LAW No. 571 of December 22, 2003

regarding the Fiscal Code.

Note:

Law in force since October 16, 2008. This text is not republished, but updated with informatics means. The text does not include IX, referring to local taxes and fees that are not administrated by ANAF.

TITLE I

General provisions

CHAPTER 1

Scope and application area of the Fiscal Code

ART. 1

Scope and application area of the Fiscal Code

(1) The present code provides the legal framework for the taxes and fees provided in art. 2, which are incomes 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 for the avoidance of 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 the Government Emergency Ordinance no. 117/2006 on national procedures concerning state aid, approved with amendments and completions by Law no. 137/2007.

ART. 2

The 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 in Romania by non-residents;

e) tax on representative offices;

f) value added tax;

g) excises;

h) local taxes and fees.

CHAPTER 2

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 natural 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 natural 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) This code is to be modified and completed only by law, promoted, as a rule, 6 months before the date of its entry into force.

(2) Any modification or completion to this code shall enter into force starting with the first day of the year next to the year of its adopting 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 Fiscal Commission

(1) The Ministry of Public Finance is to establish a Central Fiscal 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 Fiscal Commission are to be approved by an order of the Minister of Public Finance.

(3) The Central Fiscal 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 Fiscal Commission are to be approved by an order of the Minister of Public Finance.

*(5) *** Abrogated*

*(6) *** Abrogated*

*(7) *** Abrogated*

*(8) *** Abrogated*

CHAPTER 3

Definitions

ART. 7*)

Definitions of common terms

(1) For purposes of the present code, except for the Title VI, 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 natural person within an employment relationship;

3. dependent activity at the primary job - any dependent activity that is declared as such by a natural person in accordance with the provisions of law;

4. independent activity - any activity carried out on a regular basis by a natural person other than a dependent activity;

5. association without legal personality - any association in participation, economic interest group, civil society 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 body 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;

c) the lessee has the option to buy the good at the moment when the contract expires, and residual value expressed as percentages is less or equal to the difference between the normal period of maximum operation and the period of the leasing contract, reported to the normal period of maximum operation, expressed as percentages;

d) the period of the lease exceeds 80 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;

e) the total value of the lease installments, except for the ancillary payments, is more or equal to the entry value of the good;

8. operational leasing contract - any leasing contract entered into between a lessor and lessee that transfers to the lessee the risks and benefits of the right of ownership, except for the risk of the sale of the good to the residual value, and that does not fulfill the conditions provided in par. 7 lett. b) - e); the risk of the sale of the good to the residual value incurred when the purchase option is not carried out at the beginning of the contract or when the leasing contract specifically provides for the restitution of the good at the moment when the contract expires;

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;

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 provided 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; In addition, if the amount paid by a legal person for goods or services provided to a shareholder or partner of a legal person is made for the personal purpose of the legal person, then the amount is to be treated as a dividend.

13. interest - any amount required to be paid or received for the use of the money, irrespective if this amount must be paid or received as a debt, in connection with a deposit or in accordance with a finance leasing contract, an installment sale or any late payment sale;

14. franchise - a system of trade based on a continuous collaboration between natural 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 natural 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 natural 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 natural person is affiliated with another natural person if such persons are spouse or relatives up to the third degree, inclusive; Between affiliated persons, the price that the tangible or intangible goods are transferred or the services are provided is the transfer price;

b) a natural person is affiliated with a legal person if the person owns, directly or indirectly, including holdings of affiliated persons, a minimum of 25% by value/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 at least:

(i) the first legal person owns, directly or indirectly, including holdings of affiliated persons, a minimum of 25% of the value/number of the participation titles or voting rights in the other legal person, or effectively controls the legal person;

(ii) the second legal person owns, directly or indirectly, including holdings of affiliated persons, a minimum of 25% by the value/number of the participation titles or voting rights in the first legal person;

(iii) a third legal person owns, directly or indirectly, including holdings of affiliated persons, a minimum of 25% by the value/number of the participation titles or voting rights both in the first and the second legal person.

22. non-resident natural person - any natural person who is not a resident natural person;

23. resident natural person - any natural 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.

By exception from provisions of lett. a) - d), a resident natural 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. real estate - any building or other construction erected or incorporated in land;

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 transportation or containers;

e) any know-how;

f) the name or image of any natural person or other similar rights with respect to a natural 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 natural 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.

33. the fiscal value is:

a) for assets and liabilities - value of the registration in patrimony;

b) for the participation titles - the acquisition value or contribution, used to compute gain or loss for purposes of the income tax or profit tax;

c) for depreciable fixed assets and lands - the cost of acquisition or the market value of the fixed assets acquired for free or established as contribution, upon the date of the entry in the taxpayer's patrimony, used for to compute the fiscal depreciation, as the case may be. The accounting revaluation made under the law is also included in the fiscal value. If the revaluations of the depreciable fixed assets are made and which establishes decrease of their value under the acquisition or production or under the market value of the depreciable fixed assets acquired for free or established as contribution, as the case may be, the remaining not depreciated fiscal value of the depreciable fixed assets is recalculated up to the level of the value established based on the acquisition or production cost or based on the market value of the fixed assets of the fixed assets acquired for free or established as contribution, as the case may be. In the case of the revaluation of the lands which established a decrease of their value under the acquisition value or under the market value of those acquired for free or established as contribution, as the case may be, the fiscal value represents the acquisition cost or the market value of the lands acquired for free or established as contribution, as the case may be;

d) for provisions and reserves - the deductible value in computing taxable profit.

(2) The criteria for determining whether an activity carried out by a natural person is an independent activity or a dependent activity are provided in norms.

**) According to art. I par. 1 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1, 2009, the article 7 paragraph (1), pt 17 shall modify and shall have the following content:*

"17. non-resident - any foreign legal person, any non-resident natural person and any other foreign entities, including body for undertakings for collective investment in securities, without legal personality, which are not registered in Romania, according to the law in force;"

ART. 8

Definition of the permanent office

(1) For purposes of the present code, a permanent office 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 office 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 location includes a building site, a construction, assembly or installation project or supervisory activities related to them, only if the site, project, or activities last more than 6 months.

(4) By way of derogation from provisions of par. (1) - (3), a permanent location 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 only 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 provisions of par. (1) and (2), a non-resident is considered to have a permanent location 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 par. (4) letter. a) - f);

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 location 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 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 location 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 location or otherwise.

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

CHAPTER 4

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 specified 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.

(1^1) The fiscal authorities may disregard a transaction made by a taxpayer deemed inactive by order of the President of the National Agency for Fiscal Administration.

(1^2) In addition, the fiscal authorities shall disregard the transactions made with a taxpayer deemed inactive by order of the President of the National Agency for Fiscal Administration. Procedure to declare the taxpayers inactive is to established by order. The list of the inactive taxpayers is to be published in the Official Gazette of Romania, Part I, and is to be brought to public knowledge, in accordance with requirements provided in order.

(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, in the form of:

a) incomes attributable to a permanent location in Romania;

b) incomes from dependent activities 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 location in Romania, if the interest is an expense of the permanent location;

f) royalties from a resident;

g) royalties from a non-resident that has a permanent location in Romania, if the royalty is an expense of the permanent location;

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 services performed in Romania, exclusively from international transport and supply of services related to this transport;

l) incomes from the performance of management or consulting services in any field, if the incomes are obtained from a resident or if such incomes are expenses of a permanent location 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 location in Romania, if the commission is an expense of the permanent location;

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) *** Repealed*

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;

ţ) incomes from the liquidation of a Romanian legal person.

**) According to art. I par. 2 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1st, 2009, the article 12, letter i) shall modify and shall have the following content:*

"i) incomes resulting from the transfer of participation titles, as defined in art. 7 par. (1) pt. 31, 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; as well as the incomes resulting from the transfer of the securities as defined in art. 65 par. (1) letter c), issued by Romanian residents;"

ART. 12^1

Special provisions regarding the information exchange with the member states of the European Union

The Minister of Public Finances shall establish by an order the measures necessary to implement the administrative cooperation system and the information exchange with the member states of the European Union in the field of value-added tax, excises and income tax.

TITLE II

Profit tax

CHAPTER 1

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 location in Romania;

c) foreign legal persons and non-resident natural 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 natural 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 natural 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 location in Romania, to the taxable profit attributable to the permanent location;

c) in the case of foreign legal persons and non-resident natural 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 natural 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 natural 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 on public finance, as further amended, and to Law no. 273/2006 on local public finance, as further amended, unless 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) *** Repealed*

f) religious cults, for: 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 or other economic activities, incomes from cash compensations, obtained as a result of reparatory measures as provided by laws regarding the reconstitution of the right of ownership, provided that the respective amounts are used, during the current year and/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, for the provision, in his own name and/or in partnership, of the social services, accredited under the law, as specific actions and other non-profit activities of the religious cults, according to the Law no. 489/2006 on the Freedom of Religion and the General Status of Denominations.

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 the Government Emergency Ordinance no. 174/2001*) as regards certain measures for the improvement of higher education financing, as further amended;

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;

k) The National Bank of Romania;

l) The fund for compensation of private pensions, 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 and interests realized from the investment of the funds obtained from 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 obtained from occasional activities, such as: 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.

l) amounts received following the failure of the conditions under which the donation/sponsorship has been made, according to law, under the reserve that the respective amounts to be used by non-profit organizations, during the current year or following years, for fulfillment of their purpose and objectives, according to the constitutive document or statute, as the case may be;

m) incomes realized from compensations, from insurance companies, for damages to own tangible assets, other than those used in the economic activity;

n) the amounts received from the income tax due by the individuals, as provided by the provisions of the Title III.

(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 lei of 15,000 euros 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.

**) Government Emergency Ordinance no. 174/2001 was rejected through the Law no. 82/2005.*

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

The profit tax rate that is applied to taxable profit is 16%, with the exceptions provided in art. 38.

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, including the legal persons which realize these incomes based on a contract of association, 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 2

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) Taxpayers that have elected, until April 30, 2005, according to law, to take into account the taxation of incomes related to the installment sales contracts, as installments become receivable, are to continue to benefit from this facility during the carrying out of the respective contracts, 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.

(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.

(5) The transactions between affiliated persons are made according to the principle of the price of the free market, according to which the transactions between the affiliated persons are made under the conditions provided or incurred that must not be different from their commercial and financial relations which exist between independent enterprises. In order to establish the profits of the affiliated persons the principles of transfer prices are taken into account.

ART. 20)*

Non-taxable incomes

The following incomes are not taxable in computing taxable profit:

a) dividends received from a Romanian legal person.

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 representing shares held to affiliated companies, participation titles and investments held as assets, recorded as such according to accounting regulations. Such differences are taxable on the date of their transfer for free, assignment, withdrawal, liquidation of the financial investments 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 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;

d) non-taxable incomes, expressly provided in accordance with memoranda approved by normative acts.

**) According to art. I par. 3 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1, 2009, to the article 20, after the letter d) is to be introduced a new letter, the letter e), having the following content:*

"e) between January 1st, 2009 - December 31st, 2009, the incomes resulted from the transaction of the participation titles on the market authorized and monitored by the National Securities Commission. During the same period, the expenses which represents the registration value of these participation titles as well as the expenses recorded on the on the occasion of the transaction operations are non-deductible expenses in computing the taxable profit."

ART. 20^1

The fiscal regime of the dividends received from member states of the European Union

(1) After the date when Romanian joins the European Union, are also not taxable:

a) dividends received from a Romanian legal person, a parent company, from one of its subsidiaries located in a member state, if the Romanian legal person cumulatively satisfies the following conditions:

1. pays the tax profit, according to the provisions of the Title II, without the possibility of an option or exception;

2. holds a minimum of 15% by share capital of a legal person from a member state, respectively a minimum of 10%, beginning with January 1st, 2009;

3. at the date of the registration of the income resulted from dividends holds the minimum participation as provided in par. 2, for an uninterrupted period of more than 2 years.

Also not taxable dividends received from a Romanian legal person through its permanent location located in a Member State, when the Romanian legal person cumulatively fulfills the conditions provided in par. 1 - 3;

b) dividends received from the registered offices in Romania of some foreign legal persons from other member states or from parent companies, which are distributed by their subsidiaries located in member states, when the foreign legal person cumulatively fulfills the following conditions:

1. has one of the organisation forms provided in par. (4);

2. according to the fiscal legislation of the member state, this legal person is considered to be a resident of the respective member state and, based on a convention for the avoidance of double taxation concluded with a third Member State, is not considered to have a fiscal office located outside of the European Union;

3. pays, according to the fiscal legislation of a member state, without the possibility of an option or exception, profit tax or another similar tax;

4. holds a minimum of 15% by the share capital of a subsidiary located in a member state, respectively a minimum participation of 10%, beginning with January 1st, 2009;

5. at the date of the registration of the income resulted from dividends by the registered office in Romania, the foreign legal person holds the minimum participation as provided in par. 4, for an uninterrupted period of more than 2 years.

(2) Provisions of par. (1) letters a) and b) are not applicable in case of profits distributed to Romanian legal persons, respectively of the registered offices in Romania of some foreign legal persons from a member state, related to the liquidation of a subsidiary from a member state.

(3) For purposes of the provisions of the present article, the terms and expressions below have the following meaning:

a) member state - member state of the European Union;

b) subsidiary located in a member state - foreign legal person whose the share capital includes also the minimum participation provided in par. (1) letter. a) pt. 2 and letter b) pt. 4, held by a Romanian legal person, respectively by a permanent location in Romania of a foreign legal person from a Member State;

c) third state - any other state that is not member of the European Union.

(4) For purposes of the provision of the par. (1) letter b). pt. 1, organization forms for the foreign legal persons are the following:

a) companies established on the base of the Belgian law, known as "societe anonyme"/"naamloze vennootschap", "societe en commandite par actions"/"commanditaire vennootschap op aandelen", "societe privee a responsabilite limitee"/"besloten vennootschap met beperkte aansprakelijkheid", "societe cooperative a responsabilite limitee"/"cooperatieve vennootschap met beperkte aansprakelijkheid", "societe cooperative a responsabilite illimitee"/"cooperatieve vennootschap met onbeperkte aansprakelijkheid", "societe en nom collectif"/"vennootschap onder firma", "societe en commandite simple"/"gewone commanditaire vennootschap", public enterprises which adopted one of the legal forms above mentioned, and other companies established according to the Belgian law, subject to the Belgian profit tax;

b) companies according to the Danish law, known as "aktieselskab" and "anpartsselskab"; other companies subject to taxation, according to the law on profit tax, to the extent that their taxable income is calculated and taxed according to the general rules of the fiscal legislation applicable for "aktieselskaber";

c) the companies established according to German law, known as "Aktiengesellschaft", "Kommanditgesellschaft auf Aktien", "Gesellschaft mit beschrankter Haftung", "Versicherungsverein auf Gegenseitigkeit", "Erwerbs- und Wirtschaftsgenossenschaft", "Betriebe gewerblicher Art von juristischen Personen des offentlichen Rechts", and other companies established according to the German law, subject to the German profit tax;

d) the companies established according to the Greek law, known as "anonume etaireia", "etaireia periorismenes eutunes (E.P.E.)", and other companies established according to the Greek legislation, subject to the Greek profit tax;

e) the companies established according to the Spanish law, known as "sociedad anonima", "sociedad comanditaria por acciones", "sociedad de responsabilidad limitada", public law bodies which operate according to the private law, other entities established according the Spanish law, subject to the Spanish profit tax ("Impuesto sobre Sociedades");

f) the companies established according to the French law, known as "societe anonyme", "societe en commandite par actions", "societe a responsabilite limitee", "societes par actions simplifiees", "societes d'assurances mutuelles", "caisses d'epargne et de prevoyance", "societes civiles", which are automatically subject to profit tax, "cooperatives", "unions de cooperatives", industrial and commercial public enterprises, as well as other companies established according to the French law, subject to the French profit tax;

g) companies established or that operate according to Irish law, the bodies created based on Law on industrial and purchase associations, construction companies established according to Law on construction associations and banking saving trusts, established according to Law on saving banking institutions, 1989;

h) companies established according to Italian law, known as "societa per azioni", "societa in accomandita per azioni", "societa a responsabilita limitata", "societa cooperative", "societa di mutua assicurazione", and public and private entities that carry out entirely or mainly a commercial activity;

i) companies established according to the law of Luxembourg, known as "societe anonyme", "societe en commandite par actions", "societe a responsabilite limitee", "societe cooperative", "societe cooperative organisee comme une societe anonyme", "association d'assurances mutuelles", "association d'epargne-pension", "entreprise de nature commerciale, industrielle ou miniere de l'Etat, des communes, des syndicats de communes, des etablissements publics et des autres personnes morales de droit public", and other companies established according to law of Luxembourg, subject to the profit tax of Luxembourg;

j) companies established according to Dutch law, known as "naamloze vennootschap", "besloten vennootschap met beperkte aansprakelijkheid", "Open commanditaire vennootschap", "Cooperatie", "onderlinge waarborgmaatschappij", "Fonds voor gemene rekening", "vereniging op cooperatieve grondslag", "vereniging welke op onderlinge grondslag als verzekeraar of kredietinstelling optreedt", and other companies established according to Dutch law and subject to the Dutch profit tax;

k) companies established according the Austrian law, known as "Aktiengesellschaft", "Gesellschaft mit beschrankter Haftung", "Versicherungsvereine auf Gegenseitigkeit", "Erwerbs- und Wirtschaftsgenossenschaften", "Betriebe gewerblicher Art von Korperschaften des offentlichen Rechts", "Sparkassen", and other companies established according to Austrian law and subject to the Austrian profit tax;

l) trading companies or legal law companies with commercial form and public entreprises established according to Portuguese law;

m) companies established according to Finnish law, known as "osakeyhtyio/aktiebolag", "osuuskunta/andelslag", "saastopankki/sparbank" and "vakuutusyhtio/forsakringsbolag";

n) companies established according to Swedish law, known as "aktiebolag", "forsakringsaktiebolag", "ekonomiska foreningar", "sparbanker", "omsesidiga forsakringsbolag";

o) companies established according to the law of United Kingdom of Great Britain and Northern Ireland;

p) companies established according to the Council Regulation no. 2.157/2001/EC, of October 8th,2001, regarding the status of the European companies (SE) and to the Council Directive

2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees and the cooperatist societies established according to the Council Regulation (EC) no. 1.435/2003, of 22 July 2003, concerning the European Cooperative Statute (SCE) to the Council Directive 2003/72/EC, of 22 July 2003, supplementing the Statute for a European Cooperative Society with regard to the involvement of employees;

q) companies established according to Czech law, known as "akciova spolecnost", "spolecnost s rucenim omezenym";

r) companies established according to Esthonian law "taisuhing", "usaldusuhing", "osauhing", "aktsiaselts", "tulundusuhistu";

s) companies established according to Cypriote law, known as "etaireies", subject to Cypriote profit tax;

ş) companies established according to Latvian law, known as "akciju sabiedriba", "sabiedriba ar ierobezotu atbildibu";

t) companies established according to Lithuanian law;

ţ) companies established according to Hungarian law, known as "kozkereseti tarsasag", "beteti tarsasag", "kozos vallalat", "korlatolt felelossegu tarsasag", "reszvenytarsasag", "egyesules", "kozhasznu tarsasag", "szovetkezet";

u) companies established according to Maltese law, known as "Kumpaniji ta" "Responsabilita Limitata", "Socjetajiet en commandite li l-kapital taghhom maqsum f'azzjonijiet";

v) companies established according to Polish law, known as "spolka akcyjna", "spolka z ograniczona odpowiedzialnoscia";

w) companies established according to Slovenian law, known as "delniska druzba", "komanditna druzba", "druzba z omejeno odgovornostjo";

x) companies established according to Slovak law, known as "akciova spolocnost", "spolocnost's rucenim obmedzenym", "komanditna spolocnost".

(5) The provisions of the present article implement the provisions of the Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, amended by Council Directive 2003/123/EC.

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 contributions to insure against labor accidents, professional illness or professional risks, according to law, and expenses for insurance premiums to insure against 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, as well as for other assimilated individuals, provided by norms;

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;

j) expenses of research, as well as development expenses which do not fulfill the conditions in order to be considered as intangible assets from the accounting point of view;

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 when writing off from the records uncollected receivables, in the following cases:

1. the completion of the bankruptcy procedure of the debtors on the basis of a court decision;

2. the death of the debtor and the receivable cannot be recovered from his/her heirs;

3. the debtor is dissolved, in the case of limited liability company with a sole associate, or liquidated, without any successor;

4. the debtor is confronted with major financial difficulties that affect his/her entire patrimony.

(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;

c) social expenses, within the limit of the amount obtained by applying a rate of up to 2% to the expenses for salaries of the employees, according to the Law no. 53/2003 - Labor Code, with subsequent amendments and completions. 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: nursery ticket granted by employers according to the applicable law, gifts in money or in kind granted to minor children and employees, gifts in money or in kind granted to female employees, the cost of supplies for treatment and rest for own employees, including transport, assistance for employees and their family members 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 luncheon coupons granted by employers, as provided by law;

*f) *** Repealed*

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 of an amount equal to the equivalent in lei to Euro 200 during the fiscal year for each participant;

k) expenses for private health insurance premiums, within the limit of an amount equal to the equivalent in lei to Euro 200 euros during the fiscal year for each participant;

l) expenses for the operation, maintenance and repair of job dwellings located in the locality of the social office or where the company has secondary locations, deductible within the limit corresponding to the constructed areas as provided in the Law on dwellings no. 114/1996, republished, with its subsequent amendments and completions, which is increased from a fiscal viewpoint by 10%;

m) expenses of operation, maintenance and repairs related to an office within a dwelling owned by a person who is a natural 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 natural 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 natural and legal persons, for incomes realized from Romania;

b) interest/late payments, fines, confiscations and late-payment penalties payable to Romanian authorities, according to legal provisions. Fines, interest, 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.

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. The stocks and the depreciable fixed assets, destroyed as a result of natural catastrophes or other cases of force majeure, under the conditions provided by norms, are not subject to these provisions according to law;

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, with the exception of those provided in art. 20 lett c);

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 Title III;

l) other expenses of salary and/or similar expenses that are not taxed to the employee, except the provisions 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 the activities carried out 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, as well as losses recorded when writing off from the records doubtful or contested uncollected receivables in other cases than those under par. 21 par. (2) letter n). 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 and the expenses related to private scholarships granted according to law; the taxpayers that effect sponsorship and/or acts of mecenat, according to the provisions of the Law no. 32/1994 on sponsorship, as further amended, and to the Law on libraries no. 334/2002, republished, with further modifications and completions as well as those who grant private scholarships, according to law, deduct from the profit tax owed the related amounts, if the total of these expenses cumulatively satisfies the following conditions:

1. it is within the limit of 3 to hundred of the turnover;

2. does not exceed 20% of the profit tax payable.

Within these limits are included also the 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.

r) expenses recorded for accounting purposes that do not have as a basis a justifying document issued by an inactive taxpayer whose the fiscal registration certificate was suspended based on the order of the President of the National Agency for Fiscal Administration.

s) expenses for fees and dues to non-government organizations or professional associations related to the activity performed by taxpayers and which exceed the annual limit of the lei equivalent of Euro 4.000 euros, other than those provided in par. (2) lett. g) and m);

ş) expenses representing the value of the depreciation of the fixed assets in the case of a decrease of their value, following a revaluation.

(5) The State Patrimony and Protocol Administration or RAAPPS deducts in computing taxable profit the following expenses:

a) expenses representing the difference between the amounts due based on a contract for the supply of services concluded with Senate, the Chamber of Deputies, the Presidential Administration, with the Government of Romania and the Constitutional Court for the payment of the representation and protocol activity and the expenses recorded by the administration;

b) expenses effected, according to law, for the purpose of the administration, preserving the integrity and the protection of the Elisabeth Palace form the public domain.

*c) *** Repealed*

(6) The national company "Imprimeria Naţională" - S.A. deducts in computing the taxable profit the expenses related to the production and the issue of the premises for the temporary/permanent period of the stay for the foreign citizens, under the conditions of legal regulations.

