persons provided in art. 40, par. (1), lett. a), and those who satisfy the conditions of art. 40, par. (2), owe tax for incomes obtained from abroad of the nature of those for which the taxation in Romania is final.

(2) The incomes realized from abroad are subject to tax by applying the rates of tax to the computation base determined under the rules for each category of income, based on the nature of the income.

(3) Taxpayers who obtain incomes from abroad are required to declare such incomes, according to the specific declaration, before May 15<sup>th</sup> of the year that follows the year in which the income is realized.

(4) The fiscal organ is to determine the annual tax that is payable and is to issue a tax decision during the period of time and in the manner established by an order of the Minister of Public Finance.

(5) Differences of tax remaining to be paid in accordance with the annual tax decision are to be paid no later than the 60<sup>th</sup> day after the date of communication of the tax decision, the period for which the amounts provided according to regulations on such matter as regards the collection of budgetary debts are not to be computed and are not payable.

**Art. 97. External fiscal credit**

(1) Taxpayers resident physical persons who, for the same income and during the same taxable period, are subject to income tax both on the territory of Romania and abroad, have the right to deduct from the income tax payable in Romania the tax paid abroad, hereinafter called the *external fiscal credit*, within the limits provided in the present article.

(2) The external fiscal credit is to be allowed provided that the following conditions are cumulatively satisfied:

a) the tax paid abroad for income obtained abroad was actually paid directly by the physical person or by his/her legal representative, or withheld at source by the payer of income. The payment of the tax abroad is to be proved with a justifying document issued by:

1. the fiscal authority of such foreign state;

2. the employer, in the case of incomes from salaries;
  3. the other payer of income, for other categories of incomes;
- b) the income for which the fiscal credit is allowed is included in one of the categories of incomes provided in art. 41.
- (3) The external fiscal credit is to be allowed at the level of the tax paid abroad, related to the income from the source from abroad, but is not to exceed the share of the income tax payable in Romania, related to the income from abroad. In situations where the taxpayer obtains incomes from abroad from several states, then the external fiscal credit that is allowed to be deducted from the tax payable in Romania is to be computed, according to the above-mentioned procedure, for each country and each category of income.
- (4) Incomes realized from abroad by physical persons provided by art. 40, par. (1), lett. a) and those who satisfy the condition of art. 40, par. (2), for which the taxation in Romania is final, are subject to tax in Romania, recognizing the tax paid abroad, in the form of a fiscal credit, but limited to the tax on similar income payable in Romania.
- (5) In order to compute the external fiscal credit, amounts denominated in foreign currency are to be converted at the annual average exchange rate of the foreign currency market in the year of realization of the income, as communicated by the National Bank of Romania. Incomes from abroad realized by resident physical persons, as well as the related tax, denominated in monetary units of such state, but which are not quoted by the National Bank of Romania, are to be converted as follows:
- a) from the monetary units of the state of source into a foreign currency of international circulation, such as US dollars or euro, by using the rate of exchange of the foreign country from the state of source;
  - b) from the foreign currency of international circulation to ROL, by using an average annual exchange rate of such currency, as communicated by the National Bank of Romania, from the year of realization of such incomes.

#### **Art. 98. External fiscal losses**

(1) Fiscal losses obtained by taxpayers resident physical persons from a foreign state are to compensate only incomes of the same nature from abroad, for each country, that are recorded during the same fiscal year.

(2) A loss that is not recovered based on par. (1) is to be carried over for up to 5 consecutive fiscal years and is to compensate only incomes of the same nature from such state.

### **CHAPTER XIII. Declarative obligations of payers of incomes withheld at source**

#### **Art. 99. Declarative obligations of payers of incomes withheld at source**

(1) Payers of incomes under the regime of withholding at source of tax are required to compute, withhold and remit the tax withheld at source and to submit a declaration regarding the computation and withholding of tax for each beneficiary of income to the competent fiscal organ, by June 30<sup>th</sup> of the current year for the expired year.

(2) Excepted from the deadline provided in par. (1) are the payers of income from independent activities specified in art. 53 for which the income tax is withheld at source, for which the submission of the declaration is to be made on or before the last day of February of the current year, for the expired fiscal year.

### **CHAPTER XIV. Transitional and final provisions**

#### **Art. 100. Transitional provisions**

(1) Exemptions from the payment of the income tax provided in normative acts as regards certain protective measures as a result of collective lay-off, for the personnel who are laid off, remain valid until their date of expiration.

(2) Exemptions from the payment of tax, in the case of tourist services supplied in rural areas, as provided by law, remain in force until December 31, 2004.

(3) Losses recorded during the period of exemption by taxpayers who benefit from provisions of par. (1) and (2) are not to be compensated by the incomes

obtained from the other categories of incomes in such years and are not to be carried over, representing final losses of the taxpayers.

(4) The provisions regarding the satisfaction of the conditions provided in art. 40, par. (2), are to apply beginning with January 1, 2004.

#### **Art. 101. Finalization of taxes for year 2003**

In order to determine the tax for the taxable annual global income realized during fiscal year 2003, the tax schedule obtained based on the annual schedule for anticipatory payments made in year 2003, respectively, the basic personal deduction, as corrected by the variation of the actual rate of inflation diminished by  $\frac{1}{2}$  of the forecasted rate of inflation for this year, according to the legislation in force for year 2003, is to be established by an order of the Minister of Public Finance.

#### **Art. 102. Final provisions**

Beginning January 1, 2005, there is to apply a system of taxation of income of physical persons as provided by laws for the modification and completion of the present fiscal code.

## TITLE IV. TAX ON INCOMES OF MICRO-ENTERPRISES

### **Art. 103. Definition of micro-enterprises**

(1) For purposes of this title, a *micro-enterprise* is a Romanian legal person that cumulatively satisfies the following conditions on December 31<sup>st</sup> of the preceding fiscal year:

- a) the object of activity is the production of material goods, the supply of services and/or trade;
- b) the number of employees are from 1 to 9, inclusively;
- c) the realized incomes do not exceed the equivalent in ROL of 100,000 euro;
- d) the social capital of the legal person is owned by persons other than the state, local authorities and public institutions.

### **Art. 104. Election to pay tax on incomes of micro-enterprises**

(1) The tax regulated by the present title is elective.

(2) Micro-enterprises payers of the profit tax may elect to pay the tax regulated by the present title beginning with the following fiscal year, if the conditions provided in art. 103 are satisfied and if they never were payers of the tax on incomes of micro-enterprises.

(3) A Romanian legal person that is newly established may elect to pay the tax on incomes of micro-enterprises beginning with the first fiscal year if the conditions provided in art. 103, lett. a) and d), are satisfied on the date of registration with the trade registry and the condition provided in art. 103, lett. b), is satisfied on or before the 60<sup>th</sup> day after the date of registration.

(4) Micro-enterprises payers of the tax on incomes of micro-enterprises are no longer to apply such system of taxation beginning with the fiscal year that follows the year in which the conditions provided in art. 103 are no longer satisfied.

(5) Romanian legal persons may not elect the system of taxation regulated by the present title if:

- a) they carry out activities in the field of banking;

- b) they carry out activities in the fields of insurance and re-insurance, capital market, with the exception of legal persons that carry out activities of intermediaries in such fields;
- c) they carry out activities in the fields of gambling, sports betting, casinos;
- d) their social capital is owned by a shareholder or partner that is a legal person with over 250 employees.

**Art. 105. Scope of application of tax**

The tax imposed by the present title, which is hereafter referred to as *tax on incomes of micro-enterprises*, applies to the incomes obtained by micro-enterprises from any source, with the exceptions provided in art. 108.

**Art. 106. Fiscal year**

- (1) The fiscal year of a micro-enterprise is the calendar year.
- (2) In the case of a legal person that is established or ceases to exist, the fiscal year is the period during the calendar year in which the legal person existed.

**Art. 107. Rate of taxation**

The rate of the tax on the incomes of micro-enterprises is 1.5%.

**Art. 108. Taxable base**

- (1) The taxable base of the tax on incomes of micro-enterprise is incomes from any source, from which are subtracted:
  - a) incomes from variation of inventory;
  - b) incomes from the production of tangible and intangible assets;
  - c) incomes from operations representing the share-part of government subsidies and other resources for the financing of investments;
  - d) incomes from provisions;
  - e) incomes resulting from the cancellation of payables and additions payable to the state budget, that were not deductible expenses in computing taxable profit, according to legal provisions;
  - f) incomes realized from compensations, from insurance companies, for damages to own tangible assets.

(2) In the case of a micro-enterprise that acquires electronic cash registers, the acquisition value of such registers is to be deducted from the taxable base, in accordance with the justifying document, for the quarter in which the electronic cash registers were put into operation, as provided by law.

#### **Art. 109. Procedure to declare election**

(1) Legal persons payers of profit tax are to communicate the election to the territorial fiscal organs at the beginning of the fiscal year, by submitting a declaration of specifications for legal persons, family associations and associations without legal personality, on or before January 31<sup>st</sup>.

(2) Legal persons that are established during a fiscal year are to indicate such election on the application of registration with the trade registry. The election is final for such fiscal year and for the following fiscal years, as long as the conditions provided in art. 103 are satisfied.

(3) In the case where, during a fiscal year, one of the conditions is no longer satisfied, the micro-enterprise is required to maintain such regime of taxation for such fiscal year, without the possibility of benefiting from the provisions of the present title for a following period, even if subsequently the conditions provided in art. 103 are satisfied.

(4) Micro-enterprises that carry out activities in free zones and/or in disadvantaged zones may also elect to pay the tax regulated by the present title.

#### **Art. 110. Payment of tax and submission of tax declarations**

(1) The computation and payment of tax on incomes of micro-enterprises is to be made on a quarterly basis, on or before the 25<sup>th</sup> of the month that follows the quarter for which the tax is computed.

(2) Micro-enterprises are required to submit an income tax declaration by the deadline for the payment of the tax.

#### **Art. 111. Taxation of physical persons associated with a micro-enterprise**

In the case of an association without legal personality between a micro-enterprise payer of tax, according to the present title and a physical person, resident or non-resident, the micro-enterprise is required to compute, withhold

and pay to the state budget tax owed by the physical person, which computed by the application of a rate of 1.5% to the incomes received by the person from the association.

**Art. 112. Fiscal provisions as regards depreciation**

Legal persons payers of the income tax are required to record in the accounting system the expenses of depreciation, according to art. 24 of title II, which apply to payers of the profit tax.

## **TITLE V. TAX ON INCOMES OBTAINED FROM ROMANIA BY NON-RESIDENTS AND TAX ON FOREIGN REPRESENTATIVE OFFICES ESTABLISHED IN ROMANIA**

### **CHAPTER I. Tax on incomes obtained from Romania by non-residents**

#### **Art. 113. Taxpayers**

Non-residents that obtain taxable incomes from Romania are required to pay tax according to the provisions of the present chapter and are hereafter referred to as *taxpayers*.

#### **Art. 114. Scope of application of tax**

The tax provided by the present chapter, which is hereafter referred to as *tax on incomes obtained from Romania by non-residents*, applies to the gross taxable incomes obtained from Romania.

#### **Art. 115. Taxable incomes obtained from Romania**

(1) Taxable incomes obtained from Romania are the following, regardless whether the incomes are received in Romania or abroad:

- a) dividends from a Romanian legal person;
- b) interest from a resident;
- c) interest from a non-resident that has a permanent establishment in Romania, if the interest is an expense of the permanent establishment;
- d) royalties from a resident;
- e) royalties from a non-resident that has a permanent establishment in Romania, if the royalty is an expense of the permanent establishment;
- f) commissions from a resident;
- g) commission from a non-resident that has a permanent establishment in Romania, if the commission is an expense of the permanent establishment;
- h) incomes from sporting or entertainment activities carried out in Romania, regardless whether the incomes are received by the persons that actually participates in the activity or by other persons;

- i) incomes from the performance of management, intermediation or consulting services in any field, if the incomes are obtained from a resident or if such incomes are expenses of a permanent establishment in Romania;
- j) incomes representing remuneration received by non-residents that have the capacity of an administrator, founder or member of the administrative council of a Romanian legal person;
- k) incomes from services performed in Romania;
- l) incomes from independent professions carried out in Romania - doctor, lawyer, engineer, dentist, architect, auditor or other similar professions - in the case where the incomes are obtained in other conditions than through a permanent establishment or during a period or periods that exceed in total 183 days during any period of 12 consecutive months ending in the calendar year in question;
- m) incomes from pensions received from the social insurance budget or from the state budget, to the extent that the monthly pension exceeds the threshold provided in art. 73;
- n) incomes from international air, water, railway or road transport that is carried out between Romania and a foreign state;
- o) incomes from prizes granted at contests organized in Romania;
- p) incomes obtained from gambling practiced in Romania, from each game of chance obtained from the same organizer during a single day of gambling.

(2) The following taxable incomes obtained from Romania are not taxable as provided in the present chapter and are to be taxed according to title II or title III, as the case may be:

- a) incomes of a non-resident that are attributable to a permanent establishment in Romania;
- b) incomes of a foreign legal person obtained from immovable property located in Romania or from the transfer of participation titles in a Romanian legal person;
- c) incomes of a non-resident physical person from a dependent activity carried out in Romania;
- d) incomes of a non-resident physical person obtained from the rental of or other form of the grant of the right of use of immovable property located in

Romania or from the transfer of a participation title in a Romanian legal person.

**Art. 116. Withholding of tax from taxable incomes obtained from Romania by non-residents**

(1) The tax owed by non-residents for taxable incomes obtained from Romania is to be computed, withheld and remitted to the state budget by the payers of incomes.

(2) The tax owed is to be computed by applying the following rates to the gross income:

- a) 5% for incomes from interest from term deposits, certificates of deposit or other savings instruments at banks and other authorized credit institutions located in Romania;
- b) 20% for incomes obtained from gambling, as provided in art. 115, par. (1), lett. p);
- c) 15% in the case of any other taxable incomes obtained from Romania, as specified in art. 115.

(3) For purposes of par. (2), the gross income is the income that would have been paid to a non-resident if the tax had not been withheld from the income paid to the non-resident.

(4) By way of derogation from par. (2), the tax that must be withheld is computed as follows:

- a) for incomes that represent remuneration received by a non-resident that has the capacity of an administrator, founder or member of the administrative council of a Romanian legal person, according to the provisions of art. 58 of title III;
- b) for incomes from pensions received from the social insurance budget or from the state budget, as provided in art. 74.

(5) The tax that must be withheld is to be remitted to the state budget on or before the 25<sup>th</sup> of the month that follows the month in which the income is paid at the rate of exchange of the foreign currency market as communicated by the National Bank of Romania for the day prior to the day on which the payment is made to the state budget.

(6) For any income, the tax that must be withheld in accordance with the present chapter is the final tax.

**Art. 117. Exemptions from the tax provided in this chapter**

The following incomes are exempt from the tax on incomes obtained from Romania by non-residents:

- a) interest for current account deposits at banks or other credit institutions in Romania;
- b) interest from debt instruments issued and/or guaranteed by the Romanian government, local councils, the National Bank of Romania, as well as by banks or other financial institutions that act in the capacity of an agent of the Romanian government;
- c) interest from debt instruments issued by a Romanian legal person, if the debt instruments are traded on a recognized securities market and the interest is paid to a person that is not affiliated to the issuer of the debt instrument;
- d) prizes of a non-resident physical person obtained from Romania, as a result of participation in national and international artistic, cultural and sporting festivals financed from public funds;
- e) prizes granted to non-resident pupils and students at contests financed from public funds;
- f) incomes obtained by non-residents from Romania that perform consulting, technical assistance and other similar services in any field within the framework of a contract financed by a loan, credit or other financial agreement entered into between an international financial organization and the Romanian state or a Romanian legal person, including the public authorities, that are guaranteed by the Romanian state, as well as within the framework of contracts financed by loan agreements entered into by the Romanian state with other financial organizations, in the case where the interest charged for such loans is less than 3% per year;
- g) incomes of foreign legal persons that carry out in Romania consulting activities within the framework of a contract of free financing entered into by the government of Romania with other governments or with governmental or non-governmental international organizations.

h) after the date of Romania joining the European Union, dividends paid by a Romanian legal person to a legal person from a member state of the European Community are exempt from tax if the beneficiary of the dividend owns a minimum of 25% of the participation titles in the Romanian legal person for an uninterrupted period of more than 2 years that ends on the date of the payment of the dividend.

**Art. 118. Coordination of the provisions of the fiscal code with the provisions of the conventions for the avoidance of double taxation**

(1) For purposes of art. 116, if a taxpayer is a resident of a foreign state with which Romania has entered into a convention for the avoidance of double taxation regarding taxes on income and on capital, then the rate of tax that applies to the taxable income obtained by the taxpayer from Romania may not exceed the rate of tax provided in the convention that applies to such income, as provided by par. (2). In situations where the rates of tax from internal legislation are more favorable than those from conventions for the avoidance of double taxation, the more favorable of the rates of tax are to apply.

(2) For the application of the provisions of conventions for the avoidance of double taxation, the non-resident is required to present a certificate of fiscal residence to the payer of the income.

(3) The model of the certificate of fiscal residence and the deadline for the submission of such certificate by a non-resident is to be established by norms.

**Art. 119. Annual declaration regarding withholding at source**

(1) Payers of income that are required to withhold at source tax for incomes obtained by taxpayers from Romania are required to submit a declaration to the competent fiscal authority on or before February 28<sup>th</sup>, respectively February 29<sup>th</sup>, of the year that follows the year for which the tax is paid.

(2) Payers of income that are required to withhold tax from incomes obtained by taxpayers from Romania are required to provide to each taxpayer information in writing about the type and amount of taxable incomes, as well as the amount of tax withheld on behalf of the taxpayer. The information is to be provided to each

taxpayer on or before February 28<sup>th</sup>, respectively February 29<sup>th</sup>, of the year that follows the year for which the tax is paid.

**Art. 120. Certificates of attestation of tax paid by non-residents**

(1) Any non-resident may submit an application to the competent fiscal authority in order to request the issuance of a certificate of attestation of tax paid to the state budget by the non-resident or by a person acting on behalf of the non-resident.

(2) The competent fiscal authority is required to issue a certificate of attestation of tax paid by non-residents.

(3) The form of the application and the certificate of attestation of tax paid by a non-resident, as well as the conditions of submission and issuance, are to be established by norms.

**Art. 121. Transitional provisions**

The incomes obtained by external contractual partners, non-resident physical and legal persons, and by independent employees and contractors of such persons from activities carried out by such persons for the realization of the investment objective Centrala Nuclearoelectrica Cernavoda—Unit 2 are exempt from the tax provided in the present chapter, until the objective is put into operation.

**CHAPTER II. Tax on representative offices**

**Art. 122. Taxpayers**

Any foreign legal person that has a representative office authorized to operate in Romania, as provided by law, is required to pay an annual tax according to the present chapter.

**Art. 123. Determination of tax**

(1) The tax on representative offices for a fiscal year is to equal the equivalent in ROL of 4,000 euro, as determined for a fiscal year using the rate of exchange of

the currency market as communicated by the National Bank of Romania on the day preceding the day on which the tax is actually paid to the state budget.

(2) In the case of a foreign legal person that establishes or terminates a representative office in Romania during a fiscal year, the tax owed for such year is to be computed in proportion to the number of months that the representative office was in existence for such fiscal year.

**Art. 124. Payment of tax and submission of tax declaration**

(1) Any foreign legal person is required to pay the tax on representative offices to the state budget in two equal installments, before June 20<sup>th</sup> and December 20<sup>th</sup>.

(2) Any foreign legal person that owes the tax on representative offices is required to submit an annual declaration to the competent fiscal authority on or before February 28<sup>th</sup>, respectively February 29<sup>th</sup>, of the year of taxation.

(3) Any foreign legal person that establishes or terminates a representative office during a fiscal year is required to submit a tax declaration to the competent fiscal authority within 30 days after the date that the representative office is established or terminated.

(4) Representative offices are required to maintain accounting records as provided in legislation in force in Romania.

## TITLE VI. VALUE-ADDED TAX

### CHAPTER I. General provisions

#### Art. 125. Definition of value-added tax

The value-added tax is an indirect tax that is owed to the state budget.

### CHAPTER II. Scope of application

#### Art. 126. Scope of application

(1) Operations that cumulatively fulfill the following conditions are included in the scope of application of the value-added tax:

- a) a delivery of goods or a supply of services made for consideration;
- b) the place of delivery of goods or supply of services is considered to be in Romania;
- c) the delivery of goods or supply of services is made by a taxable person, as defined in art. 127, par. (1);
- d) the delivery of goods or supply of services results from one of the economic activities provided in art. 127, par (2).

(2) The import of goods is also included in the scope of application of the value-added tax.

(3) Operations that are included in the scope of application of the value-added tax are hereafter referred to as *taxable operations*.

(4) Taxable operations may be:

- a) feeable operations, for which the tax rates provided in art. 140 apply;
- b) exempt operations with right of deduction, for which value-added tax is not payable, but a deduction of the value-added tax owed or paid for acquired goods or services is allowed. In the present title, such operations are provided in art. 143 and art. 144;
- c) exempt operations without right of deduction, for which value-added tax is not payable and a deduction of the value-added tax owed or paid for acquired goods or services is not allowed. In the present title, such operations are provided in art. 141;

- d) import operations that are exempt from value-added tax, as provided in art. 142, for which value-added tax is not payable in customs.

### **CHAPTER III. Taxable persons**

#### **Art. 127. Taxable persons and economic activities**

(1) A *taxable person* is any person that carries out, in an independent manner and regardless of the place, economic activities of the nature of those provided in par. (2), whatever the purpose or the result of such activities.

(2) For the purpose of the present title, economic activities include the activities of producers, traders or service suppliers, including extractive and agricultural activities and free profession activities or activities assimilated to them. An economic activity also includes the exploitation of tangible or intangible goods for the purpose of obtaining incomes with a continuous character.

(3) Employees or any other persons connected to an employer by an individual labor contract or by any other legal instruments that create an employer/employee relationship as regards the labor conditions, remuneration or other obligations of the employer do not act in an independent manner.

(4) Except as provided in par. (5) and (6), public institutions are not taxable persons for activities that are carried out in the capacity of public authorities, even if dues, fees, royalties or other payments are collected for carrying out such activities.

(5) Public institutions are taxable persons for activities carried out in the capacity of public authorities if treating them as non-taxable persons would produce distortions of competition.

(6) Public institutions are taxable persons for activities carried out under the same legal conditions as those applicable to economic operators, even if they are carried out by such public institutions in the capacity of public authority, as well as for the following activities:

- a) telecommunications;
- b) supply of water, gas, electric energy, thermal energy, agents of refrigeration and others of this nature;
- c) transport of goods and persons;

- d) services supplied in ports and airports;
- e) delivery of new goods produced for sale;
- f) the activity of commercial fairs and exhibitions;
- g) warehousing;
- h) activities of commercial publicity bodies;
- i) activities of travel agents;
- j) activities of stores for the staff, canteens, restaurants and other similar establishments.

(7) Assimilated to public institutions, as regards applicable rules from the point of view of the value-added tax, are any entities for which the establishment is ruled by laws or government decisions, for activities provided by the normative act of establishment, which do not create distortions of competition, not being carried out also by other taxable persons.

## **CHAPTER IV. Taxable operations**

### **Art. 128. Delivery of goods**

(1) A *delivery of goods* means any transfer of the ownership right with respect to goods from the owner to another person, directly or by persons that act in their name.

(2) For the purpose of the present title, *goods* mean tangible movable and immovable goods, by their nature or by destination. Electrical energy, thermal energy, natural gas, agents of refrigeration and others of this nature are considered tangible movable goods.

(3) The following are also considered deliveries of goods for consideration for purposes of par. (1):

- a) the actual handing over of goods to another person within an installment sale contract or any other type of contract that provides that the ownership is transferred at the latest at the moment when the last installment is paid, with the exception of leasing contracts;
- b) the transfer of the ownership right with respect to goods further to forced execution;

- c) the passing to the public domain of certain goods from the patrimony of taxable persons, under the conditions provided by the legislation referring to public property and its legal regime, in exchange for compensation;
- d) the transmission of goods made on the basis of a commission contract for purchase or sale, when the commissioner acts in his own name but for the account of the principal;
- e) goods discovered as missing, with the exception of those provided in par. (9), lett. a) and c).

(4) The taking over by taxable persons of goods acquired or produced by such persons for use for purposes that are not related to the carried out economic activity or to be made available to other persons for free is a delivery of goods for consideration, if the value-added tax for such goods or for the component parts of the goods was wholly or partially deducted.

(5) Any distribution of goods from the assets of a company to its associates or shareholders, including a distribution of goods in connection with a liquidation or a dissolution without liquidation of a company, is a delivery of goods for consideration.

(6) In the case of two or more successive transfers of the ownership right with respect to a good, each transfer is considered a separate delivery of the good even if the good is transferred directly to the final beneficiary.

(7) A delivery of goods is not to include the transfer of goods made on the occasion of an operation of full or partial transfer of the assets and liabilities, as a result of a merger and a division, whether or not for consideration.

(8) An in-kind contribution to the social capital of a company is not a delivery of goods if the recipient of the goods would have been permitted a deduction for the entire value-added tax had the value-added applied to such transfer. In the case where the recipient of goods is a taxable person that has no right of deduction for value-added tax or has a partial right of deduction, the operation is considered a delivery of goods if the value-added tax related to such goods or their component parts was wholly or partially deducted.

(9) The following are not a delivery of goods for purposes of par. (1):

- a) goods destroyed as a result of natural catastrophes or other cases of force majeure;

- b) goods in the nature of inventory that are qualitatively damaged, that may no longer be used to derive value under the conditions provided by norms;
- c) perishables, within the limits provided by law;
- d) goods granted for free from the state reserve as foreign or domestic humanitarian assistance;
- e) granting goods for free as samples within publicity campaigns, for testing products or for demonstrations at sale points, other goods granted for the purpose of stimulating sales;
- f) granting goods for free within actions of sponsorship, mecenat or protocol, as well as other destinations provided by law, under the conditions provided by norms.

**Art. 129. Supply of services**

(1) A *supply of services* is any operation that is not a delivery of goods.

(2) Supplies of services include operations such as:

- a) the rental of goods or the transmission of the use of goods under a leasing contract;
- b) the transfer and/or transmission of the use of copyrights, patents, licenses, trademarks and other similar rights;
- c) the commitment not to carry out an economic activity, not to compete with another person, or to tolerate an action or a situation;
- d) supplies of services performed on the basis of an order issued by/or on behalf of a public authority or as provided by law;
- e) intermediation performed by commissioners that act in the name of and for the account of the principal when they intervene in a delivery of goods or supply of services.

(3) The following are to be considered a *supply of services for consideration*:

- a) the temporary use of goods that are part of the assets of a taxable person for purposes that are not related to its economic activity or to be made available for the use of other persons for free, if value-added tax for such goods was wholly or partially deducted;

b) the supply of services performed for free by a taxable person for purposes that are not related to its economic activity, for the personal use of his/her employees or other persons.

(4) Not considered a supply of services for consideration is the use of goods and the supplies of services provided in par. (3) that are effected within the limits and according to the destinations provided by law, as well as supplies of services performed for publicity purposes or for the purpose of stimulating sales.

(5) A taxable person that acts in his own name, but for the account of another person in connection with a supply of services, is considered to have received and supplied such services.

(6) In the case of a supply of service by more than one taxable person, by successive transactions, each transaction is to be considered a separate supply and is to be taxed distinctively, even if such service is supplied directly to the final beneficiary.

#### **Art. 130. Exchange of goods or services**

In the case of an operation that involves a delivery of goods and/or a supply of services in exchange for a delivery of goods and/or a supply of services, each taxable person is considered to have made a delivery of goods and/or a supply of services for consideration.

#### **Art. 131. Import of goods**

(1) For purposes of the present title, an *import of goods* is the entry into Romania of goods that come from another state.

(2) By way of derogation from par. (1), when goods are placed under customs suspension regimes after their entry into the country, such goods are not included in the scope of application of the value-added tax. Nevertheless, they are subject to customs regulations as regards the payment, or, as the case may be, the guarantee of import duties for the period of time that they are under a customs suspension regime.

(3) The import of goods placed under customs suspension regimes is effected in the state on the territory where the goods are taken out of such regimes.

(4) A delivery of goods that are under customs suspension regimes is not included in the scope of application of the value-added tax.

## **CHAPTER V. Place of taxable operations**

### **Art. 132. Place of delivery of goods**

(1) The following are considered to be the place of delivery of goods:

- a) the place where the goods are located at the moment when the dispatch or transport is initiated, in the case of goods that are dispatched or transported by the supplier, the beneficiary or a third party;
- b) the place where installation or assembly is performed, in the case of goods that are subject to installation or assembly, regardless whether the putting into operation is performed by the supplier or by another person on his behalf;
- c) the place where the goods are located at the moment when the delivery takes place, in the case of goods that are not dispatched or transported;
- d) the place of departure of passenger transport, in the case of the delivery of goods performed on board a ship or aircraft;
- e) the place of departure of passenger transport, in the case of the delivery of goods performed within a car or a train, for the portion of the trip of passenger transport effected within the country.

(2) In applying the provisions of par. (1), lett. e), the followings terms are defined:

- a) the portion of the trip of passenger transport effected within the country is the portion effected between the place of departure and the place of arrival of the passenger transport, without any stopover outside the country;
- b) the place of departure of passenger transport is the first point for the embarkment of passengers located within the country, if this is the case, after a stop outside the country;
- c) the place of arrival of passenger transport is the last point for the disembarkment provided within the country, for passengers who embarked within the country, if this is the case, before a stop outside the country.

(3) By way of derogation from the provisions of par. (1), lett. a) and b), when the place of departure or dispatch or transport of goods is outside Romania and the goods are imported to Romania, then the place of the delivery performed by the importer for purposes of art. 150, par. (2) is considered to be in Romania.

### **Art. 133. Place of supply of services**

(1) The place of supply of services is considered to be the place where the supplier has established the site of economic activity or permanent establishment from which the services are performed or, in the absence of such a site, the domicile or usual residence.

