



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Indirect Taxation and Tax administration  
**VAT and other turnover taxes**

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**VAT in the European Community**

**APPLICATION IN THE MEMBER STATES,  
FACTS FOR USE BY  
ADMINISTRATIONS/OPERATORS  
INFORMATION NETWORKS ETC.**

**Note**

**This document collates a range of basic information on the application of VAT arrangements in the Member States which has been obtained from the tax authorities concerned.**

**The sole purpose of distributing details of national provisions is to create a work tool. In no way does this document reflect the views of the Commission of the European Communities. Nor does it signify approval of the relevant legislation.**

# ROMANIA

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## GENERAL INFORMATION

### **1. IF A FOREIGN TRADER WANTS TO OBTAIN INFORMATION ABOUT YOUR VAT SYSTEM, WHOM SHOULD HE CONTACT? (ADDRESS, TELEPHONE, FAX, EMAIL)**

The Directorate for VAT Legislation of the Ministry of Public Finance.

Address: 17 Apolodor Street, Sector 5, Bucharest, phone number: 0040 21 3199759

### **2. WHAT IS THE ADDRESS OF THE NATIONAL TAX ADMINISTRATION WEBSITE? WHICH CATEGORIES OF INFORMATION ON VAT ARE AVAILABLE ON THAT WEBSITE (GENERAL INFORMATION, LEGISLATION, CONTACT POINTS, FORMS, ETC.)? AND IN WHICH LANGUAGE(S)?**

General information about the Fiscal Code, contact points and forms is available in Romanian and may be accessed on the website [www.mfinance.ro](http://www.mfinance.ro) of the Ministry of Public Finance and on the portal of the National Tax Administration Agency.

The INFOTVA portal has also been developed and is available in the Romanian language at <http://infotva.mfinante.ro/wps/portal>, which is updated on a regular basis by the Directorate for VAT Legislation of the Ministry of Public Finance.

The INFOTVA portal may be accessed for information concerning:

- the VAT legislation in force
- Community legislative acts
- the relevant European case-law
- guidelines approved by the VAT Committee
- information, memos, references, clarifications on the application of the VAT scheme
- statements of reciprocity concluded with third countries
- competent authorities at national and territory level
- the organisation of conferences and meetings
- responses to the frequent questions asked by taxpayers.

### **3. WHERE IS IT POSSIBLE TO FIND NATIONAL VAT LEGISLATION AND REGULATIONS? IN WHICH LANGUAGE(S) ARE THEY AVAILABLE?**

National VAT legislation may be found in the publications of the Official Gazette of Romania, Part I, on the website [www.mfinante.ro](http://www.mfinante.ro) of the Ministry of Public Finance, on the portal of the National Tax Administration Agency and on the INFOTVA portal <http://infotva.mfinante.ro/wps/portal>, in the Romanian language.

## VAT REGISTRATION OF FOREIGN OPERATORS

#### **4. WHAT ARE THE CIRCUMSTANCES GOVERNING THE NEED TO BE REGISTERED FOR VAT?**

Starting from 1 January 2010, the following shall be required to register for VAT:

- a taxable person who has its business established outside Romania, but who is established in Romania by a fixed establishment, as follows:
  - a) before the receipt of the services, when that taxable person is to receive services for the permanent office in Romania, for which it is liable to pay VAT in Romania, if the services are supplied by a taxable person who is established in another Member State;
  - b) before the supply of services, when the taxable person is to supply the services referred to in Article 44 of Council Directive 2006/112/EC from a fixed establishment in Romania for a beneficiary who is a taxable person established in another Member State, who is liable to pay VAT in another Member State;
  - c) before the performance of business activities from the fixed establishment in question, which involve:
    1. supplies of taxable goods and/or goods entitled to exemption with a right of deduction, including intra-Community supplies exempt from VAT with a right of deduction;
    2. supplies of taxable services and/or services entitled to exemption from value added tax with a right of deduction, other than those listed under points a) and b);
    3. operations such as leases, concessions, letting, leasing of immovable property, the supply of buildings/parts thereof and of the land on which they stand, which are exempt from VAT, and where the taxable person opts for their taxation.
    4. intra-Community acquisitions of taxable goods.
      - a taxable person who is neither established in Romania nor registered for VAT purposes in Romania for operations carried out within the territory of Romania which give the right of deduction of the VAT before the respective operations are carried out, except where the person liable for payment of VAT is the beneficiary.
- a taxable person not established in Romania and not registered for VAT purposes in Romania, who intends to:
  - a) carry out an intra-Community acquisition of goods for which that person is liable for payment of VAT; or
  - b) carry out an intra-Community supply of goods exempt from VAT.

#### **5. WHAT ARE THE SITUATIONS WHERE REGISTRATION IS UNNECESSARY BECAUSE THE RECIPIENT OF THE GOODS OR SERVICES IS LIABLE FOR THE TAX? IN SUCH SITUATION, IS IT POSSIBLE TO REGISTER ON A VOLUNTARY BASIS?**

Registration for VAT purposes in Romania is not necessary for foreign operators if they carry out operations for:

- a taxable person, including a non-taxable legal person registered for VAT purposes, who is a beneficiary of the services whose place of supply is in Romania pursuant to Article 44 of Directive 112, and which are supplied by a taxable person who is not established within the territory of Romania or is not

considered to be established for the respective supplies of services within the territory of Romania, even if that person is registered in Romania;

- a person registered for VAT purposes to whom natural gas or electricity has been supplied under the conditions set out in Articles 38 and 39 of Council Directive 2006/112/EC, if such deliveries are carried out by a taxable person who is not established in Romania or who is not considered to be established within the territory of Romania for the respective supplies of goods, even if that person is registered in Romania;
- a taxable person or non-taxable legal person registered for VAT purposes, who is the beneficiary of a subsequent delivery in the framework of a triangular operation, if simplification measures are applied;
- a taxable person or non-taxable legal person established in Romania or not established in Romania but registered through a tax representative, who is the beneficiary of a supply of goods or services taking place in Romania, other than those referred to in Article 44 of Council Directive 2006/112/EC, if the supply of goods or services is carried out by a taxable person not established or not considered to be established within the territory of Romania for the respective supplies of goods/services.