**) 1. According to art. I par. 4 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1st, 2009, the article 21 par. (3), letters j) and k) shall modify and shall have the following contents:*

"j) expenses effected on behalf of an employee, to an optional occupational pension scheme representing the annual limit of the lei equivalent of 400 euros, for each participant;

k) expenses for health insurance premiums, within the limit of an amount representing the annual limit of the lei equivalent of 250euros, for each participant;"

2. According to art. I par. 5 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1st, 2009, the article 21 par. (4), letter h) shall modify and shall have the following content:

"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. This exception does not apply for the expenses representing the registration value of the participation titles transacted on the market authorized and monitored by the National Commission of Securities, between January 1st, 2009 - December 31st, 2009;"

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 1st, 2004;

2. they are not paid for a period of more than 270 days from the maturity 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, non-banking financial institutions registered in the General Register, as well as the specific provisions established by other similar legal persons;

*e) *** Repealed*

*f) *** Repealed*

*g) *** Repealed*

h) technical reserves established by insurance and re-insurance companies, as provided by legal provisions of organization and operation, excepting the equalization reserve. 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 1st, 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.

k) the provisions for closure and the tracing of waste deposits after their closure established by the taxpayers that carry out activities of storage of wastes, according to law, within the limit of the amount established in the project regarding the closure and the tracing of waste deposit after its closure, which is the equivalent of the share-part of the collected deposit tariffs;

l) the provisions established by the airline companies in Romania for covering the maintenance and repair costs for the aircraft park and for the related components, according to the maintenance programs regarding the aircrafts, accordingly approved by the Romanian Civil Aeronautical Authority.

(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 office of a provision or reserve is to include the increase of a provision or reserve.

(8) The provisions established for the receivables from customers, recorded by the taxpayers before January 1st, 2004, are deductible within the limits provided in par. (1) letter c), if the respective receivables cumulatively satisfy the following conditions:

a) they are not guaranteed by another person;

b) they are payable by a person that is not an affiliated person of the taxpayer;

c) they were included in the taxable incomes of the taxpayer;

d) 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;

e) provisions deductible for tax purposes for the respective receivable have not been established.

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 or equal to three. 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.

(2)) In the case where the degree of indebtedness of the capital is more than three, interest expenses and net losses from differences in the rate of exchange for foreign currency are not deductible. They are to be carried over to the following period, under the conditions of par. (1), until they are 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 the deductibility of such difference is subject to the limitations provided in par. (1). 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, those related to loans from

Romanian or foreign credit institutions, from non-banking financial institutions, loans from legal persons that grant loans according to law, as well as loans obtained based on the bonds traded on a regulated market are not subject to the provisions of the present article.

(5) In the case of loans obtained from other entities, with the exception of those provided in par. (4), the deductible interests 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) 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, credit institutions, as well as non-banking financial institutions.

(8) In the case of a foreign legal person that carries out activity through a permanent location 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 point of view 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 assets do not include:

a) land, including land with forests;

b) paintings 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, as well as development expenses, that from the accounting point of view are intangible assets, 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) starting 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) letter n).

(12) Taxpayers that invest in a depreciable fixed asset or in depreciable patents and which deduct a depreciation expense equal to 20% of the entry value of such asset as provided by law on the date that the fixed asset or patent is put into operation until April 30 2005, 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. In the case where the provisions of this paragraph are not observed, the profit tax is to be re-calculated and interest and late-payment penalties are to be determined from the date when such facilities applied, as provided by law.

(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 of 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. 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) *** Repealed*

(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 lei and in euros; such expenses that are recorded in lei 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 euros, at the euros/lei 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 on 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 same 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 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 location 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.

**) 1. According to art. I par. 1 and art. II of the Government Emergency Ordinance no. 91/2008, starting with January 1st, 2009, the article 26, par (4) shall modify and shall have the following content:*

"(4) Taxpayers that were required to pay income tax and that previously realized a fiscal loss are subject to provisions of par. (1), and par. (5), 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, respectively 7 years, as the case may be."

2. According to art. I par. 2 and art. II of the Government Emergency Ordinance no. 91/2008, starting with January 1st, 2009, to the article 26, after the par. (4) shall be included a new paragraph, par (5), with the following content:

"(5) By way of derogation from provisions of par. (1), annual loss established starting with 2009, as established by the profit tax declaration, is to be recovered from the taxable profits obtained during the following 7 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."

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 15%, respectively 10%, starting with 2009, 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) *** Repealed*

(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. 27^1

The common fiscal regime which is applied in the case of mergers, divisions, partial divisions, transfers of assets and exchange of shares between companies from different Member States of European Union

(1) The provisions of the present article are to apply after the date of Romania joining the European Union.

(2) The provisions of the present article are to apply to mergers, divisions, partial divisions, transfers of assets and exchange of shares between companies from two or more Member States.

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

1. merger - operation by which:

a) one or more companies, during and following the dissolution without liquidation, transfers all its assets and liabilities to another company, in exchange for the issue to their participants of participation titles representing the capital of the other company and, if necessary, of the a cash payment of over 10% of the nominal value or, in the absence of such nominal value, of the accounting nominal value equal to the respective titles;

b) one or more companies, during and following the dissolution without liquidation, transfers all its assets and liabilities to another company that is to be established, in exchange for the issue to their participants of participation titles representing the capital of the other company and, if necessary, of the a cash payment of a maximum of 10% of the nominal value or, in the absence of such nominal value, of the accounting nominal value equal to the respective titles;

c) a company, during the dissolution without liquidation, transfers all its assets and liabilities to the company that holds all the participation titles representing its capital;

2. division - operation by which a company, during the dissolution without liquidation, transfers all its assets and liabilities to two or more companies existent or newly established, in exchange for the issue to their participants of equal number of participation titles representing the capital of beneficiary companies and, if necessary, of the amount in cash of a maximum of 10% of the nominal value or, in the absence of such nominal value, of the accounting nominal value equal to the respective titles;

3. partial division - operation by which a company transfers, without being dissolved, one or more fields of activity, to one or more companies existent or newly established, assigns a least one branch of activity to the assignor company, in exchange for the issue to their participants of an equal number of participation titles representing the capital of beneficiary companies and, if necessary, of the amount in cash of a maximum of 10% of the nominal value or, in the absence of such nominal value, of the accounting nominal value equal to the respective titles;

4. transferred assets and liabilities - the assets and the liabilities of the assignor company that, following the merger, division or partial division, are included in a permanent establishment of the beneficiary company located in the member state of the assignor company, and which contributes to the profits and losses taken into account for computing the base of taxation;

5. transfer of assets - operation by which a company transfers, without being dissolved, all or more branches of its activity to another company, in exchange for the participation titles representing the capital of the beneficiary company;

6. exchange of shares - operation by which a company receives a participation to the capital of another company so that it has the majority of voting rights or the majority of participation titles to the respective company, in exchange for the issue to the participants of the last company, in exchange for their participation titles, of participation titles representing the capital of the initial company and, if necessary, of the amount in cash of a maximum of 10% of the nominal value or, in the absence of such nominal value, of the accounting nominal value equal to the respective titles issued as exchange value;

7. assignor company - a company which transfers the assets and liabilities or transfers all or one or more branches of its activity;

8. beneficiary company - a company which received assets and liabilities or all or one or more branches of the activity of the assignor company;

9. purchased company - a company where another company holds a participation, following an exchange of participation titles;

10. purchaser company - a company which purchases a participation of the shares of another company, following an exchange of participation titles;

11. branch of activity - total of assets and liabilities of a division in a company which, from the organization point of view, carries out an independent activity, meaning an entity which is able to carries out its activity by own means;

12. company from a member state - any company that cumulatively satisfies the following conditions:

a) it has one of the forms of organization provided in the annex which is part of this title;

b) according to the fiscal legislation of the member state, it is considered as having its fiscal office in the respective member state and based on the convention for the avoidance of double taxation concluded with a third state, it is not considered as having its fiscal office outside of the European Union;

c) pays profit tax or a similar tax, without the possibility of an option or exception.

(4) The operations of merger or division are not taxable transfers because of the difference between the market price of the transferred components of assets and liabilities and their fiscal value.

(5) Provisions in par. (4) are to be applied only if the beneficiary company calculates the depreciation and any gain or loss related to the transferred assets and liabilities according to the provisions that would be applied to the assignor company if the merger, division or partial division had not occurred.

(6) In the case the established provisions or the reserves have previously been deducted from the taxable base by the assignor company and they do not derived from the permanent locations from abroad, these provisions and reserves may be overtaken, under the same deduction conditions, by the permanent location of the beneficiary company located in Romania, the beneficiary company undertaking the rights and the obligations of the assignor company.

(7) As regards the operations mentioned in par. (2), if the assignor company has a fiscal loss, according to the present title, this loss shall not be recovered by the permanent establishment of the beneficiary company located in Romania.

(8) When a beneficiary company holds a participation to the capital of the assignor company, the incomes of the beneficiary company resulting from the cancellation of its participation are not taxable, if the participation of the beneficiary society to the capital of the assignor company is over 15%, respectively 10%, starting with January 1st, 2009.

(9) In the case of exchange of shares the following are to apply:

a) granting, in the case of a merger, division or exchange of shares, of the participation titles representing the capital of the beneficiary or purchaser company to a participant of a assignor or purchased company, in exchange for the titles representing the capital of this company, are not taxable transfers according to the present title and to the Title III;

b) granting, in the case of a partial division, of the participation titles of the assignor company representing the capital of the beneficiary company are not taxable transfers according to the present title and to the Title III;

c) the provisions of the lett. a) are to be applied only if the shareholder does not grant to the received participation titles a fiscal value more than their value before the merger, division or exchange of shares;

d) the provisions of the lett. b) are to be applied only if the shareholder does not grant to the received participation titles and to those hold in the assignor company a fiscal value more than the value of the titles hold in the assignor company before the partial division;

e) the profit or the income form the subsequent assignment of the participation titles is to be taxed according to the provisions of the present title or of the Title III, as the case may be;

f) the fiscal value is the value used in computing the incomes or losses, in order to establish the taxable income or the contribution of a participant of a company;

(10) Provisions in par. (4) - (9) are to be applies also in the case of the transfer of assets.

(11) The provisions of the present article are not to be applied when the merger, division, partial division, the transfer of assets or the exchange of shares:

a) has as main objective or one of the main objectives fraud and tax evasion. If one of the operations provided in par. (2) is not fulfilled because certain valid economic raisons, such as the restructuration or the organization of the activities of the companies involved in this operations, may represent the assumption that the operation has as main objective or one of the main objectives fraud and tax evasion;

b) results in the failure of a company, involved or not in this operation to satisfy the conditions necessary for the representation of its employees in the management of a company, according to the agreements applicable before the respective operation. This provision is to be applied if the companies mentioned in this article do not apply the community provisions containing similar norms on the representation of the employees in the management of a company.

(12) The provisions of the present article implements the provisions of the Directive 90/434/EEC on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States, amended by the Directive 2005/19/EC.

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 between two or more Romanian legal persons, the incomes and the expenses are to be assigned to each associate equal to the share of participation in the association.

(4) In an association without legal personality with foreign legal person and/or with non-resident natural persons, as well as with Romanian natural persons, the Romanian legal person must satisfy the obligation of each associate, as provided by the present title.

CHAPTER 3

International fiscal aspects

ART. 29

Incomes of a permanent location

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

(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 location 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;

(3) The taxable profit of a permanent location is to be determined by treating the permanent location 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 location. When the permanent location does not have an invoice for its expenses allocated by its main office, the other justifying documents must include evidences regarding the cost and the reasonable allocation of these costs to the permanent location using the rules of the transfer prices.

(4) Before carrying out activity through a permanent location in Romania, the legal representative of the foreign legal person provided in par. (1) is to require to register the permanent location 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 real estate 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 real estate 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 a real estate 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 location 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) *** Repealed*

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

**) According to art. I par. 6 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1st, 2009, to the article 30, after the paragraph (1) shall be included a new paragraph, par. (1^1), with the following content:*

"(1^1) Between January 1, 2009 - December 31, 2009, the profit obtained by foreign legal persons from the transaction on a market authorized and monitored by the National Commission of Securities of the participation titles held by a Romanian legal person."

ART. 31

Fiscal credit

(1) If a Romanian legal person obtains incomes from a foreign state through a permanent location 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 the necessary documentation, according to law, from which results the fact that tax was paid to the foreign state.

*(4) *** Repealed*

*(5) *** Repealed*

ART. 32

External fiscal losses

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

(2) Losses realized through a permanent location 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 4 *** Repealed*

*ART. 33 *** Repealed*

CHAPTER 5

Payment of tax and submission of tax declarations

ART. 34

Payment of tax

(1) The payment of tax is made as follows:

a) taxpayers, banking companies, Romanian legal persons and branches in Romania of banks, foreign legal persons are required to pay the annual profit tax, with anticipatory payments made on a quarterly basis, taking into account the inflation rate (this December compared to last December), estimated following the establishing the initial budget for the year when the anticipatory payments are made. The date until the payment of the annual tax is made is the deadline for the submission of the profit tax declarations, provided in art. 35 par. (1);

b) taxpayers, other than those provided in lett. a), are required to declare and to pay the profit tax on a quarterly basis, on or before the 25th of the month that follows the quarter for which the tax is computed, except as otherwise provided in the present article. Starting with 2010, these taxpayers are to apply the system of the anticipatory payments provided for the taxpayers mentioned in lett. a).

(2) In the case of associations without legal personality, the tax payable by the taxpayers provided in art. 13 lett. c) and e) and retained by the competent legal person is computed by applying the tax rate to the portion of the taxable profit of the association, that is attributable to each associate. The competent person has the obligation to declare and to pay the profit tax on a quarterly basis, before the 25th of the month that follows the quarter for which the result of the association is distributed.

(3) The taxpayers provided in art. 13 lett. d) are required to declare and to pay the profit tax on a quarterly basis, on or before the 25th of the month that follows the quarter.

(4) Non-profit organizations are required to declare and to pay the profit tax on an annual basis on or before February 15th of the year that follows the year for which the tax is computed.

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

(6) Taxpayers provided in par. (1) lett. a) are required to declare and to make anticipatory payments on a quarterly basis, on account of the annual profit tax, equal to a quarter of the profit tax payable for the preceding year, into account the inflation rate (this December compared to last December), estimated following the establishing the initial budget for the year when the anticipatory payments are made, on or before the 25th of the month that follows the quarter for which the payment is made. The profit tax for the preceding year, on the base of which the anticipatory payments are established, is equal to the profit tax payable according to the profit for the preceding year, without taking into account the anticipatory payments made during the respective year.

(7) By exception from provisions of par. (6), the taxpayers provided in par. (1) newly established, established during the preceding year or which at the end of the preceding fiscal year have a fiscal loss, as well as those who paid during the preceding year a tax on incomes of micro-enterprise, make anticipatory payments in the account of profit tax at the level of the amount resulted from the application of the tax rate to the accounting profit during the period for

which the anticipatory payment is made. In the case of taxpayers that during the preceding year have beneficiated of exemptions from the payment of profit tax, according to law, and during the year for which the anticipatory payments are computed and made do not beneficiate from the respective fiscal facilities, the tax profit for the preceding year, based on which the anticipatory payments are established is equal to the profit tax established according to the profit tax declaration for the preceding year, taking also into account the exempt tax profit.

(8) By exception from provisions of par. (6), the taxpayers provided in par. (1) lett. a), that have an accounting loss by the end of a quarter are not required to make the anticipatory payment established for the respective quarter.

(9) The declaration, adjustment and the payment of the profit tax for the fiscal year 2006, in the case of the taxpayers provided in art. (1) lett. a), are made before March 31, 2007.

(10) Taxpayers provided in par. (1) lett. b) pay for the last quarter an amount equal to the tax established and register for the third quarter of the same fiscal year, and the final payment of the profit tax is to be made before the deadline for the submission of the profit tax declarations provided in art. 35 par. (1).

(11) Taxpayers provided in par. (1) lett. b), that conclude the financial exercise for the prior year before February 15th are to submit the annual profit tax declaration and pay the profit tax related to the closed fiscal year on or before February of the following year.

(12) Legal persons that cease to exist during the fiscal year are required to submit, by way of exception from the provisions of the art. 35 par. (1), a profit tax declaration and pay the profit tax before the date of recording the cessation of existence of the legal person with the trade registry.

(13) The fiscal obligations regulated by the present title are incomes of the state budget. The profit tax payable for 2006 by the regies autonomes subordinated to the local and county councils, as well as by the trading companies in which the local councils and/or county councils are majority shareholders is declared, adjusted and paid to the respective local budget, before March 31, 2007. The interests/late payments, fines of the regies autonomes subordinated to the local and county councils, as well as those of the trading companies in which the local councils and/or county councils are majority shareholders are payable and shall be paid by law.

(13^1) By exception from provisions of par. (13), the profit tax, interests/late payments, fines payable by the regies autonomes subordinated to the local and county councils, as well as those payable by the trading companies in which the local councils and/or county councils are majority shareholders, that implement projects financed by the European Union or by other international bodies, based on loan agreements/contracts ratified and approved by normative acts, represent incomes to the respective local budget until the end of the fiscal year when the project that is subject to the loan agreement/contract is concluded.

(14) For the application of the provisions of par. (1) lett. a), the inflation rate necessary for the update of the anticipatory payments shall be communicated, by an order of the Minister of Public Finance before the April 15 of the fiscal year for which the anticipatory payments are made.

ART. 35

Submission of profit tax declarations

(1) Taxpayers are required to submit an annual profit tax declaration on or before April 15 of the following year.

*(2) *** Repealed*

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

CHAPTER 6

Withholding of tax on dividends

ART. 36

Declaration and withholding of tax on dividends

(1) A Romanian legal person that pays a dividend to a Romanian legal person is required to withhold, to declare and to pay 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 on dividends that must be withheld is to be declared and paid to the state budget on or before the 20th 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 31st 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 15%, respectively 10%, starting with 2009, 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 rate of the tax on dividends provided in par. (2) is to apply also to amounts distributed to the open investment funds.

CHAPTER 7

Final and transitional 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, 2003, obtained a permanent certificate of investor in a disadvantaged area, the exemption from profit tax related to a new investment is to continue to apply for the period of existence of the disadvantaged area.

(2) Taxpayers that made investment expenses before July 1, 2002, according to Government Ordinance no. 27/1996, regarding the facilities granted to the persons who live or work in certain places from Apuseni Mountains and Biosphere Reservation „The Danube Delta", republished, as further amended, and that continue the investments according to the above 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 December 31, 2006. 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 area 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 of 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, as further amended, 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 December 31, 2006.

(10) The company Combinatul Siderurgic "Sidex" S.A. benefits from an exemption from the payment of profit tax until December 31, 2004.

(11) The national company "Aeroportul Internaţional Henri Coandă - Otopeni" - S.A. benefits from an exemption from the payment of profit tax until December 31, 2006.

(12) In computing the 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 obtained from the 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.

**) Government Emergency Ordinance no. 102/1999 was repealed. See the Law no. 448/2006.*

ANNEX 1

LIST OF COMPANIES

referred to in the art. 27^1 par. (3) pt. 12 letter a)

a) companies established according to the Council Regulation no. 2.157/2001/EC, of October 8th,2001, regarding the status of the European companies (SE) and to the Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees and the cooperatist societies established according to the Council Regulation (EC) no. 1.435/2003, of 22 July 2003, concerning the European Cooperative Statute (SCE) to the Council Directive 2003/72/EC, of 22 July 2003, supplementing the Statute for a European Cooperative Society with regard to the involvement of employees;

b) companies established on the base of the Belgian law, known as "societe anonyme"/"naamloze vennootschap", "societe en commandite par actions"/"commanditaire vennootschap op aandelen", "societe privee a responsabilite limitee"/"besloten vennootschap met beperkte aansprakelijkheid", "societe cooperative a responsabilite limitee"/"cooperatieve vennootschap met beperkte aansprakelijkheid", "societe cooperative a responsabilite illimitee"/"cooperatieve vennootschap met onbeperkte aansprakelijkheid", "societe en nom collectif"/"vennootschap onder firma", "societe en commandite simple"/"gewone commanditaire vennootschap", public enterprises which adopted one of the legal forms above mentioned, and other companies established according to the Belgian law, subject to the Belgian profit tax;

c) companies established according to Czech law, known as "akciova spolecnost", "spolecnost s rucenim omezenym";

d) companies according to the Danish law, known as "aktieselskab" and "anpartsselskab"; other companies subject to taxation, according to the law on profit tax, to the extent that their taxable income is calculated and taxed according to the general rules of the fiscal legislation applicable for "aktieselskaber";

e) the companies established according to the German law, known as "Aktiengesellschaft", "Kommanditgesellschaft auf Aktien", "Gesellschaft mit beschrankter Haftung", "Versicherungsverein auf Gegenseitigkeit", "Erwerbs- und Wirtschaftsgenossenschaft", "Betriebe gewerblicher Art von juristischen Personen des offentlichen Rechts", and other companies established according to the German law, subject to the German profit tax;

f) companies established according to Esthonian law "taisuhing", "usaldusuhing", "osauhing", "aktsiaselts", "tulundusuhistu";

g) the companies established according to the Greek law, known as "anonume etaireia", "etaireia periorismenes eutunes (E.P.E.)";

h) the companies established according to the Spanish law, known as "sociedad anonima", "sociedad comanditaria por acciones", "sociedad de responsabilidad limitada", public law bodies which operate according to the private law;

i) the companies established according to the French law, known as "societe anonyme", "societe en commandite par actions", "societe a responsabilite limitee", "societes par actions simplifiees", "societes d'assurances mutuelles", "caisses d'epargne et de prevoyance", "societes civiles", which are automatically subject to profit tax, "cooperatives", "unions de cooperatives", industrial and commercial public enterprises, as well as other companies established according to the French law, subject to the French profit tax;

j) companies established or that operate according to Irish law, the bodies created based on Law on industrial and purchase associations, construction companies established according to Law on construction associations and banking saving trust, established according to Law on banking savings, 1989;

k) companies established according to Italian law, known as "societa per azioni", "societa in accomandita per azioni", "societa a responsabilita limitata", "societa cooperative", "societa di mutua assicurazione", and public and private entities that carry out entirely or mainly a commercial activity;

l) companies established according to Cypriote law, known as "etaireies", subject to Cypriote profit tax;

m) companies established according to Latvian law, known as "akciju sabiedriba", "sabiedriba ar ierobezotu atbildibu";

n) companies established according to Lithuanian law;

o) companies established according to the law of Luxembourg, known as "societe anonyme", "societe en commandite par actions", "societe a responsabilite limitee", "societe cooperative", "societe cooperative organisee comme une societe anonyme", "association d'assurances mutuelles", "association d'epargne-pension", "entreprise de nature commerciale, industrielle ou miniere de l'Etat, des communes, des syndicats de communes, des etablissements publics et des autres personnes morales de droit public", and other companies established according to law of Luxembourg, subject to the profit tax of Luxembourg;

p) companies established according to Hungarian law, known as "kozkereseti tarsasag", "beteti tarsasag", "kozos vallalat", "korlatolt felelossegu tarsasag", "reszvenytarsasag", "egyesules", "kozhasznu tarsasag", "szovetkezet";

q) companies established according to Maltese law, known as "Kumpaniji ta" "Responsabilita Limitata", "Socjetajiet en commandite li l-kapital taghhom maqsum f'azzjonijiet";

r) companies established according to Dutch law, known as "naamloze vennootschap", "besloten vennootschap met beperkte aansprakelijkheid", "Open commanditaire vennootschap", "Cooperatie", "onderlinge waarborgmaatschappij", "Fonds voor gemene rekening", "Vereniging op cooperatieve grondslag", "vereniging welke op onderlinge grondslag als verzekeraar of kredietinstelling optreedt", and other companies established according to Dutch law and subject to the Dutch profit tax;

s) companies established according the Austrian law, known as "Aktiengesellschaft", "Gesellschaft mit beschrankter Haftung", "Versicherungsvereine auf Gegenseitigkeit", "Erwerbs- und Wirtschaftsgenossenschaften";

ş) companies established according to Polish law, known as "spolka akcyjna", "spolka z ograniczona odpowiedzialnoscia";

t) trading companies or legal law companies with commercial form, as well as other entities which activity is commercial and industrial, registered according to Portuguese law;

ţ) companies established according to Slovenian law, known as "delniska druzba", "komanditna druzba", "druzba z omejeno odgovornostjo";

u) companies established according to Slovak law, known as "akciova spolocnost", "spolocnost's rucenim obmedzenym", "komanditna spolocnost".

v) companies established according to Finnish law, known as "osakeyhtyio/aktiebolag", "osuuskunta/andelslag", "saastopankki/sparbank" and "vakuutusyhtio/forsakringsbolag";

w) companies established according to Swedish law, known as "aktiebolag", "forsakringsaktiebolag", "ekonomiska foreningar", "sparbanker", "omsesidiga forsakringsbolag";

x) companies established according to the law of United Kingdom of Great Britain and Northern Ireland;

TITLE III

Income tax

CHAPTER 1

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 natural persons;

b) non-resident natural persons who carry out an independent activity through a permanent location in Romania;

c) non-resident natural persons who carry out a dependent activity in Romania;

d) non-resident natural persons who obtain incomes provided in art. 89.