(2) As an exception to par. (1), for the following supplies of services, the place of supply is considered to be:

- a) the place where the immovable good is located, for supplies of services that are directly connected with an immovable good, including supplies of real estate and expertise agents, supplies relating to the preparation or coordination of immovable construction works, such as the supply of services by architects and supervisory services;
- b) the place where the transport is actually performed based on distances covered, in the case of the transport of goods and passengers;
- c) the site of economic activity or permanent establishment of the beneficiary for which the services are supplied, or, in the absence of such a site, the domicile or usual residence of the beneficiary, in the case of the following services:
  - 1. the rental of tangible movable goods;
  - 2. leasing operations that have as their subject the use of tangible movable goods;
  - 3. the transfer and/or transmission of the use of copyrights, patents, licenses, trademarks and other similar rights;
  - 4. advertising and marketing services;
  - 5. services of consultants, engineers, lawyers, accountants and certified accountants, research bureaus and other similar services;
  - 6. data processing and data supply;

7. banking, financial and insurance operations, including reinsurance, with the exception of the rental of safe deposit boxes;
  8. the supply of personnel;
  9. telecommunications; telecommunication services are services having as an object the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical means or other electromagnetic means, including the granting of the right to use means for such transmission, emission or reception; telecommunication services also include the furnishing of access to global information networks;
  10. radio and television broadcasting services;
  11. electronically supplied services; electronically supplied services are: website supply, web-hosting, distance maintenance of programs and equipment, the furnishing of information programs -software- and the updating of such, the furnishing of images, text and information, and making databases available, the furnishing of music, films, and games, including gambling, the transmission and broadcasting of political, cultural, artistic, sporting, scientific, and entertainment events and events, and the furnishing of distance teaching. When the service supplier and his customer only communicate through electronic mail, the service provided is not an electronic service;
  12. the obligation to refrain from carrying out or exercising, in whole or in part, an economic activity or a right specified in the present letter;
  13. the supply of services performed by intermediaries that intervene in the supply of services provided in the present letter;
- d) the place where services are performed in the case of the following services:
1. cultural, artistic, sporting, scientific, education, entertainment or similar, including ancillary services and those supplied by the organizers of such activities;
  2. supplies ancillary to transport, such as: loading, unloading, handling, protection and/or storage of goods and other similar services;
  3. valuations of tangible movable goods;
  4. supplies performed on tangible movable goods.

## **CHAPTER VI. Generating event and chargeability of value-added tax**

### **Art. 134. Generating event and chargeability – general rules**

(1) The *generating event for the tax* is the event by which the legal conditions necessary for the chargeability of tax are realized.

(2) The value-added tax becomes chargeable when the fiscal authorities become entitled based on law, from a certain moment, to request the value-added tax from the payers of tax, even if the payment of such tax is established by law on another date.

(3) The generating event for the tax occurs and the tax becomes chargeable on the date of the delivery of goods or on the date of the supply of services, with the exceptions provided in the present title.

(4) Deliveries of goods and supplies of services, other than the ones provided in art. 128, par. (3), lett. a), and art. 129, par. (2), lett. a), that are made on a continuous basis giving rise to successive statements of account or successive payments, such as natural gas, water, telephone services, electric energy and others, are considered as being made at the moment of the expiration of the periods to which such statements of account or payments refer.

(5) The chargeability of value-added tax is before the generating event and occurs as follows:

- a) on the date when the fiscal invoice is issued before the delivery of goods or the supply of services;
- b) on the date when advance payments are collected, in the case of the collection of advance payments before the delivery of goods or the supply of services. Excepted from this provisions are advance payments collected for the payment of imports and customs duties, as provided by law, and any advance payments collected for operations exempt from value-added tax or that are not within the scope of application of the tax. Advance payments are the partial or entire collection of the counter-value of the goods or services, before the delivery, respectively the supply.

(6) By way of derogation from par. (5), in the case of the construction of an immovable good, the general contractor may elect for the chargeability of the

value-added tax to occur on the date of delivery of the immovable good, under the conditions provided by norms.

**Art. 135. Generating event and chargeability – special cases**

(1) By way of derogation from the provisions of art. 134, par. (3), the chargeability of value-added tax occurs on the dates provided in the present article.

(2) For services performed by taxable persons established abroad, as defined in art. 151, par. (2), for which the beneficiaries are required to pay the value-added tax, the chargeability of tax occurs on the date of receipt of the invoice of the supplier or on the date of the partial or complete payment for such service, in the case where the invoice of the supplier is not received by such date. For operations of rental of movable goods and leasing operations contracted with a supplier established abroad, which are hereafter referred to as *external leasing operations*, the value-added tax becomes chargeable on each of the dates specified in the contract for installment payments. If payments in advance are made, then the chargeability of the value-added tax occurs on the date of making the payments.

(3) In the case of a delivery of goods with payments in installments between persons established in the country, an operation of domestic leasing, rental, concession or land rental, the value-added tax becomes chargeable on each of the dates specified in the contract for the payment of installments, respectively the rent, royalty or land rent. In the case of the collection of advance payments in comparison with the date provided in the contract, the value-added tax becomes chargeable on the date of the collection of the advance payment.

(4) For deliveries of goods and supplies of services that are made on a continuous basis giving rise to successive statements of account or successive payments – electrical and thermal energy, natural gas, water, telephone services and other similar – the chargeability of the value-added tax occurs on the date of the preparation of documents by which the suppliers establish the quantities delivered and services supplied, but not later than the end of the month that follows the month during which the supply was made.

(5) In the case of the delivery of goods or the supply of services realized through a vending or gaming machine, the value-added tax becomes chargeable on the date when cash is withdrawn from the vending or gaming machine.

(6) The chargeability of the value-added tax related to amounts established as a guarantee to cover possible claims as regards the quality of construction-installation works arises on the date of the conclusion of the certificate of final commissioning or, as the case may be, on the date of the collection of such amounts, if the collection is prior to it.

#### **Art. 136. Chargeability for the import of goods**

In the case of an import of goods, the value-added tax becomes chargeable on the date when the import duty arises for such goods, according to the customs legislation in force.

### **CHAPTER VII. Base of taxation**

#### **Art. 137. Base of taxation for operations inside the country**

(1) The base of taxation of the value-added tax is the following:

- a) for deliveries of goods and supplies of services other than those provided in lett. b) and c), everything that constitutes a counterpart that has been or is to be obtained by the supplier from the purchaser, beneficiary or a third party, including the subsidies that are directly connected to the price of such operations;
- b) the acquisition prices or, in absence of them, the cost price, determined at the moment of delivery for the operations provided in art. 128, par. (3), lett. e), par. (4) and par. (5). If the goods are fixed assets, the acquisition price or cost price is to be adjusted as provided in norms;
- c) the amount of expenses effected by a taxable person for performing supplies of services for the operations provided in art. 129, par. (3).

(2) The base of taxation of the value-added tax includes the following:

- a) taxes and fees, if the law does not provide otherwise, other than the value-added tax;

- b) ancillary expenses, such as: commissions, packaging expenses, transport and insurance costs, charged to the purchaser or the customer.
- (3) The base of taxation of the value-added tax is not to include the following:
- a) rebates, refunds, discounts, and other price reductions that are granted by suppliers directly to customers;
  - b) damages-interest established by final court decisions, penalties and other amounts requested for the total or partial non-fulfillment of contractual obligations, if the amounts are imposed over the negotiated prices and/or tariffs. Not to be excluded from the base of taxation are any amounts which, in fact, represent the counter-value of goods delivered or services supplied;
  - c) interests applied for: late payments, deliveries with payment in installments, leasing operations;
  - d) the value of packaging that circulates between the suppliers of a commodity and customers, by exchange, without invoicing;
  - e) amounts paid by a supplier on behalf of his customer that are later reimbursed to such supplier;
  - f) the fee for advertising and publicity and the hotel fee that are imposed by the local public authority through the intermediation of the supplier.

**Art. 138. Adjustment of the base of taxation**

The base of taxation of the value-added tax is to be adjusted in the following situations:

- a) if fiscal invoices were issued and subsequently the operation is totally or partially cancelled, before the delivery of goods or supply of services;
- b) in the case of total or partial refusals as regards the quantity, quality or prices of goods delivered or services supplied;
- c) in the situation where price reductions provided in art. 137, par. (3), lett. a), are granted after the delivery of goods or the supply of services, as well as in the case of price increases after the delivery or supply;
- d) the counter-value of goods delivered or services supplied may not be collected due to the bankruptcy of the beneficiary; the adjustment is allowed beginning with the date of the declaration of bankruptcy;

- e) in the case where the purchasers return packaging in which the commodity is dispatched, for packaging that circulates based on invoicing.

**Art. 139. Base of taxation for import**

(1) The base of taxation for an import of goods is the customs value of the goods, determined according to the customs legislation in force, to which are added customs fees, customs commissions, excises and other fees, exclusive of the value-added tax, owed for the import of goods.

(2) The base of taxation is to include ancillary expenses, such as commissions, packaging, transport and insurance costs, that are incurred up to the first place of destination of the goods in Romania, to the extent that such expenses are not otherwise included in the base of taxation determined according to par. (1). The first place of destination of goods is the destination stipulated on the transport document or any other document that accompanies the goods when the goods enter Romania.

(3) The base of taxation for an import of goods is not to include the elements provided in art. 137, par. (3).

(4) The base of taxation for ships and aircraft is not to include:

- a) the value of repair or transformation services, for ships and aircraft that were repaired or transformed abroad;
- b) fuel and other goods, supplied from abroad, intended for use on the ship and/or aircraft.

(5) If the amount used to determine the base of taxation for an import of goods is expressed in a foreign currency, then the amount is to be converted to the national currency of Romania in accordance with the methodology used in determining the customs value of imported goods.

**CHAPTER VIII. Rates of value-added tax**

**Art. 140. Standard rate and reduced rate**

(1) The standard rate of value-added tax is to equal to 19% and is to apply to the base of taxation for any taxable operation that is not exempt from the value-added tax or that is not subject to the reduced rate of value-added tax.

(2) The reduced rate of value-added tax is to equal 9% and is to apply to the base of taxation for the following supplies of services and/or deliveries of goods:

- a) rights to admission to castles, museums, memorial houses, historical monuments, architectural and archeological monuments, zoos, botanical gardens, fairs, exhibitions;
- b) delivery of books, newspapers and magazines, school manuals, with the exception of those intended exclusively for publicity;
- c) deliveries of prostheses of any type and accessories to them, with the exception of dental prostheses;
- d) deliveries of orthopedic products;
- e) medicines for human use and veterinarian use;
- f) accommodations within the hotel sector or within sectors with a similar function, including the rental of land prepared for camping.

(3) The applicable rate of value-added tax is the rate in force on the date when the generating event for the value-added tax occurs, with the exception of the operations provided in art. 134, par. (5), and art. 135, par. (2) – (5), for which the rate in force on the date of chargeability of the tax is to apply.

(4) In the case of a change of rate, for operations provided in art. 134, par. (5), adjustments are to be made to apply the rates in force on the date of deliveries of goods or supplies of services, with the exception of operations provided in art. 135, par. (4), for which adjustments are to be made by applying the rate in force on the date of chargeability of the tax.

(5) The applicable rate for an import of goods is the rate applied within the country for the delivery of the same good.

## **CHAPTER IX. Exempt operations**

### **Art. 141. Exemptions for operations inside the country**

(1) The following operations of public interest are exempt from the value-added tax:

- a) hospital treatment, medical treatment, including veterinary treatment, and closely-related operations carried out by units authorized for such activities, regardless of the form of organization, such as hospitals, sanatoriums, rural

or urban health centers, dispensaries, medical practices and laboratories, centers for medical care and diagnosis, bases of treatment and recuperation, emergency stations and other units authorized to carry out such activities, canteens organized near such units, funeral services provided by sanitary units;

- b) supplies of services performed as part of their profession by dentists and dental technicians, as well as the delivery of dental prostheses performed by dentists and dental technicians;
- c) supplies of medical care and supervisory services performed by medical and paramedical personnel;
- d) transport of sick or injured persons in vehicles specially designed for this purpose;
- e) deliveries of organs, blood and milk, of human origin;
- f) educational activities provided by the Law on education no. 84/1995, republished, with subsequent modifications and completions, carried out by authorized units, including activities of dormitories and canteens organized in connection with such units, vocational training of adults, as well as supplies of services and the deliveries of goods closely related to such that are performed by public institutions or other entities recognized as having such an objective;
- g) supplies of services and/or deliveries of goods closely related to social assistance and/or social protection performed by public institutions or other entities recognized as having a social character; services of accommodations, meals and treatment supplied by taxable persons that carry out activity in spas, if they have concluded contracts with the National House of Pensions and Other Social Insurance Rights and their counter-value is paid based on treatment tickets;
- h) supplies of services and/or deliveries of goods closely related to the protection of children and youth performed by public institutions or other entities recognized as having a social character;
- i) supplies of services and/or deliveries of goods furnished for the collective benefit of members, in exchange for a fixed subscription fee according to the statute, by organizations without a patrimonial purpose that have an

objective of a political, trade-union, religious, patriotic, philosophical, philanthropic, ownership, professional or civic nature, as well as the objective of representing the interest of their members, on the condition that such exemption does not cause distortions of competition;

- j) supplies of services closely related to the practice of sports or physical education performed by organizations without a patrimonial purpose for persons who practice sports or physical education;
  - k) supplies of cultural services and/or deliveries of goods closely related to such services performed by public institutions, as well as operations that are within the scope of application of the tax on shows;
  - l) supplies of services and/or deliveries of goods performed by persons whose operations are exempt as provided in lett. a) and lett. f) - k) in connection with events intended to raise financial support and organized for their exclusive benefit, on the condition that such exemptions do not produce distortions of competition;
  - m) the realization, broadcasting and/or retransmission of radio programs and/or television programs, with the exception of publicity, performed by units that produce and/or broadcast audio-visual programs, as well units that have as an object of activity the broadcasting by cable of audio-visual programs;
  - n) the sale of licenses for films or programs, broadcasting rights, subscriptions to international news agencies and other similar broadcasting rights, intended for activities of radio and television, with the exception of publicity.
- (2) Other operations exempt from the value-added tax:
- a) research-development and innovation activities for the realization of the programs, subprograms and projects, as well as the actions included in the National Plan of Research-Development and Innovation in the Nucleus Programs and in Sector Plans, as provided by Government Ordinance no. 57/2002, as regards scientific research and technological development, approved with modifications and completions by Law no. 324/2003, with subsequent modifications, as well as research-development and innovation activities financed by international, regional and bilateral partnerships;

- b) deliveries of goods and supplies of services performed by individual agricultural producers and by associations of such producers without legal personality;
- c) supplies of the following financial and banking services:
  1. the granting and negotiation of credit and the management of credit by the person granting it;
  2. the granting, negotiation and taking over of credit guarantees or collateral guarantees for credit, as well as the management of credit guarantees by the person granting the credit;
  3. any operation connected with financial deposits and accounts, including any operation with payment orders, money transfers, debt instruments, credit or debit cards, checks or other payment instruments, as well as factoring operations;
  4. the issuance, transfer, and/or any other operations with domestic or foreign currency, with the exception of coins or bank notes that are collectors' items;
  5. the issuance, transfer and/or any other operations with participation titles, trade receivables, with the exception of the enforcement of such, bonds, certificates, bills, other financial instruments or other securities;
  6. the administration of common investment funds and/or common guarantee funds for receivables that are performed by any entities established for this purpose;
- d) insurance and reinsurance operations, as well as the supply of services in connection with insurance and/or reinsurance operations that are performed by persons who intermediate such operations;
- e) gambling organized by persons authorized according to law to carry out such activities;
- f) deliveries of goods or supplies of services performed by units of the penitentiary system using the labor of prisoners;
- g) construction, improvement, repair and maintenance of monuments that commemorate combatants, heroes, victims of war and of the Revolution of December 1989;

- h) river transport of persons in the Danube Delta and along the routes Orsova—Moldova Noua, Braila—Harsova, and Galati—Grindu;
  - i) delivery of objects and apparel of religious cults, the printing of cult books, theological books and books with religious content that are necessary for the practice of the religious cult, as well as the furnishing of goods that are assimilated to religious cult objects according to art. 1 of Law no. 103/1992, as regards the exclusive right of religious cults to produce cult objects, with subsequent modifications and completions;
  - j) delivery of goods to the Bank Recovery Agency as the result of the giving into payment or the auctioning of goods by the Bank Recovery Agency, with the total or partial extinguishing of the payment obligations of a debtor;
  - k) the rental or concession of immovable goods with the following exceptions:
    - 1. the operations of accommodations that are performed in the hotel sector or sectors with a similar function, including the rental of land prepared for camping;
    - 2. the services of parking vehicles;
    - 3. the rental of equipment and machinery that is affixed to immovable goods;
    - 4. the rental of safes;
  - l) deliveries of goods that were used in an exempt activity based on the present article, if the value-added tax related to such goods was not deducted, as well as deliveries of goods whose acquisition was excluded from the right of deduction according to art. 145, par. (7), lett. b).
- (3) Any taxable person may elect to tax operations provided in par. (2), lett. k), under the conditions established by norms.

#### **Art. 142. Exemptions for import**

Exempt from the value-added tax are:

- a) the import of goods whose delivery in Romania is exempt from value-added tax;
- b) the goods introduced into the country by travelers or other physical persons with domicile in the country or abroad, under the conditions and within the

limits provided according to legal regulations in force, for the customs regime applicable to physical persons;

- c) the goods imported intended for sale under a duty-free regime, as well as through shops that exclusively serve diplomatic representative offices and their personnel;
- d) the import of goods by diplomatic missions and consular offices as well as by foreign citizens with diplomatic or consular status in Romania, under conditions of reciprocity, according to procedures established by norms;
- e) the import of goods performed by representative offices of international and intergovernmental organizations accredited in Romania, as well as by foreign citizens who are employees of such organizations, within the limits and in accordance with the conditions provided in the conventions establishing such organizations, according to procedures established by norms;
- f) the import of goods by the armed forces of foreign states that are members of NATO for use by the armed forces or by the civilian personnel accompanying the armed forces or for the provisioning of their canteens, in the cases where the forces are taking part in the common defense effort;
- g) the import of carrier media, such as films, magnetic tapes and disks that have recorded on them films or programs intended for radio or television activities, with the exception of publicity;
- h) the import of goods received free of charge as assistance or donations intended for purposes with a religious, health or sanitation, state defense or national security, artistic, sport, environmental protection and amelioration, and the protection and preservation of historical and architectural monument character, under the conditions established by norms;
- i) the import of goods financed by non-repayable loans granted by foreign governments, international organizations and/or foreign or domestic non-profit organizations, under the conditions established by norms;
- j) the import of the following goods: goods of Romanian origin, foreign goods that according to law become the property of the state, goods repaired abroad or goods that replace defective goods which are returned to the foreign partners during the warranty period, goods that are returned to the

country as a result of an erroneous dispatch, equipment for environmental protection as provided by government decision.

**Art. 143. Exemptions for exports or other similar operations and for international transport**

(1) Exempt from the value-added tax are:

- a) deliveries of goods that are dispatched or transported outside the country by the supplier or by another person on his behalf;
- b) deliveries of goods that are dispatched or transported outside the country by a purchaser that is not established within the country or by another person on his behalf, with the exception of goods transported by the purchaser that are used for the equipping or provisioning of recreational boats and private aircraft or any private means of transport;
- c) supplies of services, including transport and supplies of services ancillary to transport, that are directly connected with the export of goods or with goods that are placed under customs suspension regimes, with the exception of exempt supplies of services as provided in art. 141;
- d) transport, supplies of services ancillary to transport, other services directly connected with the import of goods, if their value is included in the base of taxation of imported goods, as provided in art. 139;
- e) international transport of persons and services directly connected with such transport, including supplies of goods intended to be provided as refreshment for passengers on board a ship, aircraft, bus, or train;
- f) in the case of ships used for the international transport of persons and/or products, for fishing or other economic activity, or for rescue or assistance at sea and for warships, the following operations:
  1. delivery of fuel, equipment and other goods that are intended for incorporation or use on the ship, except for ships used for river or coastal fishing;
  2. supplies of services performed for the direct needs of the ship and/or for its cargo;
- g) in the case of aircraft that supply international transport of persons and/or products, the following operations:

1. deliveries of fuel, equipment and other goods that are intended for incorporation or use on the aircraft;
  2. supplies of services performed for the direct needs of the aircraft and/or for its cargo;
- h) supplies of services for ships under the ownership of navigation companies that carry out activities in the special maritime regime or that operate them, as well as deliveries of ships in their entirety to such companies;
  - i) deliveries of goods and supplies of services for the benefit of diplomatic missions and consular offices, their personnel, as well as foreign citizens having diplomatic or consular status in Romania, under conditions of reciprocity;
  - j) deliveries of goods and supplies of services for the benefit of representative offices of international and intergovernmental organizations accredited in Romania, as well as to foreign citizens who are employees of such organizations, within the limits and in accordance with the conditions provided in the conventions establishing such organizations;
  - k) deliveries of goods and/or supplies of services to the armed forces of foreign states that are members of NATO for use by the armed forces or by the civilian personnel accompanying the armed forces or for the provisioning of their canteens, if the forces are taking part in the common defense effort; in the case where the goods are not dispatched or transported outside the country and for supplies of services, the exemption is to be granted according to a procedure of reimbursement of the tax, as provided by an order of the Minister of Public Finance;
  - l) deliveries of goods and supplies of services financed by assistance or by non-repayable loans granted by foreign governments, international organizations, non-profit and charity organizations from abroad or within the country, including donations of physical persons;
  - m) construction, consolidation, extension, restoration or rehabilitation of buildings of religious cults or other buildings used for this purpose;
  - n) supplies of postal services performed within Romania by operators provided in Government Ordinance no. 70/2001, for the ratification of the Acts adopted at the Congress of the Universal Postal Union in Beijing (1999), as

approved by Law no. 670/2001, consisting of the taking-over and distribution of mail from abroad, including financial-postal services;

- o) services supplied by persons in Romania, on behalf of beneficiaries with establishment or domicile abroad, for imported goods that are within the guarantee period;
- p) supplies of services performed by intermediaries that act in the name of, or on behalf of, another person, when they intervene in operations provided in the present article.

(2) The documents that are required to justify the exemption from value-added tax for operations provided in par. (1) and, as the case may be, the procedures and conditions that must be satisfied for the application of exemptions from value-added tax are to be established by norms, where this is the case.

#### **Art. 144. Special exemptions related to the international traffic of goods**

(1) Exempt from the value-added tax are:

- a) delivery of goods that are placed under a customs warehouse regime;
- b) delivery of goods intended for placement in duty-free shops and in other shops located in international airports, as provided in Section 1 of Government Ordinance no. 86/2003, as regards the regulation of certain measures on financial-fiscal matters, as well as deliveries of goods performed through such shops;
- c) the following operations carried out in a free zone or a free port:
  1. the entrance of foreign goods within a free zone or a free port directly from abroad, for simple storage, without customs formalities;
  2. the commercial operation of sale-purchase of a foreign commodity between various operators from a free zone or a free port or between such operators and other persons from outside a free zone or free port;
  3. the removal of foreign goods from a free zone or free port, outside the country, without customs export declarations, where the goods are in the same state as when they were introduced into the free zone or free port;
- d) supplies of services that are directly connected with operations provided in lett. a) - c).

(2) The exemptions provided in par. (1) are not to apply to goods that are delivered for use or consumption in Romania, including in a customs warehouse, free zone or free port, or that remain in Romania upon the cessation of the situation provided in par. (1).

(3) The documents that are required to justify the exemption from value-added tax for operations provided in par. (1) and, as the case may be, the procedures and conditions that must be satisfied for the application of the exemptions from value-added tax are to be established by norms, where this is the case.

## **CHAPTER X. Regime of deductions**

### **Art. 145. Right of deduction**

(1) The right of deduction arises at the moment when the deductible value-added tax becomes chargeable.

(2) For goods imported before December 31, 2003, on the basis of a certificate of suspension of the value-added tax, issued on the basis of Law no. 345/2002, as regards the value-added tax, republished, for which the payment deadline occurs on or after January 1, 2004, the value-added tax becomes deductible on the date of actual payment.

(3) If acquired goods and services are intended for use for one's feeable operations, any taxable person registered as a payer of the value-added tax has the right to deduct:

- a) the value-added tax due or paid related to goods that were delivered or are to be delivered and for supplies of services that were supplied or are to be supplied by another taxable person;
- b) the value-added tax paid for imported goods.

(4) In addition, any taxable person registered as a payer of value-added tax is allowed the right of deduction for value-added tax as provided in par. (3), if the acquired goods or services are intended for use in the realization of the following operations:

- a) deliveries of goods and/or supplies of services that are exempt from the value-added tax, as provided in art. 143, par. (1), and art. 144, par. (1);

b) operations resulting from economic activities for which the places of deliveries/supplies are considered to be abroad, if the value-added tax would have been deductible had the operations been carried out within the country.

(5) Any taxable person registered as a payer of the value-added tax has the right to deduct the value-added tax for:

- a) operations provided in art. 128, par. (9), lett. e) and lett. f), and art. 129, par. (4), if they relate to the realization of operations provided in par. (3) and (4);
- b) operations provided in art. 128, par. (7) and (8), if the value-added tax would have applied to such transfer;
- c) operations provided in art. 128, par. (9), lett. a) – c), to the extent that they result from operations provided in par. (3) and (4);
- d) operations provided in art. 128, par. (9), lett. d).

(6) Under conditions provided by norms, the right of deduction of the value-added tax is allowed for the acquisition of goods and/or services intended for the realization of the operations provided in par. (3) – (5) performed by taxable persons before registration as a payer of the value-added tax, that do not apply the special exemption regime provided in art. 152.

(7) The value-added tax may not be deducted for the following:

- a) goods/services acquired by suppliers on behalf of customers that are subsequently reimbursed to them;
- b) alcoholic beverages and tobacco products intended for protocol actions.

(8) In order to exercise the right of deduction of value-added tax, any taxable person must justify the right of deduction, depending on the type of operation, with one of the following documents:

- a) for the value-added tax owed or paid related to goods that were delivered or are to be delivered and for supplies of services that were supplied or are to be supplied by another taxable person, with a fiscal invoice that satisfies the requirements provided in art. 155, par. (8) and that is issued in the name of the person by another taxable person registered as a payer of the value-added tax. Beneficiaries of services provided in art. 150, par. (1), lett. b), and art. 151, par. (1), lett. b), that are registered as payers of the value-added tax are to justified the tax deduction with the fiscal invoice prepared according to the provisions of art. 155, par. (4).

b) for imports of goods, with a customs import declaration or a decision issued by the customs authorities; for imports that benefit from the deferral of the payment of tax in customs, according to par. (2), the document that confirms the payment of the value-added tax is also to be presented.

(9) The norms for the application of the present title are to specify the situations when a document other those provided in par. (8) may be used to justify the right of deduction of value-added tax.

(10) In situations specified in art. 138, as well as in other cases specified in norms, the deducted value-added tax may be adjusted. The adjustment procedure is to be established by norms.

(11) Any taxable person that applies the special exemption regime provided in art. 152 and that subsequently applies the normal regime of value-added tax has the right of deduction of value-added tax on the date of registration as a payer of value-added tax, if the conditions provided in par. (12) are satisfied, for the following:

- a) goods in the nature of inventory, according to accounting regulations, that are in the inventory on the date when the respective person was registered as a payer of the value-added tax;
- b) goods in the nature of fixed assets that were acquired no more than 90 days before the date of the registration as a payer of the value-added tax.

(12) For the exercise of the right of deduction provided in par. (11), the following conditions must be satisfied:

- a) the respective goods are to be used for operations with right of deduction;
- b) the taxable person must hold a fiscal invoice or other legally approved document that justifies the amount of value-added tax related to the acquired goods.

(13) The value-added tax related to acquired goods or services that are intended for the realization of own investment objectives or inventory with special destination and that are financed from the state budget or local budgets is to be deducted according to the legal provisions. The deducted value-added tax for the realization of own investment objectives may be used only to complete the investment objective. The amounts deducted during the fiscal year for own investment objectives may be used only for payments related to such

investment objective. Upon completion of the financial exercise, the amounts deducted and not used are to be remitted to the state budget or the local budgets in the accounts and on the terms provided by the annual methodological norms regarding the completion of the financial-budget and the financial-accounting exercise, issued by the Ministry of Public Finance.

**Art. 146. Fiscal period**

(1) The fiscal period for the value-added tax is the calendar month.

(2) By way of derogation from the provisions of par. (1), for taxable persons that during the preceding year have not exceeded a turnover from feeable operations and/or exempt operations with right of deduction of 100,000 euro, inclusively, computed using the exchange rate for foreign currency from the last working day of the preceding year, the fiscal period is the calendar quarter.

(3) Taxable persons that are included in the provisions of art. (2) are required to submit to the territorial fiscal organ by January 25<sup>th</sup> a declaration that specifies the turnover for the preceding year.

(4) Taxable persons that are established during the course of a year are required to declare the turnover that is estimated to be realized during the year on the occasion of the fiscal registration; if such turnover does not exceed 100,000 euro, inclusively, they are required to submit quarterly declarations for the year of establishment. If the turnover obtained during the year of establishment is more than 100,000 euro, the fiscal period is the calendar month in the following year, according to par. (1), if the turnover obtained is not more than 100,000 euro, inclusively, the fiscal period is the quarter; thereafter the taxable person is to comply with the provisions of par. (3).

**Art. 147. Deduction of tax for taxable persons with a mixed regime**

(1) Any taxable person registered as a payer of the value-added tax that carries out, or that is to carry out, both operations that allow the right of deduction and operations that do not allow the right of deduction is hereafter referred to as a *payer of the value-added tax with a mixed regime*.

(2) The right of deduction of the value-added tax related to goods and services that are acquired by any payer of the value-added tax with a mixed regime is to be determined according to the present article.