Taxable persons not established in Romania and who carry out in Romania only operations for which the beneficiary is liable for payment of VAT shall not be registered in Romania for VAT purposes.

## **6. WHOM SHOULD A FOREIGN OPERATOR CONTACT TO GET REGISTERED FOR VAT? (DETAILS ABOUT THE DIRECTORATE, INCLUDING ADDRESS, TELEPHONE AND FAX E-MAIL...)**

Foreign operators may register for VAT purposes in Romania as follows:

a) non-resident taxpayers who are not established within the Community area and who have the obligation to appoint a tax representative are administered by the tax body with competence for the administration of the tax representative (which keeps the record of the tax representative chosen as taxpayer);

b) non-resident taxpayers established in the Community area and who have, under special laws, the right to be registered directly in Romania are administered by the tax body with competence for the administration of non-resident taxpayers, namely the specialised section of the Bucharest Directorate General for Public Finance at 13 Prof. Dr. Dimitrie Gerota Street, Sector 2, Bucharest, Romania, telephone number 021.305.70.90;

c) non-resident taxpayers who have their business established outside Romania and who are established in Romania through one or several fixed establishments are administered by the tax body whose territorial competence covers the fixed establishment designated to submit VAT returns.

The contact details concerning the departments, addresses, telephone, fax, e-mail and other useful information may be obtained from the following webpage of the National Tax Administration Agency

**7. PLEASE DESCRIBE THE DETAILED PROCEDURES (INCLUDING NECESSARY DOCUMENTS) FOR ISSUING VAT REGISTRATION CODES, SPECIFICALLY TO FOREIGN OPERATORS.**

The procedures for issuing VAT registration codes to foreign operators, including the necessary forms, are provided by Order No 2157/2006 of the Minister for Public Finance on the organisation of administration of non-resident taxpayers who do not have a permanent establishment within the territory of Romania, published in Official Gazette No 1053 of 29 December 2006, as subsequently amended, and by Order No 7/2010 of the Minister for Public Finance approving the model and content of VAT registration forms, published in Official Gazette No 32 of 15 January 2010.

A taxable person who is not established in Romania and who has or does not have a fixed establishment in Romania may register for VAT purposes with the competent tax authority either directly or by appointing a tax representative, if the person is established in the Community area. If the taxable person is not established in the Community area, that person must appoint a tax representative in Romania.

Pursuant to Article 18 of Government Order No 92/2003 on the Code of Fiscal Procedure, as republished, as subsequently amended and supplemented, the taxpayer may be represented by an agent in relations with the tax body. A taxpayer with no address registered for tax purposes in Romania, who is required to submit statements to tax bodies, must appoint an agent with tax domicile in Romania.

Direct registration for VAT purposes shall be achieved upon the completion and submission of form 090 entitled "VAT Registration Statement/Statement of Notes for Non-resident Taxpayers established in the Community Area and Registering Directly" to the Bucharest Directorate General for Public Finance, which is provided for by Order No 7/2010 of the Minister of Public Finance approving the model and content of VAT registration forms, published in Official Gazette No 32 of 15 January 2010.

## **THRESHOLDS**

**8. WHICH THRESHOLD DO YOU OPERATE AS REGARDS INTRA-COMMUNITY DISTANCE SELLING UNDER ARTICLE 34 OF THE VAT DIRECTIVE (2006/112/EC)?**

The threshold for distance selling is EUR 35 000. The equivalent amount in RON is 118 000.

**9. WHICH THRESHOLD DO YOU OPERATE AS REGARDS ACQUISITIONS BY NON-TAXABLE LEGAL PERSONS OR EXEMPT PERSONS UNDER THE SECOND PARAGRAPH OF ARTICLE 3(2) OF THE VAT DIRECTIVE (2006/112/EC)?**

The threshold for intra-Community acquisitions carried out by non-taxable legal persons or taxable persons exclusively carrying out exempt operations without a right of deduction is EUR 10 000. The equivalent amount in RON is 34 000.

## **APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN (NON-EU) OPERATORS**

### **10. WHAT ARE THE SITUATIONS IN WHICH THE APPOINTMENT OF A TAX REPRESENTATIVE IS OBLIGATORY?**

The appointment of a tax representative is obligatory if the taxable person not established within the Community is required to register for VAT purposes in Romania.

### **11. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?**

The tax representative may be any taxable person whose business is established in Romania and who is registered for VAT purposes in Romania.

Only one tax representative is allowed for the set of operations carried out in Romania by a taxable person not established in Romania.

The co-existence of several tax representatives with limited commitments is not allowed.

The tax representative is appointed on the basis of an application submitted by the taxable person not established in Romania to the competent tax body where the proposed representative is registered for VAT purposes. The application must be accompanied by:

- the declaration on the commencement of the business, comprising: the date, amount and nature of the business to be carried out in Romania. Subsequent to the commencement of the business, the amount and nature of the business may be amended under the contractual provisions; such amendments are to be communicated also to the competent tax body where the tax representative is registered as a taxpayer;
- a copy of the articles of incorporation abroad of the taxable person not established in Romania;
- the written consent of the person proposed as a tax representative, whereby this person undertakes to meet its obligations under the law and which should specify the nature of the operations and their estimated value.

### **12. WHAT ARE THE RIGHTS AND OBLIGATIONS OF TAX REPRESENTATIVES?**

Tax representatives are responsible for VAT rights and obligations for all operations carried out in Romania by the taxable person not established in Romania during their mandate. They are assigned a VAT registration code by the competent tax body for their activity as the agent of a taxable person not established in Romania. The VAT registration code must be different from that assigned for their own activity.

Tax representatives submit the tax return for the operations carried out in Romania by the taxable person not established in Romania that they are representing; the tax return also includes the invoices issued by the taxable person not established in Romania under the VAT registration code assigned to the tax representative. Where the tax

representative is authorised by several taxable persons established abroad, it must submit a tax return for each taxable person not established in Romania that it is representing.