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 natural persons, with domicile in Romania, incomes obtained from any source, both from Romania and from outside Romania;

b) in the case of resident natural 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 natural persons who carry out independent activity through a permanent location in Romania, the net income attributable to the permanent location;

d) in the case of non-resident natural persons who carry out dependent activity in Romania, the net salary income from such dependent activity;

e) in the case of non-resident natural persons who obtain incomes provided 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) Natural persons who satisfy the conditions of a resident provided in art. 7 par. (1) pt. 23 letter b) or c) 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. 46;

b) incomes from salaries, as defined in art. 55;

c) incomes from the grant of the use of goods, as defined in art. 61;

d) incomes from investments, as defined in art. 65;

e) incomes from pensions, as defined in art. 68;

f) incomes from agricultural activities, as defined in art. 71;

g) incomes from prizes and from gambling, as defined in art. 75;

h) incomes from the transfer of the immovable properties, as defined in art. 77^1;

i) incomes from other sources, as defined in art. 78.

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, as well as similar forms of support received from other persons, with the exception of allowances for temporary work incapacity; The non-taxable allowances are the following: the allowances for maternal risk, for maternity care and for the care of children, according to law;

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". Compensations in money or in kind that are received by a natural person as a result of a material damage suffered by such person, including compensations for moral damages, are not taxable incomes.

b^1) the amounts received following the expropriation because of public utility, according to law;

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 1st 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 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 natural 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, and other than those defined in chapter VIII^1;

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 and civil persons, 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 donation; In the case of immovable properties, of inheritances and donations are to apply the regulations provided in art. 77^1 par. (2) and (3).

k) incomes from agriculture or forestry, with the exceptions provided in art. 71;

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) income received by foreign citizens for activities in Romania, as correspondents Press on condition of reciprocity granted to Romanian citizens for income from such activities, and provided that the position of such persons to be confirmed by the Ministry of Foreign Affairs;

q) the difference in interest for subsidized loans received in accordance with the law;

r) received grants for the purchase of goods, if subsidies are granted in accordance with the law;

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) awards the medals to sportsmen World Championships, European and 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, as well as the qualification and participation to final tournaments at world and European championships, in 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) premium granted by the state for collective saving and lending for housing, according to the provisions of the Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy, approved with amendments and completions through Law no. 227/2007;

x) other incomes that are not taxable as provided in each category of income.

ART. 43

Tax rates

(1) The tax rate is of 16% and is applied to the taxable income corresponding to each income source of each category for establishing the income tax for incomes resulted from:

a) independent activities;

b) salaries;

c) the grant of the use of goods;

d) investments;

e) pensions;

f) agricultural activities;

g) prizes;

h) other sources.

(2) Excepted from the provisions of par. (1) are tax rates specifically mentioned for the categories of incomes provided in Title III.

ART. 44

Taxable period

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

(2) By exception from provisions of 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

Determination of personal deductions and fixed amounts

(1) The personal deduction, as well as the other fixed amounts in lei are to be established by a order of the Minister of Public Finance.

(2) The amounts are to be computed by rounding to ten lei, which means fractions under 10 lei are to be increased to 10 lei.

CHAPTER 2

Incomes from independent activities

ART. 46

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 those 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, n 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. 47

Non-taxable incomes

(1) 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) *** Repealed*

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

ART. 48)*

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. 49 and 50.

(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 incomes:

a) contributions in cash or the equivalent in lei 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 natural 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, as the case may be;

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. insurance premiums to insure against professional risks;

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, mecenat, as well as for granting of private scholarships, 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 paid 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 pensions funds, in accordance with legislation in force, within the limit of the equivalent in lei of 200 euros annually for a person;

h) voluntary health insurance premium, according to law, within the limit of the equivalent in lei of 200 euros annually for a person;

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, including those for insurance against labor accidents and professional illness, as provided by law;

k) interest related to loans from natural 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 made 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.

m) dues paid to professional associations within the limit of 2% of the computation base determined according to par. (6);

n) expenses representing professional mandatory contributions payable, according to law, to the professional organizations to which belong the taxpayers, within the limit of 5% of the gross income.

(6) The computation base is to be determined as the difference between the gross incomes and deductible expenses, other than expenses of sponsorship, mecenat, granting of private scholarships, protocol expenses, dues paid to professional associations.

(7) Are not deductible expenses:

a) amounts or goods used for personal use taxpayer or his family;

b) expenses related to non-taxable incomes the sources of which are in Romania or abroad;

c) income tax due under this title, including taxes on income form abroad;

d) costs of insurance premiums, other than those referred to in par. (4) letter d) and in par. (5) letter h);

e) donations of any kind;

f) fines, confiscation, interest, penalties and fines for delay due to the Romanian authorities and foreign, under laws other than those paid under terms of commercial contracts;

g) rates related to loans committed;

h) interest related to loans incurred for the purchase of tangible fixed assets, where the interest is included in the entry of immobilization body, according to the laws;

i) purchase and production expenses of the depreciable goods and rights registered into the Inventory Register;

j) expenses regarding the goods found missing or damaged in the management and not attributable, if 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 income in the place of the beneficiaries of such incomes;

m) amounts provided by law 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-inventory and other accounting documents provided by legislation on this matter.

(9) All goods and rights related to the performance of an activity are recorded in the Register-inventory.

**) According to art. I par. 7 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1, 2009, the article 48 paragraph (5), letters g) and h) shall modify and shall have the following contents:*

"g) contributions effected on behalf of employees to optional pensions funds, in accordance with legislation in force, within the limit of the equivalent in lei of 400 euros annually for a person;

h) voluntary health insurance premium, according to law, within the limit of the equivalent in lei of 250 euros annually for a person;"

ART. 49

Determination of annual net income from independent activities, on the basis of income norms

(1) Net income from an independent activity, as defined in paragraph. (2) which is carried out by the taxpayer, individually, without employees, is determined on the basis of income norms.

(2) Ministry of Finance develop rules that contain the classification of activities for which net income is determined on the basis of norms of income and specifies the rules that are used to establish these rules of income.

(3) General Directorates of the territorial public finances are required to establish and publish the annual income before January 1 of the year to be applied standards.

(4) If a taxpayer self-employed for periods of less than a calendar year, the norm of income related to that work is corrected so as to reflect the calendar year in which it was carried out this activity.

(5) If a taxpayer conducts two or more designated activities, net income from these activities is determined on the basis of the highest standards of income for those activities.

(6) If a taxpayer engaged in those referred to in paragraph. (1) and another activity that is not referred to in par. (1), the net income from activities carried out by independent taxpayer is determined on the basis of accounting in the game simple, according to art. 48.

(7) 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. 48. In this case, the net income from these activities may not be lower than net income determined on the basis of the standard income for the transport of persons and goods in the taxi.

(8) 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. 50

Determination of annual net income from intellectual property rights

(1) Net income from intellectual property rights is determined by subtracting from gross income the following charges:

a) a deductible expense equal to 40% of the gross income;

b) social security contributions paid.

(2) In the case of the incomes from the creation of monumental works of art, the net income is established by deduction from gross income the following expenses:

a) a deductible expense equal to 50% of the gross income;

b) social security contributions paid.

(3) If exploitation by successors of intellectual property rights, and if remuneration is entitled to receive royalties and compensatory remuneration for private copying, net income is determined by subtracting from gross income amounts to return the bodies collecting or other

payers such income, according to the law, without applying standard rate of expense referred to in par. (1) and (2).

(4) To determine the net income from intellectual property rights, taxpayers shall only fill part of the journal of receipts and payments relating to such income. This regulation is optional for those who consider that they can meet directly their declarative obligations on the basis of documents issued liable to pay income. These taxpayers are required to document and preserve the documents at least within the limitation period provided by law.

ART. 51

The option to determine annual net income using the data from accounting simple game

(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. 48.

(2) The option 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 of choice for determining net income in real system is submitted to the competent tax until January 31, including, for taxpayers who have conducted business in the previous year, respectively within 15 days of starting work, where taxpayers starting work during the fiscal year.

ART. 52

Withholding of tax at source representing anticipatory payments for some incomes from independent activities

(1) The payers of the following incomes are required to compute, withhold and transfer by withholding at source the tax, representing anticipatory payments from paid incomes:

a) incomes from intellectual property rights;

b) incomes from the sale of goods under consignment;

c) incomes from activities under the contracts staff, commission or commercial mandate;

d) incomes from activities under the contracts/civil conventions concluded under Civil Code, other than those provided in art. 78 par. (1) letter e);

e) incomes from the activity of accounting and technical, judicial and extrajudicial expertise;

f) income obtain by a natural person from an association with a legal taxpayer, according to Title IV, which is not a legal person.

(2) Tax to be held shall be as follows:

a) in the case of the incomes described in par. (1) lett. a) - e), by applying a tax rate of 10% of gross income;

b) in the case of the incomes provided in par. (1) lett. f), by applying the tax rate set for the tax on the incomes of micro-enterprises to incomes return of the natural person from the association;

(3) Tax to be withheld turns to the state budget until 25 including the month following that has been paid income, except for income tax referred to in par. (1) lett. f), for which the deadline for transfer is covered under Title IV.

ART. 53

Withholding at source of tax for certain incomes from independent activities

A taxpayer who carries out an independent activity is required to make anticipatory payments on account of the annual tax payable to the state budget, according to art. 82, with the exception of those specified in art. 52, for which the anticipatory payment is to be made by withholding at source.

ART. 54

Taxation of the net income from independent activities

The net income from independent activities is to be taxed according to the provisions of the Chapter X of the present title.

CHAPTER 3

Incomes from salaries

ART. 55

Definition of the incomes from salaries

(1) Incomes from salaries are all incomes in money and/or in kind obtained by a natural 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) For the taxation, are assimilated to salaries:

a) allowances of activities as a result of positions of public dignity, as established by law;

b) allowances of activities as a result of elected positions in the legal persons without lucrative purpose;

c) the monthly pay, allowances, bonuses, awards, increases and other rights of military personnel, according to law;

d) gross monthly allowance and the amount of net profit, due to company managers/national companies, companies in which the state or the authority of local public administration is the majority shareholder, and the administration;

e) amounts received by the 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, according to the law;

h) monthly allowance of the sole, at the value contained in the declaration of social security;

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) allowance of administrators, as well as the amount of net profit due to company managers of the trading companies, according to the constitutive act or set by the general meeting of shareholders;

k) any other amounts or benefits such as pay salaries or cash equivalents.

(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, clothing, household staff to work as well as other goods or services provided free or at a lower price than the market price;

c) non-reimbursable credits;

d) the cancellation of a receivable of the employer to the employee;

e) subscriptions and the cost of telephone conversations, including phone cards, personal purposes;

f) allows travel on any means of transport used for personal purposes;

g) insurance premiums paid by employees incurred for own or another beneficiary of income from wages, the payment of the first question, other than mandatory.

(4) The following amounts are not included in income and wages are not taxable, meaning the income tax:

a) funeral aid, aid for losses produced in their own households as a result of natural disasters, aid for serious and incurable diseases, aid delivery, representing revenues gifts for children of employees, gifts offered employee-ladies, the transport to and from the place employment of the employee, the cost of benefits for treatment and rest, including transport for their employees and members of their families, provided by the employer for its own employees or other persons, as stipulated in the employment contract.

Gifts granted by employers for the benefit of minor children of employees on the occasion of Easter, June 1st, Christmas and similar holidays of other religious cults, as well as gifts granted to female employees on the occasion of March 8th, 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 lei 150.

Incomes of the nature of those provided above realized by natural 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;

a^1) nursery ticket granted according to law;

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 natural persons, according to special laws;

d) for the accommodation and rent for housing made available to public officials, the diplomatic and consular employees who work outside the country, in accordance with the law;

e) for the machinery, equipment and personal protection work, protection of food, medicines and hygienic-sanitary materials, other rights protection work, as well as mandatory uniforms and equipment rights that are granted according to the laws in force;

f) the counter value of travel expenses for transportation between the locality in which employees have their domicile and place the work of these, at a monthly subscription fee for situations that do not provide housing or do not support the amount of the rent, according to the law;

g) amounts received by employees to cover the costs of transport and accommodation, the allowance received during the deployment and deployment in other towns in the country and abroad, in the interest of the service. Are exempted from this provision amounts granted by legal persons without patrimonial purpose entities and other non-tax profits above the limit of 2.5 times the allowance granted to employees of public institutions;

h) amounts received, according to the laws, to cover the costs of moving into the service;

i) installation allowances that are granted only once, the classification in a unit located in a different city than the home, in the first year of operation after completion of their studies, within the limits of a basic salary employment and pensions Installation and removal granted under special laws, the staff of public institutions and those who establish residence in municipalities in areas established by law, in which they work;

j) the compensatory payments, calculated on the basis of average net wages per unit, received by persons whose individual employment contracts were opened as a result of collective redundancies, and the amounts of compensatory payments, calculated based on average net salary in the economy, received by the civilian staff of the national defense, public safety and national reports to termination of employment or service needs as a result of the reduction and restructuring, according to 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;

k^1) incomes from salaries of the natural persons with a severe or serious handicap, at the primary job;

l) income from wages, as a result of the business of creating computer programs, that the work of creative computer programs are common by the Minister of Labor, Social Solidarity and Family, the Communications and Information Technology Minister and Minister of Finance public;

m) amounts or benefits received by individuals from dependent activities conducted in a foreign state, regardless of the tax treatment of the respective state. Exceptions are salary incomes paid by or on behalf of an employer that is a resident of Romania or that has a permanent location in Romania, which are subject to the globalization procedure, regardless of the period of carrying out activities abroad;

n) expenses incurred by the employer for vocational training and improving employee-related work undertaken by it for the employer;

o) the cost of telephone subscribers and telephone conversations, including phone cards, in order to perform the tasks of service;

p) benefits in the form of stock options at the right plan at the time commitment and default at the time of grant.

r) the favorable difference between the preferential interest established through negotiation and the interest on the market for deposits and loans.

(5) The benefits received in cash and in kind and charged to the employee in question are not taxed.

ART. 56

Personal deduction

(1) Natural persons under art. 40 par. (1) lett. a) and par. (2) are entitled to the deduction of monthly net incomes from salaries of a amount in the form of a personal deduction, granted for each month of the taxable period only for incomes from salaries at the location of the primary job.

(2) The personal deduction is granted to natural persons with a monthly maximum gross income of lei 1.000, as follows:

- for the taxpayers who do not support other persons - 250 lei;

- for the taxpayers who support other person - 350 lei;

- for the taxpayers who support two persons - 450 lei;

- for the taxpayers who support three persons - 550 lei;

- for the taxpayers who support four or more persons - 650 lei.

For taxpayers who obtain monthly gross incomes from salaries between lei 1,000.01 and lei 3,000, the personal deductions are digressive compared to those above mentioned and are established by an order of the Minister of Public Finance.

The taxpayers with monthly gross incomes from salaries over lei 3,000 do no benefit of a personal deduction.

(3) The supported person may be husband/wife, children or other family members, relatives of the taxpayer or of his/her wife/husband up to the 2nd degree inclusively, with monthly incomes, taxable or non-taxable, less than 250 lei.

(4) If a person is supported by more taxpayers, the amount representing the personal deduction is granted to one taxpayer, according to the agreement between parties.

(5) Minor children, who have not attained the age of 18, of a taxpayer are considered as supported.

(6) The amount representing the personal deduction is granted to persons supported by the taxpayer, for the taxable period of fiscal year in which they were supported. Period shall be rounded up to months in favor of taxpayers.

(7) Are not considered supported persons:

a) individuals who owns agricultural land and forest with a surface of over 10,000 square meters in countryside and areas and over 20,000 square meters in mountain areas;

b) individuals who obtain income from cultivation and recovery of flowers, vegetables and market gardening in greenhouses especially for those purposes and / or irrigation system, cultivation of and recovery from shrubs, ornamental plants and mushrooms, and the operation of nurseries vines and fruit, regardless of the surface.

(8) Personal deduction arising under this article shall not be granted to personnel sent to the permanent mission abroad, according to the law.

ART. 57)*

Determination of net annual income from salaries

(1) The beneficiaries of incomes from salaries due a final monthly tax, which are calculated and retained at source by the payers of incomes.

(2) Monthly tax referred to in par. (1) shall be determined as follows:

a) at the location of the primary job, by applying the rate of 16% to the computation base as difference between the net income from salaries, computed by deducting from the gross income the mandatory for a month, and the following:

- personal deduction granted for that month;

- union dues paid in that month;

- contributions to optional pension funds so that they do not exceed annually the equivalent in lei of 200 euros;

b) incomes in other cases by applying the rate of 16% to the computation base determined as difference between gross income and mandatory contributions for each place where such incomes were obtained.

(2^1) In case of incomes from salaries and/or of difference between incomes from salaries established for the previous periods, according to law, the tax is computed and withheld on the date of making the payment, in accordance with the legal regulations in force regarding the incomes that are not obtained from the primary job, and they shall be transferred before the 25th day of the month following the month for which the payment was made.

(3) The payer is required to establish the total amount of the annual tax on incomes from salaries, for each taxpayer.

(4) Taxpayers may decide upon the designation of an amount of up to 2% of the tax provided in par. (3), for financing the non-profit entities that are established and carry their activity in compliance with the law, of the cult units, as well as for granting private scholarships, according to law.

(5) The competent fiscal body has the obligation to compute, withhold and transfer the amount under the par. (4).

(6) The procedure for the application of the provisions of par. (4) and (5) is to be established by an order of the Minister of Public Finance.

**) According to art. I par. 8 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1, 2009, the article 57 paragraph (2), letter a) shall modify and shall have the following content:*

"a) at the location of the primary job, by applying the rate of 16% on the computation base determined as difference between the net income from salaries, computed by deducting from the gross income the mandatory contributions for a month, and the following:

- personal deduction granted for that month;

- union dues paid in that month;

- contributions to optional pension funds so that they do not exceed annually the equivalent in lei of 400 euros;"

ART. 58

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 25th of the month that follows the month for which such incomes are paid.

ART. 58^1

Deduction of the amounts for collective saving and lending for housing, according to the provisions of the Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy, approved with amendments and completions through Law no. 227/2007

Taxpayer may deduct from the taxable incomes from salaries obtained at the primary job, the payments made for collective saving and lending for housing, according to the provisions of the Government Emergency Ordinance no. 99/2006, approved with amendments and completions by Law no. 227/2007, within the limit of a maximum amount of 300 lei per year. The competent fiscal body has the obligation to grant this deduction, and the procedure the application is established by order of the Minister of Economy and Finance.

ART. 59

Fiscal sheets

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

(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. The payer is required to maintain the fiscal fiches for the entire period of employment and to transmit to the competent fiscal body 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. The template and the content of these forms are to be approved by an order of Minister of Public Finance.

ART. 60

Payment 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 natural persons who obtain incomes from salaries, following their activities carried out at diplomatic missions and consular offices accredited in Romania.

(2) Any taxpayer provided in par. (1) is required to declare and pay tax to the state budget on a monthly basis on or before the 25th of the month that follows the month in which the income is

realized, either directly or through a fiscal representative. The tax related to a month is to be established according to art. 57.

(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 and communicated to the competent fiscal body.

(4) A legal or natural 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 body regarding the date of beginning to carry out the activities of the taxpayer and, respectively, the termination of such activity, within 15 days after such event takes place, with except when this person meets the obligation as regards the computation, withholding and remittance of tax on incomes from salaries, as provided in par. (3).

CHAPTER 4

Incomes from the grant of the use of goods

ART. 61

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. 62

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 lei 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 lei 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 and Rural Development, 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 established by deducting from the gross income of the expenses determined by applying the rate of 25% on the gross income.

(3) By exception from 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. 51 par. (2) and (3) are to apply in the case of taxpayers specified in par. (3).

ART. 63

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. 82.

ART. 64

Taxation of net income from the grant of the use of goods

The net income from the grant of the use of goods is to be taxed in accordance with the provisions of chapter X of the present title.

CHAPTER 5

Incomes from investments

ART. 65)*

Definition of the incomes from investments

(1) Incomes from investments include:

a) dividends;

b) taxable incomes from interest;

c) gains from the transfer of securities; 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, including derivatives, as well as social parts;

d) incomes from sale-purchase operations of foreign currency on term, based on a contract, as well as any other similar operations.

e) incomes from the liquidation of a legal person.

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) Are non-taxable the following incomes from interest:

a) incomes from interest from site deposits/current accounts;

b) incomes from interest related to state securities and municipal obligations;

c) incomes in the form of granted interest from the client deposits established according to the law on collective saving and lending for housing;

c^1) incomes distributed to members of mutual assistance houses depending on their social fund.

(3) The incomes obtained from the first transaction of the shares issued by the "Proprietatea" by the natural persons to whom these shares were issued are not taxable, according to Titles I

and VII of the Law no. 247/2005 on the reform in the property and justice areas as well as on other certain additional steps, with its subsequent amendments and completions.

**) 1. According to art. I par. 3 and art. II of the Government Emergency Ordinance no. 91/2008, st5arting with January 1, 2009, the article 65 par. (2), letter b) is repealed.*

2. According to art. I par. 4 and art. II of the Government Emergency Ordinance no. 91/2008, starting with January 1, 2009, to the article 65 , after the par. (3) a new paragraph shall be included, the paragraph (4), which shall have the following content:

"(4) The incomes obtained from the holding and transaction of the state securities and/or of the obligations issued to the territorial-administrative units."

ART. 66

Determination of income from investments

(1) Gain/loss from the transfer of securities, other than participation titles in open investment funds and social parts, is the positive/negative difference between the sale price and the purchase price for types of securities, diminished, as the case may be, by the costs related to the transaction. In the case of transactions with shares received by natural 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 nominal 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 the costs related to the transaction.

(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 natural 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 profit 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.

*(4^1) *** Repealed*

(5) The annual net profit is determined as difference between profits and losses during the respective year, following the transaction of the securities, other than social parts and securities in the case of closed companies. The annual net profit is computed based on the income declaration, submitted according to the provisions of the art. 83.

(6) In case of transactions during the fiscal year with securities, other than social parts and securities, in the case of closed companies, each intermediary or income payer, as the case may be, has the following obligations:

a) to compute the annual profit/loss from the transactions made during the respective year for each taxpayer;

b) to communicate the information regarding the annual profit/loss, as well as the tax computed and withheld as anticipatory payment, in writing to the taxpayer before February 28 of the year following that for which this computing is made.

(7) Incomes obtained in the form of gains from sale-purchase operations of foreign currency on term, 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. The annual net profit is determined as difference between the profits and the losses during the respective year from such operations. The annual net profit is computed based on the income declaration, submitted according to the provisions of the art. 83. In case of transactions during the fiscal year each intermediary or income payer, as the case may be, has the following obligations:

a) to compute the annual profit/loss from the transactions made during the respective year for each taxpayer;

b) to communicate the information regarding the annual profit/loss, as well as the tax computed and withheld as anticipatory payment, in writing to the taxpayer before February 28 of the year following that for which this computing is made.

(8) The taxable income from the liquidation of a legal person is the excess of the distributions in money or in kind which exceed the contribution to the social capital of the beneficiary natural person.

ART. 67)*

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 16% 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 25th 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 associates by the end of the year during which the annual financial statements have been approved, the tax on dividends is to be paid on or before December 31 of such year.

(2) Incomes under the form of interests for: term deposits established, saving instruments appropriated, civil contracts concluded, shall be taxed starting with January 1, 2007 by a quote of 16% of their total amount. 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, respectively the moment of redemption, in the case of certain 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, until the 25th day of the month inclusively 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. For the established term deposits, appropriated saving instruments, deposits at sight/current accounts established priory to the date of January 1, 2007 but whose maturity terms are starting with January 1, 2007, in order to assess the tax on incomes from interests shall be applied the tax quote starting with the date of their establishment.