(3) Acquisitions of goods and services that are intended exclusively to carry out operations that allow the right of deduction, including investments that are intended to carry out such operations, are to be mentioned in a purchase journal that is to be prepared separately for such operations and the value-added tax related to such is to be entirely deducted.

(4) Acquisitions of goods and services that are intended exclusively to carry out operations that do not allow the right of deduction, as well as investments that are intended to carry out such operations, are to be mentioned in a purchase journal that is to be prepared separately for such operations and the value-added tax related to such is not to be deducted.

(5) Goods and services for which the destination is not known at the moment of the acquisition, respectively if they are to be used to carry out operations that allow the right of deduction or operations that do not allow the right of deduction, or for which it is not possible to determine to what extent they are used or are to be used for operations that allow the right of deduction and operations that do not allow the right of deduction, are to be mentioned in a purchase journal that is to be prepared separately. The value-added tax related to such acquisitions is to be deducted based on pro rata. As an exception, in the case of acquisitions that are intended to carry out investments that are forecasted to be used to carry out both operations that allow the right of deduction and operations that do not allow the right of deduction, the entire deduction of the value-added tax during the investment process is allowed and subsequently the deducted tax is to be adjusted in accordance with a procedure established by norms.

(6) During a fiscal year, the rectification of the tax deducted related to acquisitions of goods/services that are subsequently discovered to have been used for a destination other than that provided on the date of acquisition is allowed. The rectification is to be mentioned on the rectification rows on the declaration of the value-added tax.

(7) Pro rata is to be determined as a ratio between: incomes obtained from operations that allow the right of deduction, including subsidies directly

connected to their price, as the numerator, and, as the denominator, incomes from the numerator plus incomes obtained from operations that do not allow the right of deduction. In the computation of pro rata, to the denominator is to be added allocations, subsidies or other amounts received from the state budget or local budgets for the purpose of financing activities that are exempt without the right of deduction or that are not within the scope of application of the value-added tax. Financial incomes are excluded from the computation of pro rata if they are ancillary to the principal activity. Services performed by suppliers established abroad, as defined in art. 151, par. (2), for which the beneficiaries are required to pay the value-added tax, are not included in the computation of pro rata. Pro rata is to be determined on an annual basis, and in this case elements included in the denominator and numerator are to be determined cumulatively for the entire fiscal year. As an exception, it may be determined on a monthly or quarterly basis, as the case may be, according to art. (13), and in this case elements included in the denominator and the numerator are those that are actually realized during each month, respectively, quarter.

(8) Pro rata temporarily applicable for a year is either final pro rata determined for the preceding year or an estimated pro rata based on operations forecasted to be carried out during the current year. Taxable persons are required to communicate the level of the temporary pro rata applied, as well as the manner of determining such pro rata, to the territorial fiscal organ at the beginning of each fiscal year, not later than January 25<sup>th</sup>. The value-added tax to be deducted is to be determined by applying the temporary pro rata to the deductible value-added tax related to acquisitions intended for carrying out both operations that allow the right of deduction and those that do not allow the right of deduction, determined according to par. (5).

(9) Taxable persons that have not determined the temporary pro rata at the beginning of the year because they did not carry out and did not forecast the carrying out of operations without the right of deduction during such year and that subsequently carry out such operations are not required to calculate and use temporary pro rata. During the course of the year, the entire deduction of the value-added tax is allowed. By the end of the year, the following rules are to apply:

- a) if they can separate the acquisitions of goods/services by destinations provided in par. (3) – (5), they are to rectify as follows: the tax to be deducted as results from the application of final pro rata for acquisitions intended for carrying out both operations with right of deduction and operations without right of deduction, determined according to par. (5), and/or the tax related to goods/services intended exclusively for operations with right of deduction, determined according to par. (3), are to be subtracted from the tax deducted during the course of the year, and the resulting difference is to be mentioned on a distinct row on the declaration for the last fiscal period of the year, as a tax payable to the state budget;
- b) if they cannot separate by destinations according to lett. a), the final pro rata is to be applied to all acquisitions of goods and services made during such year and the resulting difference is to be mentioned on a distinct row on the declaration for the last fiscal period of the year.

(10) Final pro rata is to be determined in the month of December based on the actual results during the year, according to the computation formula provided in par. (7).

(11) The rectification of deductions operated after the temporary pro rata is to be made by applying the final pro rata to the amount of the deductible value-added tax related to acquisitions provided in par. (5). The positive or negative difference in comparison to the deducted tax according to the temporary pro rata is to be mentioned on a distinct row on the declaration for the last fiscal period.

(12) In special cases, when the pro rata calculated according to provisions of the present article do not ensure the correct determination of the tax to be deducted, the Ministry of Public Finance, by the specialized directorate, may approve the application of a special pro rata, upon the request of such taxable persons, based on the justification presented. If the approval was granted during the course of the year, taxable persons are required to re-compute the deducted value-added tax from the beginning of the year based on the special pro rata approved. Payers of the value-added tax with the mixed regime may renounce the application of the special pro rata only at the beginning of a calendar year and are required to inform the fiscal organs.

(13) By a justified application of the taxable person, the fiscal organs where they are registered as payers of the value-added tax may approve the determination of pro rata on a monthly or quarterly basis, as the case may be. During the year when the approval was granted, taxable persons are required to re-compute the deducted value-added tax from the beginning of the year based on monthly or quarterly pro rata. Payers of the value-added tax with the mixed regime may renounce the application of the monthly or quarterly pro rata only at the beginning of a fiscal year and are required to inform the fiscal organs. Monthly or quarterly pro rata actually realized is final and is not to be rectified at the end of the year.

**Art. 148. Determination of tax payable or negative amount of tax**

(1) In the case where the value-added tax related to goods and services acquired by a taxable person, that is deducted during a fiscal period, is more than the collected value-added tax, related to feeable operations, then a surplus results in the reporting period, which is hereafter referred to as *the negative amount of value-added tax*.

(2) In the case where the value-added tax related to feeable operations, chargeable during a fiscal period, referred to as *collected tax*, is more than the value-added tax related to acquired goods or services, deducted in such fiscal period, then a difference results referred to as *the value-added tax payable for the fiscal period of reporting*.

**Art. 149. Rectification and reimbursement of tax**

(1) After the determination of the tax payable or the negative amount of value-added tax for operations in the fiscal period of reporting, the taxable person must perform the rectification provided by the present article through the declaration of value-added tax.

(2) The cumulative negative amount of value-added tax is to be determined by adding to the negative amount of value-added tax, resulting from the fiscal period of reporting, the balance of the negative amount of value-added tax carried over from the declaration of the preceding fiscal period, if reimbursement was not requested.

(3) The cumulative value-added tax payable, in the fiscal period of reporting, is to be determined by adding to the value-added tax payable from the fiscal period of reporting the amounts not paid to the state budget by the date of submission of the declaration of value-added tax from the balance of the value-added tax payable for the preceding fiscal period.

(4) Through the declaration of value-added tax, taxable persons must determine the differences between the amounts provided in par. (2) and (3), which represent rectification of tax and establish the balance of value-added tax payable or the balance of the negative amount of value-added tax. If the cumulative value-added tax payable is more than the cumulative negative amount of value-added tax, it results in a balance of value-added tax payable in the fiscal period of reporting. If the cumulative negative amount of value-added tax is more than the cumulative value-added tax payable, it results in a balance of a negative amount of value-added tax in the fiscal period of reporting.

(5) Taxable persons registered as payers of the value-added tax may request the reimbursement of the balance of the negative amount of value-added tax from the fiscal period of reporting, by marking the proper box in the declaration of value-added tax for the fiscal period of reporting, the declaration being the application for reimbursement, or may carry over the balance of the negative amount to the declaration of the following fiscal period. If a taxable person requests the reimbursement of the balance of the negative amount of value-added tax, such amount is not to be carried over to the following fiscal period. The reimbursement of the balance of the negative amount of value-added tax for the fiscal period of reporting may not be requested if it is less than ROL 50 million, inclusively, such balance being carried over obligatorily to the declaration of the following fiscal period.

(6) In the case of legal persons that divide or are absorbed by another taxable person, the balance of the negative amount of value-added tax for which reimbursement has not been requested is to be taken over in the declaration of the person that takes over the activity.

(7) In the case where two or more taxable legal persons merge, the taxable person that takes over the activity is to also take over the balance of the value-added tax payable to the state budget as well as the balance of the negative

amount of value-added tax for which no reimbursement was requested, from the declarations of persons that liquidated on the occasion of the merge.

(8) The reimbursement of the balance of the negative amount of value-added tax is to be performed by the fiscal organs under the conditions and according to the procedures provided by procedural norms in force.

(9) For operations exempt from value-added tax with right of deduction as provided in art. 143, par. (1), lett. b), e), and lett. i) – m), persons that are not registered as payers of the value-added tax may benefit from the reimbursement of the value-added tax, according to procedures provided by norms.

## **CHAPTER XI. Payers of value-added tax**

### **Art. 150. Payers of value-added tax**

(1) For operations from inside the country, payers of the value-added tax are:

- a) taxable persons registered as payers of the value-added tax, for feeable operations carried out;
- b) beneficiaries of feeable supplies of services, performed by taxable persons established abroad, as provided in art. 133, par. (2), lett. c), regardless whether the beneficiaries are registered or not as payers of value-added tax.

(2) For the import of goods, payers of the value-added tax are persons that import goods to Romania. Physical persons owe the value-added tax for goods introduced into the country, according to the customs regulations applicable to them.

### **Art. 151. Rules applicable in the case of a taxable person that is established abroad**

(1) If a taxable person established abroad carries out feeable supplies of services for which the place of supply is considered to be in Romania, other than those provided in art. 150, par. (1), lett. b), the following apply:

- a) the supplier may appoint a fiscal representative in Romania that is required to satisfy, on behalf of the person established abroad, all of the obligations provided in the present title, including the obligation to request a fiscal

registration for purposes of the value-added tax on behalf of the person established abroad;

b) in the case where the person established abroad does not appoint a fiscal representative in Romania, the beneficiary of the services owes the value-added tax on behalf of the supplier.

(2) *A taxable person established abroad* is any person that carries out economic activities of the nature of those provided in art. 127, par. (2) and that does not have in Romania a site of economic activity, fixed domicile or a permanent establishment from which services are supplied or deliveries are made.

(3) In case of feeable deliveries of goods for which the place of delivery is considered to be in Romania, performed by persons established abroad, such persons are required to appoint a fiscal representative in Romania.

(4) Taxable persons established abroad that carry out exempt operations with right of deduction in Romania have the right to appoint a fiscal representative for such operations.

(5) The procedure to appoint a fiscal representative for the value-added tax is to be established by norms.

## **CHAPTER XII. Special exemption regime**

### **Art. 152. Scope of application and rules for special exemption regime**

(1) Taxable persons whose annual turnover, declared or realized, is less than the threshold of ROL 2 billion, hereafter referred to as the exemption threshold, are exempt from value-added tax, but they may elect the application of the normal regime of value-added tax.

(2) Newly established taxable persons may benefit from the application of the special exemption regime if they declare that they will realize an estimated annual turnover of up to ROL 2 billion, inclusively, and they do not elect the application of the normal regime of value-added tax. Taxable persons registered for fiscal purposes that subsequently carry out operations under the exemption threshold provided in par. (1) are considered to be under the special exemption regime, if they do not elect the application of the normal regime of value-added tax.

(3) Taxable persons that during a fiscal year exceed the exemption threshold are required to request registration as a payer of the value-added tax under the normal regime, within 10 days after the date of exceeding the threshold. For newly established persons, the fiscal year is the period of the calendar year, expressed in calendar months, between the registration date and the end of the year. Fractions of a month are to be considered a full calendar month. Persons that are under the special exemption regime must maintain records of the deliveries of goods and supply of services that are subject to the present article, with the assistance of the sales journal. The date of exceeding the threshold is considered to be the end of the calendar month in which the threshold is exceeded. Until the date of registration as a payer of the value-added tax under the normal regime, the regime of exemption from the value-added tax is to apply. In cases where it is discovered that a person was late in requesting status as a payer of value-added tax under the normal regime, the fiscal authorities are entitled to request the payment of value-added tax for the period between the date when the person was required to request registration as a payer of the value-added tax under the normal regime and the date when the registration becomes effective, according to procedures provided by norms.

(4) After exceeding the exemption threshold, taxable persons may not request the application of the special regime, even if subsequently they realize annual turnover of less than the exemption threshold provided by law.

(5) The exemption provided by the present article is to apply to deliveries of goods and supplies of services that are carried out by taxable persons provided in par. (1).

(6) The turnover that serves as a reference for the application of par. (1) is the amount, exclusive of value-added tax, of feeable deliveries of goods and feeable supplies of services, including exempt operations with right of deduction, according to art. 143 and art. 144.

(7) Taxable persons that are exempt according to the provisions of the present article have no right of deduction, according to art. 145, and may not mention the value-added tax on their invoices. In the case where they are beneficiaries of supplies of services provided in art. 150, par. (1), lett. b), and art. 151, par.

(1), lett. b), the taxable persons are required to satisfy the obligations provided in art. 155, par. (4), art. 156, and art. 157.

### **CHAPTER XIII. Obligations of payers of value-added tax**

#### **Art. 153. Registration of payers of value-added tax**

(1) Any taxable person must declare the inception, change and termination of his activity as a taxable person. The conditions when a taxable person is to register as a payer of the value-added tax are provided in legislation regarding the fiscal registration of payers of taxes and fees.

(2) Any taxable person registered as a payer of the value-added tax that exclusively carries out operations that do not allow the right of deduction must request to be removed from the records as a payer of the value-added tax.

(3) Any taxable person registered as a payer of the value-added tax must request to be removed from the records as a payer of the value-added tax in the case of termination of activity, within 15 days after the date of the act that indicates such case. The value-added tax payable to the state budget must be paid before removal from the records as a payer of the value-added tax, with the exception of the case where such activity has been taken over by another taxable person registered as a payer of the value-added tax.

#### **Art. 154. Definition of associations from viewpoint of value-added tax**

For purposes of the value-added tax, an association or other organization that is not a legal person is considered a separate taxable person for those economic activities carried out by the associates or partners on behalf of such association or organization, with the exception of associations in participation.

#### **Art. 155. Fiscal invoices**

(1) Any taxable person registered as a payer of the value-added tax is required to issue a fiscal invoice for deliveries of goods or supplies of services performed, to each beneficiary. Taxable persons that are not registered as payers of the value-added tax do not have the right to issue fiscal invoices and are not to mention value-added tax for deliveries of goods and/or supplies of services

performed to other persons, in the documents issued by them. The norms are to establish the cases when a fiscal invoice may also be issued by a person other than the person that performs a delivery of goods.

(2) For deliveries of goods, the fiscal invoice is to be issued on the date of delivery of goods, and, for supplies of services, at the latest by the 15<sup>th</sup> day of the month that follows the month in which the supply was performed.

(3) For goods delivered with an accompanying document, the fiscal invoice must be issued within 5 working days of the date of delivery, without exceeding the end of the month in which the delivery took place.

(4) For supplies of services performed by suppliers established abroad, for which the beneficiaries are required to pay the value-added tax, if the latter of them are registered as payers of the value-added tax, such persons are required to self-invoice such operations by issuing a fiscal invoice on the date of receipt of the invoice of the supplier or on the date of the actual payment to the supplier, in the case where the supplier's invoice has not been received by such date. For foreign leasing operations, the self-invoicing is to be made by the beneficiaries in Romania, that are registered as payers of the value-added tax, on the date established by contract for the payment of lease installments and/or on the date of advance payments. Persons that are not registered as payers of the value-added tax are to follow the procedure provided in art. 156, par. (3). The fiscal regime for self-invoicing is to be established by norms.

(5) For deliveries of goods and supplies of services that are performed on a continuous basis, such as electric energy, thermal energy, natural gas, water, telephone service and other services, the fiscal invoice must be issued on the date that the value-added tax becomes chargeable, with the exceptions provided in other normative acts.

(6) In the case of operations of domestic leasing, rental operations, concessions or rentals of goods, the fiscal invoice must be issued on each date specified in the contract for the payment of installments, rents or royalties, as the case may be. In the case of the collection of payments in advance of the date provided in the contract, the fiscal invoice is to be issued on the date of the collection of the advance payment.

(7) If the payment for feeable operations is collected before the goods are delivered or before the supply of services are completed, the fiscal invoice must be issued within 5 working days of each date when an advance payment is collected, without exceeding the end of the month in which the payment was collected.

(8) The fiscal invoice must include the following information:

- a) the series and number of the invoice;
- b) the date of issuance of the invoice;
- c) the name, address and fiscal registration code of the person that issues the invoice;
- d) the name, address and fiscal registration code, as the case may be, of the beneficiary of the goods or services;
- e) the denomination and the quantity of the goods delivered, the denomination of services performed;
- f) the value of the goods or services, excluding the value-added tax;
- g) the rate of value-added tax or the notation *exempt with right of deduction*, *exempt without right of deduction*, *nontaxable*, or *not included in the base of taxation*, as the case may be;
- h) the amount of the value-added tax, for feeable operations.

(9) By way of derogation from par. (1), taxable persons registered as payers of the value-added tax are not required to issue a fiscal invoice for the following operations, except if the beneficiary requests a fiscal invoice:

- a) the transport of persons by taxi, as well as the transport of persons based on travel tickets or subscriptions;
- b) deliveries of goods by stores at retail and supplies of services to the general population, as noted in documents without naming the purchaser;
- c) deliveries of goods and supplies of services as noted in specific documents approved by law.

#### **Art. 156. Records of taxable operations and submission of declaration**

(1) Taxable persons registered as payers of the value-added tax have the following obligations as regards the records of taxable operations:

- a) to maintain accounting records according to law, so that they may determine the base of taxation and the collected value-added tax for deliveries of goods and/or supplies of services performed, as well as the deductible value-added tax related to acquisitions;
- b) to ensure the necessary conditions for the issuance of documents, data processing and the keeping of records as provided by the rules in the domain of value-added tax;
- c) to furnish the fiscal organs with all necessary justifications in order to determine the operations performed both at the principal establishment and at sub-units;
- d) to keep separate records of incomes and expenses resulting from the operations of associations in participation. The legal rights and obligations regarding the value-added tax are to be held by the associate that maintains the accounting records of incomes and expenses, according to the contract concluded between the parties. At the end of the accounting period, incomes and expenses, registered based on their nature, are to be transmitted based on a return to each associate, in order to register such amounts in their own accounting system. Amounts paid between parties without observing this provision are subject to value-added tax at the rates provided by law.

(2) Persons registered as payers of the value-added tax must prepare and submit a declaration of value-added tax, according to the model established by the Ministry of Public Finance, to the competent fiscal organ, for each fiscal period, on or before the 25<sup>th</sup> day of the month that follows such fiscal period. Operations provided in art. 150, par. (1), lett. b), and art. 151, par. (1), lett. b), are to be recorded in the declaration of value-added tax both as collected tax and deductible tax. For payers of value-added tax within the mixed regime, the provisions of art. 147 are to apply in determining the deductible tax.

(3) Persons not registered as payers of the value-added tax that are beneficiaries of operations provided in art. 150, par. (1), lett. b), and art. 151, par. (1), lett. b), must prepare a special declaration of value-added tax, according to the model established by the Ministry of Public Finance, which is to be submitted to the competent fiscal organ only when they are carrying out such operations. The declaration is to be submitted by the 25<sup>th</sup> day of the month that

follows the month in which the invoice of the supplier is received or the date when the payment was made to the supplier, in the case of payments without an invoice. For foreign leasing operations, the special declaration is to be submitted by the 25<sup>th</sup> day of the month that follows the month provided by contract for the payment of leasing installments and/or the month in which advance payments were made.

**Art. 157. Payment of value-added tax to the budget**

(1) Persons required to pay the value-added tax must pay the value-added tax that is owed, as established by the declaration prepared for each fiscal period or by the special declaration, by the date that they are required to submit such declarations, according to art. 156, par. (2) and (3).

(2) The value-added tax for the import of goods, with the exception of those that are exempt from the value-added tax, is to be paid to the customs organ, in accordance with rules in force for the payment of import duties.

(3) By way of derogation from par. (2), the actual payment of the value-added tax is not to be made to the customs organs by a person registered as a payer of the value-added tax that has obtained a certificate of exoneration provided in par. (4), for the following:

- a) the import of industrial machines, technological equipment, installations, equipment, measurement and control devices, automations, intended to carry out investments, as well as the import of agricultural machines and transportation means intended to carry out productive activities;
- b) the import of raw materials and consumable materials that are not produced or that are insufficient in the country, as provided by norms, and that are intended for use within the economic activity of the person that carries out the import.

(4) Taxable persons registered as payers of the value-added tax that carry out imports of the nature of those provided in par. (3) must request the issuance of a certification of exoneration from the payment in customs of value-added tax, to be issued by the competent fiscal organs. The request for the issuance of such a certificate may be made only by a person that does not have outstanding budget obligations, including taxes, fees, contributions, including individual

contributions of employees and any other budget revenues, with the exception of those deferred and/or payable in installments. Based on the certificate presented by the importer, the customs organs are required to release the goods for import. The procedure for the granting of the certificate of exoneration from the payment in customs of value-added tax is to be established by norms.

(5) Importers that obtain a certificate of exoneration from the payment in customs of value-added tax are to record the value-added tax related to imported goods in the declaration of value-added tax both as collected tax and deductible tax. For payers of the value-added tax within the mixed regime, the provisions of art. 147 are to apply in determining the deductible tax.

#### **Art. 158. Responsibilities of payers and fiscal organs**

(1) Any person required to pay value-added tax is responsible for the correct computation and payment within the legal deadline of the value-added tax to the state budget and for the submission within the legal deadline of declarations of value-added tax, as provided in art. 156, par. (2) and (3), to the competent fiscal organ, according to the present title and the customs legislation in force.

(2) The value-added tax is to be administered by the fiscal organs and the customs authorities, based on their competencies as provided in the present title, the procedural norms in force and the customs legislation in force.

### **CHAPTER XIV. Common provisions**

#### **Art. 159. Fiscal documents**

The model and the content of fiscal invoice forms or other legally approved documents, purchase journals, sales journals, daily sale/purchase bills and other documents necessary in order to apply the provisions of the present title are to be established by the Ministry of Public Finance and are mandatory for the payers of value-added tax.

#### **Art. 160. Correction of documents**

(1) In order to correct information contained on fiscal invoices or other legally approved documents, the following are to be done:

- a) in the case where the document has not been transferred to the beneficiary, such document is to be cancelled and a new document is to be issued;
- b) in the case where the document has been transferred to the beneficiary, a new document is to be issued that must include, on the one hand, information from the initial document, the number and date of the corrected document, the values with a minus sign, and, on the other hand, information and correct values. Such documents are to be recorded in the sales journal, respectively the purchase journal, and are to be taken over in the declarations prepared by the supplier and respectively by the beneficiary, for the period during which the correction took place.

(2) In the cases provided in art. 138, suppliers of goods and/or suppliers of services must issue fiscal invoices or other legally approved documents, with the values recorded with a minus sign when the base of taxation is diminished, or, as the case may be, without a minus sign if the base of taxation is increased, which are also to be transferred to the beneficiary. Such documents are to be registered in the sales journal, respectively the purchase journal, and are to be taken over in the declarations prepared by the supplier and respectively by the beneficiary, for the fiscal period in which the adjustment was effected.

## **CHAPTER XV. Transitional provisions**

### **Art. 161. Transitional provisions**

(1) Operations performed before the date of entry into force of the present title on the basis of contracts that are being carried out are subject to the provisions of the present title, with the exceptions provided in the present article. In the case of public institutions, credit holders are required to ensure the funds necessary for the payment of the value-added tax in cases where such operations are no longer exempt from the value-added tax or in cases where the rate of value-added tax changes.

(2) Certificates for the postponement of the chargeability of the value-added tax, issued on the basis of art. 17 of Law no. 345/2002, as regards the value-added tax, republished, remain valid until the date of expiration of the periods for which they were granted.

(3) Certificates for the suspension of the payment of value-added tax in customs, issued on the basis of art. 29, lett. D. c) of Law no. 345/2002, as regards the value-added tax, republished, are not valid for imports performed after January 1, 2004, inclusively. Imports performed before December 31, 2003, inclusively, on the basis of a certificate of suspension of the payment of tax in customs, are subject to the fiscal regime of the date when such import was performed, the payment of the value-added tax is to be made to the fiscal organ by the deadline for which the suspension was allowed.

(4) Norms are to establish various rules for the operations of inter-mediation in tourism, the sale of second-hand goods, operations carried out by pawnshops.

(5) In the case of any normative act that is in force on the date of the entry into force of the present code and that provides for the application of a zero rate of value-added tax to an operation, for purposes of the present code, such operation is to be considered an exempt operation with right of deduction.

(6) Constructions of dwellings carried out by the National Agency for Dwellings, based on firm contracts concluded with construction companies on or before May 31, 2002, benefit from an exemption with right of deduction of value-added tax until the completion of the construction, according to contractual terms, including those introduced by additional acts imposed by justified technical cases.

(7) The references to the value-added tax in the normative acts provided in lett. a) – q) remain in force until December 31, 2006, with the exception of cases where the normative act provides for the application of such provisions for a limited period of time, in which case the provisions are to apply for the period provided in the normative act, on the condition that such period does not exceed December 31, 2006:

- a) art. 6, lett. b) and c) of Government Ordinance no. 116/1998, as regards the establishment of the special regime for the activity of international maritime transport, published in the Official Gazette of Romania, Part I, no. 326 of August 29, 1998, with subsequent modifications;
- b) lett. a), b), and f) of Appendix no. 1 of Government Decision no. 445/1999, as regards the granting of facilities and the conditions for the realization of the investment in company “Automobile Dacia” - S.A., published in the

Official Gazette of Romania, Part I, no. 260 of June 7, 1999, with subsequent modifications;

- c) art. 2 of Government Emergency Ordinance no. 50/2000, to repeal Government Emergency Ordinance no. 67/1999, as regards certain measures for the development of economic activity, published in the Official Gazette of Romania, Part I, no. 208 of May 12, 2000, approved by Law no. 302/2001, with subsequent modifications;
- d) art. 7 of Government Ordinance no. 131/2000, as regards the establishment of certain measures to facilitate the operation of ports, republished in the Official Gazette of Romania, Part I, no. 750 of October 15, 2002, with subsequent modifications;
- e) Law no. 423/2001, for the support of the fishing sector in the Black Sea, published in the Official Gazette of Romania, Part I, no. 406 of July 23, 2001;
- f) art. 2 and art. 3 of Government Emergency Ordinance no. 247/2000, as regards the exemption from the payment of customs duties for imports necessary for “Capital repair with modernization for increasing the safe operation and capacity of Hydro-Electric Power Plant Portile de Fier I”, published in the Official Gazette of Romania, Part I, no. 636 of December 7, 2000, approved by Law no. 251/2001, with subsequent completions;
- g) Government Emergency Ordinance no. 125/2001, as regards certain measures for the performance of rehabilitation works of Group no. 1 of 210MW of Thermal Power Plant Mintia - Deva, published in the Official Gazette of Romania, Part I, no. 659 of October 19, 2001, approved by Law no. 119/2002;
- h) art. 12, 13 and 14 of Government Emergency Ordinance no. 119/2001, as regards certain measures for the privatization of company “Sidex” - S.A. Galati, published in the Official Gazette of Romania, Part I, no. 627 of October 5, 2001, with subsequent modifications and completions;
- i) art. 41, par. (2), and art. 70, par. (7), in Law on library no. 334/2002, published in the Official Gazette of Romania, Part I, no. 422 of June 18, 2002;
- j) art. 1 of Law no. 192/2002, as regards the exemption from the payment of import duties for goods provided or directly financed from non-reimbursable

- loans of NATO, published in the Official Gazette of Romania, Part I, no. 273 of April 23, 2002;
- k) art. 38, par. (1), lett. c) of Government Emergency Ordinance no. 102/1999, as regards the special protection and employment of handicapped persons, published in the Official Gazette of Romania, Part I, no. 310 of June 30, 1999, approved with modifications and completions by Law 519/2002, with subsequent modifications;
  - l) Government Emergency Ordinance no. 4/2002, as regards the deferral of the payment in customs of value-added tax related to the import of goods performed by the firm Bombardier Transportation Sweden AB, as well as the deferral of the chargeability of value-added tax related to the deliveries of goods and/or the supplies of services performed by Romanian legal persons to such firm for the assembly of 18 new metro trains, published in the Official Gazette of Romania, Part I, no. 60 of January 28, 2002, approved by Law no. 250/2002;
  - m) Government Emergency Ordinance no. 52/2002, as regards the deferral of the payment in customs of value-added tax related to the import of goods performed by the National Company of Railway Transportation, "C.F.R. Calatori" – S.A., as well as the deferral of the chargeability of value-added tax related to the deliveries of goods and/or the supplies of services performed by Romanian legal persons for the realization of the Project for the modernization and general repair of 100 railway passenger wagons by the firm "Alstom – De Dietrich Feroviaire" of France, financed by a credit from the European Bank for Reconstruction and Development and the Bank "Paribas" – France, contracted with a state guarantee, published in the Official Gazette of Romania, Part I, no. 299 of May 7, 2002, approved by Law no. 441/2002;
  - n) Government Emergency Ordinance no. 24/2003, as regards the suspension of the payment of value-added tax to customs organs for imported equipment intended for the Foreign Information Services and Special Telecommunication Services, published in the Official Gazette of Romania, Part I, no. 266 of April 16, 2003, approved by Law no. 317/2003;

- o) Government Emergency Ordinance no. 47/2003, for the suspension of the payment of value-added tax to customs organs for imported equipment intended for the Ministry of Interior, published in the Official Gazette of Romania, Part I, no. 433 of June 19, 2003, approved by Law no. 465/2003;
- p) Government Emergency Ordinance no. 49/2003, as regards the suspension of the payment of the value-added tax to customs organs for imported equipment intended for the Ministry of Foreign Affairs, published in the Official Gazette of Romania, Part I, no. 441 of June 23, 2003, approved by Law no. 447/2003;
- q) Government Emergency Ordinance no. 79/2003, as regards the suspension of the payment of the value-added tax to customs organs for imported equipment intended for the Protection and Guard Services, published in the Official Gazette of Romania, Part I, no. 666 of September 19, 2003, approved by Law no. 489/2003.