Where the mandate of the tax representative ceases before the end of the period in which the taxable person not established in Romania is in principle liable for payment of VAT in Romania under the law, the latter must either to extend the mandate of the tax representative or to appoint another tax representative for the remaining period. The operations carried out by the tax representative on behalf of the taxable person not established in Romania are not registered in the tax representative's own accounts. The provisions concerning small enterprises are not applicable to taxable persons not established in Romania.

**13. What action can you take in the event of failure by an operator in another country to designate a tax representative in your territory?**

In cases where the taxable person must apply in advance for VAT registration, i.e. before the performance of an operation, but this obligation is met afterwards, the tax bodies will register the respective person when it applies for the VAT registration if that person has not been registered ex officio in the meantime. In cases of failure to register in advance under the law, tax bodies will decide on the consequences thereof pursuant to the Fiscal Code and the Code of Fiscal Procedure.

The competent tax bodies will register ex officio the taxable persons required to register for VAT purposes and which do not apply for that registration, irrespective of whether they are persons with their business established in Romania, persons with a fixed establishment in Romania or persons not established in Romania.

**14. IS IT NECESSARY TO SET UP A BANK GUARANTEE?**

No, because the tax representative is the person liable for payment of VAT.

**APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN OPERATORS  
ESTABLISHED IN THE EU**

**15. IS IT POSSIBLE TO APPOINT A TAX REPRESENTATIVE?**

When the person required to register for VAT purposes in Romania is a taxable person established within the Community but not in Romania, that person may appoint a tax representative as a person liable for payment of VAT.

**16. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?**

See point 11

**17. WHAT ARE THE RIGHTS AND OBLIGATIONS OF A TAX REPRESENTATIVE?**

See point 12

**18. ARE THERE SITUATIONS WHERE IT IS OBLIGATORY TO SET UP A BANK GUARANTEE?**

See point 14

**INVOICING**

**RULES ABOUT INVOICING**

**19. WHERE CAN THE RELEVANT RULES (LAWS, REGULATIONS, INSTRUCTIONS, GUIDELINES...) BE FOUND?**

Information on the invoicing rules may be found in Title VI of Law No 571/2003 on the Fiscal Code, as subsequently amended and supplemented, and in the Detailed implementing rules for Title VI of the Fiscal Code, as approved by Government Decision No 44/2004, as subsequently amended and supplemented.

These legislative acts may also be accessed on the INFOTVA portal available in Romanian at <http://infotva.mfinante.ro/wps/portal>.

**ISSUANCE OF INVOICES**

**20. CASES WHERE AN INVOICE NEEDS TO BE ISSUED**

Any taxable person who performs a supply of goods or services, other than a supply without right to deduct the tax, must issue an invoice to each beneficiary.

The taxable person must also issue an invoice to each beneficiary for the amount of every advance payment with respect to a supply of goods or services he receives.

**21. WHAT ARE THE RULES ON CORRECTIVE INVOICES (CREDIT / DEBIT NOTES)?**

In order to correct information given in invoices or other documents replacing the invoice, the following are to be done:

a) in cases where the document has not been dispatched to the beneficiary, the document is to be cancelled and a new document issued;

b) in cases where the document has been dispatched to the beneficiary, either a new document is to be issued including, on the one hand, information from the initial document, the number and date of the corrected document, the amounts with a minus sign, and, on the other hand, the correct information and amounts, or a new document is to be issued including the correct information and amounts, and at the same time another document is issued with the amounts with a minus sign and including the number and the date of the corrected document.

Moreover, suppliers of goods and/or services must issue invoices or other documents with the amounts registered with a minus sign when the tax base is reduced or, as appropriate, without the minus sign if the tax base is increased. These documents will also be dispatched to the beneficiary. The tax base is reduced in the following cases:

- if an invoice has been issued and the operation is subsequently cancelled in full or in part before the supply of goods or services;
- in the case of total or partial refusals as regards the quantity, quality or prices of the goods or services supplied, and in the case of total or partial termination of the contract for the supply concerned, either as a result of a written agreement between the parties, or subsequent to a final and irrevocable court decision or as a result of an arbitration award;
- if discounts, returns, rebates and the other reductions in prices are granted after the supply of goods or services;
- if purchasers return the packages in which the merchandise was dispatched, in the case of invoiced packaging.

## **22. WHAT IS THE TIME LIMIT FOR ISSUING INVOICES?**

- at the latest on the 15th day of the month following the month during which the chargeable event of the tax occurs, unless an invoice has already been issued.
- at the latest on the 15th day of the month following the month during which the advances are collected, unless an invoice has already been issued.

## **23. WHAT ARE THE RULES FOR SUMMARY INVOICING?**

The summary invoice may be issued if the following conditions are cumulatively fulfilled:

- a) it relates to supplies of goods, including intra-Community supplies, and/or supplies of services to the same beneficiary, for which the chargeable event of tax occurs within a period that does not exceed a calendar month;
- b) all the documents issued at the date of supply of the goods or the services are attached to the summary invoice.

## **24. WHAT ARE THE CONDITIONS IMPOSED ON SELF-BILLING?**

Self-billing must be carried out in the following situations:

- for each self-supply of goods or services performed by the taxable person registered for VAT purposes; the self-invoice must be issued at the latest on the 15th day of the month following the one during which the chargeable event of the tax occurs;
- for every transfer made by the taxpayer in another Member State and for each intra-Community acquisition carried out in Romania which follows a transfer made from another Member State; the self-invoice must be issued at the latest on the 15th day of the month following the one during which the chargeable event of the tax occurs;

- for every taxable intra-Community acquisition of goods performed by a taxable person or a non-taxable legal person, if the beneficiary does not receive the invoice by the 15th day of the month following the one during which the chargeable event of the tax occurs;
- for operations for which the taxable person or the non-taxable legal person is liable for payment of VAT as the beneficiary, if the respective person is not in possession of the invoice issued by the supplier/provider on the date when the VAT becomes due. The situations in which the beneficiary is liable for payment of VAT are those listed under point 5.