(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) the gain generated by the transfer of the securities other than the shares and securities in case of closed companies, shall be taxed using a tax quote of 1%, the tax retained in this manner representing anticipatory payment in the account of the annual tax owed. The obligation of computation, withholding, and remittance of the tax representing anticipatory payment shall belong to the intermediaries, to the asset management companies in case of redemption of shares in open investment funds or to other income payers, as the case may be, for each transaction. Tax computed and withheld at source shall be remitted to the state budget until 25 including of the month next to the month for which it was withheld. In the case of transactions made during the fiscal year, the taxpayer is required to submit the income declaration based on which the fiscal body determinates the payable annual tax, the annual tax which the taxpayer must to recover and issues an annual tax decision, taking also into account the tax withheld at source representing anticipatory payment. The due annual tax shall be established by the competent fiscal body as follows:

1. by applying the quote of 16% to the annual net gain of each of the taxpayers, which is assessed according to the provisions of art. 66 par. (5), for the securities alienated or redeemed in a period smaller than 365 days from the date of their appropriation, starting with January 1, 2007, in case of shares in open investment funds;

2. by applying the quote of 1% to the annual net gain of each of the taxpayers, which is assessed according to the provisions of art. 66 par. (5), for the securities alienated or redeemed in a period bigger than 365 days from the date of their appropriation, in case of shares in open-end investment funds;

b) in case of gains generated by the transfer of securities, in case of closed companies, and by the transfer of shares, the obligation of the computation, withholding and remittance of the tax shall belong to the acquirer. The tax computation and withholding by the acquirer shall be performed at the moment of transaction execution based on the contract concluded between parties. The tax shall be computed by applying the quote of 16% on the gain for each transaction, this tax being final. The transfer of the ownership right on the securities or shares should be registered with the Trade Register and/or with the Shareholder Register, as the case may be, this operation being not possible to be performed without the justification of the remittance of the tax to the state budget. The deadline for the remittance of the tax shall be until the date on which the documents for the registration of the transfer of the ownership right on the shares/securities are submitted to the Trade Register or Shareholders Register, as the case may be, regardless the payment of the relevant shares shall be scheduled or not;

c) gains from sale-purchase operations of foreign currency on terms, based on a contract, as well as from any other operations of this type, other than those with financial instruments transacted on markets authorized and monitored by the National Commission of Securities, shall be taxed by the application of a 1% rate for each transaction, the withheld tax representing the anticipatory payment on the account of the payable annual tax. The intermediaries and other income payers, as the case may be, are required to compute, withhold and transfer such tax. The tax assessed and withheld, representing anticipatory payment, shall be remitted until the 25th day inclusively of the month following to the withholding month. In the case of transactions made during the fiscal year, the taxpayer is required to submit the income declaration based on which the fiscal body determinates the payable annual tax, the annual tax which the taxpayer must to recover and issues an annual tax decision, taking also into account the tax withheld at source representing anticipatory payment. The annual due tax is determined by the competent fiscal body, by the application of a 16% rate to the annual net profit of each taxpayer, determined according to the provisions of the art. 66 par. (7);

d) the taxable income obtained following the liquidation of a legal person by shareholders/partners, that are natural persons, shall be taxed by a quote of 16%, this tax being final. The obligation to compute, withhold and remit the tax shall belong to the relevant legal

person. The tax computed and withheld at source shall be remitted until the date of submission of the final financial statement drawn up by the liquidators to the Trade Register Office.

(4) Losses from the transactions with social parts, in the case of closed companies, are not recognized from the fiscal point of view, and are not offset and carried over.

(5) Losses from the transaction of securities, other than those provided in par. (4), recorded during the fiscal year, are to be offset at the end of the fiscal year with similar gains from the transaction of the securities, other than those provided in art. (4), during that year. If following such offsetting a certain annual loss is recorded, such loss is not to be carried over.

(6) Losses from sale-purchase operations of foreign currency on terms, based on a contract, as well as from any other operations of this type, other than those with financial instruments transacted on markets authorized and monitored by the National Commission of Securities, shall be taxed by the application of a 1% rate for each transaction, the withheld tax representing the anticipatory payment on the account of the payable annual tax. If following such offsetting a certain annual loss is recorded, such loss is not to be carried over.

(7) Annual tax which is to recovered, provided in par. (3) lett. a) and c), is determined by the competent fiscal body as difference between the tax representing anticipatory payments made during that year and the annual payable tax. The fiscal body shall return to the taxpayer the due amounts, under the terms and conditions provided by law.

(8) 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 natural persons are to be used, which are to be approved by an joint order of the of the Ministry of Public Finance and of the president of the National Commission of Securities.

**) 1. According to art. I par. 9 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1, 2009, the article 67, paragraph (5) shall modify and shall have the following content:*

"(5) Losses from the transaction of securities, other than those provided in par. (4), recorded during the fiscal year, are to be offset at the end of the fiscal year with similar gains from the transaction of the securities, other than those provided in art. (4), during that year. If following such offsetting a certain annual loss is recorded, starting with the annual loss for the fiscal year of 2010, such loss is not to be carried over only during the following year. The annual loss recorded during the fiscal year of 2009 is not to be carried over."

2. According to art. I par. 10 and art. II of the Government Emergency Ordinance no. 127/2008, starting with January 1, 2009, to the article 67, after the paragraph (8) two new paragraphs are to be included, par. (9) and (10), having the following content:

"(9) By way of derogation from provisions of par. (3) lett. a), between January 1 2009 - December 31, 2009, the gains obtained by natural persons from the transfer of securities, other than social parts and securities in the case of closed companies, are non-taxable.

(10) The gains of the natural persons from the transfer of securities, other than social parts and securities in the case of closed companies, obtained starting with January 1, 2010, are subject to the provisions of the art. (3) letter a)"

*ART. 67^1 *** Repealed*

CHAPTER 6

Incomes from pensions

ART. 68

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 pensions funds and those financed by the state budget.

ART. 69

Determination of monthly taxable income from pensions

The monthly taxable income from pensions is to be determined by deducting from the income from pension a monthly non-taxable amount of 1.000 lei and the mandatory contributions, computed, withheld and borne by the natural person.

ART. 70

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) Tax shall be computed by applying the tax quote of 16% to the monthly taxable incomes from pensions.

(3) Tax computed shall be retained at the date of the payment of the pension, and shall be remitted to the state budget until 25th of each month inclusive of the month following to the month when pension is paid.

(4) The tax withheld is taxpayer's final tax on income from pensions.

(5) Where a pension is not paid monthly, the tax to be withheld is determined by dividing the pension paid to each of the months to which pensions are related.

(6) The rights of pension arrears are scheduled on the months to which they refer in order to compute the tax due, for being withheld and remitted.

(7) Incomes from survivors' pensions shall be individualized according to survivors' number, and taxation shall be made in relation to the rights due to each survivor.

(8) In case of incomes from pensions and/or of the income differences from pensions determined for the prior periods according to the law, the tax shall be computed related to the monthly taxable income and shall be withheld on the date of making of the payment, according to the legal provisions in force on the payment date, being remitted until the 25th day of the month following to the income payment month.

(9) The tax on incomes from pensions is to be remitted and fully withheld to the state budget.

CHAPTER 7

Incomes from agricultural activities

ART. 71

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.

d) the sale of the agricultural products after harvesting, in their natural state, from agricultural lands, private property or taken on lease, to units specialized in collecting, industrial processing units or to other units, in order to be used as such, starting with January 1, 2008.

ART. 72

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, Rural Development and are to be approved by the territorial general directorates of public finance of the Ministry of Public Finance. The basic rules of income are to be established, approved and published no later than May 31 of the year for which such basic rules of incomes are applied.

(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. 73

The option to determine annual net income using the data from accounting simple game

(1) A taxpayer who carries out an agricultural activity described in art. 71, may elect to determine the net income from such activity based on data from the simple entry accounting system, as provided in art. 48.

(2) The provisions regarding the election provided in art. 51 par. (2) and (3) are to apply in the case of taxpayers specified in par. (1).

ART. 74

Computation and payment of tax on incomes from agricultural activities

(1) The tax on net income from agricultural activities is to be computed by applying a tax rate of 16% to the net income, determined based on income norms and under a real system and the tax is final.

(2) A taxpayer who carries out an agricultural activity described in art. 71, 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 body on or before May 15 of the fiscal year for the current year. In the case of an activity that a taxpayer begins to carry out after May 15th, the declaration of income is to be submitted on or before the 15th 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. 82 par. (3). The anticipatory payments of tax are to be rectified by the competent fiscal body that issues an annual tax decision.

(4) In case of the taxpayer obtaining money incomes from agriculture, according to the provisions of art. 71 lett. d), following the marketing of the products sold to the units specialized for collection, units for industrial processing or other units for the use of the relevant products as they are, the tax shall be computed by applying of a quote of 2% on the value of the products delivered and withholding at source, starting with January 1, 2008, this tax being the final one.

(5) The procedure for the application of the provisions of par. (4) is to be established by norms issued by the Ministry of Agriculture, Forestry and Rural Development, with the endorsement of the Ministry of Public Finance;

CHAPTER 8

Incomes from prizes and gambling

ART. 75

Definition of income from prizes and gambling

(1) Incomes from prizes contain the incomes from contests other than those provided in art. 42, as well as those from promotion of products/services following the trading practice, according to law.

(2) Incomes from gambling include gains resulting from the participation to gambling, including jack-pot, defined according to methodological norms.

ART. 76

Determination of net income from prizes and from gambling

Net income is the difference between income from prizes or from gambling, and the amount of the non-taxable income.

ART. 77

Withholding of tax from incomes from prizes and from gambling

(1) The income in the form of prizes is to be taxed by withholding at source at a rate of 16% applied to the net income for each prize.

(2) The incomes from gambling are to be taxed by withholding at source, using a quote of 20% applied to the net income not exceeding the quantum of 100 million lei and a quote of 25% applied to the net income exceeding the quantum of 100 million lei. Net income shall be computed based on the gains obtained from the same organizer or payer during a single day.

(3) The obligation to compute, withhold and remit the tax shall belong to the payers of the relevant incomes.

(4) Are not taxable the incomes from prizes and from gambling, in money and/or in kind, that are below the established non-taxable amount of 600 lei obtained by the taxpayer:

a) for each prize;

b) for gains from gambling obtained from the same organizer during a single day of gambling.

(5) The tax computed and withheld at the moment of the payment is the final tax.

(6) Tax on incomes computed and withheld in this manner shall be remitted to the state budget until the 25th inclusive of the month following to the month for which it was withheld.

CHAPTER 8^1

Incomes from the transfer of real estates from the own patrimony

ART. 77^1

Definition of the income from the transfer of real estates from the own patrimony

(1) Upon the transfer of the ownership right and its stripping by legal acts between living persons concerning the constructions of any kind and their related lands as well as concerning the lands of any kind without constructions on them, the taxpayers shall due a tax computed as follows:

a) for the constructions of any kind with their related lands as well as for the lands of any kind without constructions on them, appropriated 3 years ago, inclusive:

- 3% up to the amount of lei 200,000 inclusively;

- over 200,000 lei, 6,000 lei + 2% computed for the amount exceeding 200,000 lei inclusive;

b) for the real estates presented in letter a), appropriate in a period exceeding 3 years ago:

- 2% up to the amount of lei 200,000 inclusively;

- over 200,000 lei, 4,000 lei + 1% computed for the amount exceeding 200,000 lei inclusive;

(2) The tax referred to in par. (1) shall not be due in the following cases:

a) when getting the ownership right upon the lands and constructions of any kind, by the reconstitution of the ownership right based on the special laws;

b) when getting the ownership right following donation among relatives up to 3rd degree inclusively, as well as between spouses.

(3) For the transfer of the ownership right and of its stripping as heritage no tax as provided in par. (1), shall be owed, if succession is debated and completed in term of 2 years from the date of the succession author death. In case of non-completion of the succession procedure in the term above mentioned, the heirs owe a tax of 1% computed related to the value of the chart of heirs.

(4) The tax referred to in par. (1) and (3) shall be computed for the value declared by the parties in the document by which the ownership right or its stripping are transferred. In case in which the declared value is less than the estimated value established following the expert study

performed by the Notary Public Chamber, the tax is to be calculated based on the value established following the expert study, excepting the transactions made between relatives up to second degree inclusively, as well as between spouses, in this case the tax is to be computed based on the value declared by the parties in the document by which the ownership right is transferred.

(5) The Chambers of public notaries shall update once a year the reports concerning the market value of the immovable goods, these reports following to be communicated to the territorial directorates of the Ministry of Public Finance.

(6) The tax referred to in par. (1) and (3) shall be computed and cashed by the public notary before the authentication of the document or, as the case may be, the drawn up of the succession completion conclusion. The tax assessed and cashed shall be remitted until the 25th day inclusively of the month following to the withholding month. In case the transfer of the ownership right or of its striping under the conditions of art. (1) and (3), shall be obtained by a judgment, the tax provided in par. (1) and (3) shall be computed and cashed by the competent fiscal body. The law courts delivering the final and irrevocable judgment shall communicate to the competent fiscal body the decision and the related documentation in term of 30 days from the date of remaining final and irrevocable the judgment. In the case of procedures other than notary or court ones, the taxpayer is required to declare his/her income within 10 days as of the date of its transfer to the competent fiscal body in order to compute the related tax. To record the rights obtained based on the documents authenticated by public notaries or of the heir certificates or of the judgments or other documents in the other cases the registrations from the land book offices shall verify the fulfillment of the tax obligation payment provided in par. (1) and (3) and, in case there shall be not produce the proof of this payment, the recording request shall be repealed until the tax payment.

(7) The tax provided in par. (1) and (3) shall be fully remitted and withheld to the state budget.

(8) The computing, cashing and remittance procedure of the tax provided in par. (1) and (3), as well as the declarative obligations are to be established by methodological norms issued by a joint order of the Minister of Public Finance and Minister of Justice, after consulting the National Union of Notaries Public from Romania.

ART. 77^2

Tax rectification

In the case in which, after the authentication of the document or after drawing up the closure of the completion of the succession procedure by the public notary, certain errors or omissions in computing and cashing the tax provided in art. 77^1 par. (1) and (3) are ascertained, the public notary shall communicate such situation to the competent fiscal body, by grounding the circumstances which caused the respective error or omission. The competent fiscal bodies shall issue tax decisions in the case of taxpayers provided in art. 77^1 par. (1) and (3), in order to cash the respective tax. The public notary is responsible for the failure of collecting or the incorrect computing of the tax provided in art. 77^1 par. (1) and (3) only in the case in which the failure of collecting partially or fully of such tax is attributable to the public notary who deliberately did not fulfill his/her obligation.

ART. 77^3

The declarative obligations of the public notaries regarding the transfer of the real estate

The public notaries are required to submit each semester to the territorial fiscal body an evidence information regarding the transfer of the real estate, which shall include for each transaction the following:

a) Contracting Parties;

b) value recorded in the transfer document;

c) tax on the income from the transfer of the real estate from the personal patrimony;

d) notary fees related to such transfer.

CHAPTER 9

Incomes from other sources

ART. 78

Definition of incomes from other sources

(1) In this category shall be included, but not limited to, the following incomes:

a) insurance premiums borne by an independent individual or any other entity, within an activity for an individual in connection with which the bearer does not have a relation generating incomes from salaries according to chapter III of the present title;

b) earnings received from the insurance companies, as a result of the insurance contract concluded between the parties, with the occasion of drawings of depreciation;

c) income received by individuals pensioners in the form of price differences for certain goods, services and other rights, by former employees, according to the terms of the employment contract or under special laws;

d) incomes received by individuals representing fees from commercial arbitration activity;

e) incomes received by the individuals from activities developed based on civil contracts/agreements concluded according to the Civil Code, other than those taxed according to chapter II and according to the option exercised by the taxpayer. he option to tax the gross income is exercised in writing at the moment of the conclusion of each of the civil contracts/agreements and is applicable to the incomes obtained following the activity developed on the basis of the relevant civil contract/agreement.

(2) Incomes from other sources are any incomes identified as being taxable, and which are not included in the categories provided in art. 41 lett. a) - h), other than the taxable incomes provided in the present title, as well as those specified in the methodological norms established in order to the provisions of the present article are to be applied.

ART. 79

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 16% to the gross income.

(2) The tax computed and withheld is the final one.

(3) The tax that is withheld is to be remitted to the state budget on or before the 25th day of the month following the month when such tax was withheld.

CHAPTER 10

Taxable annual net income

ART. 80

Determination of the taxable annual net income

(1) The taxable annual net income shall be determined for each of the sources from the income categories mentioned in art. 41 lett. a), c) and f) by deduction from the annual net income of the carried fiscal losses.

(2) Incomes from the categories provided in art. 41 lett. a), c) and f), obtained in a fraction of a year or in different periods representing fractions of the same year, is considered taxable annual income.

(3) The annual fiscal loss recorded for each source from independent activities, form the grant of the use of goods and agricultural activities is to be carried over and completed with incomes from the same source for the next 5 fiscal years.

(3^1) ^The losses from abroad are to be carried over and offset with similar incomes from the same source, obtained abroad, for each country, recorded for the next 5 fiscal years.

(4) The rules for carry-over losses are as follows:

a) report is carried out chronologically, depending on the length loss in the next 5 years;

b) the right to report is personal and non;

c) loss carried forward, uncompensated after the expiry of the period referred to in point letter a) is the definitive loss of taxpayer;

ART. 81

Declarations of estimated income

(1) Taxpayers and associations without legal personality, starting a business during the fiscal year are required to submit to the tax a competent declaration relating to revenue and expenditure estimates to achieve the fiscal year, within 15 days of date of the event. Except for the provisions of this paragraph taxpayer who carries out that tax revenue is collected by deduction at source.

(2) Taxpayers who get income from rental and leasing of personal assets are required to submit a statement of estimated revenue, within 15 days after the conclusion of the contract between the parties. Declaration on estimated revenue once it is filed with the tax registration of the contract between the parties.

(3) Taxpayers who, in the previous year, they realized losses and those who have achieved revenues for periods of less than fiscal year, and those who, for objective reasons, estimates that revenue will differ by at least 20% of previously filed fiscal year, with tax declaration, and estimated income statement.

(4) Taxpayers who determine the net income per basic rules of income and the expenditure for which is determined in flat-rate system and have opted for the determination of net income in real system filed a request with the options and estimated income statement.

ART. 82

Determination of anticipatory payment of tax

(1) Taxpayers who engage in self-employment income, rental and leasing, excluding income from farming and income from agricultural activities are bound to perform during prepayments for the tax, except for the case of income payments shall be established by early stoppage at source.

(2) The competent fiscal body is to determine the anticipatory payments for each category of income, taking as the computation base the estimated annual income or the net income realized during the preceding year, as the case may be, by issuing a decision which is to be communicated to the taxpayers, according to law. 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 tax decision issued for the declaration of global income. Payments for anticipated income from rental and leasing, excluding income from rent is determined by the tax as follows:

a) the contract concluded between the parties, or

b) based on revenues determined according to data from simple accounting game, according to the option. If, under contractual terms, income from rental and leasing is equivalent in lei of a currency amounts, the estimated annual income is made on the basis of the exchange currency market released by the National Bank of Romania, the day before the undertaken imposition.

(3) Prepayments are carried out in 4 equal installments, until 15 including last month of each quarter, excluding tax on income from farming, for which tax payment is made according to the decision issued on the statement of global income. Taxpayers who determine the net income from agricultural activities, according to art. 72 and 73, due to prepayments to the state budget for income taxes for this, in two equal installments, as follows: 50% of the tax until September 1, including 50% tax, until November 15 including.

(4) The terms and procedure for issuing decisions prepayments will be determined by the Minister of public finances.

(5) In determining the advance payments, the tax will take as the basis for calculating the estimated annual income in all situations in which it was filed a statement of estimated revenue for the current year income statement or the declaration regarding the income obtained during the previous fiscal year, as appropriate. When determining the anticipatory payments is to be applied a 16% rate provided in art. 43 par. (1).

ART. 83

Declaration of global income

(1) The taxpayers who performed individually or in a form of association, incomes form independent activities, form the grant of the use of goods, incomes from agricultural activities established under the real system are required to submit a income declaration to the competent fiscal body, for each fiscal year, on or before May 15 of the year that follows the year in which the income was obtained. The income declaration is to be fulfilled for each source and category of income. For earnings from a form of association, said revenue will be net income / loss distributed in combination.

(2) The income declaration is to be also fulfilled for the annual net income/loss, generated by:

a) transactions with securities, other than social parts and securities in the case of the closed companies;

d) sale-purchase operations of foreign currency on term, based on a contract, as well as any other similar operations.

(3) Income declarations should not be submitted in the case of the following category of incomes:

a) net incomes determined based on the norms regarding the income, except the taxpayers who submitted estimative income declarations during the month of December and for which anticipatory payments were not established, according to law;

b) revenue in the form of wages and salaries of similar income, for which information is contained in tax returns, which have the statements of taxes and fees or monthly statements, submitted by taxpayers referred to in art. 60;

c) incomes from investments, with the exception of those provided in par. (2), as well as incomes from prizes and gambling, which imposition is final;

d) income from pensions;

e) incomes from agricultural activities which imposition is final, according to art. 74 par. (4);

f) incomes from the transfer of real estate;

g) incomes from other sources.

ART. 84

Determination and payment of tax on annual taxable net income

(1) The tax on annual taxable net income/profit is to be computed by the competent fiscal body, based on the declaration of income, by the application of a 16% rate to the annual taxable net income/gain in the respective fiscal year, except the provisions of the art. 67 par. (3) letter a).

(2) Taxpayers may chose the destination of an amount equal to 2% of the tax on annual taxable income, on the annual net profit from sale-purchase operations of foreign currency on term, based on a contract, or from any other similar operations, for supporting non-profit entities established or which carry out their activities according to law, the cult units, as well as for granting private scholarships, according to law.

(3) The competent fiscal body is required to compute, withhold and transfer the amount representing 2% of the tax on:

a) the annual taxable net income;

b) the annual net profit from the transfer of securities;

d) the annual net income from sale-purchase operations of foreign currency on term, based on a contract, as well as any other similar operations.

(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 annual taxes establish tax due and issue a decision imposing, and in the form set by the Minister of public finances.

(6) Tax differences remained to be paid according to the annual tax decision shall be paid in maximum 60 days from the date of the communication of the tax decision, for this period not

being computed and due the amounts determined according to the regulations in this matter concerning the collection of the budgetary receivables.

CHAPTER 11

Joint ownership and associations without legal personality

ART. 85

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. 86

Rules regarding associations without legal personality

(1) The provisions of the present article are not to apply:

- for associations without legal personality provided in art. 28;

- for investment funds as associations without legal personality;

- for associations with a legal person that pays a profit tax, in this case only the tax regulations of the title II are to be apply;

- for private pension funds and option pensions funds established as provided in legislation on such matter.

(2) Within each association without legal personality established by law, associations are required to conclude contracts of association in written form, to start work, including data on including:

a) Contracting Parties;

b) the subject 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 competent fiscal body is required to register the association contract within 15 days as of the date of its closure. The tax has the right to refuse registration of contracts, if they do not include the data required by this paragraph.

(3) Where the members associated with family related to the fourth grade, including the parties are obliged to prove that participate in the income of goods or rights which have ownership. May be associate members and individuals who have acquired the capacity to exercise restricted.

(4) Associations are required to submit to the competent tax, until March 15 next year, annual statements of income, according to the model established by the Ministry of Finance, which will include the distribution of net income / loss on associates.

(5) Annual income/loss, both in the association, distributed to members in proportion to the percentage rate of participation appropriate contribution, according to the contract of association.

(6) Tax treatment of income from the association, in cases other than associating with a person, will be in the same manner as for revenue category in which it is employed.

(7) Profit/income due to a natural person, in association with a Romanian legal person, a micro-enterprise which does not generate a legal person, determined in compliance with the rules established in Title IV is treated as such, for the purpose of requiring the individual level, income from independent activities, which is deducted from mandatory contributions in order to obtain net income.

(8) Tax retained legal person in person, for earnings of a combination with a Romanian legal person who is not a legal person, is prepay in annual tax revenue. The Romanian legal person is require to compute, withhold and transfer the tax, determined in accordance with the methodology set out in legislation on tax or income of micro-enterprise.

CHAPTER 12

International fiscal aspects

ART. 87

Incomes of non-resident natural persons from independent activities

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

(2) Net income from an independent activity that is attributable to a permanent location is determined according to art. 48, , under the following conditions:

a) only incomes that are attributable to the permanent location are included in taxable incomes;

b) only expenses related to the realization of such incomes are included in deductible expenses.

ART. 88

Incomes of non-resident natural persons from dependent activities

Non-resident natural 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 natural 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 location in Romania.

ART. 89

Other incomes of non-resident natural persons

(1) Non-resident natural persons who obtain incomes other than those provided in art. 87, 88 and title V are to pay tax as provided in the rules of title.

(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 natural 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, according to the Government Ordinance no. 92/2003 on Fiscal Procedure Code, republished as subsequently amended and completed.

ART. 90

Incomes obtained from abroad

(1) Natural persons under art. 40 par. (1) lett. a) and those who satisfy the conditions of art. 40 par. (2) owe tax for incomes obtained from abroad.

(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 according to par. (1) are required to declare such incomes, according to the specific declaration, before May 15th of the year that follows the year in which the income is realized.