## TITLE VII. EXCISES

### CHAPTER I. Harmonized excises

#### Section 1. General provisions

##### Art. 162. Scope of application

The harmonized excises are special consumption fees that are payable to the state budget for the following products derived from domestic production or from import:

- a) beer;
- b) wines;
- c) fermented beverages other than beer and wines;
- d) intermediate products;
- e) ethyl alcohol;
- f) tobacco products;
- g) mineral oils.

##### Art. 163. Definitions

The following definitions are used for purposes of the present title:

- a) *excisable products* - are products provided in art. 162;
- b) *production of excisable products* - means any operation by which these products are produced, processed or modified in any manner;
- c) *fiscal warehouse* - is a place under the control of the competent fiscal authorities where excisable products are produced, transformed, held, received or dispatched under a suspension regime, by the authorized warehouse-keeper, in carrying out its activity, under certain conditions provided by the present title and by norms;
- d) *customs warehouse* - is a place approved by the customs authorities according to the customs code of Romania;
- e) *authorized warehouse-keeper* - is a physical or legal person authorized by the competent fiscal authority, in the exercise of its activity, to produce,

transform, hold, receive and dispatch excisable products within a fiscal warehouse;

- f) *suspension regime* - is a fiscal regime according to which the payment of excises is suspended for the period of production, transformation, holding and movement of products;
- g) *accompanying administrative document* for goods – DAI - is a document that must be used when moving excisable products under a suspension regime;
- h) *C.N. code* means the tariff position, tariff sub-position or tariff code, according to the Combined Nomenclature from the Customs Import Tariffs of Romania valid for the year 2003.

#### **Art. 164. Generating event**

The products provided in art. 162 are subject to excises at the moment of their production in Romania or at the moment of their import to the country.

#### **Art. 165. Chargeability**

The excise is chargeable at the moment of release for consumption or when losses or shortages of excisable products are discovered.

#### **Art. 166. Release for consumption**

(1) For purposes of the present title, *release for consumption* means:

- a) any exit of excisable products from a suspension regime;
- b) any production of excisable products outside a suspension regime;
- c) any import of excisable products, if the excisable products are not placed under a suspension regime;
- d) the use of excisable products within a fiscal warehouse, other than as a raw material;
- e) any holding outside a suspension regime of excisable products that have not been introduced in the excise system, in accordance with the present title.

(2) The movement of excisable products from a fiscal warehouse under the conditions provided in section 5 of the present title and according to the norms is not considered a release for consumption if the movement is to:

- a) another fiscal warehouse in Romania, authorized for the respective excisable products;
- b) another state.

**Art. 167. Import**

(1) For purposes of the present title, *import* means any entry of excisable products into Romania, except for:

- a) the placement of imported excisable products under a customs suspension regime in Romania;
- b) the destruction of excisable products under the supervision of the customs authorities;
- c) the placement of excisable products in free zones, under the conditions provided in the customs legislation in force.

(2) The following are also considered to be an import:

- a) the removal of an excisable product from a customs suspension regime, in cases where the product remains in Romania;
- b) the use for personal purposes in Romania of excisable products placed under a customs suspension regime;
- c) the occurrence of any other event that generates an obligation to pay customs import duties.

(3) The provisions of customs legislation are to apply to the import of excisable products.

**Art. 168. Production and holding under a suspension regime**

(1) The production of excisable products outside a fiscal warehouse is prohibited.

(2) The holding of an excisable product outside a fiscal warehouse is prohibited, if the excise for such product has not been paid.

(3) The provisions of par. (1) and (2) are not to apply for beer, wines and fermented beverages, other than beer and wines, produced in individual households for own consumption.

## **Section 2. Excisable products**

### **Art. 169. Beer**

(1) For purposes of the present title, *beer* means any product included in C.N. Code 2203 00 or any product that contains a mixture of beer and a non-alcoholic beverage, included in C.N. Code 2206 00, and that in either case has an alcohol concentration of more than 0.5% by volume.

(2) Reduced specific excises are to apply for beer produced by small independent producers that own production facilities with an annual nominal capacity that does not exceed 200,000 hectoliters. The same regime applies for beer imported by small independent producers with an annual nominal capacity that does not exceed 200,000 hectoliters.

(3) Each economic agent producer of beer is required to submit to the territorial fiscal organ where the person is registered as an authorized warehouse-keeper, no later than January 15<sup>th</sup> of each year, a declaration on its own account regarding the production capacities that the person owns.

(4) All economic agents small producers that cumulatively satisfy the following conditions are to benefit from the reduced level of excises: the economic agents producers of beer from a legal and economic viewpoint are independent from any other economic agent producer of beer; they use physical installations that are distinct from other breweries, they use production spaces that differ from those of any other economic agent producer of beer and they do not operate under a production license of another economic agent producer of beer.

(5) In cases where an economic agent producer of beer that benefits from a reduced level of excises increases the production capacity by the acquisition of new capacities or the extension of existing capacity, such person is to notify in writing the fiscal organ where the person is registered as an authorized warehouse-keeper of the production modification and is to compute and pay to the state budget excises in the amount that corresponds to the new production capacity, beginning with the month that immediately follows the month in which the capacity is put into operation.

(6) Beer produced by a physical person and consumed by such person and members of his or her family is excepted from the payment of the excises, on the condition that it is not sold.

#### **Art. 170. Wines**

(1) For purposes of the present title, *wines* are:

a) still wines, which include all products that are included in C.N. Codes 2204 and 2205, with the exception of sparkling wine as defined in lett. b), and that:

1. have an alcohol concentration of more than 1.2% by volume, but not more than 15% by volume, provided that the alcohol contained in the final product results entirely from fermentation; or
2. have an alcohol concentration of more than 15% by volume, but not more than 18% by volume, that was obtained without any enrichment, provided that the alcohol contained in the final product results entirely from fermentation.

b) sparkling wines, which include all products that are included in C.N. Codes 2204 10, 2204 21 10, 2204 29 10 and 2205, and that:

1. are present in bottles that are closed by *mushroom* stoppers that are affixed by the aid of connections or that are under pressure due to carbon dioxide in solution equal to or greater than 3 bars; and
2. have an alcohol concentration of more than 1.2% by volume, but not more than 15% by volume, provided that the alcohol contained in the final product results entirely from fermentation.

(2) Wine produced by a physical person and consumed by such person and members of his or her family is excepted from the payment of the excises, on the condition that it is not sold.

#### **Art. 171. Fermented beverages other than beer and wines**

(1) For purposes of the present title, *fermented beverages other than beer and wines* means:

a) *other still fermented beverages*, which are included in C.N. Codes 2204 and 2205 and that are not specified in art. 170 and all products included in C.N.

Code 2206 00, with the exception of other sparkling fermented beverages as defined in lett. b) and any product provided in art. 169, and that has:

1. an alcohol concentration of more than 1.2% by volume, but not more than 10% by volume; or
2. an alcohol concentration of more than 10% by volume, but not more than 15% by volume, provided that the alcohol contained in the final product results entirely from fermentation.

b) *other sparkling fermented beverages*, which are included in C.N. Codes 2206 00 31, 2206 00 39, 2204 10, 2204 21 10, 2204 29 10 and 2205, that are not covered by art. 170 and that are present in bottles that are closed by *mushroom* stoppers that are affixed by the aid of connections or that are under pressure due to carbon dioxide in solution equal to or greater than 3 bars, and that:

1. have an alcohol concentration of more than 1.2% by volume, but not more than 13% by volume; or
2. have an alcohol concentration of more than 13% by volume, but not more than 15% by volume, provided that the alcohol contained in the final product results entirely from fermentation.

(2) Fermented beverages other than beer and wines produced by a physical person and consumed by such person and members of his or her family are excepted from the payment of the excises, on the condition that they are not sold.

#### **Art. 172. Intermediate products**

(1) For purposes of the present title, *intermediate products* means all products that have an alcohol concentration of more than 1.2% by volume, but not more than 22% by volume, and that are included in C.N. Codes 2204, 2205 and 2206 00, but not covered by art. 169 - 171.

(2) An *intermediate product* is also any still fermented beverage specified in art. 171, par. (1), lett. a), that has an alcohol concentration of more than 5.5% by volume and that does not result entirely from fermentation and any sparkling fermented beverage specified in art. 171, par. (1), lett. b), that has an alcohol

concentration of more than 8.5% by volume and that does not result entirely from fermentation.

#### **Art. 173. Ethyl alcohol**

For purposes of the present title, *ethyl alcohol* means:

- a) all products that have an alcohol concentration of more than 1.2% by volume and that are included in C.N. codes 2207 and 2208, even when such products are part of a product that is included in another chapter of the combined nomenclature;
- b) products that have an alcohol concentration of more than 22% and that are included in C.N. codes 2204, 2205 and 2206 00;
- c) plum brandy and fruit brandies;
- d) any other product in solution or not that contains potable spirits.

#### **Art. 174. Tobacco products**

(1) For purposes of the present title, *tobacco products* are:

- a) cigarettes;
- b) cigars and cigarillos;
- c) smoking tobacco:
  1. fine-cut smoking tobacco intended for cigarette rolls;
  2. other smoking tobacco.

(2) *Cigarettes* are:

- a) rolls of tobacco intended to be smoked as they are and that are not cigars or cigarillos for purposes of par. (3);
- b) rolls of tobacco that may be introduced into a cigarette-paper tube by simple non-industrial handling;
- c) rolls of tobacco that may be wrapped in cigarette paper by simple non-industrial handling;
- d) any product that consists in part of substances other than tobacco if the product satisfies the criteria in lett. a), b) or c).

(3) *Cigars or cigarillos* are the following if they may be smoked as they are:

- a) rolls of tobacco that contain natural tobacco;
- b) rolls of tobacco that have an outer wrapper of natural tobacco;

- c) rolls of tobacco that have a threshed blend filler, an outer wrapper of the normal color of a cigar, which covers the product in full, including the filter but excluding the mouthpiece, if this is the case, and a binder, provided that:
  - 1. the wrapper and binder are from reconstituted tobacco;
  - 2. the unit weight of the roll of tobacco, excluding the filter or mouthpiece, is not less than 1.2 grams; and
  - 3. the wrapper is fitted in spiral form with an acute angle of at least 30 degrees to the longitudinal axis of the cigar;
- d) rolls of tobacco that have a threshed blended filler, an outer wrapper of the normal color of a cigar and from reconstituted tobacco, which covers the product in full, including the filter but excluding the mouthpiece, if this is the case, provided that:
  - 1. the unit weight of the roll, excluding the filter and mouthpiece, is equal to or more than 2.3 grams; and
  - 2. the circumference of the roll of tobacco over at least one-third of the length is not less than 34 millimeters;
- e) any product that consists in part of substances other than tobacco if the product satisfies the criteria in lett. a), b), c), or d) and the product has a wrapper of natural tobacco, a wrapper and binder of reconstituted tobacco, or a wrapper of reconstituted tobacco.

(4) *Smoking tobacco* is:

- a) tobacco that has been cut or minced in any manner, twisted or pressed into blocks and that may be smoked without industrial processing;
- b) tobacco refuse processed for retail sale that is not mentioned in par. (2) and (3);
- c) any product that consists in part of substances other than tobacco if the product satisfies the criteria in lett. a) or b).

(5) *Fine-cut smoking tobacco intended for cigarette rolls* is:

- a) smoking tobacco as defined in par. (4) for which more than 25% by weight of the tobacco particles have a cut width of less than 1 millimeter;
- b) smoking tobacco for which more than 25% by weight of the tobacco particles have a cut width of more than 1 millimeter, if the smoking tobacco is sold or intended to be sold for the rolling of cigarettes.

(6) *Other smoking tobacco* is any smoking tobacco that is not fine-cut smoking tobacco.

(7) For the application of the excises, a roll of tobacco specified in par. (2) is considered as two cigarettes - when its length exclusive of filter and mouthpiece is more than 9 centimeters, but not more than 18 centimeters; as three cigarettes - when its length exclusive of filter and mouthpiece is more than 18 centimeters, but not more than 27 centimeters, and so forth.

#### **Art. 175. Mineral oils**

(1) For purposes of the present title, *mineral oils* are:

- a) products within C.N. Code 2706 00 00;
- b) products within C.N. Codes 2707 10, 2707 20, 2707 30, 2707 50, 2707 91 00, 2707 99 11, 2707 99 19;
- c) products within C.N. Code 2709 00;
- d) products within C.N. Code 2710;
- e) products within C.N. Code 2711, including chemically-pure methane and propane, but excluding natural gas;
- f) products within C.N. Codes 2712 10, 2712 20, 2712 90 (without products within C.N. Codes 2712 90 11 and 2712 90 19);
- g) products within C.N. Code 2715 00 00;
- h) products within C.N. Code 2901;
- i) products within C.N. Codes 2902 11 00, 2902 19 90, 2902 20 00, 2902 30 00, 2902 41 00, 2902 42 00, 2902 43 00 and 2902 44 00;
- j) products within C.N. Codes 3403 11 00 and 3403 19;
- k) products within C.N. Code 3811;
- l) products within C.N. Code 3817 00.

(2) Mineral oils for which excises are payable are:

- a) leaded petrol within C.N. Codes 2710 11 31, 2710 11 51 and 2710 11 59;
- b) unleaded petrol within C.N. Codes 2710 11 41, 2710 11 45 and 2710 11 49;
- c) gas oil within C.N. Code 2710 19 41, 2710 19 45 and 2710 19 49;
- d) heavy fuel oil within C.N. Codes 2710 19 61, 2710 19 63, 2710 19 65 and 2710 19 69;
- e) liquid petroleum gas within C.N. Codes 2711 12 11 up to 2711 19 00;

- f) methane gas within C.N. Code 2711 29 00;
- g) kerosene within C.N. Codes 2710 19 21 and 2710 19 25;
- h) benzene, toluene, xylenes and other mixtures of aromatic hydrocarbons within C.N. Codes 2707 10, 2707 20, 2707 30 and 2707 50.

(3) Mineral oils other than those in par. (2) are subject to excises if they are intended for use, offered for sale or used as fuel or motor fuel. The level of the excise is fixed based on the destination at the level applicable to the equivalent fuel for heating or motor fuel.

(4) Besides the excisable products specified in par. (1), any product intended for use, offered for sale or used as motor fuel or an additive to increase the final volume of motor fuels is to be taxed as motor fuel. The level of the excise is to be the level provided for leaded petrol.

(5) Any hydrocarbon, with the exception of coal, lignite, peat or any other similar solid hydrocarbon or natural gas, intended for use, offered for sale or used for heating is subject to excises with the excise applicable to the equivalent mineral oil.

(6) The consumption of mineral oils within the place of production of mineral oils is not considered a generating event for excises when effected for the purposes of production. When such consumption is effected for purposes other than production and particularly for the propulsion of vehicles, then it is considered a generating event for excises.

### Section 3. Level of excises

#### Art. 176. Level of excises

The level of excises for the following products is:

Number	Type of products or group of products	Unit of measure	Excise (equivalent in euro/unit of measure)
0	1	2	3
1.	Beer Of which: 1.1. Beer produced by independent producer with an annual production capacity of not more than 200 million hl	Hl/1 degree Plato <sup>1)</sup>	0.55  0.47
2.	Wines 2.1. Still wines	Hl of product	0.00

	2.2. Sparkling wines		42.00
3.	Fermented beverages other than beer and wines	HI of product	
	3.1. Still		0.00
	3.2. Sparkling		42.00
4.	Intermediate products	HI of product	45.00
5.	Ethyl alcohol	HI of pure alcohol <sup>2)</sup>	150.00
	<b>Tobacco products</b>		
6.	Cigarettes	1,000 cigarettes	4.47+ 32%
7.	Cigars and cigarillos	1,000 pieces	8.00
8.	Smoking tobacco	Kg	16.00
	Of which:		
	8.1. Tobacco intended for cigarette rolls	Kg	11.00
	<b>Mineral oils</b>		
9.	Leaded petrol	Tons	404.00
		1,000 liters	311.00
10.	Unleaded petrol	Tons	347.00
		1,000 liters	267.00
11.	Gas oil	Tons	221.00
	11.1. Gas oil, exclusive of type EURO (EN590)	1,000 liters	190.00
	11.2. Gas oil EURO (EN590)	1,000 liters	186.00
12.	Heavy fuel oil	Tons	0
13.	Liquid petroleum gas, of which:	Tons	100.00
	13.1. Used for home consumption <sup>3)</sup>	Tons	0
14.	Methane gas	Tons	404.00
15.	Kerosene <sup>4)</sup>	Tons	404.00
16.	Benzene, toluene, xylenes and other mixtures of aromatic hydrocarbons	Tons	0

\* The level of harmonized excises is to be increased annually beginning with July 1, 2004, by Government Decision, in accordance with the commitment assumed by Romania in the process of negotiation with the European Union, Chapter 10—Taxes.

<sup>1)</sup> *Degree Plato* means the weight of sugar expressed in grams contained in 100 grams of solution measured at the origin at a temperature of 20° / 4° C.

<sup>2)</sup> *HI of pure alcohol* means 100 liters of refined ethyl alcohol, with a concentration of 100% alcohol by volume, at a temperature of 20° C, contained in a given quantity of an alcoholic product.

<sup>3)</sup> *Liquid petroleum gas used for home consumption* means liquid petroleum gas distributed in cooking-type bottles.

<sup>4)</sup> *Kerosene* used as fuel by physical persons is not subject to excise.

### **Art. 177. Calculation of the excise for cigarettes**

(1) For cigarettes, the excise payable is to equal the sum of the specific excise and the ad valorem excise.

(2) The specific excise is computed in the euro equivalent for 1,000 cigarettes.

(3) The ad valorem excise is computed by applying the legally established percentage to the maximum retail sales price.

(4) The maximum retail sales price is the price that the product is sold to persons other than traders and that includes all taxes and fees.

(5) The maximum retail sales price for any brand of cigarettes is established by the person that produces the cigarettes in Romania or that imports the cigarettes, and that is brought to public knowledge in accordance with requirements provided in norms.

(6) The sale by any person of cigarettes for which maximum retail sales prices have not been established and declared is prohibited.

(7) The sale by any person of cigarettes at a price that exceeds the maximum retail sales price, declared, is prohibited.

#### **Section 4. Warehouse regime**

##### **Art. 178. General rules**

(1) The production and/or storage of excisable products where the excise has not been paid may take place only in a fiscal warehouse.

(2) A fiscal warehouse may be used only for the production and/or storage of excisable products.

(3) Excisable products subject to marking, according to the present title, may not be stored in a fiscal warehouse of storage.

(4) A fiscal warehouse may not be used for the retail sale of excisable products.

(5) The holding of excisable products outside a fiscal warehouse, for which no proof of the payment of excises may be made, attracts the payment of excises.

(6) Excepted from the provisions of par. (4) are fiscal warehouses that deliver mineral oils to airplanes and ships or that furnish excisable products from duty-free shops.

##### **Art. 179. Application for authorization of fiscal warehouse**

(1) A fiscal warehouse may operate only on the basis of a valid authorization issued by the competent fiscal authority.

(2) In order to obtain authorization for a place to operate as a fiscal warehouse, the person that intends to be the authorized warehouse-keeper for such place

must submit an application to the competent fiscal authority in the form and manner provided in norms.

(3) The application is to contain information and is to be accompanied by documents relating to:

- a) the location and nature of the place;
- b) the estimated types and quantity of excisable products to be produced and/or stored in the course of one year;
- c) the identity and other information regarding the person that is to carry out the activity as the authorized warehouse-keeper;
- d) the capacity of the person that is to be the authorized warehouse-keeper to satisfy the requirements provided in art. 183.

(4) A person that intends to be an authorized warehouse-keeper is to present also a copy of the administrative contract or ownership document of the site where the place is located. In addition, when the applicant is not the owner of the place, the application must include a declaration by the owner that confirms the permission of access for audit personnel.

(5) A person that expressly indicates the intention to be an authorized warehouse-keeper for several fiscal warehouses may submit to the competent fiscal authority a single application. The application is to be accompanied by the documents provided in the present title relating to each location.

#### **Art. 180. Conditions for authorization**

The competent fiscal authority is to issue a fiscal warehouse authorization for a place only if the following conditions are satisfied:

- a) the place is to be used for the production, bottling, packaging, receipt holding, storage and/or dispatch of excisable products. In the case of a place that is to be authorized only as a fiscal warehouse of storage, the quantity of stored excisable products must be greater than the quantity for which the amount of potential excises is 50,000 euro. Such quantity may differ based on the group of stored products according to the provisions of norms;
- b) the place is located, constructed, and equipped so as to prevent the removal of excisable products from such place without the payment of excises;
- c) the place may not be used for the retail sale of excisable products;

- d) in the case of a physical person that is to carry out the activity as the authorized warehouse-keeper, such person was not convicted in a final manner for tax evasion, abuse of trust, false documents, use of false documents, fraud, theft, false testimony, the offering or acceptance of bribes, in Romania or in any foreign state in which such person was domiciled/resident during the preceding 5 years;
- e) in the case of a legal person that is to carry out the activity as the authorized warehouse-keeper, the administrators of such legal person were not convicted in a final manner for tax evasion, abuse of trust, false documents, use of false documents, fraud, theft, false testimony, the offering or acceptance of bribes, in Romania or in any foreign state where such persons were domiciled/resident during the preceding 5 years;
- f) the person that is to carry out the activity as the authorized warehouse-keeper must demonstrate that such person is capable of satisfying the requirements provided in art. 183.

**Art. 181. Authorization of fiscal warehouse**

(1) The competent fiscal authority is to notify in writing the authorization of a fiscal warehouse by the 60<sup>th</sup> day after the date of submission of the complete documentation of authorization.

(2) The authorization is to contain the following:

- a) identification elements of the authorized warehouse-keeper;
- b) description and location of the place of the fiscal warehouse;
- c) the type of excisable products and the nature of the activity;
- d) the maximum storage capacity in the case of fiscal warehouses used only for storage operations;
- e) the level of the guarantee;
- f) the period of validity for the authorization;
- g) any other relevant information for the authorization.

(3) In the case of a fiscal warehouse authorized for storage, the maximum storage capacity of the proposed fiscal warehouse is to be determined by agreement with the competent fiscal authority. Once determined, such capacity is not to be exceeded under the conditions of the existing authorization. If such

storage capacity exceeds the maximum established by the authorization, then it is necessary to request approval for the changed circumstances within 15 days of the modification of the initial capacity.

(4) The competent fiscal authority may modify authorizations.

(5) In order to modify an authorization, the competent fiscal authority must inform the authorized warehouse-keeper of the proposed modification and the reason for such action.

(6) An authorized warehouse-keeper may request the competent fiscal authority to modify an authorization.

#### **Art. 182. Rejection of application for authorization**

(1) The rejection of an authorization application is to be communicated in writing together with the reasons for this decision.

(2) In the case where the competent fiscal authority rejects an application for the authorization of a place as a fiscal warehouse, the person that submitted the application may contest the decision, according to the provisions of legislation in force.

#### **Art. 183. Obligations of authorized warehouse-keeper**

Any authorized warehouse-keeper is required to satisfy the following requirements:

- a) deposit with the competent fiscal authority, if considered necessary, a guarantee in the case of the production, transformation and holding of excisable products, as well as an obligatory guarantee for the circulation of such products, under the conditions established by norms;
- b) install and maintain any locks, seals, measuring instruments or other similar adequate devices, necessary to ensure the security of the excisable products located in the fiscal warehouse;
- c) maintain accurate and timely records regarding the raw materials, work-in-progress and finished excisable products, produced or received at fiscal warehouses and dispatched from fiscal warehouses, and provide adequate records upon the request of the fiscal authority;

- d) maintain an adequate system for the control of stock in the fiscal warehouse, including effective management, accounting and security systems;
- e) provide the competent fiscal authority with access to any area of the fiscal warehouse at any time while the fiscal warehouse is in operation and at any time while the fiscal warehouse is open for the receipt or dispatch of products;
- f) present excisable products for inspection by the competent fiscal authority, upon their request;
- g) upon the request of the competent fiscal authority, provide without charge an office within the fiscal warehouse;
- h) investigate and report to the competent fiscal authority any loss, shortage or other irregularity relating to excisable products;
- i) notify the competent fiscal authority regarding any proposed extension or modification to the structure of the fiscal warehouse, as well as a method of operation in such fiscal warehouse that may affect the amount of the guarantee determined according to lett. a);
- j) comply with other requirements imposed by norms.

#### **Art. 184. Regime of transfer of authorization**

(1) Authorizations are to be issued only for the named authorized warehouse-keeper and are not transferable.

(2) When a place or business is sold, the authorization is not to be transferred automatically to the new owner. The new possible authorized warehouse-keeper must submit an application for authorization.

#### **Art. 185. Revocation and nullification of authorization**

(1) The competent fiscal authority is to revoke an authorization for a fiscal warehouse in the following situations:

- a) in the case of an authorized warehouse-keeper, physical person, if:
  - 1. the person dies;
  - 2. the person is convicted by a definitive court decision in Romania or in a foreign state for fiscal evasion or any other criminal act provided in art. 180, lett. d); or

3. the activity carried out is in a situation of bankruptcy or liquidation;
- b) in the case of an authorized warehouse-keeper that is a legal person, if:
  1. a bankruptcy or liquidation proceeding is initiated with respect to the legal person; or
  2. any administrator of the legal person is convicted by a definitive judicial decision in Romania or in a foreign state for fiscal evasion or any other criminal act provided in art. 180, lett. e);
- c) during a continuous period of at least six months, the quantity of excisable products stored in the fiscal warehouse is less than the quantity provided in norms, based on art. 180, lett. a).

(2) The competent fiscal authority is to nullify an authorization for a fiscal warehouse if inaccurate or incomplete information was provided in connection with the authorization of the fiscal warehouse.

(3) The competent fiscal authority is to revoke or nullify an authorization for a fiscal warehouse if the authorized warehouse-keeper does not comply with any requirement provided in art. 183 or section VI of the present title.

(4) If the competent fiscal authority decides to revoke or nullify an authorization for a fiscal warehouse, then the competent fiscal authority must send notification of such decision to the authorized warehouse-keeper. Except as provided in par. (5), the revocation of the authorization is to be effective beginning with the 15<sup>th</sup> day after the date on which the authorized warehouse-keeper received the notification.

(5) An authorized warehouse-keeper may contest a decision of revocation or nullification of an authorization for a fiscal warehouse according to legislation in force. The period of 15 days provided in par. (4) is to be suspended until the resolution of the contest.

(6) An authorized warehouse-keeper may renounce an authorization for a fiscal warehouse by submitting to the competent fiscal authority a notification in writing at least 60 days prior to the date when the renunciation is to be effective.

## **Section 5. Movement and receipt of excisable products under a suspension regime**

#### **Art. 186. Movement of excisable products under a suspension regime**

The excise is to be suspended during the movement of an excisable product if the following requirements are satisfied:

- a) the movement takes place between two fiscal warehouses;
- b) the product is accompanied by at least 3 copies of an accompanying administrative document, which satisfies the requirements provided in norms;
- c) the package in which the product is moved has markings on the exterior which clearly identify the type and quantity of the product that is inside the package;
- d) the container in which the package is moved is properly sealed, according to the provisions of norms;
- e) the competent fiscal authority received a guarantee for the payment of the excises relating to the product.

#### **Art. 187. Accompanying administrative document**

(1) The movement of excisable products under a suspension regime is permitted only if accompanied by the *accompanying administrative document*. The model of the accompanying administrative document is to be provided in norms.

(2) In the case of the movement of excisable products between two fiscal warehouses under a suspension regime, this document is to be drafted in 5 copies, used as follows:

- a) the first copy is to remain at the fiscal warehouse of dispatch;
- b) copies 2, 3, and 4 of the document are to accompany the excisable product during movement to the fiscal warehouse of receipt. Upon the arrival of products at the fiscal warehouse of receipt, these copies must be certified by the competent fiscal authority in whose jurisdiction the fiscal warehouse of receipt carries out activity, except as provided in norms. Upon the arrival of the products at the fiscal warehouse of receipt, copy 2 is to be retained by such warehouse. Copy 3 is to be transmitted by the fiscal warehouse of receipt to the fiscal warehouse of dispatch. Copy 4 is to be transmitted and

remain with the competent fiscal authority in whose jurisdiction the fiscal warehouse of receipt carries out activity;

- c) copy 5 is to be transmitted by the fiscal warehouse of dispatch at the moment of the dispatch of the product to the competent fiscal authority in whose jurisdiction the activity is carried out.

#### **Art. 188. Receipt of excisable products under a suspension regime**

For a product under a suspension regime that is moved, the excise is to continue to be suspended upon the receipt of the product at a fiscal warehouse if the following requirements are satisfied:

- a) the excisable product is placed in the fiscal warehouse or dispatched to another fiscal warehouse, according to the requirements provided in art. 186;
- b) the fiscal warehouse of receipt indicates on each copy of the accompanying administrative document the type and quantity of each excisable product received, as well as any discrepancies between the excisable products received and the excisable products indicated on the accompanying administrative document, and signs and dates each copy of the document;
- c) the fiscal warehouse of receipt must obtain from the competent fiscal authority a certification of the accompanying administrative document for the excisable products received, except as provided in norms;
- d) within 10 days after the receipt of the products, the fiscal warehouse of receipt returns a copy of the accompanying administrative document to the person that dispatched the product.

#### **Art. 189. Obligation for payment of excises during movement**

(1) In the case of any departure from the requirements provided in art. 186 – 188, the excise is payable by the person that dispatched the excisable product.

(2) Any person that dispatched an excisable product under a suspension regime is to be exonerated from the obligation to pay the excises for such product if the person receives from the fiscal warehouse of receipt an accompanying administrative document certified in the proper manner.

(3) If a person that dispatched an excisable product under a suspension regime does not receive a certified accompanying administrative document within 30

days after the date of dispatch of the product, then within the following 3 days the person is to notify the competent fiscal authority of such fact, and, within 5 days of the date of expiration of the term for the receipt of such document, the person is to pay the excise for the respective product.