**25. IS THERE ANY SPECIFIC RULE IN RELATION TO OUTSOURCING OF INVOICES TO A PERSON WHO IS ESTABLISHED OUTSIDE THE EU?**

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## **CONTENT OF INVOICES**

**26. UNDER WHAT CONDITIONS MUST THE VAT CODE OF THE CUSTOMER BE ON THE TAX INVOICE?**

The VAT code of the beneficiary is an item of information which must be written on any invoice issued to taxable persons or non-taxable legal persons, with the exception of simplified invoices.

**27. ANY OTHER SPECIFIC RULE IN RELATION TO THE CONTENT OF THE INVOICE**

An invoice shall obligatorily contain the following particulars:

- the sequential number, based on one or more series, which provides unique identification of the invoice;
- the date of issue of the invoice;
- the date on which the goods/services were supplied or the date when an advance payment was received, where this date is different from the date of issue of the invoice;
- the designation/name, address and VAT registration code or, as appropriate, the tax identification code of the taxable person issuing the invoice;
- the designation/name of the supplier/provider not established in Romania and which appointed a tax representative, and the designation/name, address and VAT registration code of the tax representative;
- the designation/name and address of the beneficiary of the goods or services, and the VAT registration code or the tax identification code of the beneficiary if it is a taxable person or a non-taxable legal person;
- the designation/name of the beneficiary not established in Romania and which appointed a tax representative, and the designation/name, address and VAT registration code of the tax representative;
- the designation and quantity of the goods supplied, the designation of the services supplied and the particularities listed in the Fiscal Code with regard to the definition of goods in the case of an intra-Community supply of new means of transport;

- the tax base of the goods and services or, as appropriate, the advance payments invoiced, per rate, exemption or operation non taxable, the unit price not including tax and any discounts, returns, rebates and other price reductions;

- the indication of the tax rate applied and the total amount of the tax collected expressed in RON, depending on the tax rates;

- if no tax is due, a reference to the appropriate provision of the Fiscal Code or of Council Directive 2006/112/EC, or any other wording indicating that the delivery of goods or the supply of services is the object of an exemption or of a reverse taxation procedure;

- in the event that the special scheme for travel agencies applies, a reference to the appropriate article in the Fiscal Code, to Article 306 of Directive 112, or any other reference to indicate that the special scheme was applied;

- if one of the special schemes applies for second-hand goods, works of art, collection items and antiques, a reference to the appropriate article in the Fiscal Code, to Articles 313, 326 or 333 of Directive 112 or any other reference to indicate that one of the respective schemes was applied;

- a reference to other invoices or documents previously issued, in cases where several documents or invoices have been issued for the same operation.

The signing and stamping of invoices are not mandatory.

The taxable person is exempted from issuing an invoice for the following operations, except for cases when the beneficiary requests an invoice:

- the transport of persons by taxi and the transport of persons using travel tickets or subscriptions;

- supplies of goods by retail shops and supplies of services to the general population, recorded in documents, but without naming the purchaser;

Where packages containing several invoices are sent or made available to the same recipient through electronic means, the information which is common to individual invoices may be specified only once, provided that it is accessible for each invoice.

## **ELECTRONIC INVOICING**

**28. AS REGARDS INVOICES SENT WITH ADVANCED ELECTRONIC SIGNATURES, IS IT OBLIGATORY TO USE QUALIFIED CERTIFICATED AND SECURE-SIGNATURE-CREATION DEVICES? IF SO, PLEASE GIVE DETAILS? IF SO, PLEASE GIVE DETAILS.**

The authenticity of the source and the integrity of the content of the invoice are ensured by means of:

(i) an electronic signature pursuant to Law No 455/2001 on electronic signatures;

Pursuant to Law No 455/2001, an electronic signature represents electronic data which are attached to or logically associated with other electronic data and which serve as a means of identification;

An extended electronic signature is an electronic signature which meets cumulatively the following conditions:

- a) it is related solely to the signatory;
- b) it ensures the identification of the signatory;
- c) it is created through means controlled exclusively by the signatory;
- d) it is related to the particulars in computerised form to which it refers so that any subsequent change to them is identifiable;

An electronic document with an incorporated, attached or logically associated extended electronic signature based on a qualified certificate that has not been suspended or revoked by that date and which has been generated by means of a secure-signature-creation device is treated as a document under private signature in terms of its conditions and effects.

An electronic document with an incorporated, attached or logically associated electronic signature, which is recognised by the person to which it refers, has the same effect as an authentic document prepared between its subscribers and those who represent their rights.

In cases where, under the law, the written form is required as a means of evidence or validity of a legal act, a document in electronic form meets this requirement if it has an incorporated, attached or logically associated extended electronic signature based on a qualified certificate, which was generated through a secure-signature-creation device.

(ii) the EDI electronic data interchange system defined in Article 2 of Commission Recommendation 94/820/EC of 19 October 1994 relating to the legal aspects of electronic data interchange;

(iii) means of guaranteeing the authenticity of the source and the integrity of the content of the invoice, other than those referred to in points (i) and (ii), in which case the person who transmits invoices through electronic means will have to request confirmation from the Directorate General for Information Technology of the National Tax Administration Agency that the conditions and methods for guaranteeing the authenticity of the source and the integrity of the invoice content have been met;

**29. AS REGARDS INVOICES SENT BY ELECTRONIC DATA INTERCHANGE, IS AN ADDITIONAL SUMMARY DOCUMENT ON PAPER OBLIGATORY? IF SO, PLEASE GIVE DETAILS ABOUT ITS CONTENT AND PROCEDURE.**

Yes, a summary document in paper form must be prepared and it must include all the invoices transmitted through the EDI electronic data interchange within a calendar month by a taxable person registered for VAT purposes or all the invoices thus received within a calendar month by any person liable to pay VAT if the supplier/provider is not registered for VAT purposes.