(4) The fiscal body 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) Tax differences remained to be paid according to the annual tax decision shall be paid in maximum 60 days from the date of the communication of the tax decision, for this period not being computed and due the amounts determined according to the regulations in this matter concerning the collection of the budgetary receivables.

ART. 91

External fiscal credit

(1) Taxpayers resident natural 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 natural 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.

(3^1) After Romania's accession to the European Union, for the incomes from savings, defined in art. 124^5, obtained by the natural resident persons from those Member States which have a period of transition specified in art. 124^9, the method of avoiding the double taxation, provided in art. 124^14 par. is to apply. (2).

*(4) *** Repealed*

(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 obtained by resident natural 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 euros, by using the rate of exchange of the foreign country from the state of source;

b) from the foreign currency of international circulation to lei, 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. 92 *** Repealed*

External fiscal losses

CHAPTER 13

Statement obligations of payers of incomes withheld at source

ART. 93

Statement 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 on or before the deadline for the remittance of such tax, except as provided in the present title.

(2) 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 body, by June 30th of the current year for the expired year.

(3) Excepted from the deadline provided in par. (2) and are required to submit the declaration, on or before the last day of February of the current year, for the expired fiscal year:

a) the payers of incomes from independent activities provided in art. 52;

b) the payers of incomes from salaries, related to incomes from salaries paid to taxpayers, who are required to submit the declaration provided in par. (2) and the related statement obligations are provided in art. 59;

c) the payers of incomes from the transfer of securities and from the sale-purchase operations of foreign currency on term, based on a contract, as well as any other similar operations, for which the income tax is withheld at source.

CHAPTER 14

Final and transitional provisions

ART. 94

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) Losses recorded during the period of exemption by taxpayers 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.

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

ART. 95

Finalization of taxes for year 2006

In order to determine the tax for the income realized during fiscal year 2006, the necessary documentation is to be established by an order of the Minister of Public Finance.

*ART. 96 *** Repealed*

*ART. 97 *** Repealed*

*ART. 98 *** Repealed*

*ART. 99 *** Repealed*

*ART. 100 *** Repealed*

*ART. 101 *** Repealed*

*ART. 102 *** Repealed*

TITLE IV

Tax on incomes of micro-enterprises

ART. 103

Definition of micro-enterprises

For purposes of this title, a micro-enterprise is a Romanian legal person that cumulatively satisfies the following conditions on December 31st of the preceding fiscal year:

a) obtain incomes other than those from consulting services and management, of more than 50% of total incomes;

b) has from 1 to 9 employees including;

c) obtained incomes that have not exceeded the equivalent in lei of 100,000 euros;

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 60th 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. 103.

(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.

(6) Micro-enterprises payers of the tax on incomes of micro-enterprises may elect to pay the profit tax beginning with the following fiscal year. This election may be made until January 31st of the fiscal year following the year in which the tax on incomes of micro-enterprises was payable.

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

Taxation rate

The taxable base of the tax on incomes of micro-enterprise is of: 2% in 2007; 2,5% in 2008; 3% in 2009.

ART. 107^1

The taxation of micro- enterprises that obtain incomes more than 100,000 euros)*

By exception from provisions of par. 109 par. (2) and (3), if during a fiscal year o micro-enterprise obtains incomes more than 100,000 euros or the proportion of the incomes from consulting services and management of the total incomes is equal or over 50%, such micro-enterprise shall pay profit tax taking into account the incomes and the expenses made from the beginning of the fiscal year, without the possibility to beneficiate for the following period of the provisions of the present title. The computation and the payment of the profit tax is made starting with the quarter during which any of the limits provided in this article was exceeded, without delay penalties. In determining the payable profit tax the payments representing the tax on the incomes of the micro-enterprises made during the fiscal year are to be deducted.

**) By art. I par. 4 from the Government Emergency Ordinance no 110/2006, the art. 107^1 was modified, without any specification related to its title. In the updated text the title of the art. 107^1 remained the same as before the amendment provided in Government Emergency Ordinance no. 110/2006.*

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 arising from cancellation of debts and penalties due to the state budget not representing deductible expenses when computing the taxable profit, according to legal regulations;

f) incomes from indemnifications granted by the insurance companies for the damages caused to own tangible assets.

(2) In case a micro-enterprise purchases cash registers, their purchase value shall be deducted from the taxation base, according to the justifying documents, in the quarter in which they were put into service, according to the law.

ART. 109

Procedure to declare the option

(1) Legal persons, payers of tax on profit, shall communicate their option to the competent fiscal body, at the beginning of the fiscal year, by submitting a specifications declaration for legal persons, family associations and associations without legal personality, until January 31 inclusively.

(2) The legal entities establishing during a fiscal year shall include their tax option in the application for registration with the trade register. The option is final for such fiscal year.

(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. 103.

(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 25th 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 natural 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 natural person, resident or non-resident, the micro-enterprise is required to compute, withhold and pay to the state budget tax owed by the natural person, which computed by the application of a rate of 1.5% to the incomes received by the person from the association.

**) See the art. 52 and art. 107.*

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, 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 1

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 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 location in Romania, if the interest is an expense of the permanent location;

d) royalties from a resident;

e) royalties from a non-resident that has a permanent location in Romania, if the royalty is an expense of the permanent location;

f) commissions from a resident;

g) commission from a non-resident that has a permanent location in Romania, if the commission is an expense of the permanent location;

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 location 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, only international transport and the services related to this;

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 location 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. 69;

*n) *** Repealed*

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.

q) incomes of the non-residents from the liquidation of a Romanian legal person. The gross income from the liquidation of a Romanian legal person is the amount of the over remain after the distribution in money or in kind which exceeds the contribution to the social capital of the beneficiary natural/legal person.

(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 location 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 natural person from a dependent activity carried out in Romania;

d) incomes of a non-resident natural 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 immovable property located in Romania, of participation titles in a Romanian legal person and from the transfer of the securities, other than participation titles.

**) 1. According to art. I par. 11 and art. II of the Government Emergency Ordinance no. 127/2008, beginning with January 1, 2009, the article 115, paragraph (2) shall modify and shall have the following content:*

"(2) The following taxable income obtained from Romania are not taxed under this chapter and shall be taxed under Titles II, III or IV, as the case may be:

a) incomes of a non-resident that are attributable to a permanent location in Romania;

b) incomes of a foreign legal person obtained from immovable property located in Romania or from the transfer of participation titles, as provided in art. 7 par. (1) pt. 31, in a Romanian legal person;

c) incomes of a non-resident natural person from a dependent activity carried out in Romania;

d) incomes of a non-resident natural 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 immovable property located in Romania, of participation titles as provided in art. 7 par. (1) pt. 31, in a Romanian legal person, and from the transfer of securities, as provided in art. 65 par. (1) letter c);

e) incomes obtained by non-residents from a association established in Romania, including from a association of a non-resident natural person with a micro-enterprise."

2. According to art. I par. 12 and art. II of the Government Emergency Ordinance no. 127/2008, beginning with January 1, 2009, to the article 115, after the paragraph (2) three new paragraphs shall be included, paragraphs (3), (4) and (5), which shall have the following content:

"(3) Incomes obtained by the non-resident undertakings for collective investment without legal personality from the transfer of the securities, as provided in art. 65 par. (1) lett. c), and from the participation titles, as provided in art. 7 par. (1) pt. 31, held directly or indirectly in a Romanian legal person, are not taxable in Romania.

(4) The incomes obtained in Romania by non-residents from the transfer of the derivatives, as provided by law, are not taxable in Romania.

(5) Incomes obtained by non-residents on foreign capital markets from the transfer of the participation titles, as defined in art. 7 par. (1) pt. 31, of a Romanian legal person, as well as from the transfer of the securities, as defined in art. 65 par. (1) letter c), issued by Romanian residents, are not taxable in Romania."

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) 10% for incomes from interest and royalties, if the beneficiary of such incomes is a resident legal person in a Member State or in a permanent location of an enterprise from a Member State, located in other Member State. This tax rate is applied during the transition period, starting with the date of Romania joining the European Union until December 31, 2010, provided that the beneficiary of interests or royalties holds a minimum of 25% of the value/number of participation titles in the Romanian legal person for a period uninterrupted at least 2 years, ending on the date of payment of interests and royalties;

b) 20% for incomes from gambling, as provided in art. 115 par. (1) letter p);

c) 16% in the case of any other taxable incomes obtained from Romania, as specified in art. 115, except the incomes from interests and royalties obtained from the term deposits, sight deposits/current account, deposit certificates and saving instruments received before January 1, 2007, for which the tax rate at the date of their creation/receiving.

*(3) *** Repealed*

(4) By way of derogation from par. (2), tax to be held shall be 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. 57;

b) for incomes from pensions received from the social insurance budget or from the state budget, as provided in art. 70.

(5) The tax is computed and withheld at the moment of the payment of the income and shall be transfer to the state budget on or before 25th day of the month following the month when the income was paid. The tax is computed, withheld and transferred in lei to the state budget, at the exchange rate on the exchange rate market, communicated by the National Bank of Romania, on the day on which the tax is actually paid to the state budget. 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 declaration and the payment of dividend tax is on or before December 31st of such year.

(5^1) For incomes in form of interests from term deposits, deposit certificates and other saving instruments on banks or other authorized credit institutions located in Romania, the tax is computed and withheld by the payers of such incomes at the moment of their registration in the titular's deposit account, and at the moment of redemption, in the case of the deposit certificates and the saving instruments. The remittance of the tax on incomes from interest is made monthly, on or before 25th day of the month following the registration/redemption.

(5^2) The manner in which the incomes from transfer of the participation titles in a Romanian legal person are determined/declared shall be established by norms.

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

**) 1. According to art. I par. 5 and art. II of the Government Emergency Ordinance no. 91/2008 , beginning with January 1, 2009, article 116 paragraph (2), letter a) shall modify and shall have the following contents:*

"a) 10% of incomes from interest and royalties, if the beneficiary of such incomes is a resident legal person in a Member State of the European Union or in one of the states of the European Free Trade Association, meaning Island, Liechtenstein, Kingdom of Norway, or from a permanent establishment of a enterprise located in a Member State of the European Union or from a state of the European Free Trade Association, meaning Island, Liechtenstein, Kingdom of Norway, located in another Member State of the European Union or of the European Free Trade Association. This tax rate is to apply during the transition period starting with the date of Romania joining the European Union until December 31, 2010, provided as the beneficiary of the interests or royalties holds a minimum of 25% of value/number of participation titles in the Romanian legal person, for an for an uninterrupted period of more than 2 years, that ends on the date of the payment of interests or royalties;".

2. According to art. I par. 6 and art. II of the Government Emergency Ordinance no. 91/2008, beginning with January 1, 2009, to the article 116 paragraph (2), after the letter a) a new letter shall be introduced, letter a^1), having the following content:

"a^1) 10% for the dividends paid by a enterprise, which is a Romanian legal person, to another resident legal person from another Member State of the European Union or from one of the states of the European Free Trade Association, meaning Island, Liechtenstein, Kingdom of Norway, or to a permanent establishment of a enterprise located in a Member State of European Union or in a state of the European Free Trade Association, meaning Island,

Liechtenstein, Kingdom of Norway, located in another Member State of the European Union or of the European Free Trade Association;"

ART. 117*)

Exemptions from the tax provided in this chapter

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

a) interest for sight deposits/current accounts;

b) interest from external instruments/loans, receivable titles representing external loans, taken directly or through issuance of titles and obligations, as well as the interest related to issuance of state titles on the internal and external capital market, as provided that these instruments/titles to be issued and/or guaranteed by the Romanian government, local councils, the National Bank of Romania, as well as by banks that act as agent of the Romanian government;

c) interest from instruments/receivable issue by Romanian trading companies, established according to Law no. 31/1990 on the trading companies, republished, as subsequently amended and completed, if the instruments/receivables are transacted on a real estate market regulated by the competent authority of the state where this market is located and the interest is paid to a person who is not affiliated to the issuer of such instruments/receivables;

d) prizes of a non-resident natural 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 concluded 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 based on contracts of free financing concluded by the government of Romania/public authorities with other governments/public authorities or with governmental or non-governmental international organizations;

h) after the Romania's Accession to the European Union, the dividends paid by an enterprise which is Romanian legal person to a legal person resident in another Member State or to a permanent location of an enterprise from another Member State, located in other Member Sate than that of origin, shall be exempted from taxation if the beneficiary of dividends held minimum 15% of the shares in the Romanian legal person for an uninterrupted period of at least 2 years ending on the date of payment of the dividends. The condition is to own a minimum of 10% starting with 2009. The circumstances in which these provisions are to apply regarding the types of enterprises from Member States to which the payment of the dividends are made and the definition of the Member State are provided in art. 20^1;

i) after the date of Romania joining the European Union, the incomes from savings in the form of interest payments, as defined in art. 124^5, obtained from Romania by resident natural persons from Member States of the European Union, are exempt from tax;

j) starting with January 1, 2011, the incomes from interests or royalties, as defined in art. 124^19, obtained in Romania by resident legal persons from Members States of the European Union, are exempt from tax, if the beneficiary of such interests or royalties owns a minimum of 25% of the value/number 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 interests or royalties.

**) According to art. I par. 7 and art. II of the Government Emergency Ordinance no. 91/2008, starting with January 1, 2009, the article 117, letters b), h) and j) shall modify and shall have the following content:*

"b) interest related to public debt instruments in lei and in currency and the incomes obtained from the transaction of the state titles and the obligations issued by territorial-administrative units, in lei or in currency, on the internal market and/or on the international financial markets, as well as the interest related to the instruments issued by the National Bank of Romania in order to meet the objectives regarding the monetary policy and the incomes obtained from the transaction of the securities issued by the National Bank of Romania;

.....

h) after the date of Romania joining the European Union, dividends paid by an enterprise which is not Romanian legal person to a resident legal person from another Member State of the European Union or from one of the states of the European Free Trade Association, meaning Island, Liechtenstein, Kingdom of Norway, or to a permanent location of an enterprise located in a Member State of European Union or in a state of the European Free Trade Association, meaning Island, Liechtenstein, Kingdom of Norway, located in another Member State of the European Union or of the European Free Trade Association are exempt from tax if the beneficiary of the dividend owns a minimum of 15% of the participation titles in the Romanian enterprise legal person for an uninterrupted period of more than 2 years that ends on the date of the payment of the dividend. The condition is to own a minimum of 10% starting with 2009. The circumstances in which these provisions are to apply regarding the types of enterprises from Member States to which the payment of the dividends are made and the definition of the "Member State" are provided in art. 20^1;

.....

j) starting with January 1, 2011, the incomes from interests or royalties, as defined in art. 124^19, obtained in Romania by resident legal persons from Member States of the European Union or from the Free Trade European Association, meaning Island, Liechtenstein, Kingdom of Norway, are exempt from tax, if the beneficiary of such interests or royalties owns a minimum of 25% of the value/number 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 interests or royalties."

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 at the moment when he/she obtain the income a certificate of fiscal residence issued by the competent authority to the payer of the income. In the case the certificate of fiscal residence is not presented within this period, the provision of the Title V are to apply. When presenting the certificate of fiscal residence are to apply the provisions of the convention on avoidance of double taxation and the tax is adjusted according to the prescription term, the fiscal residence in the contracting state to which the convention on the avoidance of double taxation is concluded for the entire period in which the incomes were obtained in Romania. The certificate of fiscal residence presented during the year for which the payments are made remain valid for the first 60 calendar days from the following year, except the situation in which the conditions regarding the residence modify.

(3) The model of the certificate of fiscal residence for Romanian residents and the deadline for the submission of documents of fiscal residence, issued by the authority from their residence, 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 28th, respectively February 29th of the year that follows the year for which the tax is paid.

(1^1) After the date of Romania joining the European Union, the payers of income in the form of interest are required to submit an evidence information regarding the payments of such incomes made by resident natural from the Member States of the European Union. The declaration regarding the information related to interest payments made during previous year is to submit on or before February 28, respectively 29. The model and the content of the evidence information, as well as the procedure regarding the declaration of the incomes from interests obtained in Romania by resident natural persons from Member States of the European Union is to be approved by an order of the Minister of Public Finance, by the National Agency for Fiscal Administration, according to Government Ordinance no. 92/2003 on the Fiscal Procedure Code, republished as subsequently amended and completed.

*(2) *** Repealed*

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 natural 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 2

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 lei of 4,000 euros, 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 case of a foreign legal entities, which during a fiscal year set up or annul a representation in Romania, the tax due for this year is computed in proportion to the number of months of existence of the representation in the tax year in question.

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 20th and December 20th.

(2) Any person who owes foreign tax representation is required to submit an annual statement to the competent tax authority, until 28th of February to 29 February of the year tax.

(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.

CHAPTER 3

The manner in which the incomes from savings obtained in Romania by resident natural persons from Member States and the application of the exchange of information related to this category of incomes

ART. 124^1

Definition of the effective beneficiary

(1) For purposes of the present article, the effective beneficiary is any natural person for whom the payment of an interest is guaranteed, except the case in which such person proves that such payment was not received or guaranteed for his/her own advantage, respectively when:

a) he/she acts as agent payer, for the purposes of art. 124^3 par. (1); or

b) he/she acts on behalf of a legal person, of an entity that is required to pay a profit tax, according to the general regime regarding the taxation of the profits, of an undertaking for collective investment in securities, authorized according to the Council Directive no. 85/611/CEE, of December 20,1985, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investments in transferable securities (UCITS), or on behalf of an entity to which referred to in art. 124^3 par. (2), and in this case, he/she disclosed the number and the address of the entity of the economic operator that makes the payment of the interest and the operator communicates this information to the competent authority of the Member State where such entity is located; or

c) he/she acts on behalf of other natural person who is the effective beneficiary and discloses to the payer agent the identity of the effective beneficiary, according to art. 124^2 par. (2).

(2) When a payer agent has the information according to which the natural person receives an interest or for which the payment of an interest is guaranteed, such natural person may not to be the effective beneficiary, and in the case in which both the provisions of the par. (1) lett. a), and of the par. (1) lett. b) are not to apply to such natural person, reasonable measures shall be taken in order to establish the identity of the effective beneficiary, according to art. 124^2 par. (2). If the payer agent cannot identify the effective beneficiary, he/she shall consider the respective natural person as effective beneficiary.

ART. 124^2

The identity and the determination of the resident place of the effective beneficiaries

(1) Romania is to adopt and ensure the application on its territory of the necessary in order to allow to payer agent to identify the effective beneficiaries and their resident place, for applying the provisions of art. 124^7 - 124^11. These procedures are to be in accordance to the minimum requirements provided in art. (2) and (3).

(2) The payer agent is to establish the identity of the effective beneficiary depending on the minimum requirements in accordance with the relations between the payer agent and the receiver of the interest, at the date of the beginning of such relation, as follows:

a) for the contractual relations concluded before January 1, 2004, the payer agent shall establish the identity of the effective beneficiary, his/her name and the address, by using the information he/she has, especially according to the legislation in force in his/her state and to the provisions of the Council Directive 91/308/EEC, of June 10, 1991, on prevention of the use of the financial system for the purpose of money laundering;

b) in the case of contractual relations concluded or the transactions made in the absence of the contractual relations, starting with January 2004, the payer agent shall establish the identity of the effective beneficiary, which consists in name, address, and, if it exists, fiscal identification number, issued by the Member State for VAT purposes. These details shall be established based on the passport or the identity card of the effective beneficiary. If the address is not written in passport or in the identity card, it shall be established based on any other identity justifying document of the effective beneficiary. If the identity fiscal number is not mentioned in passport, in the identity card or in another identity justifying document, including the certificate

of tax residence issued for other fiscal purposes presented by the effective beneficiary, his/her identity shall be recorded by mentioning the date and the place of birth, established based on his/her passport or identity card.

(3) The payer agent establishes the residence of the effective beneficiary based on the minimum requirements according to the relations between the payer agent and the beneficiary of the interest on the date of the beginning of such relation. Under the reserve of the provisions above mentioned, the residence is considered to be located in the country where the effective beneficiary has is permanent residence:

a) in the case in the contractual relations concluded before January 1, 2004, the payer agent shall establish the residence of the effective beneficiary based on the information he/she have especially following the legislation in force in the resident state and on the provisions of the Directive no. 91/308/EEC;

b) in the case of the contractual relations concluded or on the transactions made in the absence of such contractual relations, starting with January 1, 2004, the payer agent shall establish the residence of the effective beneficiary based on the address mentioned in his/her passport, identity card or, if necessary, based on any other identity justifying presented by the effective beneficiary in accordance with the following procedure: for the natural persons who present their passport or identity card issued by a Member State and who declare that they are residents in a third country, their residence shall be establish by a certificate of fiscal residence, issued by a competent authority of the third country where such natural person declare to be resident. In the absence of such certificate, the residence is considered to be located in the Member State which issued the passport or another official identity document.

ART. 124^3

Definition of the payer agent

(1) For the purposes of the present chapter, the payer agent is any economic operator who pays or guarantees the payment of the interest for the beneficiary of the effective beneficiary, regardless of whether the operator is the debtor of the receivable that generates interest or the operator charged by the debtor or by the effective beneficiary to pay the interest or to guarantee the payment of the interest.

(2) Any entity established in a Member State to which the interest is paid or for which the payment of such interest is guaranteed on the benefit of the effective beneficiary shall be also considered payer, at the moment of the payment or of the guarantee of such payment. This provision shall not apply if the economic operator has certain reasons to believe, base on the official evidences presented by such entity, that:

a) the entity is a legal person, except as provided in par. (5); or

b) his/her profit is taxed by applying the general regime related to the taxation of the profits, or

c) it is an undertakings for collective investments in securities, authorized according to Directive no. 85/611/EEC. An economic operator that pays interest or guarantees the payment of the interest for such entity located in another Member State which is considered payer agent, according to the provisions of the present paragraph, shall communicate the name and the address of the entity and the total sum of the paid interest of guaranteed to such entity to the competent authority of the Member State where such entity is located, which shall forward this information to the competent authority from the Member State where the entity is located.

(3) Entity provided in par. (2) may to choose to be treated, for purposes of the application of the present chapter, as an undertaking for collective investments in securities, as provided in

par. (2) lett. c). The performance of this option is the subject of a certificate issued by the Member State where the entity is located, such certificate being presented to the economic operator by the respective entity. Romania shall issue norms regarding this option which may be performed by the entities located on its territory.

(4) When the economic operator and the entity provided in par. (2) are located in Romania, Romania shall take the necessary measures in order to offer the guarantees that the entity satisfies the provisions of the present chapter when they acts as payer agents.

(5) The legal persons excepted from the provisions of the par. (2) lett. a) are:

a) in Finland: avoinyhtio (y) and kommandiittiyhtio (ky)/oppet bolag and kommanditbolag;

b) in Sweden: handelsbolag (HB) and kommanditbolag (KB).

ART. 124^4

Definition of the competent authority

For the purposes of this chapter, the competent authority is:

a) for Romania - National Agency for Fiscal Administration;

b) for third countries - the competent authority defined for purposes of the bilateral or multilateral conventions on the avoidance of double taxation or, in their absence, any other competent authority for issuing the certificates of fiscal residence.

ART. 124^5

Definition of the payment of interest

(1) For the purposes of the present chapter, the payment of the interest is:

a) the interest paid or recorded into account, related to any kind of receivables, either or not guaranteed by a mortgage or a participation clause to the debtor's benefits, and, especially, the incomes from government bonds and the incomes from state bonds, including the premiums and prizes related to such securities, bonds or receivable titles; the penalties for late payments are not considered payments of interests;

b) capitalized interests or capitalization by assignment, reimbursement or redemption of receivables, provided in lett. a);

c) the income from the payments of the interests either directly or by an entity provided in art. 124^3 par. (2), distributed by:

- undertakings for collective investments in securities, authorized according to Directive no. 85/611/EEC;

- entities that benefit of the option provided in art. 124^3 par. (3);

- undertakings for collective investments established outside the territorial area provided in art. 124^6;

d) the income from by assignment, reimbursement or redemption shares or units in the following bodies and entities, if these bodies and entities invest directly and indirectly, by mean of other undertaking for collective investment or entities mentioned above, more than 40% of their assets in receivables similar to those provided in lett. a), provided that such income corresponds to gains obtained, directly or indirectly, from the payments of the interests as defined in lett. a) and b). The entities provided are:

- undertakings for collective investments in securities, authorized according to Directive no. 85/611/EEC;

- entities that benefit of the option provided in art. 124^3 par. (3);

- undertakings for collective investments established outside of the territorial area provided in art. 124^6.

(2) With regard to the par. (1) lett. c) and d), when a payer agent does not have any information regarding the proportion of incomes from payments of interests, the total amount of the income shall be considered payment of interest.