#### **Art. 190. Movement of mineral oils through fixed pipelines**

In the case of mineral oils that are moved in a fixed pipeline under a suspension regime, in addition to the provisions of art. 188 and 189, the fiscal warehouse of dispatch is required to provide the competent fiscal authorities, upon their request, accurate and timely information about the movement of the mineral oils.

#### **Art. 191. Movement of an excisable product between a fiscal warehouse and a customs office**

In the case of the movement of an excisable product between a fiscal warehouse and a customs office of exit from Romania or between a customs office of entry in Romania and a fiscal warehouse, the excise is suspended if the conditions provided in norms are satisfied. These conditions are to be in conformity with the principles provided in arts. 186 - 190.

#### **Art. 192. Moment of chargeability of excises**

(1) For any excisable product, the excise becomes chargeable on the date when the product is released for consumption in Romania.

(2) An excisable product is released for consumption in Romania under the conditions provided in art. 166.

(3) In the case of loss or shortage, the excise for an excisable product becomes chargeable on the date when the loss or shortage of the excisable product is discovered.

(4) The provisions of par. (3) are not to apply and the excise is not payable if the loss or shortage occurs while the excisable product is under a suspension regime and either of the following conditions is satisfied:

a) the product is not available for use in Romania due to spillage, breakage, fire, flood or other force majeure event, but only in cases where the competent fiscal authority is presented with satisfactory evidence of such

event, together with information regarding the amount of product that is not available for use in Romania;

b) the product is not available for use in Romania due to evaporation or other cause that is the natural result of the production, holding or movement of the product, but only if cases where the quantity of the product that is not available for use in Romania does not exceed limits provided in norms.

(5) In the case of an excisable product that qualifies for an exemption from excises, the excise becomes chargeable on the date when the product is used for any purpose that is not in conformity with the exemption.

(6) In the case of a mineral oil for which the excise was not previously chargeable, the excise becomes chargeable on the date when the mineral oil is offered for sale or actually used as fuel or motor fuel.

(7) In the case of an excisable product for which the excise was not previously chargeable and that is stored in a fiscal warehouse for which the authorization is revoked or nullified, the excise becomes chargeable on the date of revocation or nullification of the authorization.

(8) Excises are computed at the rate and the rate of exchange in force at the moment when the excise becomes chargeable.

## **Section 6. Obligations of payers of excises**

### **Art. 193. Payment of excises to the state budget**

(1) Excises are to be paid to the state budget on or before the 25<sup>th</sup> of the month that follows the month in which the excise becomes chargeable.

(2) By way of derogation from par. (1), in the case of the import of an excisable product that is not placed under a suspension regime, the moment of payment of the excise is the moment of the registration of the customs import declaration.

### **Art. 194. Submission of excise declarations**

(1) Any authorized warehouse-keeper is required to submit an excise declaration to the competent fiscal authority for each month that the authorization for a fiscal warehouse is valid, regardless whether excise is payable for such month.

(2) The excise declarations are to be submitted to the competent fiscal authority by the authorized warehouse-keepers on or before the 25<sup>th</sup> of the month that follows the month to which the declaration refers.

(3) In situations provided in art. 166, par. (1), lett. b) and e), an excise declaration must be submitted immediately to the competent fiscal authority, and, by way of derogation from art. 193, the excise is to be paid on the second day after the submission of the declaration.

#### **Art. 195. Fiscal documents**

(1) For excisable products, other than marked products, that are transported or held outside a fiscal warehouse or a customs warehouse, the origin must be proved by the use of a document that is to be provided by norms. The document may not be older than 6 days. This provision is not to apply for excisable products that are transported or held by a person other than a retailer, to the extent that such products are packaged in packets intended for retail sale.

(2) All transports of excisable products are to be accompanied by a document, as follows:

- a) the movement of excisable products under a suspension regime is to be accompanied by the accompanying administrative document;
- b) the movement of excisable products released for consumption is to be accompanied by a fiscal invoice that reflects the quantity of the excises, the model of which is to be specified in norms;
- c) the transport of excisable products for which excises have been paid is to be accompanied by the invoice or the accompanying document.

#### **Art. 196. Accounting records**

Any authorized warehouse-keeper is required to maintain accurate accounting records that contain sufficient information so that the fiscal authorities may verify compliance with the provisions of the present title, according to legislation in force.

**Art. 197. Responsibilities of authorized warehouse-keepers and competent fiscal authorities**

(1) Any authorized warehouse-keeper, required to pay excises, is responsible for the correct computation and payment by the legal term of excises to the state budget and for the submission by the legal term of excise declarations to the competent fiscal authority, according to the present title and the customs legislation in force.

(2) The excises are to be administered by the competent fiscal authorities and the customs authorities based on their competencies as provided in the present title and the customs legislation in force.

**Art. 198. Guarantees**

(1) After the acceptance of the conditions for the authorization of a fiscal warehouse, the authorized warehouse-keeper is to submit to the competent fiscal authority a guarantee, according to the provisions of norms, that ensures the payment of excises that may become chargeable.

(2) Guarantees may be cash deposits, mortgages, real and personal guarantees.

(3) The method of computation, amount and duration of guarantees are to be provided in norms.

(4) The amount of the guarantee is to be analyzed periodically to reflect any change in the volume of the business activities of the authorized warehouse-keeper or in the level of excises owed.

**Section 7. Exemptions from payment of excises**

**Art. 199. General exemptions**

(1) Excisable products are exempt from the payment of excises when intended for:

- a) delivery in the context of consular or diplomatic relations;
- b) international organizations recognized as such by the public authorities of Romania, within the limits and under the conditions established by

- international conventions that establish the basis of these organizations or by agreements concluded at the level of the state or the government;
- c) the armed forces belonging to any state that is a member of the North Atlantic Treaty Organization, with the exception of the armed forces of Romania;
  - d) state reserves and mobilization reserves during the period that the regime applies.
- (2) The method and conditions of granting the exemptions provided in par. (1) are to be regulated by norms.
- (3) The excises are not to apply to the import of excisable products in the luggage of travelers and other physical persons, whether domiciled in Romania or abroad, within the limits and in accordance with the requirements provided by the customs legislation in force.

**Art. 200. Exemptions for ethyl alcohol and other alcohol products**

- (1) Ethyl alcohol and other alcoholic products are exempt from the payment of excises if they are:
- a) denatured in conformity with legal requirements and used for the production of products that are not intended for human consumption;
  - b) used for the production of vinegar;
  - c) used for the production of medicines;
  - d) used for the production of flavors, foodstuffs or non-alcoholic beverages that have a concentration of not more than 1.2% by volume;
  - e) used for medical purposes in hospitals or pharmacies;
  - f) used directly or as a component of semi-finished products for the production of foodstuffs with or without cream, provided that in each case the alcohol concentration does not exceed 8.5 liters of pure alcohol per 100 kilograms of product that enters into compositions of chocolate and 5 liters of pure alcohol per 100 kilograms of product that enters into the composition of other products;
  - g) samples for analysis or testing of necessary products or for scientific purposes;

- h) used in a production process, provided that the final product does not contain alcohol;
  - i) used for the production of another component that is not subject to excises;
  - j) used in the cosmetics industry.
- (2) The method and conditions of granting the exemptions specified in par. (1), as well as the products used for the denaturing of alcohol, are to be regulated by norms.

#### **Art. 201. Exemptions for mineral oils**

(1) Exempt from the payment of excises are:

- a) mineral oils used for any purpose other than as fuel or motor fuel;
- b) mineral oils delivered for use as motor fuel for any aircraft other than private recreational aircraft. *Private recreational aircraft* means the use of an aircraft, by its owner or by the legal or physical person that uses it either through rental or through other means, for other than commercial purposes and in particular for other than the transport of passengers or goods or for the supply of services for consideration or for needs of the public authorities;
- c) mineral oils delivered for use as motor fuel for navigation in international waters and for navigation in interior waters, other than navigation by private recreational vessel. *Navigation by private recreational vessel* means the use of any vessel, by its owner or by the legal or physical person that uses it either through rental or through other means, for other than commercial purposes and in particular for other than the transport of passengers or goods or for the supply of services for consideration or for needs of the public authorities;
- d) mineral oils used in connection with the production of electricity and in electro-calogene plants;
- e) mineral oils used for the purpose of testing aircraft and ships;
- f) mineral oils injected into a blast furnace or other industrial equipment for the purpose of chemical reduction, as an additive to coke used as the principal fuel;
- g) mineral oils that enter Romania in the standard tank of a motor vehicle and that are intended for use by such vehicle as motor fuel;

- h) any mineral oil that is removed from the state reserve or the mobilization reserve, being granted free of charge for purposes of humanitarian aid;
  - i) any mineral oil directly acquired from economic agents producers or importers, used as fuel for heating hospitals, sanatoriums, homes for the elderly and orphanages;
  - j) any mineral oil used by physical persons as fuel for heating households;
  - k) any mineral oil acquired directly from economic agents producers or importers, used as fuel for technological purposes or for the production of thermal agent and warm water;
  - l) any mineral oil acquired directly from economic agents producers or importers, used for industrial purposes;
  - m) mineral oils used as unconventional fuel (bio-diesel).
- (2) The method and conditions for granting the exemptions specified in par. (1) are to be regulated by norms.

## **Section 8. Marking of alcohol products and tobacco products**

### **Art. 202. General rules**

(1) The provisions of the present chapter are to apply to the following excisable products:

- a) intermediate products and ethyl alcohol, with the exceptions provided in norms;
- b) tobacco products.

(2) The marking obligation is not to apply to any excisable product that is exempt from the payment of excises.

(3) The excisable products provided in par. (1) may be released for consumption or may be imported to the territory of Romania only if they are marked in conformity with the provisions of the present section.

### **Art. 203. Responsibility for marking**

(1) Authorized warehouse-keepers or importers are responsible for the marking of excisable products.

(2) The importer is to transmit markings to the external producer, in the form and manner provided in norms, in order to apply them to the contracted excisable products.

**Art. 204. Marking procedure**

(1) The marking of products is to be effected by stamps, banderoles or labels.

(2) The dimensions and elements that are to be written on the marks are to be established by norms.

(3) The authorized warehouse-keeper or importer is required to apply the marks in a visible location on each individual package of the excisable product, respectively the packet, bottle or can, so that the opening of the package damages the mark.

(4) Excisable products that are marked with stamps, banderoles or labels that are damaged or that are marked other than as provided in par. (3) are to be considered as not marked.

**Art. 205. Issuance of marks**

(1) The competent fiscal authority is required to issue marks, according to the provisions of the present article and norms.

(2) Marks are to be issued to:

a) persons that import excisable products provided in art. 202, on the basis of an authorization of importation. Authorizations of importation are to be granted by the competent fiscal authority, under the conditions provided in norms;

b) authorized warehouse-keepers that produce or bottle excisable products provided in art. 202.

(3) Applicants for marks are to submit an application to the competent fiscal authority in the form and manner provided in norms.

(4) The issuance of marks is to be performed by the specialized unit authorized by the competent fiscal authorities to print them, under the conditions provided in norms.

(5) The counter-value of the stamps for the marking of cigarettes and other tobacco products is to be provided by the state budget, from the amount of excises related to such products, according to the provisions of norms.

#### **Art. 206. Confiscation of tobacco products**

(1) By derogation from the provisions in force that regulate the manner and the conditions of the sale of legally confiscated goods, or that enter, as provided by law, into the private ownership of the state, tobacco products that are confiscated or that enter, as provided by law, into the private ownership of the state are to be handed over by the organ that ordered the confiscation, for destruction, to the authorized warehouse-keeper for the production of the tobacco product or the importer of such products, as follows:

- a) brands that are registered in the nomenclature of production of authorized warehouse-keepers or in the nomenclature of import of importers are to be handed over in full;
- b) brands that are not registered in the nomenclature of production of authorized warehouse-keepers or in the nomenclature of import of importers are to be handed over in custody by the organs that have performed the confiscation, to the authorized warehouse-keepers for the production of tobacco products whose market share is over 5 percent.

(2) The distribution of each lot of confiscated tobacco products, the taking over of such products by authorized warehouse-keepers and importers, as well as the destruction procedure are to be carried out according to norms.

(3) Each authorized warehouse-keeper and importer is required to ensure on his own expense, the taking into custody, the transport and the storage of such quantity of products from the confiscated lot that were distributed to such person.

## **CHAPTER II. Other excisable products**

#### **Art. 207. Scope of application**

The following products are subject to excises:

- a) green coffee within C.N. Codes 0901 11 00 and 0901 12 00;

- b) roasted coffee, including coffee with substitutes, within C.N. Codes 0901 21 00, 0901 22 00 and 0901 90 90;
- c) soluble coffee, including blends with soluble coffee, within C.N. Codes 2101 11 and 2101 12;
- d) natural fur products within C.N. Codes 4303 10 10, 4303 10 90 and 6506 92 00, with the exception of rabbit, goat and sheep;
- e) articles from crystal within C.N. Codes 7009 91 00, 7009 92 00, 7013 21, 7013 31, 7013 91, 7018 90, 7020 00 80, 9405 10 50, 9405 20 50, 9405 50 00 and 9405 91;
- f) jewelry from gold and/or from platinum within C.N. Code 7113 19 00, with the exception of wedding bands;
- g) cars, including used cars that are imported, within C.N. Codes 8703 21, 8703 22, 8703 23 19, 8703 23 90, 8703 24, 8703 31, 8703 32 19, 8703 32 90, 8703 33 19, and 8703 33 90;
- h) perfumery products within C.N. Codes 3303 00 10 and 3303 00 90;
- i) video cassette recorders or players, including receivers of videophonic signals, within C.N. Code 8521; audio combines within C.N. Codes 8519, 8520 and 8527;
- j) dual-cassette recorders with radio or compact disc player within C.N. Code 8527;
- k) video and photo cameras within C.N. Code 8525 40; digital photo cameras within C.N. Code 8525 40;
- l) microwave ovens within C.N. Code 8516 50 00;
- m) air conditioning units for walls or windows, formed as a single unit, within C.N. Code 8415 10 10;
- n) hunting guns and guns for personal use, other than guns used for military or for sport within C.N. Codes 9302 00, 9303, 9304 00 00 and 9307 00 00;
- o) yachts and motor boats for recreation within C.N. Codes 8903 10, 8903 91, 8903 92 and 8903 99.

**Art. 208. Level and computation of excises**

(1) In the case of green coffee, the excise is to equal the equivalent in ROL of 850 euro per ton.

(2) In the case of roasted coffee, including coffees with substitutes, the excise is to equal the equivalent in ROL of 1250 euro per ton.

(3) In the case of soluble coffee, including blends of soluble coffee, the excise is to equal the equivalent in ROL of 5 euro per kilogram.

(4) The level of excises for other products:

Number	Type of product or group of product	Excise (%)
1	Natural fur products (with the exception of rabbit, goat and sheep)	40
2	Articles from crystal <sup>1)</sup>	50
3	Jewelry from gold and/or from platinum, with the exception of wedding bands	20
4	Perfumery products	
	4.1 Perfumes of which:	30
	- eau de perfume	20
	4.2 Eau de toilette of which:	10
	- eau de cologne	5
5	Video cassette recorders or players, including receivers for videophone signals; audio combines <sup>2)</sup>	15
6	Dual-cassette recorders with radio or CD player	15
7	Video and photo cameras; digital photo cameras	25
8	Microwave ovens	15
9	Air conditioning units for walls or windows	15
10	Hunting guns and guns for personal use, other than guns used for military or for sport	50
11	Yachts and motor boats for recreation	25

<sup>1)</sup> Crystal means glass that has a minimum of 24% lead monoxide by weight.

<sup>2)</sup> Audio combines are products that combine (in the same framework or unit) at least four different devices or functions, at least three of which are audio functions (reception, recording on magnetic tape, recording on compact disc, playing of record, playing of compact disc, playing of magnetic tape, etc.).

(5) The level of excises for cars, including used cars:

	Type of Car	Excise for new cars (%)	Excise for used cars (%)
<b>1.</b>	<b>Cars equipped with petrol engine</b>		
	a) With cylinder capacity of less than 1601 cm <sup>3</sup>	0	1.5
	b) With cylinder capacity between 1601 and 1800 cm <sup>3</sup>	1.5	4.5
	c) With cylinder capacity between 1801 and 2000 cm <sup>3</sup>	3	9
	d) With cylinder capacity between 2001 and 2500 cm <sup>3</sup>	6	18
	e) With cylinder capacity of more than 2500 cm <sup>3</sup>	9	27
<b>2.</b>	<b>Cars equipped with diesel engine</b>		
	a) With cylinder capacity of less than 1601 cm <sup>3</sup>	0	1.5
	b) With cylinder capacity between 1601 and 2000 cm <sup>3</sup>	1.5	4.5
	c) With cylinder capacity between 2001 and 2500 cm <sup>3</sup>	3	9
	d) With cylinder capacity between 2501 and 3100 cm <sup>3</sup>	6	18
	e) With cylinder capacity of more than 3100 cm <sup>3</sup>	9	27

(6) For coffee, coffee with substitutes and soluble coffee, including blends of soluble coffee, the excise is payable once and is to be computed by applying fixed amounts per unit of measure to the imported quantities.

(7) In the case of products provided in par. (4) and (5) the excise precedes the value-added tax and is to be computed once by applying the percentage rates provided by law to the base of taxation, which represents:

- a) for products from domestic production – the delivery prices, excluding excises, respectively the producer price, which may not be less than the amount of costs occasioned in obtaining such product;
- b) for products from import – the customs value established by law, to which are added customs duties and other special fees, as the case may be.

#### **Art. 209. Payers of excises**

(1) Payers of excises for products provided in art. 207, with the exception of those provided in letts. a) - c), are economic agents – legal persons, family associations and authorized physical persons – that produce or import such products.

(2) By way of derogation from the provisions of par. (1), for products provided in art. 207, lett. a) - c), payers of excises are economic agents importers.

(3) Payers of excises are also physical persons that introduce into the country cars, including used cars.

#### **Art. 210. Exemptions**

(1) Exempt from the payment of excises are:

- a) products exported directly by economic agents producers or by economic agents that carry out activities based on a commission. The beneficiaries of the exemption regime are only products that are exported, directly or by economic agents commissioners, by producers that own the production equipment and facilities necessary for the realization of such products;
- b) products placed under a customs suspension regime, according to the legal provisions in the field. For products placed under these regimes, the exemption is to be granted under the condition that the economic agent importer deposits a guarantee equal to the value of the related excises. Such guarantee is to be reimbursed to the economic agent only on the condition that the customs regime is concluded in a timely manner. Goods provided in art. 208, par. (5) are not subject to these provisions if such goods are placed

based on a leasing contract that is carried out under the conditions provided in law, under a customs transit regime, customs regime of temporary admittance or customs regime of import, during the leasing contract.

- c) any imported product, obtained from donations or directly financed by non-reimbursable loans, as well as scientific and technical cooperative programs, granted to educational, health and cultural institutions, ministries, other public administration bodies, owners' associations and unions at the national level, associations and foundations of public utility, by foreign governments, international organizations and non-profit and charity organizations;
- d) products delivered to the state reserve and the mobilization reserve, during the period that the regime applies.

(2) Economic agents exporters of roasted coffee, obtained from their own operations of roasting green coffee that was directly imported by them, may request the competent fiscal authorities, on the basis of justifying documents, for the reimbursement of excises paid in customs, relating only to the quantity of green coffee used as a raw material for the exported coffee.

(3) The method of granting the exemptions provided in par. (1) and (2) is to be established in norms.

#### **Art. 211. Chargeability**

The moment of chargeability of excises occurs:

- a) for products from domestic production, the date of actual delivery, the date of granting products as dividends or as payment in kind, the date on which consumed for advertising and publicity, and the date of alienation or use for any purpose other than selling;
- b) for imported products, the date of registration of the customs import declaration.

#### **Art. 212. Payment of excises to the state budget**

(1) Excises are to be paid to the state budget on or before the 25<sup>th</sup> of the month that follows the month in which the excise becomes chargeable.

(2) For other excisable products derived from import, payment is to occur at the moment of registration of the customs import declaration.

**Art. 213. Regime for lost, destroyed or damaged fiscal documents**

(1) Economic agents payers of the excise that effected transactions with products subject to excises by means of fiscal documents that subsequently were lost, destroyed or damaged are required within 30 calendar days from the moment of registration of the loss, destruction or damage to reconstitute excise relating to such transactions based on the accounting records.

(2) In situations where the fiscal obligation is not reconstituted by the economic agent, the competent fiscal authority is to establish such amount by estimation, by multiplying the number of documents lost, destroyed or damaged with the average excise included in the invoices of delivery for last six months of activity before the date of discovering the loss, destruction or damage of the fiscal documents.

**Art. 214. Excise declarations**

(1) Any economic agent payer of excises is required to submit to the competent fiscal authority an excise declaration for each month, regardless whether excise is payable for such month.

(2) The excise declaration is to be submitted to the competent fiscal authority by the economic agents payers on or before the 25<sup>th</sup> of the month that follows the month to which the declaration refers.

**CHAPTER III. Tax on oil and natural gas from domestic production**

**Art. 215. General provisions**

(1) For oil and natural gas from domestic production, economic agents authorized by law owe a tax to the state budget at the moment of delivery.

(2) By way of derogation from the provisions of par. (1), the tax is not payable for quantities of oil and natural gas delivered as royalties.

(3) The tax owed is:

a) for oil - 4 euro per ton;

b) for natural gas - 7.40 euro per 1000 cubic meters.

(4) The tax owed is computed by applying the fixed amounts provided in par. (3) to the quantities delivered.

(5) The moment of chargeability of the tax on oil and natural gas from domestic production occurs on the date of actual delivery.

#### **Art. 216. Exemptions**

The quantities of oil and natural gas from domestic production that are directly exported by the economic agents producers are exempt from the payment of this tax.

#### **Art. 217. Tax declarations**

(1) Any economic agent payer of the tax on oil and natural gas from domestic production is required to submit to the competent fiscal authority a tax declaration for each month, regardless whether tax is payable for such month.

(2) The tax declarations are to be submitted to the competent fiscal authority by the economic agent payer on or before the 25<sup>th</sup> of the month that follows the month to which the declaration refers.

### **CHAPTER IV. Common provisions**

#### **Art. 218. Conversion to ROL of amounts expressed in euro**

The amount in ROL of excises and taxes owed to the state budget, determined as provided in the present title in euro equivalent per unit of measure, is to be determined by transforming the amounts expressed in euro equivalent based on the exchange rate for currency communicated by the National Bank of Romania for the last day of the month that precedes the start of the calendar quarter. This rate is to be used for the entire duration of the following quarter.

#### **Art. 219. Obligations of payers**

(1) Economic agents payers of excises and the tax on oil and natural gas from domestic production are required to register with the competent fiscal authority, according to legal provisions on this matter.

(2) Economic agents are required to compute the excises and the tax on oil and natural gas from domestic production, as the case may be, to record them distinctly in the invoice, and to remit them to the state budget by the established term, being responsible for the correct computation and full remittance of the amounts payable.

(3) Payers are required to maintain records of excises and taxes on oil and natural gas from domestic production, as the case may be, according to the provisions of norms.

#### **Art. 220. Payments between economic agents**

(1) Payments between economic agents, suppliers of excisable products, and economic agents, purchasers of such products, are to be made entirely through units of banks.

(2) The provisions of par. (1) are not to include:

- a) deliveries of products subject to excises to economic agents that sell such products in a retail system;
- b) deliveries of products subject to excises, effectuated within a system of offsetting debts to the state budget, approved by special normative acts. The amounts representing excises may not be subject to offset unless provided differently by special normative acts.

### **CHAPTER V. Transitional provisions**

#### **Art. 221. Derogations**

(1) By way of derogation from art. 178, par. (2), until January 1, 2007, the storage of mineral oils under an excise suspension regime is allowed only in a fiscal warehouse of production.

(2) By way of derogation from art. 192 and 193, until January 1, 2007, the delivery of mineral oils from a fiscal warehouse of production is to be made only at the moment when the purchaser presents a payment document that attests to the payment to the state budget of the amount of excises related to the quantity that is to be invoiced. On the occasion of the submission of the monthly excise declaration, the possible differences between the amount of excises paid to the

state budget by the beneficiaries of products and the amount of excises related to the quantity of mineral oil actually delivered by economic agents producers in the course of the preceding month are to be rectified.

(3) In the case of the import of excisable products subject to marking, according to the present title, until January 1, 2007, each order of marks is to be approved by the competent fiscal authority only if the importer presents proof of payment to the account of the state budget of an amount equal to the amount of excises corresponding to the quantity of products for which marks are requested.

## **TITLE VIII. SPECIAL MEASURES REGARDING CONTROL OF PRODUCTION, IMPORT AND CIRCULATION OF CERTAIN EXCISABLE PRODUCTS**

### **CHAPTER I. System of control of products of ethyl alcohol**

#### **Art. 222. Scope of application**

The system of control is to apply to all warehouse-keepers authorized for the production of ethyl alcohol that is not denatured and distillates.

#### **Art. 223. Fiscal controllers**

(1) For each fiscal warehouse of production of ethyl alcohol and distillates, permanent representatives of the competent fiscal authorities are to be designated, which are hereafter referred to as *fiscal controllers*. The presence of fiscal controllers is to be ensured along the entire production process, respectively during the three shifts and on legal holidays.

(2) Warehouse-keepers authorized for the production of ethyl alcohol and distillates are to prepare and submit to the competent fiscal authority, together with the application for authorization, a work schedule broken down by months that forecasts the quantity that is estimated to be obtained during one year, based on the installed capacity.

#### **Art. 224. Means of measurement for the production of alcohol**

(1) In order to correctly record the entire production of ethyl alcohol and distillates obtained, each fiscal warehouse of production of ethyl alcohol and distillates must be obligatorily equipped by the authorized warehouse-keeper with means of measurement, hereafter referred to as *meters*, approved by the Romanian Office of Legal Metrology, that are necessary for the determination of the quantity of ethyl alcohol and distillates, as well as with means of legal measurement for determining the alcohol concentration for each type of ethyl alcohol and distillates. Means of measurement and measurements made with them are obligatorily subject to the metrological control of the state, according to legislation on the matter.

(2) In the case of warehouse-keepers authorized for the production of ethyl alcohol, meters are to be located at the exit from the distillation columns for the raw alcohol, at the exit from the refining columns for the refined ethyl alcohol, and at the exit from the columns related to the technical alcohol, so as to meter all the quantities of the resulting alcohol.

(3) In the case of warehouse-keepers authorized for the production of distillates, the meters are to be placed at the exit from the distillation columns, or, as the case may be, at the exit from the distillation installations.

(4) The use of mobile pipes, flexible hoses or other similar pipes, the use of tanks that are not graduated, as well as the placement of taps and valves before the meters, through which a quantity of alcohol or distillates may be extracted without being metered, are prohibited.

#### **Art. 225. Certificates of calibration**

Warehouse-keepers authorized for the production of alcohol and distillates are required to present to the fiscal controllers certificates of calibration issued by a metrology laboratory approved by the Romanian Office of Legal Metrology, for all tanks and containers in which are stored the alcohol, distillates and the raw materials from which they are produced, regardless of their nature.

#### **Art. 226. Seals**

(1) Along the entire technological process from the exit of the raw, refined and technical alcohol from the distillation columns, respectively the refinery columns, up to the meters, including such meters, seals are to be applied. In the case of warehouse-keepers authorized for the production of distillates, seals are to be applied at the exit of distillates from the distillation columns or distillation installations. In all cases, seals are to be applied also on all elements of the assembly-connection of the control and measurement devices, on each existing hole and valve along the entire technological process, either continuous or discontinuous.

(2) Devices and parts along the entire circuit of columns of distillation, refinery, as well as along the entire circuit of the distillation installations must be joined, so that they may be sealed. Seals belong to the competent fiscal authority, are

to be attributed a series number and are to obligatorily bear such series marks. The operations of sealing and unsealing are to be performed by the designated fiscal controller, so as not to damage the devices and component parts. The prints of seals applied must be maintained intact. Sealing and unsealing are to be mentioned in an official report.

(3) The seals provided in par. (2) are complementary to the metrological seals applied to meters, according to specific regulations established by the Romanian Office of Legal Metrology.

(4) The determination of the type of seals, as provided in par. (2), and their characteristics, standardization and/or personalization, as well as the coordination of all required operations are the responsibility of the Ministry of Public Finance, respectively the directorate with administrative competence.

#### **Art. 227. Receipt of raw materials**

(1) The quantity receipt of the raw materials entered into the fiscal warehouse, as well as their introduction into the production process are to be made by means of legal measurement.

(2) In the case where for the production of ethyl alcohol and distillates, the raw materials are acquired from physical persons, the memoranda of acquisition and the documents of receipt are to be prepared in two copies and are to bear, obligatorily, the endorsement of the fiscal controller. One copy of such documents is to remain with the fiscal warehouse that acquired the raw material, while copy two is to be kept by the physical person supplier.

#### **Art. 228. Obligations of fiscal controllers**

(1) Fiscal controllers have the obligation to verify:

- a) the existence of the certificates of calibration for tanks and containers of storage for alcohol, distillates and raw materials from which they are produced;
- b) the correct registration of entries of raw materials;
- c) the correct recordation of the alcohol and distillates obtained, in the daily reports of production and in the documents of transfer – handing over to

- warehouses of processing or storage of final products, in accordance with the registration of means of measurement;
- d) the conformity between the consumption norms for raw materials, the monthly energy consumption and the production of alcohol and distillates obtained;
  - e) the reality of daily inventory of raw alcohol, refined, denatured alcohol, technical alcohol and distillates, recorded in the operative records of the warehouse for the storage of such products;
  - f) the monthly summary report of the documents of transfer to the warehouses of processing alcohol and distillates;
  - g) the conformity between the quantities of alcohol and distillates released from the fiscal warehouse of production with those recorded in the fiscal documents;
  - h) the method of computation, recording and remittance of excises payable for alcohol and distillates, as well as for spirits realized by the authorized warehouse-keeper of production, that carries out activity within an integrated system;
  - i) the submission by the deadlines, to the territorial fiscal organs, of declarations regarding the payment obligations for excises and the excise declaration, in accordance with legal provisions;
  - j) any other documents and operations that lead to the exact determination of the obligations to the state budget;
  - k) the correct registration of import and export operations, in the case where the authorized warehouse-keeper carries out such operations.