**30. DO YOU ALLOW INVOICES ISSUED PURSUANT TO ARTICLE 233(1) SECOND SUB PARAGRAPH OF THE VAT DIRECTIVE 2006/112/EC (“BY OTHER ELECTRONIC MEANS”)? IF SO, UNDER WHICH CONDITIONS AND FORMALITIES?**

Yes, if the taxable person who transmits invoices through electronic means requests and receives confirmation from the Directorate General for Information Technology of the National Tax Administration Agency that the conditions and methods for guaranteeing the authenticity of the source and the integrity of the invoice content have been met.

**31. ANY OTHER SPECIFIC RULE IN RELATION TO ELECTRONIC INVOICING**

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**STORAGE OF INVOICES**

**32. WHAT ARE THE RULES ON THE PLACE OF STORAGE OF INVOICES?**

Invoices issued and received may be stored by any methods and in any place under the following conditions:

a) the place of storage is located within the territory of Romania, with the exception of invoices transmitted and received through electronic means, which may be stored in any place, provided that during the storage period:

1. online access to the respective data is guaranteed;
2. the authenticity of the source and the integrity of the invoices content is guaranteed, and that the invoices are legible;
3. the particulars which guarantee the authenticity of the source and the integrity of the invoice content are also stored;

b) invoices or the content of invoices transmitted and received, in the case of their storage through electronic means, are made available to the competent tax bodies without delay or whenever required.

The transmission and storage of invoices through electronic means is the transmission or availability of those invoices to the beneficiary, as well as the storage through electronic data processing and storing equipment, including digital compression based on telegraphic cables, radio transmission, optical technologies or other electromagnetic means.

**33. IS PRIOR NOTIFICATION OF INVOICES STORED IN ANOTHER COUNTRY AN OBLIGATION? IF SO, PLEASE GIVE DETAILS.**

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**34. WHAT IS THE OBLIGATORY STORAGE PERIOD FOR INVOICES?**

10 years.

**35. WHAT ARE THE SPECIFIC RULES ON STORAGE FORM AND POSSIBLE CONVERSIONS?**

Order No 3512/2008 of the Minister of Economic Affairs and Finance on financial-accounting documents lays down the conditions for the electronic preparation, editing and archiving of financial-accounting documents.

Law No 135/2007 on the archiving of documents in electronic form lays down the legal rules applicable to the creation, preservation, consultation and use of documents archived in electronic form or which are to be archived in an electronic archive.

As regards the operations related to the archive processing of documents in electronic form, these are performed in compliance with Law No 16/1996 on National Archives, as subsequently amended and supplemented, and the rules in force related to the preservation of, access to and the protection of public or private information.

**36. ANY OTHER SPECIFIC RULE IN RELATION TO INVOICE STORAGE.**

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## **SIMPLIFIED INVOICES**

**37. WHAT ARE THE SITUATIONS WHERE SIMPLIFIED INVOICING IS ALLOWED PURSUANT TO ARTICLE 238 OF THE VAT DIRECTIVE (2006/112/EC)? AND WHAT ARE THE SPECIFIC RULES?**

In order to issue simplified invoices, interested taxable persons must submit an application to the Directorate for VAT Legislation of the Ministry of Public Finance, which must contain the model of the simplified invoice proposed, the reasons for requesting a model simplified invoice and, as appropriate, instructions for filling out the invoice. The reasons set forth must clearly show the objective reasons why it is not possible to issue invoices which include all the elements listed in the Fiscal Code. The Directorate for VAT Legislation will analyse whether the proposed model complies with the minimum legal requirements and whether there are any objective reasons justifying the application to use a simplified invoice model. If the minimum legal requirements are not met and/or no objective reasons are found to substantiate the application, the applicant is informed accordingly. Applications endorsed by the Directorate for VAT Legislation are transmitted for consultation to the VAT Committee pursuant to Directive 112. Simplified invoices may be issued only after the consultation of the VAT Committee and after a positive answer has been sent to applicants.

Invoices issued in a simplified system must contain at least the following information:

- the issuing date;
- the identification of the issuing taxable person;
- the identification of the types of goods and services provided;
- the amount of the tax to be paid or the necessary information for its calculation.

Simplified invoices may not be used for intra-Community supplies of goods exempted with a right of deduction.

## **PERIODIC VAT RETURNS**

### **38. UNDER WHAT CIRCUMSTANCES IS A TRADER OBLIGED TO SUBMIT A VAT RETURN?**

Any person registered for VAT purposes must submit VAT returns to the competent tax bodies for each tax period.

Moreover, persons who do not normally register for VAT purposes must submit a special VAT return for:

- intra-Community acquisitions of taxable goods, in cases where the taxable person is registered for intra-Community acquisitions of goods only;
- intra-Community acquisitions of new means of transport;
- intra-Community acquisitions of products subject to excise duty;
- the operations for which the taxable person or the non-taxable legal person acting as a beneficiary is liable to pay the VAT, as set out in point 5.

### **39. AT WHAT INTERVALS ARE VAT RETURNS AND ASSOCIATED PAYMENTS TO BE MADE?**

Any person must submit a VAT return to the competent tax bodies for each tax period by the 25th day inclusive of the month following the month in which the respective tax period ends.

The person must pay the tax due to the tax bodies by the date on which it is required to submit the VAT return.

### **40. WHAT IS THE PROCEDURE FOR THE RETURN OF THE EXCESS VAT SPECIFIED IN THE PERIODIC VAT RETURN? WHAT ARE THE TIME LIMITS FOR THE RETURN OF THE VAT EXCESS, IF ANY?**

The procedure for the return of the excess VAT for taxable persons registered for VAT purposes is provided by Order No 1857/2007 of the Minister for Economic Affairs and Finance approving the Methodology for the settlement of returns with negative amounts of value added tax with the option of refund, published in Official Gazette No 785 of 20 November 2007, as subsequently amended.