(3) With regard to the par. (1) lett. d), when a payer agent does not have any information regarding the percentage of the assets invested in receivables, shares or units, this percentage is considered higher than the percentage of 40%. When the sum of the income obtained by the effective beneficiary, such income is considered to be the result of the assignment, reimbursement or redemption of the share or units.

(4) When the interest, as provided in par. (1), is paid or credited in an account held by an entity provided in art. 124^3 par. (2), this entity not being the beneficiary of the option provided in art. 124^3 par. (3), the interest shall be considered as payment of interest by such entity.

(5) With regard to the par. (1) lett. b) and d), Romania requests to payer agents located on its territory to update the interest after a certain period, which not exceeds one year, and to treat these updated interests as payments of interests, even if the any assignment, reimbursement or redemption did not occurred during this period.

(6) By way of derogation from provisions of par. (1) lett. c) and d), Romania shall exclude from the definition of the payment of the interest any income mentioned in the provisions related to bodies or entities located on its territory, in the case in which the investment of such entities in the receivables provided in par. (1) lett. a) does not exceed 15% of their assets. Similarly, by way of derogation from par. (4), Romania shall exclude from the definition of the payment of interest provided in par. (1) the payment of interest or accreditation in an account of an entity provided in art. 124^3 par. (2), which does not benefit the option provided in art. 124^3 par. (3) and is located on the territory of Romania, when the investment of this entity in the receivables provided in par. (1) lett. a) does not exceed 15% of its assets. The performance of this option by Romania involves the relation with other Member State.

(7) Starting with January 1, 2011, the percentage provided in par. (1) letter d) and in par. (3) shall be of 25%.

(8) Percentages provided in par. (1) letter d) and in par. (6) are established depending on the investment policy, as defined in financing rules or in the constitutive documents of the bodies or entities, and in the absence of such bodies or entities, depending on the real part of the assets of such bodies or entities.

ART. 124^6

Territorial scope

The provisions of this chapter are to apply the interests paid by a payer agent located on the territory where the provisions of the Treaty establishing the European Community are applied based on the art. 299.

ART. 124^7

Information communicated by a payer agent

(1) When the effective beneficiary is a resident in a Member State, other than Romania, where the payer agent is located, the minimum information a payer agent is required to communicate to the competent authority in Romania are the following:

a) identity and the residence of the effective beneficiary, established according to art. 124^2;

b) name and the address of the payer agent;

c) number of the account of the effective beneficiary or, in his/her absence, the identification of the receivable which generates the interest;

d) information related to the payment of the interest, according to par. (2).

(2) The minimum content of information related to the payment of the interest that the payer agent is require to communicate shall make the difference between the following category of interest and shall indicate:

a) in the case a payment of interest, for the purposes of art. 124^5 par. (1) letter a); the amount of the paid and credited interest;

b) in the case of a payment of interest, for the purposes of the art. 124^5 par. (1) lett. b) and d): either the amount of the interest or of the income provided in the respective paragraph, either the total amount of the income from assignment, reimbursement or redemption;

c) in the case of the payment of interest, for the purposes of the art. 124^5 par. (1) letter c): either the amount of the income provided in the respective paragraph, or the total amount of the distribution;

d) in the case of a payment of interest, for the purposes of the art. 124^5 par. (4): amount of the interest for each member of the entity provided in art. 124^3 par. (2), who satisfied the conditions provided in art. 124^1 par. (1);

e) in the case of a payment of interest, for the purposes of the art. 124^5 par. (5): the amount of the update interest.

(3) Romania shall limit the information regarding the payments of interest which are to be correlated by the payer agent with the information regarding the total amount of the interest or the income and with the total amount of the incomes from assignment, reimbursement or redemption.

ART. 124^8

Automatic exchange of information

(1) The competent authority in Romania shall communicate to the competent authority from the Member State of residence of the effective beneficiary the information provided in art. 124^7.

(2) The communication of the information is automatic and shall be made at sat least once a year, during 6 months following the end of the fiscal year, for all payments of interest made during the respective year.

(3) The provisions of this chapter shall be completed by those of the chapter V of the present article, except the provisions of the art. 124^35.

ART. 124^9

The transition period for each member state

(1) During a transition period, starting with the date referred to in par. (2) and (3), Belgium, Luxemburg and Austria are not required to apply the provisions regarding the automatic

exchange of information related to the incomes from savings. However, these countries have the right to receive information from the other Member States. During the transition period, the purpose of the present chapter is to guarantee a minimum of effective taxation under the form of payments of interest made in a Member State to the effective beneficiaries, which are natural persons resident from the fiscal point of view in another member state.

(2) Transition period shall terminate at the end of the first fiscal year following the finalization of the last of the following events:

a) the date of the entering into force of the agreement between European Community, after the unanimous decision of the Council, and the Swiss Confederation, Principality of Liechtenstein, Republic of San Marino, Principality of Monaco and Principality of Andorra, which provides the exchange of information upon request, as defined in the model of OECD Agreement on tax matters, published on April 18, 2002, hereinafter called OECD Model Agreement, regarding the payment of interest, as defined in the present chapter, made by payer agents located on the territory of these counties to the effective beneficiaries residents on the territory where the present chapter is applied, in addition of the simultaneous application by these countries of a withholding at source with a rate computed for the corresponding periods provided in art. 124^10;

b) the date on which the Council unanimously agrees that United States of America exchange information upon request, in accordance with the OECD Agreement Model, regarding the payments of interest made by the payer agents located on their territory to the effective beneficiaries residents on the territory where the provisions regarding the automatic exchange of information related to the incomes from savings are applied.

(3) At the end of the transition period, Belgium, Luxemburg and Austria are required to apply the provisions regarding the automatic exchange of information related to the incomes from savings, provided in art. 124^7 and 124^8, and to stop to collect a withholding at source and the distributed income, provided in art. 124^10 and 124^11. If, during the transition period, Belgium, Luxemburg and Austria chose to apply the provisions regarding the application of the provisions on the automatic exchange of information related to the incomes from savings, provided in art. 124^7 and 124^8, then both the withholding at source and the distribution of the income provided in art. 124^10 and 124^11 shall not apply.

ART. 124^10

Withholding at source

(1) During the transition period provided in art. 124^9, when the effective beneficiary of the interest is resident in a Member State, other than the state where the payer agent is located, Belgium, Luxemburg and Austria shall collect a withholding at source of 15% during the first 3 years of the transition period (between July 1, 2005 - June 30, 2008), of 20% during the next 3 years (between July 1, 2008 - June 30, 2011) and of 35% for the next years (starting with July 1, 2011).

(2) The payer agent shall collect a withholding at source as follows:

a) in the case of a payment of interest, for the purposes of the art. 124^5 par. (1) letter a); to the amount of paid or credited interest;

b) in the case of a payment of interest, for the purposes of the art. 124^5 par. (1) lett. b) or d): to the amount of the interest or income provided to these letters or by collecting of an equivalent interest born by the beneficiary to the total amount of the income from assignment, redemption and reimbursement;

c) in the case of the payment of interest, for the purposes of the art. 124^5 par. (1) letter c): to the income provided in the respective paragraph;

d) in the case of the payment of interest, for the purposes of the art. 124^5 par. (4): to the interest for each member of the entity to which refers the art. 124^3 par. (2), who satisfies the conditions of the art. 124^1 par. (1);

e) when a Member State exerts the option provided in art. 124^5 par. (5): to the annual interest.

(3) For the purposes of applying the provisions of par. (2) lett. a) and b), the withholding at source is collected to the pro-rate corresponding to the period related to ownership on the receivables of the effective beneficiary. If the payer agent cannot establish the period related to ownership on debts based on the information he/she have, the debt is considered to be held by the effective beneficiary during the entire period, if the beneficiary does not provide an evidence of the purchase date.

(4) The collection of a withholding at source by the member state of the payer agent does not stop the Member State of fiscal residence of the effective beneficiary to tax the income, in accordance with its national law, by observing the provisions of the Treaty establishing the European Community.

(5) During the transition period, the Member States which collect the withholding at source may stipulate that a operator agent that payers or guarantees the interest for an entity provided in art. 124^3 par. (2) lett. c) located in another Member State to be considered as payer agent in the place of such entity and shall collect the withholding at source for this interest, if the entity did not formally agree its name, address and the paid or guaranteed which is communicated according to the last paragraph of the art. 124^3 par. (2) lett. c).

ART. 124^11

Distribution of income

(1) The Member States which apply a withholding at source, according to art. 124^10 par. (1), shall withhold 25% of their income and shall transfer 75% of the income of the member state of the residence of the effective beneficiary of the interest.

(2) The Member States which apply a withholding at source, according to art. 124^10 par. (5), shall withhold 25% of their income and shall transfer 75% to other Member States, proportionally with the transfers made following the application of the provisions of the par. (1).

(3) These transfers shall take place no later than 6 month following the end of the fiscal year of the Member State of the payer agent, in the case of the par. (1), or of the Member State of the economic operator, in the case of par. (2).

ART. 124^12

Exceptions from the withholding at source system

(1) The Member States which collect a withholding at source, according to art. 124^10, stipulate one or two of the following procedures, allowing the effective beneficiary to request that such withholding not to be applied:

a) a procedure allowing the effective beneficiary to expressly authorize the payer agent to communicate the information, according to art. 124^7 and 124^8. This authorization covers all interests paid to the effective beneficiary by the respective payer agent. In this case are to apply the provisions of art. 124^8;

b) a procedure which guarantees that the withholding at source shall not be collected when the effective beneficiary presents to his/her payer agent a certificate issue on behalf or by the competent authority of his/her state of fiscal residence, according to the provisions par. (2).

(2) Upon the effective beneficiary's request, the competent authority of the Member State of fiscal residence shall issue a certificate which indicates:

a) name, address and fiscal identification number or another number or, in the absence of this, the date and the place of birth of the effective beneficiary;

b) the name and the address of the payer agent;

c) the number of the account of the effective beneficiary or, in its absence, the identification of the guarantee.

(3) This certificate shall be valid for a period which does not exceeds 3 years. This certificate shall be issued to each effective beneficiary which demands such certificate, within two month since the request.

ART. 124^13

Measures taken by Romania regarding the exchange of information with the states which have a transition period for the taxation of the savings

The procedure for the application of this chapter in the relation with 3 states which have a transition period for the implementation of the provisions of this chapter shall be established by Government decision, developed jointly by the Ministry of Public Finance and National Agency for Fiscal Administration, with the approval of the Ministry of European Integration and Ministry of Foreign Affaires.

ART. 124^14

Elimination of double taxation

(1) Romania guarantees for the resident effective beneficiaries the elimination of the double taxation which may result from the collection of the withholding at source in the countries which have a transition period, provided in art. 124^9, in accordance with the provisions of par. (2).

(2) Romania returns to the effective beneficiary resident in Romania the tax withheld according to art. 124^10.

ART. 124^15

Negotiable receivable titles

(1) During the transition period, provided in art. 124^9, but no later than December 31, 2010, the national and international bonds and other negotiable receivable titles, which the first issuance is previous to March 1, 2001 or for which the templates of the initial issuance have been approved before this date by the competent authorities, for the purposes of the Directive no. 80/390/CEE coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing, or the competent authorities of thirds countries, are not considered receivables, for the purposes of the art. 124^5 par. (1) lett. a), provided that any new issuances of these negotiable receivable titles have not been made starting with March 1, 2002. However, if the transition period is exceeded after December 31, 2010, the provisions of the present paragraph shall continue to apply only in the case of negotiable receivable titles:

a) which contain the clauses regarding the gross amount and the anticipatory refund; and

b) when the payer agent, as defined in art. 124^3 par. (1) and (2), is located in one of the three Member States which apply the withholding at source and when the payer agent pays or guarantees the interest for the immediate benefit of the effective beneficiary resident in Romania. If a new issuance of the above mentioned negotiable receivable titles, issued by a government or an assimilated entity which acts as public authority or which role is recognized by an international treaty, for the purposes of the art. 124^16, is made starting with March 1, 2002, the whole of such titles issued consisting in initial issuance and any other subsequent one, s considered to be a receivable, for the proposes of the art. 124^5 par. (1) letter a).

(2) Provisions of par. (1) do not stop Romania in any way to tax the incomes obtained from negotiable receivable titles to which refers the par. (1), in accordance with the national fiscal law.

ART. 124^16

The annex regarding the list of assimilated entities to which refers the art. 124^15

For the purposes of the art. 124^15, the following entities are considered as being entities which act as public authority or which role is recognized by an international treaty:

1. entities in European Union:

Belgium

- Vlaams Gewest (Flemish Region);

- Region wallonne (Wallonian Region);

- Region bruxelloise/Brussels Gewest (Region of Bruxelles);

- Communaute francaise (French Community);

- Vlaamse Gemeenschap (Flemish Community);

- Deutschsprachige Gemeinschaft (German language community);

Bulgaria

- municipalities;

Spain

- Xunta de Galicia (Regional Executive of Galicia);

- Junta de Andalucia (Regional Executive of Andalusia);

- Junta de Extremadura (Regional Executive of Extremadura);

- Junta de Castilla - La Mancha (Regional Executive of Castilla - La Mancha);

- Junta de Castilla - Leon (Regional Executive of Castilla - Leon);

- Gobierno Foral de Navarre (Regional Government of Navarre);

- Govern de les Iles Baleares (Government of Balearic Islands);

- Generalitat de Catalunya (Autonomous Government of Catalonia);

- Generalitat de Valencia (Autonomous Government of Valencia);

- Diputacion General de Aragon (Regional Council of Aragon);

- Gobierno de las Islas Canarias (Government of the Canary Islands);

- Gobierno de Murcia (Government of Murcia);

- Gobierno de Madrid (Government of Madrid);

- Gobierno de la Comunidad Autonoma del Pais Vasco/Euzkadi (Government of the Autonomous Community of Basque Country);

- Diputacion Foral de Guipuzcoa (Regional Council of Guipuzcoa);

- Diputacion Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya);

- Diputacion Foral de Alava (Regional Council of Alava);

- Ayuntamiento de Madrid (City Council of Madrid);

- Ayuntamiento de Barcelona (City Council of Barcelona);

- Cabildo Insular de Gran Canaria (Council of Gran Canaria Island);

- Cabildo Insular de Tenerife (Council of Tenerife Island);

- Instituto de Credito Oficial (Public Credit Institution);

- Instituto Catalan de Finanzas (Financial Institution of Catalonia);

- Instituto Valenciano de Finanzas (Financial Institution of Valencia);

Greece

- Organismos Tegepikoinonion Ellados (National Telecommunication Organization);

- Organismos Siderodromon Ellados (National Railway Organization);

- Demosia Epikeirese Elektrismou (Public Company of Energy);

France

- La Caisse d'amortissement de la dette sociale (CADES) (Public Debt Redemption Fund);

- L'Agence francaise de developpement (AFD) (French Development Agency);

- Reseau Ferre de France (RFF) (French Railway Network);

- Caisse Nationale des Autoroutes (CAN) (National Motorway Fund);

- Assistance publique Hopitaux de Paris (APHP) (Public assistance of hospitals in Paris);

- Charbonnages de France (CDF) (French Coal Council);

- Entreprise miniere et chimique (EMC) (Chemical and Mining Company);

Italy

- regions;

- counties;

- municipalities;

- Cassa Depositi e Prestiti (Deposit and Loan Fund);

Latvia

- Pasvaldibas (local governments);

Poland

- gminy (commons);

- powiaty (districts);

- wojewodztwa (counties);

- zwiazki gmîn (associations of communes);

- powiatow (districts associations);

- wojewodztw (county associations);

- miasto stoleczne Warszawa (Capital of Warsaw);

- Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernization of Agriculture);

- Agencja Nieruchomosci Rolnych (Agricultural Property Agency);

Portugal

- Regiao Autonoma da Madeira (Autonomous Region of Madeira);

- Regiao Autonoma dos Acores (Autonomous Region of Azores);

- municipalities;

Romania

- authorities of the local public administration;

Slovakia

- mesta a obce (municipalities);

- Zeleznice Slovenskej Republiky (Slovak Railway Company);

- Statny fond cestneho hospodarstva (State Fund for the Administration of Roads);

- Slovenske elektrarne (Slovak Companies of Energy);

- Vodohospodarska vystavba (Water Saving Company).

2. international entities;

- European Bank for Reconstruction and Development;

- European Investment Bank;

- Asian Development Bank;

- African Development Bank;

- World Bank - International Bank for Reconstruction and Development - International Monetary Fund;

- International Finance Corporation;

- Inter-American Development Bank;

- Social Fund for Development of European Council;

- Euratom;

- European Community;

- Andean Development Corporation (CAF);

- Eurofima;

- European Coal and Steel Community;

- Nordic Investment Bank;

- Caribbean Development. Bank;

The provisions of art. 124^15 do not prejudice any of the international obligations which Romania undertaken in the relations with the above mentioned international entities.

3. entities from third states:

- those entities which satisfy the following criteria:

a) the entity considered as being a public entity, according to national criteria;

b) such public entity is a producer from outside the Community, that administrates and finances a group of activities, providing mainly goods and services from outside of the Community for the benefit of the Community and which are controlled by the central government;

c) the respective public entity is an issuer of big debts on regular basis;

d) the state in question may guarantee that such public entity shall not exercise a redemption before term, in the case of the clauses regarding the completion of the gross amount.

ART. 124^17

Application date

The provisions of the present chapter, representing the implementation of the Directive no. 2003/48/EC of the Council, of June 3, 2003, on taxation of savings income in the form of interest payments, as further amended, is to apply starting with the date of Romania's accession to the European Union.

CHAPTER 4

Royalties and interests to associated enterprises

ART. 124^18

Scope of application and procedure

(1) The payments of interests and royalties from Romania are exempted of any tax for such payments in Romania, either by withholding at source, either by declaration, provided that the effective beneficiary of the interests or royalties to be an enterprise form another Member State or a permanent office of an enterprise in a Member State located in another Member State.

(2) A payment made by a enterprise resident in Romania or by a permanent office located in Romania shall be considered as coming from Romania, hereinafter called source state.

(3) A permanent office is treated as payer of interests and royalties only if those parts are expenses deductible from the fiscal point of view for the permanent office in Romania.

(4) An enterprise of a Member State shall be treated as effective beneficiary of interests and royalties only if receives such payments for own benefit, and not as an intermediary for another person, such as agent, mandatory or authorized signer.

(5) A permanent office shall be treated as effective beneficiary of interests and royalties:

a) if the receivable or the right to use the information, related to which the payments of interests or royalties are generated, is in connection with such permanent office; and

b) if the payments of interest or royalties represents incomes related to which such permanent office is required to pay in the Member State where it is located one of the taxes specified in art. 124^20 lett. a) pt. (iii) or, in the case of Belgium, "the tax of non-residents/belasting der niet-verblijfhouders" or, in the case of Spain, "the tax on the income of the non-residents" or a tax identical or similar and which is applied after the date of entering into force of the present chapter, in addition or in the place of existing taxes.

(6) If a permanent office of an enterprise of a Member State is considered as payer or as effective beneficiary of such interests or royalties, any other party of the enterprise shall not be treated as payer or as effective beneficiary of such interests or royalties, for the purposes of the present article.

(7) The present article shall apply only in the case when the enterprise that is payer or the enterprise which permanent office is considered payer of interests or royalties is an enterprise associated to the enterprise which is the effective beneficiary or which permanent office is treated as effective beneficiary of such interests and royalties.

(8) The provisions of the present article shall not apply in the case in which the interests and royalties are paid by or to a permanent office located in a third state of a enterprise in a Member State and the activity of the enterprise is, entirely or partially, carried out by that permanent office.

(9) The provisions of the present article do not stop Romania to take into consideration, for computing the profit tax, when applying its fiscal legislation, the interests or royalties received by the resident enterprises, by the permanent offices of the enterprises resident in Romania or by the permanent offices located in Romania.

(10) Romania shall not apply the provisions of the present chapter to an enterprise of another Member State or to a permanent office permanent of another Member State, when the conditions provided in art. 124^20 lett. b) were not maintained for or an uninterrupted period of more than 2 years.

(11) Romania requests that the fulfillment of the requirements provided in the present article and in the art. 124^20 to be proved on the date of the payments of the interests and royalties by a certification. If the fulfillment of the requirements established in the present article is not certified on the date on the payment, Romania shall apply the withholding at source of the tax.

(12) Romania stipulates as a condition for granting the exemption, according to this chapter, the issuing of a decision regarding the normal granting of the exemption based on a certification which certifies the fulfillment of the requirements established by the present article and the art. 124^20. The decision regarding the exemption shall be granted within a period of maximum 3 months after the presentation of the certification and after the justifying information that the Romanian local authorities normally request was provided. The decision shall be valid for a period of at least one year after its issuance.

(13) For purposes of par. (11) and (12), such certification which shall be presented in connection with each payment contract shall be valid for at least one year, but no more than 3

years, since the date of the issuance of such certification and shall contain the following information:

a) the proof of the residence, for tax purposes, for the enterprise which receive interests or royalties in Romania and, when necessary, the proof of the existence of a permanent office certified by the fiscal authority of the Member State where the enterprise that receives interests or royalties is resident for tax purposes or where the permanent office is located;

b) holding the right of effective beneficiary of interests of royalties by the company which receives such payments, according to the provisions of the par. (4), or the existence of the conditions according to the provisions of the par. (5), when the permanent office is the beneficiary of the payment;

c) the fluffiest of the requirements, according to the provisions of the art. 124^20 lett. a) pt. (iii), in the case of receiving enterprise;

d) a minimum holding, according to the provisions of the art. 124^20 lett. b);

e) the period for which the holding referred to in lett. d) existed.

In addition, the Member States may request the legal justification for the payments within the contract, for example they may request the loan contract or the license contract.

(14) If the requirements for granting the exemption are not fulfilled anymore, the receiving enterprise or the permanent office shall inform the receiving enterprise or the permanent payer office and, in the case the source state requests otherwise, also the competent authority of that state.

(15) If the respective payer enterprise or the permanent office withheld at source the tax on the income which should be tax exempted, according to the present article, this may submit a request for the reimbursement of such tax withheld at source. Romania shall request the information provided in par. (13). The request for reimbursement of the tax shall be submitted within the period provided in the present paragraph. This period of submission of the reimbursement request shall be at least 2 years following the date the interest or royalties were paid.

(16) Romania shall return the tax withheld at source within a period of one year after receiving the reimbursement request for the tax and of the justifying information which can reasonably requests. If the tax withheld at source was not reimbursed within the mentioned period, the receiving enterprise or the permanent office shall be entitled, at the end of the respective year, to request the interest on the amount representing the tax to be reimbursed. The requested interest shall be computed based on a rate equal to the rate of internal interest which applies in similar cases, according to the provisions of the national law in Romania.

ART. 124^19

Definition of interest and royalties

For the purposes of the present article:

a) the interest is the income from any receivables, accompanied or not by mortgage guarantees or by a clause regarding the participation to the debtor's profits, and especially the income from public goods, receivable titles or bonds, including the premiums and prizes related to such goods, receivable titles or bonds; the penalties for the delay payment shall not be considered interests;

b) royalties are any payments received by use or assignment of any a copyright of a literary, artistic or scientific work, including of films and software, as well as any patent, trade mark, drawing or template or plan, secrete formula or production procedure, or of any information

regarding the experience in the industrial, commercial or scientific field for use or assignment of the industrial, commercial or scientific equipment shall be considered royalties.

ART. 124^20

Definition of enterprise, associated enterprise and permanent office

For the purposes of the present article:

a) enterprise of a Member State is any enterprise:

(i) which has one of the forms specified in the list provided in art. 124^26; and

(ii) which, in accordance with the fiscal legislation of a Member State, is considered as being resident in that member state and is not considered., for the purposes of a convention for avoidance of double taxation on income and on capital concluded with a third state, as being resident for tax purposes outside of the Community; and

(iii) which is subject to one of the following taxes, without being exempted of taxes, or to a identical or similar tax established after the date of entering into force of the present article, in addition or in the place of the existing taxes:

- tax of companies/vennootschapsbelasting, in Belgium;

- selskabsskat, in Denmark;

- Korperschaftsteuer, in Germany;

- phdros eisodematos uomikou prosopon, in Greece;

- impuesto sobre sociedades, in Spain;

- impot sur les societes, in France;

- corporation tax, in Ireland;

- imposta sul reddito delle persone giuridiche, in Italy;

- impot sur le revenu des collectivites, in Luxemburg;

- vennootschapsbelasting, in Holland;

- Korperschaftsteuer, in Austria;

- imposto sobre o rendimento da pessoas colectivas, in Portugal;

- vhteisoien tulovero/în komstskatten, in Finland;

- statlîn g în komstskatt, in Sweden;

- Corporation tax, in the United Kingdom of Great Britain and Northern Ireland;

- dan z prijmu pravnickych osob, in Czech Republic;

- tulumaks, in Estonia;

- phdros eisodematos, in Cyprus;

- uznemumu ienakuma nodoklis, in Latvia;

- pelno mokestis, in Lithuania;

- tarsasagi ado, in Hungary;

- taxxa fuq l-income, in Malta;

- todatek dochodowy od osob prawnych, in Poland;

- davek od dobicka praznih oseb, in Slovenia;

- dan z prijmu pravnickych osob, in Czech Republic;

- profit tax, in Romania;

b) an enterprise is associated to another enterprise if, at lest:

(i) the first enterprise has a minimum direct participation of 25% in the capital of the second enterprise; or

(i) the second enterprise has a minimum direct participation of 25% in the capital of the first enterprise; or

(iii) a third enterprise has a minimum direct participation of 25% both in the capital of the first company and in the capital of the second company.