(2) Fiscal controllers are also obliged to register in a special register all the applications of the authorized warehouse-keepers for production or the audit bodies as regards the sealing or unsealing of installations.

(3) In order to certify the reality of all operations that are reflected in the documents related to the production of alcohol and distillates, beginning with the entry of raw material until the delivery of the alcohol and distillates to the processing sections or to third parties, all documents prepared, including the fiscal documents, are to be obligatorily presented to the designated fiscal controller to be endorsed by him.

### **Art. 229. Unsealing installations**

(1) Unsealing the devices or parts along the technological process is to be performed only based on a written request, justified, on behalf of the fiscal warehouse of production of alcohol and distillates or in cases of accident.

(2) At least three days before the deadline fixed for the performance of the operation itself, the application for unsealing is to be sent to the fiscal controller, who is to proceed to unseal. At the unsealing, the fiscal controller is to prepare an official report of the unsealing. The official report is to include the date and the time of unsealing, the quantity of alcohol and distillates – in liters and in degrees – as registered by meters at the moment of unsealing, as well as the inventory of alcohol and distillates, by types, that is located in tanks and containers.

(3) It is prohibited for the authorized warehouse-keepers to damage the seals applied by the fiscal controller. In the case where the seal is accidentally damaged or in case of accident, the authorized warehouse-keeper is required to request the presence of the fiscal controller to determine the causes of the accidental damage of the seal or the accident.

(4) If the authorized warehouse-keeper discovers an incident or a malfunction in the operation of a meter, such authorized warehouse-keeper must immediately submit a declaration to the fiscal controller, which is to be recorded in a special register intended for this purpose and is to proceed immediately to remedy the defect. At the same time, the authorized warehouse-keeper is to request the presence of the representative authorized by the Romanian Office of Legal Metrology for activities of repair of means of measurement for such category, in order to unseal the means of measurement, place them back into operation and re-seal them.

(5) Defective meters may be replaced by other spare meters under metrology control, with a specification of the indicators from which the activity is re-started, made in an official report of replacement prepared by the fiscal controller.

(6) If the time for repair of meters exceeds 24 hours, then the activity of production of alcohol and distillates is to be suspended. The respective installations are to be sealed.

(7) The suspension is to be made based on an official report of suspension, prepared in three copies by the fiscal controller, in the presence of the legal representative of the authorized warehouse-keeper.

(8) The official report prepared is to include the causes of the damage or the accident that generated the interruption of activity, the date and time of such interruption, the inventory of alcohol and distillates existing on such date, and the readings of the meters at the moment of the suspension of activity.

(9) The original of the official report of unsealing or suspension, as the case may be, is to be submitted to the competent fiscal authority within 24 hours after the conclusion of such report. The second copy of the official report is to remain with the authorized warehouse-keeper, while the third copy is to be kept by the fiscal controller.

(10) The resumption of activity after unsealing such installations is to be made based on a declaration of repair of the defect, prepared by the authorized warehouse-keeper and endorsed by the fiscal controller, accompanied by an endorsement issued by the expert who performed the repair. The fiscal controller is to proceed to seal the entire technological process.

## **CHAPTER II. System of control for circulation of ethyl alcohol and distillates in bulk from domestic production or from import**

### **Art. 230. Conditions of quality**

Ethyl alcohol and distillates delivered by authorized warehouse-keepers for production to legal users must observe the provisions of the legal standards in force. Each delivery is to be accompanied by completed bulletins of analysis, according to legal standards in force, issued by the own laboratory of the producer, if approved, or issued by other authorized laboratories. The bulletins of analysis are to include at least 7 physical-chemical parameters, as provided by legal standards in force.

**Art. 231. Transport in bulk**

(1) All tanks and containers by which quantities of alcohol and distillates are transported are to bear the seal of the fiscal controller and are to be accompanied by the fiscal documents provided in title VII.

(2) The fiscal controller who sealed the tanks or the containers for the transport of alcohol and distillates in bulk is to communicate to the competent fiscal authority, on the same day, the date of departure of the transport of alcohol and distillates, the registration number of the means of transport, the quantity dispatched, and the approximate date of arrival of such shipment.

(3) Upon the actual arrival of the alcohol and distillates at the destination, the economic agent beneficiary is obliged to request the competent fiscal authority to designate a fiscal representative who, within a maximum of 24 hours, is to perform the verification of the transport documents and the data included in the accompanying document, after which the unsealing of the tanks or the containers is to proceed.

**Art. 232. Conditions of delivery**

(1) The delivery of alcohol and distillates in bulk is to be made directly from the authorized warehouse-keeper for production or from the importer to the legal users.

(2) The delivery in bulk of ethyl alcohol and distillates, for the purpose of obtaining alcoholic beverages, to beneficiaries other than warehouse-keepers authorized for the production of such beverages is prohibited.

(3) Authorized warehouse-keepers for production and importers may deliver alcohol in bulk, for consumption, directly to hospitals, pharmacies and economic agents legal users of alcohol, other than producers of alcoholic beverages.

(4) Technical ethyl alcohol that is bottled may be sold only by the warehouse-keeper authorized for the production of ethyl alcohol and only in the form of denatured technical ethyl alcohol, according to legal standards in force.

(5) The sale in bulk and the use as a raw material of alcohol and distillates having an alcohol concentration of less than 96%, by volume, for the production of alcohol beverages is prohibited.

(6) The production of sanitary alcohol by producers other than warehouse-keepers authorized for the production of ethyl alcohol is prohibited.

(7) The sale of sanitary alcohol in bulk on the domestic market is prohibited.

### **CHAPTER III. System of control for plum brandy and fruit brandies**

#### **Art. 233. Means of measurement**

(1) In order to correctly record the production of plum brandy and fruit brandies, each authorized warehouse-keeper is obliged to equip himself with means of volumetric measurement, referred to as *meters*, approved by the Romanian Office of Legal Metrology, as well as with legal means of measurement of the alcohol concentration of the raw material and products resulting from processing such raw materials, production installations being obligatorily sealed under the same conditions as in the case of the warehouse-keepers authorized for the production of ethyl alcohol or distillates.

(2) Individual stills of producers of plum brandy and fruit brandies whose production is intended for sale are to be litered and equipped with vessels that are litered by the competent organs of the Romanian Office of Legal Metrology and also with means of legal measurement of alcohol concentration of products obtained.

#### **Art. 234. Sealing and unsealing installations**

(1) In order to control the quantities of plum brandy and fruit brandies during the period when not in operation, the production installations or stills held by authorized warehouse-keepers are to be additionally sealed by the competent fiscal authority.

(2) After the receipt of the raw material for distillation, holders of such installations or stills are to request the competent fiscal authority in writing to unseal such installations or stills. The unsealing date and time, as well as the quantities and types of raw material that are to be processed, are to be included in a register of production, which is to be numbered, endorsed by the competent fiscal authority and kept by the producer. At the same time, the competent fiscal authority is to record the same data in an official report.

(3) Unsealing is to be requested under the conditions that the holder of installations or stills has in inventory raw material for the use of production capacities for a minimum of 10 days, the production process being obligatorily carried out continuously until the exhaustion of the raw material.

(4) At the moment of unsealing the installations or stills, the representative of the competent fiscal authorities is to verify, based on production samples, the productions periods and the alcohol productivity for each type of raw material, establishing the number of boiling operations within 24 hours and preparing an official report of determination.

(5) The periods of operation of installations or stills and the established productivity are to be used for the production record in the register of production.

(6) In order to interrupt installations or stills, the authorized warehouse-keeper for production is to inform the competent fiscal authority of the need to re-seal, two days before the interruption of production.

(7) If the re-sealing of the still or the rest of the installations is not applied for at the moment of the interruption, then the production is to be treated as continued for the entire period of the unsealing.

(8) The moment of sealing is to be recorded in the register of production, an official report also being prepared, which includes the quantity of production produced from the date of the unsealing.

## **CHAPTER IV. System of control of imports of alcohol, distillates and spirits in bulk**

### **Art. 235. Conditions of import**

Alcohol, distillates and spirits may be imported in bulk only based on contracts directly entered into with external producers or with their representatives and only for the purpose to be directly processed or bottled by the authorized warehouse-keeper for production.

### **Art. 236. Control procedure**

(1) Upon the entry into the country of alcohol in bulk, regardless of its nature, distillates in bulk, as well as spirits in bulk, after the performance of the customs

formalities, the border customs organs are to apply on each tank and container a special seal, with the marks of the customs authority, unsealing being prohibited until the final destination of such goods.

(2) At the moment when the customs operations are carried out, a sample from each tank or container is to be obligatorily drawn for the purpose of verifying the authenticity of the data included in the accompanying documents, respectively the invoice or certificates of physical-chemical analyses.

(3) The drawing of the sample is to be performed by the laboratory representative, approved by the customs authority to carry out studies in order to identify the products.

(4) The drawing of the sample is to be performed in the presence of the customs authority, the permanent representative in customs of the National Authority for the Protection of Consumers and the importer. If the importer submits a declaration that he is not interested in participating in the drawing, such operation may be performed in his absence.

(5) The operation of drawing of samples is to be made in accordance with the Romanian norms in force as regards sampling, analysis, and inspection of a batch of products by the representative of the approved laboratory.

(6) Three identical specimens are to be formed from the sample drawn, out of which one is intended for the laboratory, the second for the customs authority, while the third for the importer.

(7) The specimens are to be labeled and are to be sealed by the customs authority.

(8) The transmittal of drawn specimens to laboratories is to be made under the care and under the responsibility of the representative of the approved laboratory.

(9) The operation of drawing is to be completed by the preparation of an official report of drawing, according to the model presented in norms.

(10) The results of the examination are to be recorded by the approved laboratory on certificates of examination.

(11) The analysis of products is to be made at the expense of importers and has as the purpose the determination of the alcohol concentration and the actual

quantities, compared with those mentioned in the accompanying documents, for the correct determination of the excises payable, and the product quality.

(12) The deadline for the performance of analyses is to be as follows, as the case may be:

- a) on the spot, in the case of products that do not contain sugar;
- b) within 24 hours from drawing the sample, in the case of products that contain sugar.

(13) The obligatorily period for keeping the specimens is one year.

(14) The provisions of par. (2) are also to apply to quantities of alcohol, distillates and spirits in bulk, that are brought in under a temporary import regime.

(15) Quantities of alcohol, distillates and spirits in bulk that are imported are to be sealed by the border customs organ, and in the case where the commodity is transited to an interior customs point in order to perform the customs operation of import. The commodity sealed this way, together with the commodity accompanying document issued by the border customs authority, which includes the quantity of imported alcohol, distillates or spirits, under the manner and in the form provided in norms, is free for circulation until the customs point where the import customs operation and the drawing of samples take place, according to the provisions of par. (2).

(16) In all cases, for the determinations made based on laboratory analyses, the admitted tolerance is  $\pm 0.3$  degrees volume.

(17) The unsealing of the tanks and containers of alcohol, distillates and spirits in bulk that are imported, at the final destination, is to be made in the presence of a representative of the competent fiscal authority, designated upon written request of the importers.

(18) The importer has the obligation to record in a special register, according to the model presented in norms, which is to be endorsed by the representative of the territorial fiscal body in whose jurisdiction he carries out activity, all quantities of alcohol, distillates and spirits in bulk – in liters and in degrees – by types of products and by destinations of such products.

## **CHAPTER V. Common provisions regarding control applied to production and import of alcohol, distillates and spirits**

### **Art. 237. Reports regarding the manner of sale**

(1) On a monthly basis, on or before the 15<sup>th</sup> of each month for the preceding month, authorized warehouse-keepers for production and importers of alcohol and distillates are to submit to the territorial fiscal organs a report containing information concerning the manner that such products generate value through sale or through processing, including: the destination, the name and address of the beneficiary, the number and date of the invoice, the quantities, the unit price and the total amount, out of which, as the case may be, the amount of excises, according to the model presented in norms. Such report is to be accompanied obligatorily by a copy of the inventory lists prepared for the raw materials and finished products as recorded at the end of the month. Inventory lists are to be prepared in two copies and are to be endorsed by the authorized warehouse-keeper for production or by the importer. In the case of authorized warehouse-keepers for production, inventory lists are to be endorsed and kept by the fiscal controller. The second copy is to be kept by the authorized warehouse-keeper of production and by the importer.

(2) On a monthly basis, by the last day of the month, for the preceding month, territorial fiscal organs are to transmit to the Ministry of Public Finance - General Directorate of Information Technology the summary report of each county regarding the manner that alcohol and distillates generate income, according to the model presented in norms.

(3) The failure of the warehouse-keepers authorized for the production of ethyl alcohol and/or distillates to sell, within a period of three consecutive months, a quantity equal to at least 20% of the quantity estimated to be realized within a period of one year is to result in the revocation of the authorization and the sealing of the production installations for three months. For authorized warehouse-keepers that operate within an integrated system, when computing the 20% percentage, the quantity of products that resulted from processing alcohol and/or distillates is also to be taken into account.

**Art. 238. Minimal prices**

(1) For alcohol, distillates and distilled alcoholic beverages, minimal prices are to be established and such prices are to be used for the sale of such products on the domestic market.

(2) The minimal price is to include obligatorily the price of the producer and the related legal excise, as the case may be.

(3) Minimal prices are to be established by the owners associations of producers of alcohol and distilled alcoholic beverages, legally established and existing in Romania, and are to be fixed through a protocol signed by representatives of such associations. A copy of such protocol and a list of the prices established this way are to be communicated to the Ministry of Public Finance and are to be published, by those who established such prices, in the Official Gazette of Romania, Part I, at least 5 days before the date when such prices enter into force.

(4) Products, including products in bulk, for which minimal prices were established, may not be sold on the domestic market at prices less than the minimal prices published in the Official Gazette of Romania, Part I.

(5) Whenever the modification of the minimal prices established is intended, the owners associations of producers of alcohol and alcoholic beverages have the obligation to notify the new prices, regardless if the modification occurs for one or more products. The notification of prices is to be made under the conditions provided in par. (3).

**CHAPTER VI. Special measures regarding the production, import and circulation of mineral oils****Art. 239. Limitations**

Any commercial operation with mineral oils that are not derived from fiscal warehouses of production is prohibited.

**Art. 240. Conditions of sale**

(1) Non-excisable mineral oils that result from the processing of oil or other raw materials, that have an inflammability point below 85°C, are to be sold directly to

final users that use such products for industrial purpose. Otherwise, the authorized warehouse-keeper is to remit to the state budget the related excises, computed at the level of excises payable for leaded petrol. Wholesale traders are not included in the category of final users.

(2) It is prohibited to sell through pumps of distribution stations mineral oils, other than those in the category of liquid petroleum gas, petrol and gas oil, that do not conform to the national standards of quality.

#### **Art. 241. Conditions of quality**

It is prohibited to import mineral oils of the type of petrol and gas oil that do not conform to the national standards or the legal provisions referring to the quality of gas.

#### **Art. 242. Procedure of import**

(1) The performance of customs formalities of import, related to mineral oils as provided in art. 241, is to be made by customs offices of control and customs clearing at the border, as established by the decision of customs authority, which is to be published in the Official Gazette of Romania, Part I.

(2) The performance of customs formalities of import is conditioned on the drawing of samples at the customs point, in order to perform the laboratory analyses.

(3) The laboratory analyses provided in par. (2) are to be performed only by laboratories approved by the customs authority, which are to issue technical examination reports.

(4) Expenses occasioned by the laboratory analyses and the stoppage of the means of transport until the completion of such analyses are to borne by the importer.

(5) When carrying out the customs formalities of import, the importer or his legal representative is to present obligatorily the technical examination reports issued for the samples drawn, in order to identify the type of commodities, according to par. (2) and (3).

## **CHAPTER VII. Other special measures**

### **Art. 243. Conditions of assignment and disposal**

(1) The assignment or the disposal, in any form, of shares, social parts or fixed assets of authorized warehouse-keepers or a warehouse-keeper whose authorization has been nullified or revoked according to title VII is to be notify the competent fiscal authority at least 60 days before the realization of such operation, in order to allow the performance of the financial-fiscal audit.

(2) The assignment or the disposal of the immobilized assets of authorized warehouse-keepers or a warehouse-keeper whose authorization has been nullified or revoked according to title VII of the fiscal code is possible only after all fiscal obligations have been paid to the state budget or after the person that is to take over such assets confirms the possibility to pay all debts to the state budget, by the submission of a letter of bank guarantee.

### **Art. 244. Delays in the payment of excises**

A delay in the payment of excises by more than 30 days after the legal deadline results in the revocation of the authorization of the authorized warehouse-keeper and the closing-down of activity until the payment of outstanding amounts.

## **CHAPTER VIII. Sanctions**

### **Art. 245. Criminal violations**

(1) The following acts committed by the administrator, the manager, or the legal representative of the authorized warehouse-keeper or the company constitute criminal violations:

- a) the assignment or the disposal, in any form, of shares, social parts or fixed assets of authorized warehouse-keepers or a warehouse-keeper whose authorization has been nullified or revoked according to title VII, without notifying the competent fiscal authority at least 60 days before the realization of such operation, in order to allow performance of the financial-fiscal audit;

- b) the acquisition of ethyl alcohol and distillates from suppliers other than authorized warehouse-keepers for production or importers that are authorized for such products, according to title VII;
- c) the use of raw alcohol, ethyl alcohol of synthesis and technical alcohol as a raw material for the production of alcoholic beverages of any type;
- d) the acquisition of mineral oils that result from the processing of oil or other raw materials from suppliers other than authorized warehouse-keepers for production or authorized importers according to title VII;
- e) the delivery of mineral oils by authorized warehouse-keepers for production where the purchaser, legal person, fails to present the payment document that certifies the remittal to the state budget of the amount of excises related to the quantity that is to be invoiced;
- f) the sale of non-excisable mineral oils that resulted from the processing of oil or other raw materials, that have an inflammability point below 85°C, other than directly to the final users that use such products for industrial purpose;
- g) the sale through pumps of distribution stations of mineral oils, other than those in the category of liquid petroleum gas, petrol and gas oil, that do not conform to the national standards of quality.

(2) Criminal violations provided in par. (1) are to be punished as follows:

- a) by prison from 1 year to 3 years, for those provided in lett. b), c), d), f) and g);
- b) by prison from 2 years to 7 years, for those provided in lett. e);
- c) by prison from 6 months to 2 years, for those provided in letter a).

#### **Art. 246. Civil violations and sanctions**

(1) The following acts constitute civil violations:

- a) the production of excisable products that are subject to the fiscal warehouse system, outside a fiscal warehouse that is authorized by the competent fiscal authority;
- b) the holding outside the suspension regime excisable products that were not introduced into the excise regime, in accordance with title VII;

- c) the failure to notify the competent fiscal authority, by the legal deadline, of the changes to initial data taken into account at the issuance of the authorization;
- d) the sale in the territory of Romania of excisable products that are subject to marking, according to title VII, without being marked or being improperly marked or having false or counterfeit marks;
- e) the holding outside fiscal warehouses of products subject to marking that are not marked or holding such products that are marked with false or counterfeit marks;
- f) the practicing, by producers or importers, of sale prices that are less than the costs occasioned by the production or the import of excisable products sold, to which the excise tax and the value-added tax are to be added;
- g) the failure to record distinctively on invoices the amount of excises or the tax for oil and mineral gas from domestic production, in cases provided in title VII;
- h) the failure to use the fiscal documents provided in title VII;
- i) the failure to perform by bank units the settlements between suppliers and purchasers, as legal persons, of excisable products;
- j) the placement of means of measurement of production and alcohol concentration of alcohol and distillates in places other than those specifically provided in the present title, or the damage of seals applied by the fiscal controller and the failure to notify the fiscal body in the case of their damage;
- k) the failure to request the designation of a fiscal controller in order to unseal the tanks or containers in which alcohol and distillates are transported in bulk;
- l) the transport of ethyl alcohol and distillates by tanks or containers that have not been sealed by the fiscal controller, that have damaged seals or that are not accompanied by the accompanying document provided in title VII;
- m) the production of sanitary alcohol by persons other than warehouse-keepers authorized for the production of ethyl alcohol;
- n) the sale in bulk on the domestic market of sanitary alcohol;
- o) the circulation and sale in bulk of refined ethyl alcohol and distillates for purposes other than those expressly provided in the present title;

- p) the failure to correctly record in the special register the quantities of alcohol and distillates that are imported in bulk;
- q) the failure to submit to the territorial fiscal bodies the reports regarding the manner of generating income from alcohol and distillates;
- r) the failure to request the territorial fiscal body to unseal the production installations, as well as the failure to record in the special register intended for this purpose information regarding the actual capacity of distillation, the date and time of sealing and unsealing the stills or the other installations of production of plum brandy and fruit brandies;
- s) the practicing of retail sale prices less than the minimal prices established for each product, according to the present title, to which the value-added tax is to be added;
- t) the sale at retail prices that are greater than the declared maximum retail prices, of products for which such prices were established;
- u) the sale of products that are not found on the lists of maximum retail sale prices declared by economic agents producers and importers;
- v) the refusal of economic agents producers of cigarettes to take over and destroy, under the conditions provided by law, the quantities of confiscated tobacco products;
- w) the use of mobile pipes, flexible hoses or other similar pipes, the use of containers that are not calibrated, as well as the placement of taps or valves through which quantities of alcohol or distillates may be extracted without being metered;
- x) the sale in bulk and the use as raw material for the production of alcoholic beverages of ethyl alcohol and distillates with alcohol concentration below 96%, by volume.

(2) Civil violations provided in par. (1) are to be sanctioned by a fine from ROL 200,000,000 to ROL 1,000,000,000 and also by:

- the confiscation of products, and in cases where such products were sold, the confiscation of amounts that resulted from such sale, in cases provided in letters a), b), c), d), e), l), m), n) and o);

- the confiscation of tanks and containers, as well as the means of transport used for the transport of ethyl alcohol and distillates, in the case provided in letter l);
- the withdrawal of authorization or the interruption of activity for a period of 1 – 3 months, as the case may be, in cases provided in letters d), e), j), l), m), n), o) and x).

(3) In the case where the fines applied are paid within 48 hours from the conclusion of the official report of determination, the amount of such fine is to be 50% of the minimum fine provided in the present title for the fact discovered.

(4) The ascertainment and the sanctioning of facts that constitute civil violation according to the present title are to be performed by the personnel of the Ministry of Public Finance and its territorial units.

(5) The provisions of law are to apply to the civil violations provided in the present title.

(6) The resolution of appeals concerning the amounts determined as regards excises, respectively the tax on oil and natural gas from domestic production and other measures applied by acts of audit or taxation by the organs of the Ministry of Public Finance are to be performed according to legal regulations in force.

## **TITLE IX. LOCAL TAXES AND FEES**

### **CHAPTER I. General provisions**

#### **Art. 247. Definitions**

For purposes of the present title, the expressions below have the following meanings:

- a) rank of a locality - the rank assigned to a locality according to law;
- b) zones within a locality - zones established by the local council, based on the position of the land relative to the center of the locality, to the utility networks, as well as to other elements specific to each administrative-territorial unit, according to the documentation of territorial arrangement and of urbanization, agricultural registries, specific cadastral records of immobile property or other agricultural or cadastral records that may affect the value of the land.

#### **Art. 248. Local taxes and fees**

The local taxes and fees are the following:

- a) tax on buildings;
- b) tax on land;
- c) fee on means of transport;
- d) fee for the issuance of certificates, permits and authorizations;
- e) fee for using means of advertising and publicity;
- f) tax on shows;
- g) hotel fee;
- h) special fees;
- i) other local fees.

### **CHAPTER II. Tax on buildings**

#### **Art. 249. General rules**

(1) Any person that owns a building located in Romania owes an annual tax for such building, except as otherwise provided in the present title.

(2) The tax specified in par. (1), which is hereafter referred to as the *tax on buildings*, is payable to the local budget of the administrative-territorial unit in which the building is located.

(3) In the case of a building that is under the administration or use, as the case may be, of another person and for which rent is payable based on a rental contract, the tax on buildings is payable by the owner.

(4) In the case of a building that is owned jointly by two or more persons, each of joint owners of the building owes the tax for the space located in the portion of the building that is owned by such owner. In cases where the individual portions of joint owners may not be determined, each joint owner owes an equal portion of the tax for such building.

(5) For purposes of the present title, a *building* is any construction that serves as shelter for people, animals, objects, products, materials, installations and other similar.

#### **Art. 250. Exemptions**

(1) The tax on buildings is not payable for the following:

1. buildings of public institutions and buildings that are part of the public and private domain of an administrative-territorial unit, with the exception of enclosures that are used for economic activities;
2. buildings that, according to legislation in force, are considered historical monuments, architectural or archaeological monuments, museums or memorial houses, with the exception of enclosures that are used for economic activities;
3. buildings that by their destination are cult premises belonging to religious cults recognized by law and parts of their local components, with the exception of enclosures that are used for economic activities;
4. buildings of institutes of pre-university or university education, provisionally authorized or accredited, with the exception of enclosures that are used for economic activities;
5. buildings of health units of national interest that have not passed to the patrimony of the local authority;

6. buildings under the public domain of the state and managed by the Regia Autonome "Administratia Patrimoniului Protocolului de Stat", with the exception of enclosures that are used for economic activities;
7. buildings under the private domain of the state and managed by the Regia Autonome "Administratia Patrimoniului Protocolului de Stat", assigned according to law;
8. funeral constructions or arrangements in cemeteries, crematories;
9. buildings or constructions in industrial, scientific and technological parks, as provided by law;
10. buildings that passed to the ownership of the state or the administrative-territorial units in the absence of legal heirs or successors;
11. any of the following special constructions:
  - a) oil, gas and salt derricks;
  - b) marine drilling platforms;
  - c) any hydroelectric power plant, thermal electric power plant, nuclear electric power plant, transformer and connection stations, special buildings and constructions auxiliary to those, transformer posts, aerial networks for the transport and distribution of electric energy and related towers, underground cables for transport, and electrical installations;
  - d) sewer systems and underground and aerial telecommunication networks;
  - e) railroad tracks, inside or outside a building;
  - f) underground ducts and ramps;
  - g) mining shafts;
  - h) smokestacks;
  - i) cooling towers;
  - j) dams and auxiliary constructions;
  - k) breakwaters, auxiliary constructions and constructions to prevent flooding;
  - l) hydro-metric, oceanographic, hydro-meteorological and hydro-technical constructions, land improvements, ports, navigable canals with locks and pumping stations related to the canals;
  - m) bridges, viaducts, aqueducts, and tunnels;

- n) networks and pipes for the transport or distribution of water, oil products, gas and industrial liquids, thermal networks and pipes and sewage networks;
- o) embankments;
- p) quays;
- q) concrete platforms;
- r) enclosures;
- s) technological installations, reservoirs and pools for storage;
- t) constructions of a similar nature established by decision of the local council.

(2) Constructions of a nature similar to those in par. (1), pt. 11, lett. a) – s), approved by decision of the local council, are exempt from the tax on buildings for the duration of the existing construction, until other modifications occur.

(3) The tax on buildings is not payable for a building of a physical person if:

- a) the building is a new dwelling realized under the conditions of the Law on dwellings no. 114/1996, republished, with subsequent modifications and completions; or
- b) the building is realized on the basis of credits, in accordance with Government Ordinance no. 19/1994, as regards the stimulation of investments for the realization of public works and the construction of dwellings, approved by Law no. 82/1995, with subsequent modifications and completions.

(4) The exemption from tax specified in par. (3) is to apply to a building for a period of 10 years from the date of acquiring such building. In the case of a transfer of the building, the exemption from tax is not to apply to the new owner of the building.

#### **Art. 251. Computation of tax for physical persons**

(1) In the case of physical persons, the tax on buildings is to be computed by applying the rate of tax to the taxable value of the building.

(2) The rate of tax is 0.2% for buildings located in urban areas and 0.1% for buildings in rural areas.

(3) The taxable value of a building is to be determined by multiplying the unfolded constructed area of the building, expressed in square meters, by the appropriate amount from the following table:

Type of building	Building with installation of water, sewer, electricity and heating (ROL/m <sup>2</sup> )	Building without installation of water, sewer, electricity or heating (ROL/m <sup>2</sup> )
1	2	3
1. Buildings with walls or frames of reinforced concrete, kilned brick, natural stone or other similar materials	5,300,000	3,100,000
2. Buildings with walls of wood, unkilned brick, wattle, latticework or other similar materials	1,400,000	900,000
3. Constructions that are auxiliary to the main body of a building and that have walls of concrete, kilned brick, stone or other similar materials	900,000	800,000
4. Constructions that are auxiliary to the main body of a building and that have walls of wood, unkilned brick, wattle, latticework or other similar materials	500,000	300,000
5. A basement, half-basement or attic that is used as a dwelling	75% of the amount that would otherwise apply to the building	75% of the amount that would otherwise apply to the building
6. A basement, half-basement or attic that is used for purposes other than as a dwelling	50% of the amount that would otherwise apply to the building	50% of the amount that would otherwise apply to the building

(4) The unfolded constructed area of a building is to be determined by adding together the area of the sections of all floors of the building, including balconies, enclosed balconies or areas located in basements, except for the area of attics that are not used as a dwelling and the area of uncovered stairs and terraces.

(5) The taxable value of a building is to be adjusted based on the location of the building by multiplying the amount determined according to par. (3) by the appropriate correction coefficient specified in the following table:

Zone within locality	Rank of locality					
	0	I	II	III	IV	V
A	1.30	1.25	1.20	1.15	1.10	1.05
B	1.25	1.20	1.15	1.10	1.05	1.00
C	1.20	1.15	1.10	1.05	1.00	0.95
D	1.15	1.10	1.05	1.00	0.95	0.90

(6) In the case of an apartment located in an apartment building with more than three floors and eight apartments, the correction coefficient specified in par. (5) is to be reduced by 0.10.