Refund applications are settled within not more than 45 calendar days following the date of submission of the return with negative amounts of value added tax with the option of refund. Where relevant additional information is necessary to reach a decision on the settlement of the application, this time limit is extended by the period between the date of the application and the date on which the information requested is received.

Thus, the tax authority in Romania settles applications for VAT refunds on the basis of a risk analysis. The purpose of the analysis is classify each taxable person into a tax risk category depending on that person's tax behaviour and the risk it poses for the tax administration.

The risk analysis is carried out for the purpose of VAT refunds by the tax bodies using the SERADN ('Risk assessment system for the administration of returns of VAT with negative amounts with the option of refund') computer application.

As a result of the risk analysis, refund applications (VAT returns with negative amounts with the option of refund) classified as a low tax risk are settled by issuing the decision

to refund the VAT and a tax inspection is carried out subsequent to the granting of the refund, within a period of not more than two years. Applications classified as an average tax risk are settled by means of a document analysis carried out by the tax bodies. Applications classified as a high tax risk are settled only after the performance of an ex-ante tax inspection.

Thus, depending on the category of the taxpayer, **risk analysis for the purpose of carrying out a VAT refund relates to the following:**

**I. As regards refund applications submitted by large or medium-sized taxpayers, the refund is granted following an ex-post tax inspection**, with the exception of cases posing a high tax risk, when the refund is granted following an ex-ante tax inspection.

Large taxpayers are legal persons with a turnover above or equal to RON 70 million, bank undertakings, insurance companies, financial investment undertakings, or trading companies organizing gambling activities of the “Casino” type. This category also includes newly-established taxpayers which, on the date of their establishment, undertake by a declaration on oath to carry out investments for a RON equivalent of not less than EUR 400 million.

The category of medium-sized taxpayers includes taxpayers that recorded a turnover ranging between RON 10 million and RON 70 million, and taxpayers undergoing insolvency proceedings, which have tax claims in excess of RON 3 million.

In the case of both large and medium-sized taxpayers, an order of the Minister for Public Finance is issued annually to approve the lists of legal persons which meet the necessary conditions set out above.

Thus, VAT returns with negative amounts with the option of refund submitted by those categories of persons fall within the category of **high tax risk** if any of the following **conditions** is met:

- a) the taxpayer in question has a history of *criminal acts* registered in his tax record;
- b) insolvency or voluntary liquidation proceedings have been initiated with regard to the taxpayer in question;
- c) the taxpayer in question has been classified as a high tax risk, based on the tax body's own information;

For returns submitted by **medium-sized taxpayers, additional requirements are provided for the classification as a high tax risk**, as follows:

- a) they have not submitted in the past 12 months all the tax statements and informative statements 390 (VIES) “Recapitulative Statement on Intra-Community Deliveries/Acquisitions of Goods” and 394 “Informative Statement on Deliveries/Supplies and Acquisitions carried out within the National Territory”, which had to be submitted by taxable persons to the tax body;
- b) they have not submitted financial statements with a deadline for submission in the past 12 months;
- c) they have as their main object of activity or they actually carry out their activity in the fields of: production and/or wholesale trade in alcoholic drinks, tobacco, oil, wholesale trade of live animals.

**II.** As regards **refund applications submitted by the other taxpayers**, the risk analysis is based on the calculation of the **Negative Individual Standard** (NIS = the maximum amount of VAT which may be reimbursed without a documentary analysis or ex-ante tax inspection). This maximum amount is established under conditions of normal and ongoing activity carried out by the taxable person and depends on: the size of the taxpayer, the previous tax behaviour (voluntary conformity as regards the statement and payment of tax obligations), the field of activity, amounts requested, and is calculated on a half-yearly basis.

In the first stage of the settlement of returns, the tax body checks whether or not the respective taxpayer meets any of the conditions expressly provided for automatic classification in the **high tax risk category**.

High tax risks are identified as situations in which  $NIS = 1$ , namely:

- a) there are offences recorded in the taxpayer's tax record;
- b) it has as its main object of activity or it actually carries out its activity in the field of:
  - production and/or wholesale trade in alcoholic drinks;
  - tobacco (manufacture of tobacco products, wholesale trade in unprocessed tobacco, wholesale trade in tobacco products, retail trade in tobacco products;
  - petroleum (manufacture of products obtained from the processing of oils, retail trade in fuel for motor vehicles);
  - retail trade in live animals.
- c) newly-established taxable persons;
- d) taxable persons for which not all the necessary details exist for the preparation of the NIS calculation factsheet;
- e) the NIS is negative (the VAT amount collected exceeds the VAT amount deductible in the reference period);
- f) in the course of 6 months, the refund option was waived at least twice after classification in the medium or high risk category;
- g) for taxable persons which have no employees;
- h) for taxable persons which do not own immovable or movable property;
- i) for taxable persons that the tax inspection bodies know to be a high tax risk;
- j) for taxable persons for which the competent tax body has approved a half-year or calendar year as the tax period.

If the refund applicant **falls within one of the situations set out above, its application will be settled only after the performance of an ex-ante tax inspection.**

If the refund applicant **does not fall within any of the situations set out above, its application will be settled after the performance of a document analysis**, which consists in the award of a score on the basis of the information included in the sales and purchases ledgers of the taxable person, balances of accounts, business contracts, invoices and customs documents attesting to the performance of exports, documents attesting to the performance of investments as well as other documents showing the amount applied for a refund. Thus, depending on the score awarded by the tax body, the

refund application may be classified as a low tax risk and settled by a tax inspection carried out subsequent to the refund, or as a high tax risk and settled only after the performance of an ex-ante tax inspection.

Considering the fact that the administration of the value added tax and, in particular, the issue of settling returns of value added tax with negative amounts with the option of refund is a matter for the tax administration in Romania, the procedure for the settlement of refund applications is constantly being analysed and improved.

For that purpose, the National Tax Administration Agency has initiated a draft legislative act to amend the procedure for the refund of negative amounts of value added tax, so as to speed up the process of compensation/return of amounts due to taxable persons registered for VAT.