Participation to social capital must be held only to enterprises resident on the territory of the European Community;

c) permanent office is a fixed business location in a Member State, by which the activity of the enterprise resident in another Member State is entirely or partially carried out.

ART. 124^21

Exception of payments of interest or royalties

(1) Romania is not obliged to ensure the benefits provided in the present article in the following cases:

a) when payments are treated as a distribution of benefits or a reimbursement of capital, according to the Romanian law;

b) for payments resulting from receivables which generate the right of participation to the debtor's profits;

c) for payments resulting from receivables which give the right to the creditor to change the right to receive the interest in exchange a right of participation to the debtor's profits;

d) for the payments resulting from receivables which not contain any provisions related to the reimbursement of the main debt or whether such reimbursement is due for a period more than 50 years following the date of issuance.

(2) when because of the special relations between the debtor and the effective beneficiary of interest or royalties or between one of them and another person, the interests or royalties exceeds the amounts which would be agreed between the debtor and the effective beneficiary, in the absence of such relations, the provisions of the present article are apply to the last mentions amount, if there is such amount.

ART. 124^22

Fraud and abuse

(1) The provisions of the present chapter do not exclude the application of the provisions of the national legislation or the provisions of any treaty to which Romania is a party necessary for the prevention of the fraud and abuse.

(2) In the case of transactions of main or one of the main reasons is fraud, tax evasion or abuse, Romania may withdraw the benefits provided in the present chapter or may refuse the application of the provisions of the present chapter.

ART. 124^23

Transitional rules for Czech Republic, Greece, Spain, Latvia, Lithuania, Poland, Portugal and Slovakia

(1) Greece, Latvia, Poland and Portugal are authorized to not apply the provisions regarding the exemption from the payments of interests and royalties between associated enterprises before July 1, 2005, and during a transition period of 8 years, starting with July 1, 2005, the tax rate applied by these countries to the payments of interests and royalties, made to a associated enterprise resident in another Member State or to a permanent office of an associated enterprise of a Member State, located in another Member State shall not exceed 10% during the first 4 years and 5% during the following 4 years.

Latvia is authorized to not apply the provisions regarding the exemption from the payments of interests and royalties between associated enterprises, until July 1, 2005. During a transition period of 6 years, starting with July 1, 2005, the tax rate applied in this country on the payments of royalties made to a associated enterprise resident in another Member State or to a permanent office of an associated enterprise of a Member State, located in another Member State, shall not exceed 10%. During the first 4 years of a transition period of 6 years, the tax rate applied to the payments of interests made to an associated enterprise from another Member State or to a permanent office located in another Member State shall not exceed 10%; during the following 2 years, the tax rate applied to such payment of interest shall not exceed 5%.

Spain and the Czech Republic are authorized, only in the case of payments of royalties, not to apply the provisions regarding the exemption from the payment of royalties between associated enterprises, until July 1, 2005. During a transition period of 6 years, starting with July 1, 2005, the tax rate applied in these countries to the payment of royalties made to an associated enterprise from another member state or to a permanent office of a associated enterprise of a member state, located in another member state shall not exceed 10%. Slovakia is authorized, only in the case of the payments of royalties, to not apply the provisions regarding the exemption from tax for a transition period of two years starting with May 1, 2004.

However, these transitional rules are subject to permanent application of any tax rate lower than those above mentioned, under the circumstances of certain bilateral agreements concluded between Czech Republic, Greece, Spain, Latvia, Lithuania, Poland, Portugal or Slovakia and other Member Sates.

(2) When an enterprise resident in Romania or a permanent office of an enterprise of a Member State, located in Romania:

a) receives interests or royalties from an associated enterprise from Greece, Latvia, Lithuania, Poland or Portugal;

b) receives royalties from an associated enterprise from Czech Republic, Spain or Slovakia;

c) receives interests or royalties from a permanent office located in Greece, Latvia, Lithuania, Poland or Portugal, of an associated enterprise of a Member State; or

d) receives royalties from a permanent office located in Czech Republic, Spain or Slovakia of an associated enterprise of a Member State.

When computing the profit tax, Romania grants an amount equal to the profit tax paid by the Czech Republic, Greece, Spain, Latvia, Lithuania, Poland, Portugal or Slovakia, according

to par. (1), established for such income. Such amount is granted as a deduction from the tax on the profit obtained by an enterprise or permanent office which received such income.

(3) Deduction provided in par. (2) shall not exceed that amount which is lower:

a) based on the payable tax from
the Czech Republic, Greece, Spain, Latvia, Lithuania, Poland, Portugal or Slovakia, for such income, according to par. (1); or

b) based on the tax on the profit of the enterprise or of the permanent office which received the interest or the royalties, as computed before granting the deduction, attributable to these payments, according to Romanian national legislation.

ART. 124^24

Delimitation clause

The provisions of the present chapter do not exclude the application of the national provisions or of those based on treaties in which Romania is a party and which provisions take into account the elimination and the avoidance of double taxation of the interests and royalties.

ART. 124^25

Measures taken by Romania

The procedure regarding the application the provisions of this chapter shall be established by Government Decision, issued developed jointly by the Ministry of Public Finance and National Agency for Fiscal Administration, with the approval of the Ministry of European Integration and Ministry of Foreign Affaires.

ART. 124^26

List of companies covered by the provisions of the art. 124^20 lett. a) pt. (iii)

The companies covered by the provisions of the art. 124^20 lett. a) pt. (2) are the following:

a) companies known in Belgian legislation as: "naamloze vennootschap/societe anonyme, commanditaire vennootschap op aandelen/societe en commandite par actions, besloten vennootschap met beperkte aansprakelijkheid/societe privee a responsabilite limitee" and those public legal entities which carry out their activity according to the private law;

b) companies known in Danish legislation as: "aktieselskab" and "anpartsselskab";

c) companies known in German legislation as: "Aktiengesellschaft, Kommanditgesellschaft auf Aktien, Gesellschaft mit beschrankter Haftung" and "bergrechtliche Gewerkschaft";

d) companies known in Greek legislation as: "anonume etairia";

e) companies known in Spanish legislation as: "sociedad anonima, sociedad comanditaria por acciones, sociedad de responsabilidad limitada" and those public legal entities which carry out their activity according to the private law;

f) companies known in French legislation as: "societe anonyme, societe en commandite par actions, societe a responsabilite limitee" and public entities and industrial and commercial enterprises;

g) companies known in the Irish legislation as limited companies by shares or by guarantees, entities registered according the legislation of the industrial and prudential companies or construction companies registered according to the law of the construction companies;

h) companies known in Italian legislation as: "societa per azioni, societa în accomandita per azioni, societa a responsabilita limitata" and public and private entities which performed industrial and commercial activities;

i) companies known in legislation of Luxembourg as: "societe anonyme, societe en commandite par actions and societe a responsabilite limitee";

j) companies known in Dutch legislation as: "noomloze vennootschap" and "besloten vennootschap met beperkte aansprakelijkheid";

k) companies known in Austrian legislation as: "Aktiengesellschaft" and "Gesellschaft mit beschrankter Haftung";

l) trade companies or companies established according to the civil law, with in the form of trade companies, and cooperatives and public entities established according to Portuguese law;

m) companies known in Finch legislation as: "osakeyhtio/aktiebolag, osuuskunta/andelslag, saastopankki/sparbank" and "vakuutusyhtio/forsakrîn gsbolag";

n) companies known in Swedish legislation as: "aktiebolag" and "forsakrin gsaktiebolag";

o) companies registered according to the law of Great Britain;

p) companies known in Czech legislation as: "akciova spolecnost", "spolecnost s rucenim omezenym", "verejna obchodni spolecnnost", "komanditni spolecnost", "druzstvo";

q) companies known in Estonian legislation as: "taisuhin g", "usaldusuhin g", "osauhin g", "aktsiaselts", "tulundusuhistu";

r) companies known in the Cypriote legislation as companies registered according to the law of companies, corporatist public entities, as well as other entities considered companies, according to the law of income tax;

s) companies known in Latvian legislation as: "akciju sabiedriba", "sabiedriba ar ierobezotu atbildibu";

ş) companies registered according to the Lithuanian legislation;

t) companies known in Hungarian legislation as: "kozkereseti tarsasag", "beteti tarsasag", "kozos vallalat", "korlatolt felelossegu tarsasag", "reszvenytarsasag", "egyesules", "kozhasznu tarsasag", "szovetkezet";

t) companies known in Malta legislation as: "Kumpaniji ta' Responsabilita'Limitata", "Socjetajiet în akkomandita li l-kapital taghhom maqsum f'azzjonitjiet";

u) companies known in Polish legislation as: "spolka akcyjna", "spolka z ofraniczona odpowiedzialnoscia";

v) companies known in Slovenian legislation as: "delniska druzba", "komanditna delniska druzba", "komanditna druzba", "druzba z omejeno odgovornostjo", "druzba z neomejeno odgovomostjo";

w) companies known in Slovekian legislation as: "akciova spolocnos", "spolocnost's rucenim obmedzenym", "komanditna spolocnos", "verejna obchodna spolocnos", "druzstvo".

ART. 124^27

Application date

The provisions of this chapter, representing the implementation of the provisions of the Council Directive 2003/49/EC, of June 3, 2003, on a common system of taxation applicable to

interest and royalty payments made between associated companies of different Member States, as further amended, shall apply starting from January 1, 2011.

CHAPTER 5

Exchange of information in the direct taxes field, according to the conventions for avoidance of double taxation

ART. 124^28

General provisions

(1) According to the provisions of this chapter, the competent authorities of the Member States that shall exchange any information which entitle them to correctly determine the income and capital taxes and any information regarding the computation of the taxes on insurance premiums referred in art. 3 paragraph 6 of Council Directive 76/308/EEC, of March 15, 1976, on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures, as further amended.

(2) Shall be considered income and capital taxes, irrespective of the manner in which they are established, all the taxes on global income, on global capital or on parts of income or capital, including the taxes on gains by alienating of the real estates or securities, tax on global amounts of the salaries paid by enterprises, as well as the taxes on capital growing.

(3) Taxes referred to in par. (2) are currently, especially:

a) in Belgium:

- tax of natural persons;

- tax of companies;

- tax of moral persons;

- tax of non-residents;

b) in Denmark:

- indkomstskat til staten;

- selskabsskat;

- den kommunale indkomstskat;

- den amtskommunale indkomstskat;

- folkepensionsbidragene;

- somendsskatten;

- den saerlige indkomstskat;

- kirkeskat;

- formueskat til staten;

- bidrag til dagpengefonden;

c) in Germany:

- Einkommensteuer;

- Korperschaftsteuer;

- Vermogensteuer;

- Gewerbesteuer;

- Grundsteuer;

d) in Greece:

- phdros eisodematos fndikon prosopon

- phdros eisodematos uomikou prosopon

- phdros akiuetou periousias

e) in Spain:

- tax on income of the natural persons;

- tax on companies;

- extraordinary tax on the wealth of natural persons;

f) in France:

- income tax;

- tax on companies;

- professional taxes;

- taxe fonciere sur les proprietes baties;

- taxe fonciere sur les proprietes baties;

g) in Ireland:

- income tax;

- tax on corporation;

- tax on capital gains;

- tax on wealth;

h) in Italy:

- imposta sul reddito delle persone fisiche;

- imposta sul reddito delle persone giuridiche;

- imposta locale sui redditi;

i) in Luxemburg:

- tax on incomes of the natural persons;

- tax on incomes of the collectivities;

- communal commercial tax;

- tax on wealth;

- land tax;

j) in Holland:

- Inkomstenbelasting;

- Vennootschapsbelosting;

- Vermogensbelasting;

k) in Austria

- Einkommensteuer;

- Korperschaftsteuer;

- Grundsteuer;

- Bodenwertabgabe;

- Abgabe von land - und forstwirtschaftlichen Betrieben;

l) in Portugal:

- contribuicao predial;

- imposto sobre a industria agricola;

- contribuicao industrial;

- imposto de capitais;

- imposto profissional;

- imposto complementar;

- imposto de mais - valias;

- imposto sobre o rendimento do petroleo;

- os adicionais devidos sobre os impostos precedentes;

m) in Finland:

- Valtion tuleverot - de statlin ga inkomstskatterna;

- Yhteisojen tulovero - inkomstskatten for samfund;

- Kunnallisvero - kommunalskatten;

- Kirkollisvero - kyrkoskatten;

- Kansanelakevakuutusmaksu - folkpenşionsforsakrîn gspremien;

- Sairausvakuutusmaksu- sjukforsakrîn gspremien;

- Korkotulom lahdevero - kallskatten pa ranteîn komst;

- Rajoitetusti verovelvollisen lahdevero - kallskatten for begransat skattskylding;

- Valtion varallisuusvero - den statlinga formogenhetsskatten;

- Kiin teistovero - fastin ghetsskatten;

n) in Sweden:

- Den statliga inkomstskatten;

- Sjomansskatten;

- Kupongskatten;

- Den sarskilda inkomstskatten for utomlands bosatta;

- Den sarskilda inkomstskatten for utomlands bosatta artister m.fl.;

- Den statlinga fastighetsskatten;

- Den kommunala inkomstskatten;

- Formogenhetsskatten;

o) in Great Britain:

- income tax;

- tax on corporation;

- tax on capital gains;

- oil income tax;

- tax on land improvements;

p) in Czech Republic:

- dane priijmu;

- dan z nemovitosti;

- dan dedicka, dan darovaci a dan zprevodu nemovitosti;

- dan z pridane hodnoty;

- spotrebni dane;

q) in Estonia:

- Tulumaks;

- Sotsiaalmaks;

- Maamaks;

r) in Cyprus:

- phdros eisodematos

- Ektakte Eisfora

- gia ten'Amuna tes Demokratias

- phdros Kefalaioukon Kerdon

- phdros Akinetes Idioktesias

s) in Latvia:

- iedzivotaju ienakuma nodoklis;

- nekustama ipasuka nodoklis;

- uznemumu ienakuma nodoklis;

ş) in Lithuania:

- gyventoju pajamu mokestis;

- pelno mokestis;

- imoniu ir organizaciju nekilnojamojo turto mokestis;

- zemes mokestis;

- mokestis uz valstybinius gamtos isteklius;

- mokestis uz aplinkos tersima;

- naftos ir duju istekliu mokestis;

- paveldimo turto mokestis;

t) in Hungary:

- szemelyi jovedelemando;

- tarsazagi ado;

- osztalekado;

- altalanos forgalmi ado;

- jovedeki ado;

- epitmenyado;

- telekado;

ţ) in Malta:

- Taxxa fuq l-income;

u) in Poland:

- podatek dochodowy od osob prawnych;

- podatek dochodowy od osob fizycznych;

- podatek od czynnosci cywilnopranych;

v) in Slovenia:

- dohodnina;

- davki obcanov;

- davek od dobicka pravnih oseb;

- posebni davek na bilacno vsoto bank in hranilnic;

w) in Slovakia:

- dan z prijmov fyzickych osob;

- dan z prijmov pravnickych osob;

- dan z dedicstva;

- dan z darovania;

- dan z prevodu a prechodu nehnutel'nosti;

- dan z nehnutel'nosti;

- dan z predanej hodnoty;

- spotrebne dane.

(4) Provisions of par. (1) shall apply also to any similar taxes subsequently established, in addition of in the place of the taxes provided in par. (3). The competent authorities of the Member States shall mutually inform on the date of entering into force of such taxes.

(5) By the term competent authority shall be understood:

a) in Belgium:

- Minister of Finance or an authorized representative;

b) in Denmark:

- Minister of Finance or an authorized representative;

c) in Germany:

- Federal Minister of Finance or an authorized representative;

d) in Greece:

- To Upourgeio Oikonomikon or an authorized representative;

e) in Spain:

- Minister of Economy and Finance or an authorized representative;

f) in France:

- Minister of Economy or an authorized representative;

g) in Ireland:

- income commissioners or their authorized representatives;

h) in Italy:

- the chief of the Department of Fiscal Policy or his/her authorized representative;

i) in Luxemburg:

- Minister of Finance or an authorized representative;

j) in Holland:

- Minister of Finance or an authorized representative;

k) in Austria:

- Federal Minister of Finance or an authorized representative;

l) in Portugal:

- Minister of Finance or an authorized representative;

m) in Finland:

- Minister of Finance or an authorized representative;

n) in Sweden

- the chief of the Department of Finance or his/her authorized representative;

o) in Great Britain:

- custom and excise commissioners and or an authorized representative for the requested information regarding the taxes on insurance premiums and excises;

- commissioners from Inland Revenue or their authorized representatives;

p) in Czech Republic:

- Minister of Finance or an authorized representative;

q) in Estonia:

- Minister of Finance or an authorized representative;

r) in Cyprus:

- Upourgeio Oikonomikon or an authorized representative;

s) in Latvia:

- Minister of Finance or an authorized representative;

ş) in Lithuania:

- Minister of Finance or an authorized representative;

t) in Hungary:

- Minister of Finance or an authorized representative;

ţ) in Malta:

- Minister in charge within the Fiscal Department or an authorized representative;

u) in Poland:

- Minister of Finance or an authorized representative;

v) in Slovenia:

- Minister of Finance or an authorized representative;

w) in Slovakia:

- Minister of Finance or an authorized representative;

x) in Romania:

- Minister of Public Finance or an authorized representative.

ART. 124^29

Exchange of information upon request

(1) The competent authority in a Member State may request to the competent authority of another Member State to forward the information referred in the art. 124^28 par. (1), in a special case. The competent authority of the requested state shall not respond to the request regarding the exchange of information if it is obvious that the competent authority of the state that submitted the request did not use all its current sources for obtaining such information, sources it would use, depending the circumstances, for obtaining the requested information without provoking the risk of failure of obtaining such information.

(2) For the purposes of forwarding the information referred in the art. 124^28 par. (1), the competent authority of the requested Member State shall ensure the conditions for carry out any necessary investigations in order to obtain this information.

(3) In order to obtain the requested information, the competent authority to which this information is requested or the administrative authority shall act as if it would act on its own or, upon the request of the other authority, on behalf of its own Member State.

ART. 124^30

Automatic exchange of information

Fro the categories of cases that competent authorities shall establish according the consulting procedure provided in art. 124^38, the competent authorities of the Member States shall exchange on a regular basis the information referred in the art. 124^28 par. (1), without a previous request.

ART. 124^31

Spontaneous exchange of information

(1) The competent authority of a Member State may forward to the competent authority of any other Member State, without a previous request, the information referred in art. 124^28 par. (1), that it knows under the following circumstances:

a) the competent authority of a contracting state supposed that it would be a loss of tax in another Member State;

b) a person subject to taxation obtains a reduction of tax or a tax exemption in another Member State which may generate an increase of the tax or of the tax obligation in another Member State;

c) the business treated between a person subject to taxation in a Member State and a person subject to taxation in another member state is conducted by one or more countries, so that a reduction of tax may occurred in one or in the other Member State or in both States;

d) the competent authority of a Member State supposed that the reduction of the tax may result from the artificial transfers of profits within groups of enterprises;

e) the information forwarded to one of the Member State by the competent authority of the other Member State may offer information which may be relevant for establishing the taxation obligation in the latter state.

(2) The competent authorities of the Member States may, according to consulting procedure provided in art. 124^38, to extend the exchange of information provided in par. (1) to cases other than those specified in the above mentioned article.

(3) The competent authorities of the Member States may mutually forward the information referred in the art. 124^28 par. 1, which they know, in any other case, without a previous request.

ART. 124^32

Deadline of forwarding the information

The competent authority of a member state that is required, according to the provisions of the present chapter to forward such information, it shall forward it as soon as possible. If such authority encounters difficulties in providing the information or if it refuses to provide it, it shall inform the authority which requests such information, specifying the nature of difficulties or the reasons of its refusal.

ART. 124^33

Collaboration between endorsed states

For applying the previous provisions the competent authority, of the Member State which provides the information and the competent authority of the member state for which such information is provided may agree, according to the consulting procedure provided in art. 124^38, to authorize the presence in the first Member State of the officials of the fiscal administration from the other Member State. The details for the application of this provision shall be established according to the same procedure.

ART. 124^34

Provisions regarding the secret

(1) All the information provided to a Member State, according to the present chapter, shall remain secret in that state as well as the information received according to internal legislation. In any case, such information:

a) may be disclosed only to the persons directly involved in the determination of the tax or in the administrative control of this determination of the tax;

b) may be disclosed only in connection with legal or administrative procedures which involve sanctions applied for or in connection with the determination or the revision of the taxation base and only to persons directly involved in such procedures, such information may however be disclosed during the public hearings or trials, in the case in which the competent authority of the Member State which provided the information does not have any objection at the moment when this state provides such information for the first time;

c) it shall be used in any circumstance only for tax purposes or in connection with the legal or administrative procedures that involve sanctions regarding or in connection to the determination or the revision of the fiscal base.

In addition, such information may be used for determination of other fiscal obligations, taxes and fees provided in art. 2 of the Council Directive no. 76/308/EEC.

(2) Provisions in par. (1) shall not required to a Member State which legislation or administrative practice establish for tax purposes legal provisions more limited than those provided in this paragraph to provide such information, if the respective state does not act for in respect of these more limited legal provisions.

(3) Regardless the provisions of par. (1), the competent authorities of the Member State which provides the information may allow such information to be used for other purposes in the state which requires such information, if, according the law of the state which provided the information, such information may be used in the state which provides it under similar circumstances and for similar purposes.

(4) When a competent authority of a contracting state considers that the information received from the competent authority of another Member State may be useful to the competent authority of a third state, such authority may forward the information to the latter competent authority, with the approval of the competent authority which provided such information.

ART. 124^35

Limitation of the exchange of information

(1) The present article shall not imply any obligation of the Member State that is required such information to make investigations or to provide information, if in this state the performance of such investigations or collecting the requested information would contradict its own legislation or administrative practice.

(2) The provision to the information may be rejected in the case in which it would result in the disclosure of a commercial, industrial or professional secret or of a commercial procedure or an information which disclosure may contradict the public policy.

(3) The competent authority of the Member State may refuse to provide such information when the other Member State cannot provide similar information, for practical or legal reasons.

ART. 124^36

Notification

(1) Upon the request of the competent authority of a Member State, the competent authority of the other Member State shall notify according to legal provisions which regulate the notification of such similar instruments in the requested Member State, the receiver of all instrument and decisions issued by the administrative authorities of the solicitor Member State and which regard the application on its territory of the legislation regarding the taxes provided in the present article.

(2) The requests for notification shall indicate the subject of the instrument or decision which is to be notified and shall specify the name and the address of the receiver and other information by which the identification of the receiver may be facilitated.

(3) The required authority shall immediately inform the solicitant authority regarding its answer to the notification request and, especially, shall communicate the date of the notification of the decision and instruments to the receiver.

ART. 124^37

Simultaneous verifications

(1) When the fiscal situation of one or more persons subject to taxation is in the joint and complementary interest of two or more Member States, to agree to performed simultaneous verifications on their territories, so that they could exchange the obtained information any time when such exchange of information is more efficient than the performance of a verification only by one of the Member States.

(2) The competent authority from each state shall arbitrarily identify the persons subject to the taxation, that intend to propose for a simultaneous verification. Such competent authority shall communicate to the competent authorities from the aimed Member States the cases which from its point of view may be the subject of a simultaneous verification. Such competent authority shall specify its reasons regarding the selection of the cases as more as possible by communicating of the information which led to the option of the simultaneous verification. The competent authority shall specify the period when the control operations shall be performed.

(3) The competent authority from each aimed Member State shall decide to take part of simultaneous verification operations. Upon a request for simultaneous verification, the competent authority shall confirm its grounded acceptance or refusal to the other authority.