(7) In the case of a building that was completed before January 1, 1951, the taxable value is to be reduced by 15%.

(8) In the case of a building that was completed after December 31, 1950, and before January 1, 1978, the taxable value is to be reduced by 5%.

(9) If the exterior dimensions of a building cannot be effectively measured by the exterior contour, then the unfolded constructed area of the building is to be determined by multiplying the useable area of the building by a transformation coefficient of 1.20.

#### **Art. 252. Increase in tax owed by physical persons that own multiple buildings**

(1) If a physical person owns two or more buildings that are used as dwellings and that are not rented to another person, the tax on buildings is to be increased as follows:

- a) by 15% for the first building other than the address of the domicile;
- b) by 50% for the second building other than the address of the domicile;
- c) by 75% for the third building other than the address of the domicile;
- d) by 100% for the fourth and additional buildings other than the address of the domicile.

(2) In the case of the ownership of two or more buildings other than the address of the domicile, the increased tax is to be determined based on the sequence that the buildings were acquired, as results from the documents that attest to the title of ownership.

(3) Physical persons specified in par. (1) are required to submit a special declaration to the specialized department of the local public administration authority in whose jurisdiction the person has the domicile, as well as to those jurisdictions in which the other buildings of the person are located. The model of the special declaration is to be provided by methodological norms approved by government decision.

### **Art. 253. Computation of tax payable by legal persons**

(1) In the case of legal persons, the tax on buildings is to be computed by applying a rate of tax to the inventory value of the building.

(2) The rate of tax is to be established by a decision of the local council and may be between 0.5% and 1%, inclusively.

(3) The inventory value of the building is the entry value of the building in the patrimony, recorded in the accounting system of the owner of the building, in accordance with legal provisions in force.

(4) In the case of a building whose value was entirely recovered by means of depreciation, the taxable value is to be reduced by 15%.

(5) In the case of a building that was revalued according to legal provisions in force, the inventory value of the building is the value recorded in the accounting system of the owner immediately after the revaluation.

(6) In the case of a building that was acquired before January 1, 1998, and that after such date was not revalued, the rate of tax for the building is to be established by the local council between 5% and 10% and is to apply to the inventory value of the building, until the date of the first revaluation, recorded in the accounting system.

(7) In the case of a building that is the subject of a finance leasing contract, the following rules are to apply:

a) the tax on buildings is payable by the owner;

b) the value that is considered in computing the tax on buildings is the value of the building recorded in the finance leasing contract.

(8) The tax on buildings is to apply to any building owned by a legal person that is placed in operation, in reserve, or in conservation, even if the value was entirely recovered by means of depreciation.

### **Art. 254. Acquisitions, transfers and modifications of buildings**

(1) In the case of a building that was acquired or constructed by a person during a year, the tax on buildings is payable by such person beginning on the first day of the month that follows the month in which the building was acquired or constructed.

(2) In the case of a building that was transferred, demolished or destroyed, as the case may be, during a year, the tax on buildings ceases to be payable by such person beginning on the first day of the month that follows the month in which the building was transferred, demolished or destroyed.

(3) In the cases specified in par. (1) or par. (2), the tax on buildings is to be recomputed to reflect the period during the year that the tax applies to such person.

(4) In the case of an extension, improvement, partial destruction or other modification of an existing building, the tax on buildings is to be recalculated beginning with the first day of the month that follows the month in which the modification was completed.

(5) Any person that acquires or constructs a building is required to submit a tax declaration to the specialized department of the local public administration authority within 30 days of the date of acquisition or construction.

(6) Any person that extends, improves, demolishes, destroys or modifies in any other manner an existing building is required to submit a declaration in this sense to the specialized department of the local public administration authority within 30 days after the date that the modifications are made.

#### **Art. 255. Payment of tax**

(1) The tax on buildings is to be paid on an annual basis, in four equal installments, on or before March 15<sup>th</sup>, June 15<sup>th</sup>, September 15<sup>th</sup> and November 15<sup>th</sup>.

(2) For an anticipatory payment of the tax on buildings, payable for the entire year by a physical person, by March 15<sup>th</sup> of such year, there is granted a reduction of up to 10% as established by a decision of the local council.

### **CHAPTER III. Tax on land**

#### **Art. 256. General rules**

(1) Any person that owns land that is located in Romania owes an annual tax for such land, except as otherwise provided in the present title.

(2) The tax provided in par. (1), which is hereafter referred to as the *tax on land*, is to be paid to the local budget of the administrative-territorial unit in whose jurisdiction the land is located.

(3) In the case of a land that is under the administration or use, as the case may be, of another person and for which rent is owed based on a rental contract, the tax on land is payable by the owner.

(4) In the case of land that is owned jointly by two or more persons, each owner owes the tax on the land for the portion of the land that is owned by him. In the case where the individual portions of the joint owners may not be determined, each joint owner owes an equal portion of the tax for the land.

### **Art. 257. Exemptions**

The tax on land is not payable for the following:

- a) land related to a building, for the area to the extent that the land is covered by a building;
- b) any land of a religious cult recognized by law and of a local unit of such cult, with legal personality;
- c) any land of a cemetery, crematory;
- d) any land of an institute of pre-university or university education, provisionally authorized or accredited;
- e) any land of a health unit of national interest that has not passed to the patrimony of the local authority;
- f) any land owned, managed or used by a public institution, with the exception of the area used for economic activities;
- g) any land related to a building of a public institution or a building that is part of the public or private domain of an administrative-territorial unit, except the area of such used for economic activities;
- h) any land polluted or contaminated, including the perimeter of amelioration, for the period of such amelioration;
- i) lands that by their nature and not by destination are inadequate for agriculture or forestry, any land occupied by ponds, pools, reservoirs, navigable canals, land used for defense against floods, water management, hydro-meteorology, land that contributes to the exploitation of water

resources, land used as zones of protection defined by law, as well as land used for subsoil exploitation, as designated by a decision of the local council, to the extent that the use of the surface of the ground is not affected;

- j) any land related to hydro-technical or navigational systems, land related to port infrastructure, navigable canals, including locks and pumping stations related to such, as well as land related to works of land improvement;
- k) land occupied by highways, European roads, national roads, the principal roads administered by the Compania Nationala de Autostrazi si Drumuri Nationale din Romania – S.A., safety zones for roads, as well as lands around roads that are safety zones;
- l) land of industrial, scientific and industrial parks, as provided by law;
- m) land that passes to the ownership of the state or the administrative-territorial units in the absence of legal heirs or successors;
- n) land related to buildings specified in art. 250, par. (1), pt. 6 and 7, with the exception of those used for economic activities.

#### **Art. 258. Computation of tax**

(1) The tax on land is to be determined by taking into account the number of square meters of land, the rank of the locality where the land is located, and the zone and/or category of use of the land, in accordance with decisions of the local council.

(2) In the case of land that is located in intravilan, the tax on land is to be determined by multiplying the number of square meters of the land by the appropriate amount specified in the following table:

Zone within locality	Rank of locality (rol/m <sup>2</sup> )					
	0	I	II	III	IV	V
<b>A</b>	5,900	4,900	4,300	3,700	500	400
<b>B</b>	4,900	3,700	3,000	2,500	400	300
<b>C</b>	3,700	2,500	1,900	1,200	300	200
<b>D</b>	2,500	1,200	1,000	700	200	100

(3) In the case of land located in intravilan, registered in the agriculture registry as a category of use other than land with construction, the tax on land is to be determined as follows:

- a) by multiplying the number of square meters of land by the appropriate amount specified in par. (4); and
- b) by multiplying the result from lett. a) by the appropriate correction coefficient specified in par. (5).

(4) The number of square meters of land is to be multiplied by the appropriate amount specified in the following table:

No.	Category of use	Zone (rol/m <sup>2</sup> )			
		I	II	III	IV
1	Arable land	15	12	10	8
2	Grazing field	12	10	8	6
3	Hay field	12	10	8	6
4	Vineyard	25	20	15	10
5	Orchard	30	25	20	15
6	Forest or other land with forest vegetation	15	12	10	8
7	Land with water	8	6	4	X
8	Roads and railways	X	X	X	X
9	Unproductive land	X	X	X	X

(5) The amount determined in accordance with par. (4) is to be multiplied by the appropriate correction coefficient specified in the following table:

Rank of locality	Correction coefficient
0	8.00
I	5.00
II	4.00
III	3.00
IV	1.10
V	1.00

(6) In the case of land that is located in extravilan, regardless of the rank of locality, the category of use and the zone where it is located, the tax on land is 10,000 ROL per hectare.

#### **Art. 259. Acquisitions and transfers of land and other changes to land**

(1) For land that is acquired by a person during a year, the tax on land is payable as of the first day of the month that follows the month in which the land was acquired.

(2) For any legal operation that is performed by a person during a year, that has as an effect the transfer of the right of ownership to land, the person ceases to owe the tax on land beginning with the first day of the month that follows the month in which the transfer of the right of ownership to the land was performed.

(3) In the cases specified in par. (1) or par. (2), the tax on land is to be recomputed to reflect the period during the year that the tax applies to such person.

(4) If the categorization of land based on location or category of use changes during a year or any other event occurs during a year that changes the tax payable on land, then the tax payable is to be modified beginning with the first day of the month that follows the month in which the change occurs.

(5) If the rank of a locality changes during a year, then the tax on land is to be modified for all land that is located in intravilan, according to the new classification, beginning with January 1<sup>st</sup> of the year that follows the year in which the change occurs.

(6) Any person that acquires land is required to submit a declaration regarding the acquisition of the land to the specialized department of the local public administration authority on or before the 30<sup>th</sup> day after the date of acquisition.

(7) Any person that changes the use of land is required to submit a declaration regarding such change of use to the specialized department of the local public administration authority on or before the 30<sup>th</sup> day after the date of the change of use.

#### **Art. 260. Payment of tax**

(1) The tax on land is to be paid on an annual basis, in four equal installments, on or before March 15<sup>th</sup>, June 15<sup>th</sup>, September 15<sup>th</sup> and November 15<sup>th</sup>.

(2) For an anticipatory payment of the tax on land, payable for the entire year by a physical person, by March 15<sup>th</sup> of such year, there is granted a reduction of up to 10% as established by a decision of the local council.

### **CHAPTER IV. Fee on means of transport**

#### **Art. 261. General rules**

(1) Any person that owns a means of transport that is required to be registered in Romania owes an annual fee for the means of transport, except as otherwise provided in the present chapter.

(2) The fee specified in par. (1), which is hereafter referred to as the *fee on means of transport*, is to be paid to the local budget of the administrative-territorial unit where the person has his domicile, establishment, or place of work, as the case may be.

(3) In the case of a means of transport that is the subject of a finance leasing contract, the fee on the means of transport is payable by the lessor.

### **Art. 262. Exemptions**

The fee on means of transport is not to apply to the following:

- a) cars, motorcycles with sidecars, and motorized tricycles that belong to persons with locomotive disabilities and that are adapted for such disability;
- b) passenger river ships, boats, and punts used for the transport of physical persons domiciled in the Danube Delta, Insula Mare a Brailei, and Insula Balta Ialomitei;
- c) means of transport of public institutions;
- d) means of transport of legal persons that are used for public passenger transport services in an urban or suburban regime, including passenger transport outside a locality, if the transport tariff is established under conditions of public transport.

### **Art. 263. Computation of fee**

(1) The fee on means of transport is to be computed based on the type of the means of transport, in accordance with the provisions of the present chapter.

(2) In the case of any of the following means of transport with mechanical traction, the fee on the means of transport is to be computed based on the cylinder capacity of them, by multiplying each 500 cm<sup>3</sup>, or fraction thereof, by the appropriate amount from the following table:

<b>Means of transport</b>	<b>Fee (ROL/500 cm<sup>3</sup> or fraction)</b>
<b>1</b>	<b>2</b>
Cars with cylinder capacity of 2000 cm <sup>3</sup> or less	58,000
Cars with cylinder capacity of more than 2000 cm <sup>3</sup>	72,000
Buses, coaches and mini-buses	117,000
Other vehicles with mechanical traction with total maximum authorized weight of 12 tons or less	126,000
Registered tractors	78,000
Motorcycles, motorbikes and scooters	29,000

(3) In the case of a sidecar, the fee on the means of transport is to equal 50% of the fee for such motorcycle, motorbike or scooter.

(4) In the case of a commodity transport vehicle with a total authorized weight of over 12 tons, the fee on the means of transport is to equal the appropriate amount from the following table:

Number of axles and total maximum authorized weight	Fee (ROL)	
	Vehicles with pneumatic suspension system or a recognized equivalent	Vehicles with other suspension system
<b>I. Vehicles with two axles</b>		
1. Weight over 12 tons but not over 13 tons	1,000,000	1,100,000
2. Weight over 13 tons but not over 14 tons	1,100,000	1,200,000
3. Weight over 14 tons but not over 15 tons	1,200,000	1,400,000
4. Weight over 15 tons	1,400,000	2,800,000
<b>II. Vehicles with three axles</b>		
1. Weight over 15 tons but not over 17 tons	1,100,000	1,200,000
2. Weight over 17 tons but not over 19 tons	1,200,000	1,300,000
3. Weight over 19 tons but not over 21 tons	1,300,000	1,600,000
4. Weight over 21 tons but not over 23 tons	1,600,000	2,500,000
5. Weight over 23 tons but not over 25 tons	2,500,000	3,800,000
6. Weight over 25 tons	2,500,000	3,800,000
<b>III. Vehicles with four axles</b>		
1. Weight over 23 tons but not over 25 tons	1,600,000	1,700,000
2. Weight over 25 tons but not over 27 tons	1,700,000	2,500,000
3. Weight over 27 tons but not over 29 tons	2,500,000	4,000,000
4. Weight over 29 tons but not over 31 tons	4,000,000	6,000,000
5. Weight over 31 tons	4,000,000	6,000,000

(5) In the case of a combination of commodity transport vehicles (an articulated vehicle or vehicle with trailers) with total maximum authorized weight of over 12 tons, the fee on the means of transport is to equal the appropriate amount from the following table:

Number of axles and total maximum authorized weight	Fee (ROL)	
	Vehicles with pneumatic suspension system or a recognized equivalent	Vehicles with other suspension system
<b>I. Vehicles with 2 + 1 axles</b>		
1. Weight over 12 tons but not over 14 tons	1,000,000	1,100,000
2. Weight over 14 tons but not over 16 tons	1,100,000	1,200,000
3. Weight over 16 tons but not over 18 tons	1,200,000	1,300,000
4. Weight over 18 tons but not over 20 tons	1,300,000	1,400,000
5. Weight over 20 tons but not over 22 tons	1,400,000	1,500,000
6. Weight over 22 tons but not over 23 tons	1,500,000	1,600,000
7. Weight over 23 tons but not over 25 tons	1,600,000	2,000,000
8. Weight over 25 tons	2,000,000	3,400,000
<b>II. Vehicles with 2 + 2 axles</b>		
1. Weight over 23 tons but not over 25 tons	1,200,000	1,300,000
2. Weight over 25 tons but not over 26 tons	1,300,000	1,600,000
3. Weight over 26 tons but not over 28 tons	1,600,000	2,000,000

4. Weight over 28 tons but not over 29 tons	2,000,000	2,300,000
5. Weight over 29 tons but not over 31 tons	2,300,000	3,700,000
6. Weight over 31 tons but not over 33 tons	3,700,000	5,200,000
7. Weight over 33 tons but not over 36 tons	5,200,000	7,900,000
8. Weight over 36 tons	5,200,000	7,900,000
<b>III. Vehicles with 2 + 3 axles</b>		
1. Weight over 36 tons but not over 38 tons	4,200,000	5,700,000
2. Weight over 38 tons	5,700,000	8,000,000
<b>IV. Vehicles with 3 + 2 axles</b>		
1. Weight over 36 tons but not over 38 tons	3,500,000	5,000,000
2. Weight over 38 tons but not over 40 tons	5,000,000	7,000,000
3. Weight over 40 tons	7,000,000	7,900,000
<b>V. Vehicles with 3 + 3 axles</b>		
1. Weight over 36 tons but not over 38 tons	2,800,000	3,100,000
2. Weight over 38 tons but not over 40 tons	3,100,000	3,700,000
3. Weight over 40 tons	3,700,000	7,500,000

(6) In the case of a trailer, semi-trailer or van that is not part of a combination of vehicles as described in par. (5), the fee on the means of transport is to equal the appropriate amount from the following table:

Total maximum authorized weight	Fee (ROL)
a) 1 ton or less	59,000
b) Over 1 ton but not over 3 tons	194,000
c) Over 3 tons but not over 5 tons	292,000
d) Over 5 tons	370,000

(7) In the case of a means of water transport, the fee on the means of transport is to equal the appropriate amount from the following table:

Means of water transport	Fee (ROL)
1. Punts, boats without motors, water scooters, used for recreation	100,000
2. Boats without motors, used for other purposes	300,000
3. Boats with motors	600,000
4. Ferry boat, floating bridges	5,000,000
5. Motorboats	3,000,000
6. Yachts	15,000,000
7. Tugboats and barges	
a) Up to 500 HP, inclusive	3,000,000
b) Over 500 HP but not over 2,000 HP	5,000,000
c) Over 2,000 HP but not over 4,000 HP	8,000,000
d) Over 4,000 HP	12,000,000
8. Ships, for each 1,000 tdw or fraction thereof	1,000,000
9. Daubs and river barges:	
a) With loaded capacity of not over 1,500 tons	1,000,000
b) With loaded capacity of over 1,500 tons but not over 3,000 tons	1,500,000
c) With loaded capacity of over 3,000 tons	2,500,000

(8) For purposes of the present article, the cylinder capacity or the total maximum authorized weight of a means of transport is to be established by the identity card of the means of transport, by the purchase invoice or other similar document.

**Art. 264. Acquisitions and transfers of means of transport**

(1) In the case of a means of transport that is acquired by a person during a year, the fee on the means of transport is payable by such person beginning with the first day of the month that follows the month in which the means of transport was acquired.

(2) In the case of a means of transport that is transferred by a person during a year or that is removed from the fiscal records of the specialized department of the local public administration authority, the fee on the means of transport ceases to be payable by such person beginning with the first day of the month that follows the month in which the means of transport was transferred or removed from the fiscal records.

(3) In the cases specified in par. (1) or par. (2), the fee on the means of transport is to be recomputed to reflect the period during the year that the fee applies to such person.

(4) Any person that acquires/transfers a means of transport or that changes the domicile/establishment/place of work is required to submit a declaration regarding the means of transport to the specialized department of the local public administration authority in whose jurisdiction the person has the domicile/establishment/place of work on or before the 30<sup>th</sup> day after the modification occurs.

**Art. 265. Payment of fee**

(1) The fee on means of transport is to be paid on an annual basis, in four equal installments, on or before March 15<sup>th</sup>, June 15<sup>th</sup>, September 15<sup>th</sup> and November 15<sup>th</sup>.

(2) For an anticipatory payment of the fee on automobiles owed for the entire year by a physical person, by March 15<sup>th</sup> of such year, there is granted a reduction of up 10% as established by a decision of the local council.

(3) In the case of a means of transport owned by a non-resident, the fee on the means of transport is to be paid in full at the time that the means of transport is registered with the specialized department of the local public administration authority.

## **CHAPTER V. Fee for the issuance of certificates, permits and authorizations**

### **Art. 266. General rules**

Any person that must obtain a certificate, permit or other authorization provided in the present chapter must pay the fee specified in this chapter to the specialized department of the local public administration authority prior to the issuance of the necessary certificate, permit or authorization.

### **Art. 267. Fee for the issuance of urbanization certificates, construction permits and other similar permits**

(1) The fee for the issuance of an urbanization certificate in an urban area is to equal the amount established by the local council within the limits provided in the following table:

<b>Area to which urbanization certificate applies</b>	<b>Fee (ROL)</b>
a. 150 m <sup>2</sup> or less	25,000—35,000
b. Over 150 m <sup>2</sup> but not over 250 m <sup>2</sup>	37,000—47,000
c. Over 250 m <sup>2</sup> but not over 500 m <sup>2</sup>	48,000—60,000
d. Over 500 m <sup>2</sup> but not over 750 m <sup>2</sup>	61,000—72,000
e. Over 750 m <sup>2</sup> but not over 1,000 m <sup>2</sup>	73,000—85,000
f. Over 1,000 m <sup>2</sup>	85,000 + 130 for each m <sup>2</sup> that exceeds 1,000 m <sup>2</sup>

(2) The fee for the issuance of an urbanization certificate for a rural area is to equal 50% of the fee provided according to par. (1).

(3) The fee for the issuance of a construction permit for a building that is to be used as a dwelling or auxiliary to a dwelling is to equal 0.5% of the authorized value of the construction work.

(4) The fee for the issuance of a permit for drilling or excavation necessary for geo-technical studies, topographical raisings, quarry exploitation, ballast pits, gas and oil wells, as well as other exploitations is to be computed by multiplying the number of square meters of land disturbed by the drilling or excavation by an amount established by the local council of up to ROL 50,000.

(5) The fee for the issuance of a permit that is necessary for site preparation works in order to realize a construction and that is not included in another construction permit is to equal 3% of the authorized value of the site preparation work.

(6) The fee for the issuance of a permit for site preparation for tent camps, huts, caravans or camping sites is to equal 2% of the authorized value of the construction work.

(7) The fee for the issuance of a construction permit for kiosks, stands, booths or exhibition spaces, located on public ways or areas, as well as for panels and billboards of a firm and advertisements is to be up to ROL 50,000 for each square meter of area occupied by the construction.

(8) The fee for the issuance of a construction permit for any construction other than those described in another paragraph of the present article is to equal 1% of the authorized value of the construction work, including any related installation.

(9) The fee for the issuance of a permit for the partial or total destruction of a construction is to equal 0.1% of the taxable value of the construction, as established for the determination of the tax on buildings. In the case of the partial destruction of a construction, the fee for the issuance of the permit is to be adjusted to reflect the portion of the construction that is to be demolished.

(10) The fee for the prolongation of an urbanization certificate or a construction permit is to equal 30% of the amount of the fee for the original issuance of the certificate or permit.

(11) The fee for the issuance of a permit for connecting and branching to public water networks, sewage systems, gas, thermal, electric energy, telephone and cable television is to be established by the local council and is to be up to ROL 75,000 for each connection.

(12) The fee for the endorsement of an urbanization certificate by the urbanism and territory arrangement commission, by mayors or by specialized bodies within the county council is to be established by the local council in an amount up to ROL 100,000.

(13) The fee for the issuance of a certificate for a street name and address is to be established by the local council in an amount up to ROL 60,000.

(14) For fees specified in the present article that are determined on the basis of the authorized value of a construction work, the following rules are to apply:

- a) the fee that is payable is to be established based on the value of the construction works declared by the person that applies for the permit and is to be paid before the issuance of the permit;
- b) before the 15th day after the date of completion of the construction works, but not later than the 15th day after the expiration date of such permit, the person that obtained the permit must submit a declaration regarding the value of the construction works to the specialized department of the local public administration authority;
- c) on or before the 15th day after the date on which the final accounting regarding the value of the construction works is submitted, the specialized department of the local public administration authority is required to determine the fee that is payable based on the actual value of the construction works;
- d) on or before the 15th day after the date on which the specialized department of the local public administration authority issues the value established for the fee, any additional amount that is payable by the person that received the permit or any amount that must be refunded by the local public administration authority must be paid.

(15) In the case of a construction permit issued to a physical person, the actual value of the construction work may not be less than the taxable value of the building as established according to art. 251.

**Art. 268. Fee for issuance of permits to carry out economic activities and other similar permits**

(1) The fee for the issuance of a permit to carry out an economic activity is to be established by the local council in an amount up to ROL 100,000 in rural areas and up to ROL 500,000 in urban areas.

(2) The fee for the issuance of a sanitary operation permit is to be established by the local council and is to be up to ROL 120,000.

(3) The fee for the issuance of heliographic copies of cadastral plans or of other similar plans held by the local council is to be established by the local council and is to be up to ROL 200,000.

(4) The fee for issuance of production certificates is to be established by the local council and is to be up to ROL 500,000.

#### **Art. 269. Exemptions**

The fee for the issuance of certificates, permits, and authorizations is not payable for:

- a) an urbanization certificate or construction permit for a cult premises or auxiliary constructions;
- b) an urbanization certificate or construction permit for the development, modernization or rehabilitation of the transportation infrastructure that belongs to the public domain of the state;
- c) an urbanization certificate or construction permit for works of county or local public interest;
- d) an urbanization certificate or construction permit if the beneficiary of the construction is a public institution;
- e) a construction permit for highways and railroads assigned by concession, according to law.

### **CHAPTER VI. Fee for using means of advertising and publicity**

#### **Art. 270. Fee for advertising and publicity services**

(1) Any person that benefits from advertising and publicity services in Romania on the basis of a contract or another form of agreement entered into with another person owes the fee specified in the present article, with the exception of advertising and publicity services realized by means of written and audio-visual mass media.

(2) The fee specified in the present article, which is hereafter referred to as the *fee for advertising and publicity services*, is to be paid to the local budget of the administrative-territorial unit in whose jurisdiction the person supplies the advertising or publicity services.

(3) The fee for advertising and publicity services is to be computed by applying the rate of such fee to the value of the advertising or publicity services.

(4) The rate of the fee is to be established by the local council and is to be between 1% and 3%.

(5) The value of the advertising or publicity services is to include any payment obtained or to be obtained for the advertising or publicity services, with the exception of the value-added tax.

(6) The fee for advertising and publicity services is to be paid to the local budget, on a monthly basis, on or before the 10th of the month that follows the month in which the contract for the supply of the advertising or publicity services enters into force.

**Art. 271. Fee for the display of advertising and publicity**

(1) Any person that uses a sign, display or display structure for advertising or publicity in a public place owes the annual fee specified in the present article to the local budget of the local public administration authority in whose jurisdiction such sign, display or other display structure is located.

(2) The amount of the fee for the display of advertising and publicity is to be computed on an annual basis by multiplying the number of square meters, or fraction thereof, of the area of the advertising or publicity display by an amount established by the local council as follows:

- a) in the case of a display located at the place where the person is carrying out an economic activity, the amount is to be up to ROL 200,000;
- b) in the case of any other sign, display or display structure for advertising and publicity, the amount is to be up to ROL 150,000.

(3) The fee for the display of advertising and publicity is to be recomputed to reflect the number of months, or fraction thereof, that the advertising or publicity is displayed during a calendar year.

(4) The fee for the display of advertising and publicity is to be paid on an annual basis, through quarterly anticipatory payments, in four equal installments, on or before March 15<sup>th</sup>, June 15<sup>th</sup>, September 15<sup>th</sup>, and November 15<sup>th</sup>.

(5) The local council may require persons that owe the fee for the display of advertising and publicity to submit an annual declaration to the specialized department of the local public administration authority.

### **Art. 272. Exemptions**

(1) The fee for advertising and publicity services and the fee for the display of advertising and publicity are not to apply to public institutions, with the exception of cases of the advertising of economic activities.

(2) The fee specified in the present article, which is hereafter referred to as the *fee for the display of advertising and publicity*, is not to apply to a person that rents a sign, display or display structure from another person, if the fee provided in art. 270 is payable by such latter person.

(3) The fee for the display of advertising and publicity is not payable for displays, signs and other means of advertising and publicity located in the interior of buildings.

(4) The fee for the display of advertising and publicity is not to apply to signs that identify energy installations, warning signs or traffic signs, as well as other information of public utility and education.

(5) The fee for the use of means of advertising and publicity is not payable for display effected by means of transport that are not intended by their construction to carry out advertising and publicity.

## **CHAPTER VII. Tax on shows**

### **Art. 273. General rules**

(1) Any person that organizes an artistic performance, sporting competition or other entertainment activity in Romania is required to pay the tax specified in the present chapter, which is hereafter referred to as the *tax on shows*.

(2) The tax on shows is to be paid to the local budget of the administrative-territorial unit in whose jurisdiction the artistic performance, sporting competition or other entertainment activity takes place.

### **Art. 274. Computation of tax**

(1) Except as provided in art. 275, the tax on shows is to be computed by applying the rate of tax to the amount collected from the sale of entrance tickets and subscriptions.

(2) The rate of tax is to be determined as follows:

- a) in the case of a theatrical performance, such as a theatrical play, ballet, opera, operetta, philharmonic concert or other musical performance, the exhibition of a film at a cinema, a circus performance, or any domestic or international sporting competition, the rate of tax equals 2%;
  - b) in the case of any artistic performance other than those enumerated in lett. a), the rate of tax equals 5%.
- (3) The amount received from the sale of entrance tickets or subscriptions is not to include amounts paid by the organizer of the show for charitable purposes, in accordance with a written contract entered in force before the sale of the entrance tickets or subscriptions.
- (4) Persons that owe the tax on shows as determined in accordance with the present article are required to:
- a) register the entrance tickets and/or subscriptions with the specialized department of the local public administration authority that exercises authority over the location where the show is to take place;
  - b) post the tariffs for the show at the location where the show is to take place as well as at any other location where entrance tickets and/or subscriptions are sold;
  - c) specify the tariffs on the entrance tickets and/or subscriptions and refrain from collecting amounts that exceed the tariffs specified on the entrance tickets and/or subscriptions;
  - d) issue an entrance ticket and/or subscription for all amounts received from persons that attend the show;
  - e) provide the specialized department of the local public administration authority upon request with documents that justify the computation and payment of the tax on shows;
  - f) comply with any other requirements regarding the printing, registration, endorsement, recording and storage of entrance tickets and subscriptions that are provided in norms developed jointly by the Ministry of Public Finance and the Ministry of Administration and Internal Affairs, and consented to by the Ministry of Culture and Cults and the National Agency for Sport.

**Art. 275. Special rules for video and disco rooms**

(1) In the case of an artistic performance or entertainment activity that takes place in a video or disco room, the tax on shows is to be computed based on the floor space in the room as provided in the present article.