**The main amendments proposed** for entry into force without delay aim at:

**a) introducing a special refund scheme for exporters** (persons carrying out export activities for their own account or on commission and/or intra-Community deliveries of goods exempted from VAT), namely a refund on the basis of an ex-post tax inspection, with the exception of cases of high tax risk;

**b) the classification of returns in which amounts less than RON 10 000 are applied for as a low tax risk** and their settlement on the basis of an ex-post tax inspection;

**c) the classification as a low tax risk** and the settlement by ex-post tax inspection of **returns with a high tax risk from large taxpayers submitting letters of bank guarantee** for the amounts applied for a refund in the returns;

**d) changing the periodicity for the calculation of the Negative Individual Standard (NIS).** The Negative Individual Standard (NIS) is the maximum VAT amount which may be refunded without document analysis or an ex-ante tax inspection, as the risk entailed by the refund is deemed acceptable by the tax administration. The NIS is calculated for returns subject to general proceedings and for all taxpayers, with the exception of large and medium-sized taxpayers. Under the current procedure, NIS is calculated on a half-yearly basis, taking into consideration the accounting reports, the VAT returns and the extent to which tax obligations are fulfilled in the reference period. A proposal is made for the calculation of the NIS on a **quarterly** basis in order to reflect more accurately the taxpayer's status.

**e) changing the requirement for classification in the high tax risk category depending on the main object of activity.** Taxable persons which pursue their activity in certain fields considered by tax inspection bodies as posing a high tax risk are entitled to a refund only after an ex-ante tax inspection in accordance with the current procedure. Under the current rules, the areas with a high tax risk are mainly those concerning alcoholic drinks, tobacco, cereals, fuels and live animals.

The proposal is intended, to amend the CAEN codes considered as fields of activity posing a high risk and to analyse taxpayers' tax risk depending on several cumulated factors, using the Tax inspection indicators factsheet. In this way, a taxpayer operating in one of the fields considered to pose a risk will not be automatically classified in the high tax risk category; instead, a score is to be awarded for this condition using the Tax inspection indicators factsheet, which will be added to the scores awarded for the proportion of amounts rejected from the total amount of the refund applied for, the

proportion of amounts refunded without a tax inspection from the turnover and the number of refunds approved without a tax inspection.

The proposals for fields of activity deemed to pose a high tax risk by the tax inspection are those concerning trade in cereals, fruits and vegetables, fuels, construction materials and timber.

**f) the updating of certain conditions concerning classification in the high tax risk category**, in the case of the general procedure for settling returns of value added tax with negative amounts with the option of refund submitted by taxable persons other than large and medium-sized taxpayers:

- making the high tax risk condition uniform for all categories of taxable persons: only taxpayers which have criminal acts registered in their tax record should be considered a high tax risk.

- the removal of the condition applicable to taxable persons who in the course of 6 months have waived the refund option at least twice after classification in the medium or high risk category. However, under the procedure it is proposed that the tax inspection bodies should be notified in order to include this category of taxable persons, as a priority, in the tax inspection programme, taking into account the fact that waiving the refund option after classification in the category of high tax risk may be considered, in some cases, to be a signal that the respective taxpayer does not wish to undergo a tax inspection.

- the removal of the condition concerning the fact that the respective taxpayer does not have any employees. The risk associated with such situations cannot be assessed in the practice of VAT refunds. However, given that taxpayers that do not own movable or immovable property are automatically classified as a high tax risk, we consider that removing the condition concerning employees does not create an additional risk for the tax administration.

**41. DOES A SPECIAL REGIME AS REGARDS PERIODIC VAT RETURNS EXIST FOR SMALLER OPERATORS AND/OR CERTAIN CATEGORIES OF BUSINESS? IF SO, PLEASE DESCRIBE THEM.**

Submission on a quarterly basis – for taxable persons registered for VAT purposes achieving in the course of the preceding calendar year a turnover from taxable operations and/or operations exempted with a right of deduction and/or non-taxable operations in Romania that did not exceed the threshold of EUR 100 000 (the RON equivalent of which is calculated pursuant to the legal rules), with the exception of cases when the taxable person carried out one or several intra-Community acquisitions of goods in the course of the preceding calendar year. (Article 156<sup>1</sup>(2) of the Fiscal Code).

Submission on a half-yearly basis – for taxable persons carrying out taxable operations only for a maximum of three calendar months in a half-year.

Submission on an annual basis – for taxable persons carrying out taxable operations only for a maximum of six calendar months in a calendar year.

**42. DO YOU OPERATE SIMPLIFIED CALCULATIONS OF TAX LIABILITY? IF SO, WHAT ARE THE QUALIFYING CRITERIA, TO WHOM DO THEY APPLY AND WHAT IS THE NATURE OF THE SIMPLIFICATION?**

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## **RECAPITULATIVE STATEMENTS**

**43. DO YOU AUTHORISE THE SUBMISSION OF RECAPITULATIVE STATEMENTS ON A QUARTERLY BASIS? IF SO, WHAT ARE THE THRESHOLDS AND CONDITIONS?**

No, starting with operations for which the tax becomes due after 1 January 2010, the Recapitulative Statement is to be submitted on a monthly basis by the 15th day inclusive of the month following a calendar month, by any taxable person registered for VAT purposes.

**44. IS ANY ADDITIONAL INFORMATION REQUIRED OTHER THAN THAT SET OUT IN ARTICLE 266 OF THE VAT DIRECTIVE (2006/112/EC)?**

The recapitulative statement provides information on intra-Community supplies of goods, intra-Community acquisitions of goods, intra-Community supplies of services and intra-Community acquisitions of services.

**45. DO YOU OPERATE SIMPLIFIED PROCEDURES AS REGARDS RECAPITULATIVE STATEMENTS AS PROVIDED FOR IN ARTICLE 269 OF THE VAT DIRECTIVE (2006/112/EC)? IF SO, WHAT ARE THE RELATED THRESHOLDS FOR APPLYING SUCH PROCEDURES?**

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## **ELECTRONIC RETURNS**

**46. IS IT POSSIBLE TO SUBMIT VAT RETURNS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT RETURNS ELECTRONICALLY?**

Taxable persons registered for VAT purposes pursuant to Article 153 of the Fiscal Code are required to submit Form 300 entitled “Value Added Tax Return”, with the information encoded by bar code. The following are exempted from this provision:

a) large taxpayers for returns which are submitted through the National Electronic System under the law;

b) taxpayers that submit tax statements by electronic means of remote transmission on the website of the Ministry of Public Finance, on the portal of the National Tax Administration Agency.

**47. IS IT POSSIBLE TO SUBMIT RECAPITULATIVE STATEMENTS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT STATEMENTS ELECTRONICALLY?**

The recapitulative statement is submitted in electronic format by one of the following methods:

- at the Registry Office of the competent tax body;
- at the post office, by registered mail;
- through the National Electronic System (NES);
- by completing a form on the webpage of the National Tax Administration Agency.

The electronic version of the recapitulative statement, which is submitted electronically, will be accompanied by the form completed by the taxable person using the assistance program, signed and stamped in accordance with the law.

The form is drawn up in two originals:

- one is submitted to the tax establishment together with the electronic media on which it was submitted;
- one is kept by the taxable person.

The electronic version of the recapitulative statement may be obtained by using the assistance program developed by the National Tax Administration Agency and is transmitted to the competent body by electronic means.

The assistance program is available to taxable persons free of charge by tax establishments or may be downloaded from the web server of the National Tax Administration Agency from [www.anaf.ro](http://www.anaf.ro).

Taxpayers holding a digital certificate may submit the form by electronic means of remote transmission on the website of the National Tax Administration Agency.

## **OBLIGATIONS RELATED TO IMPORTS**

**48. WHAT ARE THE PERSONS WHO MAY BE APPOINTED OR RECOGNISED AS PERSONS LIABLE FOR PAYMENT OF VAT UPON IMPORT PURSUANT TO ARTICLE 201 OF THE VAT DIRECTIVE (2006/112/EC)?**

The payment of tax for the import of goods subject to taxation is the obligation of the importer.

An importer who is liable to pay the tax for the taxable import of goods is:

- the purchaser to whom goods are dispatched on the date on which the chargeable event of the tax occurs upon the import or, in the absence of this purchaser, the owner of the goods on that date. By way of exception, the supplier of the goods or a previous supplier may opt to be the importer;
- the supplier of the goods, for supplies of goods which are installed or assembled within the territory of Romania by a supplier or on behalf of a supplier, and if the supply of

such goods takes place in Romania, or the purchaser to whom goods are dispatched if that purchaser opted to be the importer;

- the owner of the goods, for goods imported for the purposes of renting or leasing operations carried out in Romania;
- the person re-importing to Romania goods exported outside the Community;
- the owner of the goods or the taxable person registered for VAT purposes, which imports goods to Romania:

1. under the deposit system or in stocks available to the client for compliance-check or for testing. The beneficiary registered for VAT purposes may be the importer of the goods required to pay VAT for the respective imported goods, provided that the respective goods are purchased by that beneficiary, or if he does not purchase them, provided that the goods are re-exported outside the Community;

2. for the purpose of repairs, transformation, modification or processing of such goods, provided that the goods produced as a result of such operations are re-exported outside the Community or purchased by the taxable person registered for VAT purposes which carried out the import.

#### **49. WHAT ARE THE RULES FOR THE DECLARATION AND PAYMENT OF VAT UPON THE IMPORT?**

The tax charged for the import of goods, with the exception of imports exempted from tax payment is to be paid to the customs authority in compliance with the rules in force on the payment of import duties.

Importers holding a single authorisation for simplified customs proceedings, which was issued by another Member State, or which carry out imports of goods to Romania as regards VAT for which they are not required to submit import customs statements, must pay the value added tax to the customs authority by the date when they are required to submit the import statement for VAT and excise duty.

#### **50. DO YOU APPLY THE OPTION OF A “DEFERRED ACCOUNTING” AS REFERRED TO IN ARTICLE 211 OF THE VAT DIRECTIVE (2006/112/EC)? IF SO, IN WHAT CONDITIONS?**

Between 15 March 2007 and 31 December 2012 inclusive, taxable persons registered for VAT purposes, which acquired a certificate for deferred payment, are not to make any actual payments of VAT to the customs authority in connection with the import in question.

Such persons will provide evidence of the tax related to the goods imported in the tax return both as a collected tax and as a deductible tax.

### **ADMINISTRATIVE REQUIREMENTS**

#### **51. DO YOU OPERATE A FLAT-RATE SCHEME? IF SO, TO WHOM DOES THE SCHEME APPLY?**

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**52. DO YOU OPERATE SIMPLIFIED ADMINISTRATIVE REQUIREMENTS OTHER THAN THOSE ALREADY MENTIONED? IF SO, PLEASE GIVE A DESCRIPTION.**

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**53. IN WHICH LANGUAGE(S) ARE FORMS (PERIODIC VAT RETURNS AND RECAPITULATIVE STATEMENTS) AVAILABLE OR TRANSLATED INTO?**

Forms are available in the Romanian language.

### **RIGHT OF DEDUCTION**

**54. FOR WHICH CATEGORIES OF GOODS AND SERVICES IS THERE NO RIGHT OF DEDUCTION?**

There is no right of deduction for the tax payable or paid on acquisitions of alcoholic beverages or tobacco products, unless these goods are destined for resale or use in the supply of services.

Between 1 May 2009 and 31 December 2010 it is no longer permitted to deduct under certain conditions the value added tax for acquisitions of road motor vehicles with a maximum weight of 3.5 tonnes, which are used exclusively for the transport of persons, including for the fuel needed for their operation, which are owned or used by taxable persons.

**55. ARE THERE CATEGORIES OF GOODS AND SERVICES IN WHICH THERE IS A PARTIAL RIGHT OF DEDUCTION? IF SO, WHAT IS THE PERCENTAGE?**

Not applicable.