(2) The tax on shows is to be determined for each day of an artistic performance or entertainment activity, by multiplying the number of square meters of floor space in the video or disco room by an amount established by the local council as follows:

- a) in the case of video rooms, the amount is to be up to ROL 1,000;
- b) in the case of disco rooms, the amount is to be up to ROL 2,000.

(3) The tax on shows is to be adjusted by multiplying the amount determined as provided in par. (2) by the appropriate correction coefficient specified in the following table:

Rank of locality	Correction coefficient
0	8.00
I	5.00
II	4.00
III	3.00
IV	1.10
V	1.00

(4) Persons that owe the tax on shows as determined in accordance with the present article are required to submit a declaration to the specialized department of the local public administration authority regarding shows that are scheduled to take place during a calendar month. The declaration is to be submitted on or before the 15<sup>th</sup> day of the month that precedes the month in which such shows are scheduled to take place.

**Art. 276. Exemptions**

The tax on shows is not to apply to shows organized for humanitarian purposes.

**Art. 277. Payment of tax**

(1) The tax on shows is to be paid on a monthly basis on or before the 15<sup>th</sup> of the month that follows the month in which the show took place.

(2) Any person that owes the tax on shows is required to submit a declaration to the specialized department of the local public administration authority on or before the date established for each payment of the tax on shows. The format of the declaration is to be specified in norms developed jointly by the Ministry of Public Finance and the Ministry of Administration and Internal Affairs.

(3) Persons that owe the tax on shows are responsible for the correct computation of the tax, the timely submission of the declaration and the timely payment of the tax.

## **CHAPTER VIII. Hotel fee**

### **Art. 278. General rules**

(1) The local council may impose a fee for a stay in a unit of accommodation within the locality over which the local council exercises its authority, but only if the fee is applied in accordance with the present chapter.

(2) The fee for a stay in a unit of accommodation, which is hereafter referred to as the *hotel fee*, is to be collected by the legal person through which the accommodation is realized, at the same time as the registration of the accommodated person.

(3) The unit of accommodation is required to remit the fee collected in accordance with par. (2) to the local budget of the administrative-territorial unit in whose jurisdiction the unit is located.

### **Art. 279. Computation of fee**

(1) The hotel fee is to be computed by applying the established rate of the fee to the accommodation tariff practiced by the units of accommodation.

(2) The rate of the fee is to be established by the local council and is to be between 0.5% and 5%. In the case of units of accommodation located in a tourist resort, the rate of the fee may vary based on the class of the hotel accommodation.

(3) The hotel fee is payable for the entire period of the stay, except that in the case of a unit of accommodation located in a tourist resort, the fee is payable only for a single night, regardless of the actual accommodation period.

### **Art. 280. Exemptions**

The hotel fee is not to apply for:

- a) physical persons up to 18 years of age, inclusively;
- b) physical persons with a severe or serious handicap or persons with a handicap of degree I or II;
- c) pensioners or students;
- d) physical persons during the period of compulsory military service;
- e) war veterans;
- f) war widows or widows of war veterans who have not remarried;
- g) physical persons provided for under art. 1 of Decree-Law no. 118/1990, as regards the granting of certain rights to persons persecuted for political reasons by the dictatorship established beginning on March 6, 1945, as well as to those deported abroad or turned into prisoners, republished, with subsequent modifications and completions;
- h) a spouse of one of the physical persons mentioned in lett. b) - g), who is accommodated together with a person mentioned in lett. b) - g).

### **Art. 281. Payment of fee**

(1) The unit of accommodation is required to remit the hotel fee to the local budget, on a monthly basis, on or before the 10th day of the month that follows the month in which the hotel fee was collected from the persons that paid for the accommodation.

(2) The unit of accommodation is required to submit a monthly declaration to the specialized department of the local public administration authority on or before the date established for each payment of the hotel fee. The format of the declaration is to be specified in norms developed jointly by the Ministry of Public Finance and the Ministry of Administration and Internal Affairs.

## **CHAPTER IX. Special fees**

### **Art. 282. Special fees**

(1) For the functioning of local public services created for the benefit of physical and legal persons, local councils, county councils and the General Council of the Municipality of Bucharest, as the case may be, may adopt special fees.

(2) The domains in which the local councils, county councils and the General Council of the Municipality of Bucharest, as the case may be, may adopt special fees for local public services, as well as the amount of such fees, are to established in accordance with the provisions of Government Emergency Ordinance no. 45/2003, as regards local public finance

## **CHAPTER X. Other local fees**

### **Art. 283. Other local fees**

(1) The local councils or county councils may impose a daily fee of up to ROL 100,000 for the temporary use of public places and for admission to museums, memorial houses, or historical, architectural or archaeological monuments.

(2) The local council or county council may impose a daily fee of up to ROL 100,000 for the ownership or use of equipment held for the purpose of obtaining income. The fee is to apply to the classes of equipment specified by the local council.

(3) The local council may establish an annual fee of up to ROL 300,000 for each of the following slow-moving vehicles:

1. mowing truck;
2. excavating truck (on chassis);
3. motorized grader or motorized scraper;
4. bulldozer with tires;
5. self-propelled compactor;
6. flywheel excavator for digging ditches, rotary excavator for digging ditches or excavator with tires;
7. self-propelled cutter for canals or for stable land;
8. road cutter;
9. loader with tires and single bucket;
10. self-propelled device for sorting and breakage;

11. crane for grabbing;
  12. mobile crane with tires;
  13. self-propelled tower crane;
  14. self-propelled truck for any of the following purposes:
    - a) earth works;
    - b) road construction and maintenance;
    - c) removing asphalt cover on roads;
    - d) finishing roads;
    - e) drilling;
    - f) asphalt cover;
    - g) removing snow.
  15. self-propelled chassis with wood saw;
  16. tractor with tires;
  17. self-propelled trolley;
  18. multi-functional equipment for road maintenance;
  19. vehicle of firemen for pumping water;
  20. vehicle for waste grinding and compacting;
  21. vehicle for road marking;
  22. vehicle for waste cutting and compacting.
- (4) The fees specified in par. (1) - (3) are to be computed and paid in accordance with procedures developed by the local council.

## **CHAPTER XI. Common exemptions and facilities**

### **Art. 284. Exemptions and facilities for physical persons**

(1) The tax on buildings, the tax on land, the fee on means of transport, the fee for the issuance of certificates, permits and authorizations, as well as the other fees provided in art. 282 and art. 283 are not to apply to:

- a) war veterans;
- b) physical person provided for under art. 1 of Decree-Law no. 118/1990, as regards the granting of certain rights to persons persecuted for political reasons by the dictatorship established beginning on March 6, 1945, as well

as to those deported abroad or turned into prisoners, republished, with subsequent modifications and completions, as well as in other laws.

(2) The tax on buildings, the tax on land, and the fee on means of transport are not to apply to physical persons provided for under art. 6 and art. 10, par. (1), lett. k) of Law no. 42/1990, as regards the veneration of hero martyrs and the granting of certain rights to their successors, wounded, as well as warriors for the victory of the December 1989 revolution, republished, with subsequent modifications and completions.

(3) The tax on buildings and the tax on land are not to apply to war widows and widows of war veterans who have not remarried.

(4) The tax on buildings, the tax on land, the fee for the issuance of authorizations for the operation of economic activities and the annual endorsement of such authorization are not to apply to persons with serious or severe handicaps and persons with handicaps of degree I or II.

(5) In the case of a building, land or means of transport that is owned jointly by a physical person specified in par. (1), (2), (3) or (4), the fiscal exemption is to apply entirely for property jointly owned with a spouse.

(6) An exemption from the payment of the tax on buildings is to apply only to buildings used as the domicile of physical persons specified in par. (1), (2), (3) or (4).

(7) An exemption from the payment of the tax on land is to apply only to land that is related to the building that is used as the domicile of physical persons described in par. (1), (2), (3) or (4).

(8) An exemption from the payment of tax specified in par. (1), (2), (3) or (4) is to apply to a person beginning with the first day of the month that follows the month in which the person submits the justifying documents regarding the exemption.

(9) Romanian physical persons and/or Romanian legal persons that thermally rehabilitate or modernize a building of dwelling that is held in ownership, under the conditions of Government Ordinance no. 29/2000, as regards the thermal rehabilitation of existing construction stock and the stimulation of thermal energy conservation, as approved with modifications by Law no. 325/2002, are exempt from the tax for such building for the period of reimbursement of the credit

obtained for thermal rehabilitation, as well as the fee for the issuance of construction permits for the works of thermal rehabilitation.

(10) The tax on buildings, the tax on land, the fee on means of transport, the fee for the issuance of certificates, permits and authorizations, as well as the other fees specified in art. 282 and art. 283 are to be reduced by 50%, in accordance with Government Ordinance no. 27/1996, as regards the granting of facilities to persons who are domiciled or working in certain locations in the Apuseni Mountains and the “Danube Delta” Biosphere Reservation, republished, with subsequent modifications, for physical persons who are domiciled and actually living in the localities specified in:

- a) Government Decision no. 323/1996, as regards the approval of the special program for the support of the economic-social development of certain locations in the Apuseni Mountains, with subsequent modifications; or
- b) Government Decision no. 395/1996, for the approval of the special program regarding certain measures and actions for the support of the economic-social development of Tulcea county and the “Danube Delta” Biosphere Reservation, with subsequent modifications.

(11) A fee is not owed for inheritance provided by Government Ordinance no. 12/1998, as regards the stamp fee for notary activities, republished, with subsequent modifications, if the succession procedure is debated within one year from the death of the author of the goods. Persons that apply for the debate of the succession within one year from the entry in force of the present normative act are also to benefit from the exemption.

#### **Art. 285. Exemptions and facilities for legal persons**

(1) The tax on buildings, the tax on land, the fee on means of transport, the fee for the issuance of certificates, permits and authorizations as well as the other local fees provided in art. 282 and art. 283 are not to apply to the following:

- a) any institution or unit that operates under the coordination of the Ministry of Education, Research and Youth, with the exception of premises used for economic activities;

- b) testamentary foundations established according to law for the purpose to maintain, develop or assist national cultural institutions, as well as to support activities with a humanitarian, social or cultural character;
  - c) humanitarian organizations whose exclusive activity is the maintenance and operation of homes for the elderly and homes for the protection of orphaned children and homeless children.
- (2) The tax on buildings and the tax on land are to be reduced by 50% for buildings and the related land of legal persons that are used exclusively for the provision of tourist services for a period of not more than 5 months during a calendar year.
- (3) The tax on buildings is to be reduced by 50% for newly constructed buildings owned by consumption or handicraft cooperatives, but only for the first 5 years after the date of acquisition of the building.

**Art. 286. Exemptions and facilities established by local councils**

- (1) The local council may grant an exemption from the tax on buildings or a reduction of such tax for a building that is used as the domicile of the physical person who owes such tax.
- (2) The local council may grant an exemption from the tax on land or a reduction of such tax for land that is related to a building that is used as the domicile of the physical person who owes such tax.
- (3) The local council may grant an exemption from the tax on buildings and the tax on land or a reduction of such taxes for persons whose monthly incomes are less than the minimum salary of the economy or consist exclusively of unemployment benefits and/or social assistance pension.
- (4) In the case of a natural disaster, the local council may grant an exemption from the payment of the tax on buildings, the tax on land, as well as the fee for the issuance urbanization certificates and construction permits, or a reduction of such taxes or fees.
- (5) An exemption from the payment of tax or a reduction of such tax provided in par. (1), (2), (3) or (4) is to apply to the respective person beginning with the first day of the month that follows the month in which the person submits the justifying documents regarding the exemption or reduction.

(6) The local council may grant an exemption from the payment of the tax on land or a reduction of such tax for land that is related to investment carried out in accordance with Law no. 332/2001, as regards the promotion of direct investments with significant impact on the economy, with subsequent modifications, during the entire duration of the execution of such investment, until putting the investment into operation, but no longer than 3 years from the date of the commencement of the works.

## **CHAPTER XII. Other common provisions**

### **Art. 287. Increase of local taxes and fees by local or county councils**

The local council or county council, as the case may be, may annually increase by a maximum of 20%, in comparison with the level established for year 2004, based on special conditions of the area, any local tax or fee provided in the present title, with the exception of the fees provided in art. 295, par. (11), lett. b) – d).

### **Art. 288. Decisions of local and county councils regarding local taxes and fees**

(1) Local councils and county councils are to adopt decisions regarding the establishment of local taxes and fees for a calendar year on or before May 31<sup>st</sup> of the preceding calendar year.

(2) The mayors and the chairpersons of county councils are to ensure adequate publication of any decisions of such local or county councils.

### **Art. 289. Access to information regarding local taxes and fees**

Local public administrative authorities are required to provide free access to information regarding local taxes and fees.

### **Art. 290. Submission of declarations by legal persons**

Any legal person that owes the tax on buildings, the tax on land, or the fee on means of transport is required to compute the respective tax or fee and submit a declaration to the specialized department of the local public administration

authority on or before January 31<sup>st</sup> of the calendar year for which the tax or fee is computed.

**Art. 291. Control and collection of local taxes and fees**

Local public administration authorities and the specialized organs of such authorities, as the case may be, are responsible for the determination, control and collection of local taxes and fees, as well as the related penalties and fines.

**Art. 292. Indexing of local taxes and fees**

(1) In the case of any local tax or fee that is a specific amount of ROL or that is determined based on a specific amount of ROL, the specific amounts are to be indexed annually to reflect the estimated rate of inflation for the following year if the estimated rate of inflation exceeds 5%.

(2) The indexed amounts are to be proposed jointly by the Ministry of Public Finance and the Ministry of Administration and Internal Affairs and are to be approved by a Government Decision issued on or before April 30<sup>th</sup> of each year.

**Art. 293. Issuance of norms**

The Ministry of Public Finance and the Ministry of Administration and Internal Affairs are to issue norms for the present title.

**CHAPTER XIII. Sanctions**

**Art. 294. Sanctions**

(1) The non-observance of the provisions of the present title are to entail disciplinary responsibility, civil responsibility, or criminal responsibility according to legal provisions in force.

(3) The following actions constitute civil violations:

a) the late submission of the declarations of tax provided in art. 254 par. (5) and (6), art. 259 par. (6) and (7), art. 264 par. (4), art. 267 par. (14), lett. b), art. 277 par. (2), art. 281 par. (2) and art. 290;

b) the failure to submit the declarations of tax provided in art. 254 par. (5) and (6), art. 259 par. (6) and (7), art. 264 par. (4), art. 267 par. (14), lett. b), art. 277 par. (2), art. 281 par. (2) and art. 290.

(3) The civil violation provided in par. (2), lett. a) is to be sanctioned by a fine of between ROL 500,000 and ROL 1,000,000,000 and the civil violation provided in par. (2), lett. b) is to be sanctioned by a fine of between ROL 1,000,000 and ROL 3,000,000.

(4) The infringement of the technical norms regarding the printing, registration, sale, recording and administration, as the case may be, of subscriptions and entrance tickets to shows, is a civil violation and is to be sanctioned by a fine of between ROL 2,000,000 and ROL 10,000,000.

(5) The ascertainment of civil violations and the application of sanctions are to be performed by the majors and the authorized persons from the specialized departments of the local public administration authorities.

(6) In the case of legal persons, the minimum and maximum limits of the fines provided in par. (2) and (3) are to be increased by 300%.

(7) The limits on fines provided in par. (1), (2) and (4) are to be updated by Government decision.

(8) The provisions of law are to apply to the civil violations provided in par. (1), (2) and (4).

## **CHAPTER XIV. Final provisions**

### **Art. 295. Budget implications of local taxes and fees**

(1) The local taxes and fees, as well as the related penalties and fines, are revenues of the local budgets of the administrative-territorial units.

(2) The tax on buildings, as well as the related penalties and fines, are revenues of the local budget of the administrative-territorial unit in whose jurisdiction the respective building is located.

(3) The tax on land, as well as the related penalties and fines, are revenues of the local budget of the administrative-territorial unit in whose jurisdiction the respective land is located.

(4) Except as provided in par. (5), the fee on means of transport, as well as the related penalties and fines, are revenues of the local budget of the administrative-territorial unit in whose jurisdiction the respective means of transport must be registered.

(5) The revenues derived from the fee on means of transport determined in accordance with the provisions of art. 263, par. (4) and (5), as well as the related penalties and fines, may be used exclusively for works of maintenance, modernization, rehabilitation and construction of local and county roads, of which 60% constitutes revenue of the local budget and 40% constitutes revenue of the county budget. In the case of the municipality of Bucharest, 60% of such fee is revenue of the sector budget and 40% of such fee is revenue of the Bucharest municipal budget.

(6) The local fees provided in chapter V of the present title are revenues of the local budget of the administrative-territorial unit. For the issuance of urbanization certificates and construction permits by the president of the county councils, with the endorsement of the majors of communes, the fee is revenue in the proportion of 50% to the local budget of the communes and 50% to the local budget of the county council.

(7) The fee for advertising and publicity services, as well as the related penalties and fines, are revenues of the local budget of the administrative-territorial unit where the advertising or publicity services are supplied. The fee for the display of advertising and publicity, as well as the related penalties and fines, are revenues of the local budget of the administrative-territorial unit where the display, sign or display structure for advertising or publicity is located.

(8) The tax on shows, as well as the related penalties and fines, are revenues of the local budget of the administrative-territorial unit where the artistic performance, sporting competition or other entertainment activity takes place.

(9) The hotel fee, as well as the related penalties and fines, are revenues of the local budget of the administrative-territorial unit where the hotel is located.

(10) The other local fees provided in art. 283, as well as the related penalties and fines, are revenues of the local budget of the administrative-territorial unit where the respective public place or equipment is located or where the slow-moving vehicle must be registered.

(11) The following amounts are revenues of the local budget:

- a) interest for the late payment of local taxes and fees;
- b) judicial stamp duties provided by law;
- c) stamp duties provided by law;
- d) extra-judicial stamp duties provided by law.

(12) The amounts provided in par. (11) are to be adjusted to reflect the rate of inflation in accordance with norms developed jointly by the Ministry of Public Finance and the Ministry of Administration and Internal Affairs.

**Art. 296. Transitional provisions**

(1) Until December 31, 2004, the level of taxes and fees provided in the present title is the one established by the decisions of the local councils adopted in year 2003 for year 2004, as provided by law, with the exception of the fees provided in art. 267, 268 and 271.

(2) For year 2004, the level of fees provided in art. 267, 268 and 271 is to be established by decisions of the local councils adopted within 45 days from the date of publication of the present fiscal code in the Official Gazette of Romania, Part I.

(3) The provisions of art. 258, par. (6) are to apply beginning with January 1, 2004, while the provisions of art. 287 are to apply beginning with January 1, 2005.

(4) The special fees adopted by local councils before May 31, 2003, for fiscal year 2004 that contravene the provisions of art. 282 cease to be valid as of the date of the entry into force of the present code.

## TITLE X. FINAL PROVISIONS

### **Art. 297. Date of entry into force of fiscal code**

The present code enters into force on January 1, 2004, with the exception of cases in which the present code provides otherwise.

### **Art. 298. Repeal of normative acts**

(1) On the date of the entry into force of the present fiscal code, the following provisions are repealed:

1. Article 73 of Law no. 64/1991, as regards patents, republished in the Official Gazette of Romania, Part I, no. 752 of October 15, 2002;
2. Article 17 of Law on apiculture no. 89/1998, published in the Official Gazette of Romania, Part I, no. 170 of April 30, 1998, with subsequent modifications;
3. Article 13 and article 14 of Law no. 332/2001, as regards the promotion of direct investment with significant impact on the economy, published in the Official Gazette of Romania, Part I, no. 356 of July 3, 2001, with subsequent modifications;
4. Paragraph (3) of article 17 of the Law on owners associations no. 356/2001, published in the Official Gazette of Romania, Part I, no. 380 of July 12, 2001;
5. Paragraph (2) of art. 41 of Law no. 422/2001, as regards the protection of historical monuments, published in the Official Gazette of Romania, Part I, no. 407 of July 24, 2001;
6. The provisions referring to excises in Law no. 423/2001, for the support of the fishing section of the Black Sea, published in the Official Gazette of Romania, Part 1, no. 406 of July 23, 2001;
7. Paragraph (8) of article 70 of Library Law no. 334/2002, published in the Official Gazette of Romania, Part I, no. 422 of June 18, 2002;
8. Law no. 345/2002, as regards the value-added tax, republished in the Official Gazette of Romania, Part I, no. 653 of September 15, 2003;
9. Article 67 of Law no. 346/2002, as regards insurance against labor accidents and professional illness, published in the Official Gazette of

- Romania, Part I, no. 454 of June 27, 2002, with subsequent modifications and completions;
10. Law no. 414/2002, as regards the profit tax, published in the Official Gazette of Romania, Part I, no. 456 of June 27, 2002, with subsequent modifications and completions, including the normative acts issued for the application of the law;
  11. Law no. 521/2002, as regards the regime of supervision and authorization of products, the import and circulation of products subject to excises, published in the Official Gazette of Romania, Part 1, no. 571 of August 2, 2002, with subsequent modifications and completions;
  12. Letters b) and c) of article 37 of Law on cinematography no. 630/2002, published in the Official Gazette of Romania, Part I, no. 889 of December 9, 2002, with subsequent modifications and completions;
  13. Government Ordinance no. 22/1993, as regards exemption from the payment of tax for incomes realized by foreign consultants for activities carried out in Romania within the framework of international governmental agreements or international non-governmental agreements of free financing, published in the Official Gazette of Romania, Part I, no. 209 of August 30, 1993, approved by Law no. 102/1994;
  14. Government Ordinance no. 23/1995, as regards the institution of the system of marks for cigarettes, tobacco products and alcoholic beverages, republished in the Official Gazette of Romania, Part 1, no. 374 of December 23, 1997, with subsequent modifications and completions;
  15. Government Ordinance no. 26/1995, as regards the tax on dividends, published in the Official Gazette of Romania, Part I, no. 201 of August 30, 1995, approved with modifications by Law no. 101/1995, with subsequent modifications;
  16. Government Ordinance no. 24/1996, as regards the tax on incomes of representative offices in Romania of foreign firms and economic organizations, published in the Official Gazette of Romania, Part I, no. 175 of August 5, 1996, approved with modifications by Law no. 29/1997, with subsequent modifications;

17. The provisions regarding the profit tax in article 47 of Government Ordinance no. 39/1996, as regards the establishment and operation of the guarantee fund for deposits in the banking system, republished in the Official Gazette of Romania, Part I, no. 141 of February 25, 2002;
18. Letters e) and f) of article 2 of Government Ordinance no. 51/1997, as regards leasing operations and leasing companies, republished in the Official Gazette of Romania, Part I, no. 9 of January 12, 2000;
19. Article 6, article 7, and paragraph (1) of article 10 of Government Ordinance no. 46/1998, as regards the establishment of measures in view of satisfying the obligations assumed by Romania by joining the international convention EUROCONTROL, as regards cooperation for flight safety and the multilateral agreement regarding flight tariffs, republished in the Official Gazette of Romania, Part I, no. 44 of January 26, 2001;
20. Government Ordinance no. 83/1998, as regards the tax on incomes realized from Romania by non-resident physical and legal persons, published in the Official Gazette of Romania, Part I, no. 315 of August 27, 1998, with subsequent modifications;
21. The provisions referring to legal persons in paragraph (2) of article 9 of Government Ordinance no. 124/1998, as regards the organization and operation of medical offices, republished in the Official Gazette of Romania, Part I, no. 568 of August 1, 2002, with subsequent modifications;
22. Paragraph (4) of article 12 of Government Ordinance no. 112/1999, as regards travel for free for job purposes and for personal purposes by means of the Romanian railway system, published in the Official Gazette of Romania, Part I, no. 425 of August 31, 1999, approved with modifications and completions by Law no. 210/2003;
23. Paragraph (1) and (2) of article 6 of Government Ordinance no. 126/2000, as regards the continuation of the realization of Unit 2 of investment objective "Centrala Nuclearoelectrica Cernavoda – 5 x 700 Mwe", published in the Official Gazette of Romania, Part I, no. 430 of

- September 2, 2000, approved with modifications and completions by Law no. 335/2001, with subsequent modifications and completions;
24. Government Ordinance no. 7/2001, as regards the income tax, published in the Official Gazette of Romania, Part I, no. 435 of August 3, 2001, approved with modifications and completions by Law no. 493/2002, with subsequent modifications and completions;
  25. Government Ordinance no. 24/2001, as regards the taxation of micro-enterprises, published in the Official Gazette of Romania, Part I, no. 472 of August 17, 2001, approved with modifications by Law no. 111/2003, with subsequent modifications and completions;
  26. Letters b) and c) of article 7 of Government Ordinance no. 65/2001, as regards the establishment and operation of industrial parks, published in the Official Gazette of Romania, Part I, no. 536 of September 1, 2001, approved with modifications by Law no. 490/2002;
  27. Government Ordinance no. 36/2002, as regards local taxes and fees, republished in the Official Gazette of Romania, Part I, no. 670 of September 10, 2002, with subsequent modifications and completions;
  28. Article 162 of Government Ordinance no. 39/2003, as regards the procedure of the administration of debts of the local budget, published in the Official Gazette of Romania, Part I, no. 66 of February 2, 2003, approved with modifications and completions by Law no. 358/2003;
  29. Section 2 of chapter I of Government Ordinance no. 86/2003, as regards the regulation of measures in financial-fiscal matters, published in the Official Gazette of Romania, Part I, no. 624 of August 31, 2003;
  30. Government Emergency Ordinance no. 66/1997, as regards exemption from the payment of the tax on salaries and/or incomes realized by foreign consultants for activities carried out in Romania in the framework of loan agreements, published in the Official Gazette of Romania, Part I, no. 294 of October 29, 1997, with subsequent modifications and completions;
  31. The provisions referring to the value-added tax in art. 7 of Government Emergency Ordinance no. 73/1999, for the approval of the continuation of works and financing of the investment objective "Development and

- Modernization of International Airport “Bucuresti-Otopeni” and for the approval of guarantee of a credit in favor of national company “International Airport Bucuresti-Otopeni” - S.A., published in the Official Gazette of Romania, Part I, no. 232 of May 25, 1999, as approved by Law no. 21/2000;
32. Letter a) of paragraph (1) of article 38 of Government Emergency Ordinance no. 102/1999, as regards the special protection and employment of handicapped persons, published in the Official Gazette of Romania, Part I, no. 310 of June 30, 1999, approved with modifications and completions by Law no. 519/2002, with subsequent modifications;
33. Letters b) and c) of article 1 of Government Emergency Ordinance no. 160/1999, as regards the establishment of measures to stimulate the activity of titulars of petroleum agreements and their sub-contractors that carry out petroleum operations in maritime areas which include zones with a water depth of more than 100 meters, published in the Official Gazette of Romania, Part I, no. 526 of October 28, 1999, approved with modifications by Law no. 399/2001;
34. Article 2 of Government Emergency Ordinance no. 50/2000, for the repeal of Government Emergency Ordinance no. 67/1999, as regards certain measures for the development of economic activity, published in the Official Gazette of Romania, Part I, no. 208 of May 12, 2000, approved by Law no. 302/2001, with subsequent modifications;
35. Article 20 of Government Emergency Ordinance no. 97/2000, as regards credit co-operative organizations, published in the Official Gazette of Romania, Part I, no. 330 of July 14, 2000, approved with modifications and completions by Law no. 200/2002;
36. Government Emergency Ordinance no. 28/2000, as regards the exemption from value-added tax for deliveries of goods and/or supplies of services provided in the appendix to Government Decision no. 211/2000, as regards the Ministry of Finance guarantee of external loans for the Ministry of National Defense, published in the Official Gazette of Romania, Part I, no. 594 of November 22, 2000, approved by Law no. 134/2001;

37. Paragraph (2) of article 1 of Government Emergency Ordinance no. 249/2000, as regards the establishment and the use of the Special Fund for Petroleum Products, published in the Official Gazette of Romania, Part I, no. 647 of December 12, 2000, approved with modifications and completions by Law no. 382/2002, with subsequent modifications;
  38. Article 16 of Government Emergency Ordinance no. 119/2001, as regards certain measures to privatize Company Combinatul Siderurgic "Sidex" – S.A. Galati, published in the Official Gazette of Romania, Part I, no. 627 of October 5, 2001, with subsequent modifications;
  39. Government Emergency Ordinance no. 158/2001, as regards the excise regime, published in the Official Gazette of Romania, Part 1, no. 767 of November 30, 2001, approved with modifications and completions by Law no. 523/2002, with subsequent modifications and completions;
  40. The provisions referring to the profit tax in paragraph (3) of article 145 and paragraph (2) of article 146 of Government Emergency Ordinance no. 28/2002, as regards securities, financial investment services and regulated markets, published in the Official Gazette of Romania, Part 1, no. 238 of April 9, 2002, approved with modifications and completions by Law no. 525/2002, with subsequent modifications;
  41. Government Emergency Ordinance no. 12/2003, as regards the exemption from the payment of tax of land from extravilan locations, published in the Official Gazette of Romania, Part I, no. 167 of March 17, 2003, approved with modifications by Law no. 273/2003;
  42. Emergency Ordinance no. 30/2003, for the institution of certain special measures regarding the production, import and trade of mineral oils, published in the Official Gazette of Romania, Part 1, no. 294 of April 25, 2003, with subsequent modifications;
  43. Government Decision no. 582/1997, as regards the introduction of the system of marks for alcoholic beverages, published in the Official Gazette of Romania, Part 1, no. 268 of October 7, 1997, with subsequent modifications and completions;
  44. Any other provision that is inconsistent with the present code.
- (2) Article 23, par. (2), ceases to apply beginning with January 1, 2006.

This law was adopted by the Senate meeting on December 17, 2003, observing the provisions of article 76, paragraph (2) of the Constitution of Romania, republished.

President of the Senate  
Doru Ioan Taracila

This law was adopted by the Chamber of Deputies meeting on December 17, 2003, observing the provisions of article 76, paragraph (2) of the Constitution of Romania, republished.

President of the Chamber of Deputies  
Valer Dorneanu