(4) Each competent authority from the aimed member states shall name a representative, who shall have the responsibility of the supervision and the coordination of the control activity.

ART. 124^38

Consultations

(1) For implementing the provisions of the present chapter, the consultation shall be organized, if necessary, within a committee which shall take place between:

a) the competent authorities of the aimed Member States , upon the request of each state, regarding the bilateral problems;

b) the competent authorities of all Member States and of the Commission, upon the request of one of such authorities or upon the Commission’s request, to the extend that the problem raised not to be only of bilateral interest.

(2) The competent authorities of the Member States may communicate directly one to another. The competent authorities of the Member States may, by mutual assistance, to allow to the authorities named by such Member States to communicate directly one to another in special cases or in other cases.

(3) When the competent authorities conclude agreements which aim bilateral problems, provided in the present article, other than those regarding the individual cases, they shall inform as soon as possible the Commission of this situation. At its turn, the Commission shall notify the competent authorities of the Member States.

ART. 124^39

Exchange of experience

The Member States shall constantly monitored with the Commission the cooperation procedure provided in the present chapter and shall exchange experience in the field of transfer prices within the groups of enterprises, in order to improve such cooperation and, when necessary, in order to develop certain regulations in the fields of interest.

ART. 124^40

Applicability of enlarged provisions regarding the assistance

The previous provisions shall not impede the fulfillment of any enlarged obligations regarding the exchange of information which may arise from other legal documents.

ART. 124^41

Application date

The provisions of the present chapter, representing the implementation of the Directive no. 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums, case further amended, shall apply starting with the date of Romania's accession to the European Union.

TITLE VI

Value-added tax

CHAPTER 1

Definitions

ART. 125

Definition of value-added tax

The value-added tax is an indirect tax that is owed to the state budget and that is collected according to the provisions of the present title.

ART. 125^1

Meaning of certain terms and expressions

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

1. purchase is goods and services obtained of that are to be obtained by a taxable person by following operations: deliveries of goods and/or provision of services, performed of that are to be performed by another person than the taxable persons, intra-Community purchases and imports of goods;

2. intra-Community purchase has the meaning specified in art. 130^1;

3. fixed tangible assets are any tangible asset that is held for use in the production or delivery of goods or in the provision 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 or by the present title;

4. economic activity has the meaning provided in art. 127 par. (2). When a person caries out more economic activities, in this case economic activity mean all the economic activity carried out by such person;

5. taxation base in the counter-value of a delivery of taxable goods or of services, of a taxable import or a taxable intra-Community purchase, established according to chapter VII;

6. goods are tangible and intangible goods, by their nature or destination. Electricity, heat, gas, refrigerants and others of the same nature are considered tangible goods;

7. excisable products are energy products, alcohol and alcoholic drinks and processed tobacco, as defined in by law in force, except the gas distributed by the distribution system of the natural gas and electricity;

8. registration code for VAT purposes is the code provided in art. 154 par. (1), give by the Romanian competent authorities to the persons who are required to register according to art. 153 or 153^1, or a similar registration code, give by the competent authorities in another Member States;

9. accession date is the date when Romania joins European Union;

10. tax discount is the discount established and submitted according to art. 156^2;

11. Directive 112 is the Directive 2006/112/EC of the Council of European Union of November 28, 2006 on the common system of value added tax, published in Official Journal of the European Union (JOCE) no. L 347 of December 11, 2006, with further modifications and completions. The references from invoices issued by suppliers/providers from other Member States to the articles of the 6th Directive, respectively the Council Directive 77/388/EC of May 17, 1977 on the harmonization of the laws of the Member States relating to turnover taxes - joint system regarding the value-added tax: unitary computation base, published in Official Journal of European Communities (JOCE) no. L 145 of June 3, 1977, shall be considered references to the related articles of the Directive 112, according to the correlation table in the Annex XII to this Directive;

12. invoice is the document provided in art. 155;

13. importer is the person on behalf of which the goods are declared in the moment when the tax on import becomes exigible, according to art. 136;

14. small enterprise is a taxable person that applies the special regime regarding the tax exemption provided in art. 152 or, as the case may be, a exemption equivalent regime

according to the legal provisions of the member state where such person is located, according to art. 24 and 24 (a) of the 6th Directive;

15. inter-Community delivery has the meaning provided in art. 128 par. (9);

16. self delivery has the meaning provided in art. 128 par. (4);

17. fiscal period id the period provided in art. 156^1;

18. taxable persons has the meaning specified in art. 127 par. (1) and is a natural person, group of persons, public institution, legal person, as well as any entity that may perform an economic activity;

19. non-taxable legal person is the person, other than the natural person that is non-taxable as specified in art. 127 par. (1);

20. non-taxable person is the person which does not satisfy the conditions of the art. 127 par. (1) to be consider taxable person;

21. person is a taxable person or a non-taxable legal person or a non-taxable person;

22. ceiling for intra-Community purchases is the ceiling established according to art. 126 par. (4) lett. b);

23. ceiling for remote sales is the ceiling established according to art. 132 par. (2) letter a);

24. the self delivery has the meaning provided in art. 129 par. (4);

25. custom regime is from the point of view of the value-added tax, the custom regimes and the destinations provided in art. 144 par. (1) letter a) point 1 - 7;

26. services provided by electronic means are: providing design and site information, maintain distance programs and equipment, provision of software - software - and updating them, providing images, texts and information and making available databases, providing music, movies and games, including gambling, transmission and distribution of programs and events political, cultural, artistic, sports, science, entertainment and the provision of education services distance. When the service supplier and his customer only communicate through electronic mail, the service provided is not an electronic service;

27. tax is the value-added tax, applicable according to the present title;

28. collected tax is the tax related to deliveries of goods and/or provision of services made by the non-taxable person, as well as the tax related to operations for which the beneficiary is required to pay the tax, according to art. 150 - 151^1;

29. deductible tax is the total amount of the tax due or paid by a non-taxable person for the purchases he/she made;

30. tax to be deducted is the tax related to purchases, that may be deducted according to art. 145 par. (2) - (4);

31. deducted tax is the deductible tax that it has been actually deducted;

32. remote sale is a delivery of goods which are delivered or transported by a Member State in another Member State by provider or other person on behalf of such provider.

(2) For the purposes of this title:

a) a taxable person has a fixed office in Romania if such person has sufficient technical and human resources in order to made on regular basis deliveries taxable of goods and/or services;

b) a taxable person is located in Romania if the following conditions are cumulatively met:

1. the taxable person in Romania has a main office, a subsidiary, a factory, a workshop, an agency, an office, a sales office, a warehouse or any other fixed location, except the construction sites;

2. such structure is managed by a person empowered to represent the taxable person in the relations with clients and suppliers;

3. the person who represent the taxable person in the relations with clients and suppliers shall be empowered to make purchases imports, deliveries of goods and services on behalf of the taxable person;

4. activity object of the respective structure shall be the delivery of goods or the provision of services, according to the present title.

(3) For the purposes of this title, the new transportation means are those provided in lett. a) which met the conditions of the lett. b), meaning:

a) transportation means are a ship exceeding 7.5 m length, a aircraft which takeoff weight exceeds 1,550 kg or a terrestrial engine vehicle which capacity exceeds 48 cm^3 or which power exceeds 7.2 kW, for the transportation of passengers or goods, except of:

1. ships used to navigate in international waters and which transport passengers in exchange of payment or for carrying out commercial, industrial or fishing activities or for saving or assistance operations on the sea or for seaboard fishing, and

2. aircraft used on airlines that operates in exchange of payment, mainly, on international routes;

b) the conditions which have to be met:

1. in the case of a terrestrial vehicle, this must not be delivered within a period of more of 6 months after the date of its putting into operation or not make travels which exceed 6,000 km;

2. in the case of a ship, this must not be delivered within a period of more of 3 months after the date of its putting into operation or not make travels for a period of more 100 hours;

3. in the case of a aircraft, this must not be delivered within a period of more of 3 months after the date of its putting into operation or not make courses for a period of more 40 hours;

ART. 125^2

Territorial scope

(1) For the purposes of this title:

a) Community and Community territory are the territories of the Member States as defined in the present article;

b) member state and territory of the member state is the territory of the Community where the provisions of the Treaty establishing the European Community are to apply in accordance with the art. 299 from it, except the territories provided in par. (2) and (3).

c) third State territories are the territories provided in par. (2) and (3).

d) third State shall mean any State or territory for which the provisions of the Treaty Establishing European Community do not apply.

(2) The following territories which are not included in the customs territory of the Community are not included within the community territory from the point of view of tax:

a) Federal Republic of Germany:

1. Heligoland Island;

2. Busingen territory;

b) Kingdom of Spain:

1. Ceuta;

2. Melilla;

c) Italian Republic:

1. Livigno;

2. Campione d'Italia;

3. Italian waters on Lake Lugano.

(3) The following territories which are included in the customs territory of the Community are not included within the community territory from the point of view of tax:

a) Canary Islands;

b) French Republic: overseas territories;

c) Mount Athos;

d) Aland Islands;

e) Channel Islands.

(4) The following territories are considered to be included within the territories of the Member States below:

a) French Republic: Principality of Monaco;

b) The United Kingdom of Great Britain and Northern Ireland: Isle of Man;

c) Republic of Cyprus: Akrotiri and Dhekelia areas under the sovereignty of the United Kingdom of Great Britain and Northern Ireland.

CHAPTER 2

Taxable operations

ART. 126

Taxable operations

(1) From the point of view of tax, the taxable operations in Romania are the operations which meet cumulatively the following conditions:

a) operations which in the purpose of art. 128 - 130, represent or are assimilated to a delivery of goods or services, within tax scope, made in exchange of a payment;

b) the delivery of goods or services is considered to be in Romania, according to provisions of the art. 132 and 133;

c) the delivery of goods or provision of services is undertaken by a taxable person, as defined in art. 127 par. (1), acting as such;

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 made in Romania by any person is considered also a taxable operation if the place of import is in Romania, according to art. 132^2.

(3) The following operations made in exchange of a payment for which the place is Romania is also considered taxable operations, according to art. 132^1:

a) a intra-Community purchase of goods, other than means of transportation or excisable products, made by a taxable person who acts as such or by a non-taxable legal person who does not beneficiate by derogation provided in art. (4), which follows an intra-Community delivery made outside of Romania by a taxable person that acts as such and is not considered small enterprise in the member state and for which the provisions of art. 132 par. (1) lett. b) regarding the deliveries of goods which that are subject to installation or assembly, or of the art. 132 par. 2) regarding the remote sales;

b) an intra-Community purchase of new means of transportation, made by any person;

c) an intra-Community purchase of excisable products made by a taxable person that acts as such of by a non-taxable legal person.

(4) By way of derogation from provisions of par. (3) lett. a), the intra-Community purchases of goods are considered taxable operations in Romania the operations that fulfill the following conditions:

a) are made by a taxable person that makes only deliveries of goods or services for which the tax is not deductible or by a non-taxable legal person;

b) the total value of these intra-Community purchases do not exceed during the current calendar year or did not exceed during the previous calendar the ceiling of 10,000 euros, which equivalent in lei is established by norms.

(5) The ceiling for the intra-Community purchase provided to par. (4) lett. b) is the total value, except the value-added tax, due or paid in the member state from which the goods are transported, of the intra-Community purchases of goods, other than the new means of transportation or excisable goods.

(6) The taxable persons and the non-taxable legal persons, exigible for the derogation provided in par. (4), have the right to chose the general regime provided in par. (3) letter a). This option shall apply for at least two calendar years.

(7) The applicable rules in the case the ceiling for intra-Community purchase provided in par. (4) lett. b) is exceeded, or in the case of exercising the option are established by norms.

(8) Are not considered taxable operations in Romania:

a) the intra-Community purchases of goods which delivery in Romania shall be exempt according to art. 143 par. (1) lett. h) - m);

b) intra-Community purchase of goods performed within a triangular operation by a taxable person called re-seller buyer, who is not fiscal resident on Romania and is registered as VAT payer in another Member State, in case all of the following conditions are met:

1. the purchase shall be performed in order to make an subsequent purchase of these goods on the territory on Romania, by the buyer re-seller, taxable person, which is not established in Romania;

2. the goods purchased by the re-seller buyer should be transported by the supplier or the re-seller buyer or by another person on behalf of one of them, directly from a Member State other than that in which the re-seller buyer is registered as VAT payer, to the beneficiary of the subsequent delivery in Romania;

3. the beneficiary of the subsequent delivery should be a taxable individual or non-taxable legal person registered as VAT payer in Romania, according to art. 153 or 153^1;

4. the beneficiary to the subsequent delivery shall be obliged to pay the tax on the delivery made by the taxable person that is not located in Romania;

c) the intra-Community purchases of second-hand goods, works of art, collection object and antics, for purposes of art. 152^2, when the seller is a taxable re-seller individual acting in this capacity and when the goods have been taxed in the State Member from where they are supplied according to the special taxation regime for intermediaries, taxable individuals, according to art. 313 and 326 of the Directive 112, or the seller is sale organizer by public auction, that acts as such, and the goods were taxed in the member state, according to special regime, for the purposes of the art. 333 of Directive 112;

d) intra-Community purchase of goods which follows a delivery of goods under the suspension custom regime or under a internal transition procedure if on the territory of Romania such regimes or procedure related to goods are concluded.

(9) Taxable operations may be:

a) taxable operations, for which the tax rates provided in art. 140 apply; 140;

b) exempt operations with right of deduction, for which value-added tax is not payable, but a deduction of the value-added tax due or paid for purchases. In the present title, such operations are provided in art. 143 - 144^1;

c) exempt operations without right of deduction, for which value-added tax is not payable and a deduction of the value-added tax due or paid for purchases is not allowed. In the present title, such operations are provided in art. 141;

d) intra-Community imports and purchases, exempted fro tax, according to art. 142;

e) operations provided in lett. a) - c), that are exempted without right of deduction being made by small enterprises which apply the special exemption regime provide in art. 152, for which the tax is not payable and a deduction of the tax due or paid for purchases is not allowed.

CHAPTER 3

Taxable persons

ART. 127

Taxable persons and economic activity

(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 contractor 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) Public institutions are not taxable persons for activities carried out in the capacity of public authorities if for such activities dues, fees, royalties, taxes and other payments, except those activities which would produce distortions of competition if the public institutions were treated as non-taxable persons, as well as those provided in art. (5) and (6).

(5) Public institutions are taxable persons for activities carried out in the capacity of public authorities, but that are exempted from tax, according to art. 141.

(6) Public institutions are also taxable persons 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 agencies;

j) activities of stores for the staff, canteens, restaurants and other similar establishments;

k) activities of the public broadcast channels.

(7) By exception from provisions of par. (1), any person who made occasionally an intra-Community delivery of the new means of transportation shall be considered a taxable person for any kind of delivery.

(8) Under the conditions and the limitations provided by norms, a group of taxable persons located in Romania independent from a legal point of view are in closed relations from the organisation, financial and economic point of view is considered a taxable person.

(9) Any member or partner of an association or organization without legal personality is considered taxable person for those economic activities which are not carried out on behalf of the respective association or organization.

(10) Associations in participation do not generate a separate taxable person. Joint venture association, consortium or other forms of association for commercial purposes, without legal personality and legally established are treated as associations in participation.

CHAPTER 4

Operations within the scope of application of the tax

ART. 128

Delivery of goods

(1) A delivery of goods means any transfer of the ownership right with respect to goods as any owner.

(2) A taxable person who acts in his own name, but not on behalf of other person, as intermediary, in a delivery of goods, acquired and deliver the respective goods, under the conditions established by norms.

(3) The following operations are also considered deliveries of goods for the purposes of the 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;

(4) The following operations are assimilated to the deliveries of goods made on exchange of a payment:

a) the taking over by taxable person of tangible goods acquired or produced by such person for use for purposes that are not related to the carried out economic activity, if the value-added tax for such goods or for the component parts of the goods was wholly or partially deducted.

b) the taking over by taxable person of tangible goods acquired or produced by such person for being made available free of charge to other persons if the value-added tax for such goods or for the component parts of the goods was wholly or partially deducted;

c) the taking over by taxable person of tangible goods acquired or produced by such person, other than capital goods provided in art. 149 par. (1) lett. a), for being used for purposes of some operations which do not give the whole right of deduction, if the value-added tax for such goods or for the component parts of the goods was wholly or partially deducted.

d) goods discovered as missing, with the exception of those provided in par. (8) lett. a) - c).

(5) Any distribution of goods from the assets of a taxable person to its associates or shareholders, including a distribution of goods in connection with a liquidation or a dissolution without liquidation of a taxable person, except the transfer provided in art. (7), is a delivery of goods for consideration made in exchange of a payment, if the value-added tax for such goods or for the component parts of the goods was wholly or partially deducted.

(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) The transfer of all assets or of a part of such assets made during the transfer of assets or, as the case may be, of liabilities, regardless if such transfer is made following the sale of some operations as division, merger or as contribution in kind to the capital of a company, is not delivery of goods, if the receiver of the assets is a taxable person. The receiver of assets is considered to be the successor of the assignor regarding the adjustment of the right to deduction provided by law.

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

a) goods destroyed as a result of natural disasters or other causes of force major, as well as goods lost or stolen, legally approved, as provided by norms;

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 of goods for free within actions of sponsorship, mecenat or protocol, as well as other destinations provided by law, under the conditions provided by norms.

(9) The intra-Community delivery is a delivery of goods for purposes of par. (1), which are delivered and transported from a member state in other member state by the supplier or by the person to whom the delivery is made or by another person on behalf of them.

(10) The transfer by a taxable person of goods belonging to its economic activity in Romania to another member state, is an intra-Community delivery in exchange of a payment the non-transfers provided in par. (12).

(11) The transfer in par. (10) is the shipping or the transport of any tangible goods from Romania to another member state by a taxable person or by another person on behalf of its name in order to be used for performance of its economic activity.

(12) For the purposes of this title, the non-transfer is the shipping or the transport of a good from Romania in another member state by the taxable person or by other person on behalf of its name for being used in the following operations:

a) the delivery of the good made by the taxable person on the territory of the Member State of destination of the good of the sent or transported under the conditions of the par. 132 par. (5) and (6) regarding the remote sale;

b) the delivery of the good made by the taxable person on the territory of the Member State of destination of the good of the sent or transported under the conditions of the par. 132 par. (1) lett. b) regarding the deliveries of goods which that are subject to installation or assembly, made by the supplier or on its behalf;

c) the shipping of the good, made by the taxable person in ships, aircrafts or trains during the transportation made on the territory of the Community, under the conditions provided to par. 132 par. (1) letter d);

d) the delivery or the good made by the taxable person under the conditions provided in art. 143 par. (2) regarding the intra-Community deliveries exempted, in art. 143 par. (1) lett. a) and b) regarding the exemptions for the deliveries to the export and in the art. 143 par. (1) lett. h), i), j), k) and m) regarding the deliveries for ships, aircrafts, diplomatic missions and consular offices, as well as for international organizations and OTAN forces;

e) gas supply through the distribution network of natural gas or electricity, under the conditions provided by art. 132 par. (1) letter e) and f) regarding the place for delivery of such goods;

f) provision of services for the benefit of the taxable person, which involves processing of the tangible goods made in the Member State were the shipping or transport of good ends,

provided that the goods after processing to be retuned to the taxable person in Romania from which they have been initially shipped or transported;

g) the temporary use of good on the territory of the Member State of destination of the shipped or transported good in order to provide services in the Member State of destination by the taxable person located in Romania;

h) the temporary use of good for a period which does not exceed 24 months on the territory of a Member State only if the import of the same good from a third state for the purposes to be temporarily used would benefit of the custom regime of temporary admittance with full exemption from import rights.

(13) If one of the conditions provided in par. (12) is no longer met, the shipping and the transport of the good is considered a transfer from Romania to another Member State. In this case, the transfer is considered completed at the moment when such condition is no longer met.

(14) By an order of the Minister of the Public Finance simplification measures regarding the application of the provisions of the par. (10) - (13) may be introduced. (10) - (13).

ART. 129

Supply of services

(1) A supply of services is any operation that is not a delivery of goods, as defined in art. 128.

(2) A taxable person who acts in his own name, but on behalf on other person, as intermediary for supplying services is considered that he/she received and provided by himself/herself these services, under the conditions provided by norms.

(3) 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.

(4) 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 related to its economic activity, for the personal use of his/her employees or other persons.

(5) Not considered a supply of services for consideration:

a) the use of goods resulting from the economic activity of the taxable person, within actions of sponsorship, mecenat or protocol, as well as other destinations provided by law, under the conditions provided by norms;

b)the supply of services performed for free by a taxable person for purposes that are related to its economic activity, for promotion or stimulating the sales;

c) the supply of services performed for free within the warranty period by the person which initially delivered the goods or provided the services.

(6) In the case of a supply of service by more than one taxable person, who act in their own name, by successive transactions, each person is to be considered having received and provided in his/her own name such service. 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.

(7) The provisions of art. 128 par. (5) and (7) shall apply accordingly also to supplying of services.

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. 130^1

Intra-Community purchases of goods

(1) The intra-Community purchase of goods is to be considered the ownership right as any owner with respect to tangible goods shipped or transported to the destination requested by the buyer, by the supplier, buyer or other person on behalf of the supplier or buyer, to a Member State other than the state from which the goods were shipped or transported.

(2) The following shall be assimilated to an intra-Community purchase on consideration:

a) the use in Romania, by a taxable person, for purpose to perform its own economic activity of goods transported or shipped by such person or another person, on behalf of the taxable person, from the Member State on which territory such goods were manufactured, extracted, acquired, obtained or imported by the taxable person in order to perform its own economic activity, if the transport or the shipping of such goods, in the case in which they have been made from Romania to another Member State would be treated as transfer of goods to another Member State, according to provisions of the art. 128 par. (10) and (11).

b) the taking over of by the Romanian army for being used of for civil personnel within the army of goods obtained from another Member State which is part of the North Atlantic Treaty, signed in Washington on April 4, 1949, and for the purchase of such goods the general tax regulations from the respective member state did not apply, in the case in which the import of such goods could not benefit from the exemption provided in art. 142 par. (1) letter g).

(3) The intra-Community purchase of goods that, if had been made in Romania, would have been treated as a purchase of goods for consideration is also considered being made for consideration.

(4) The intra-Community purchase by a non-taxable legal person of goods imported by this person within the Community and transported or shipped to a Member State other than the state to which the import is made. The non-taxable legal person shall benefit by the reimbursement of the tax paid in Romania for the import of goods, if he/she proves that his/her intra-Community purchase was subject to taxation in the Member State of destination for the goods shipped or transported.

(5) By an order of the Minister of the Public Finance simplification measures regarding the application of the provisions of the par. (2) letter a) may be introduced.

ART. 131

Import of goods

Import of goods is:

a) entering on the territory of the Community of goods not in free circulation for the purposes of the art. 24 of the Treaty establishing the European Community;

b) besides the operations provided in lett. a), the entering on the territory of the Community of goods not in free circulation provided from a third territory, which belongs to custom territory of the Community.

CHAPTER 5

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. If the place of delivery, established according to the present provision situated outside of the Community Territory, the place of delivery made by the importer and the place of any subsequent delivery is to considered to be on the territory of the Member State from which the goods are imported, and the goods are considered to be transported or shipped from the Member State from which the goods are imported;

b) the place where installation or assembly is performed by the supplier or by another person on his behalf, in the case of goods that are subject to installation or assembly;

c) the place where the goods are located at the moment when the delivery takes place, in the case of goods that are not shipped 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, in the case of the transport of passengers within the territory of the Community, if:

1. the portion of the trip of passenger transport effected within the Community is the portion effected between the place of departure and the place of arrival of the passenger transport, without any stop outside the Community;

2. the place of departure of passenger transport is the first point for the embarkment of passengers located within the Community, if this is the case, after a stop outside the country;

3. the place of arrival of passenger transport is the last point for the disembarkment provided within the Community, for passengers who embarked within the Community, if this is the case, before a stop outside the Community;

e) in the case of gas supply thought the distribution network of natural gas or electricity, by a trader taxable person, the place of delivery is considered the place where the trader taxable

person is located or has a permanent office for which the goods are delivered or in the absence of such office, the place where the trader has his/her permanent residence or his/her usual residence. The trader taxable person is the taxable person which main activity in the field of gas and electricity trade is the resale of such products and which own consumption of such products is insignificant;

f) in the case of gas supply thought the distribution network of natural gas or electricity, if such delivery is not provided in lett. e), the place of delivery where the buyer uses and actually consume the natural gas or electricity. In the case the goods are not consumed by the buyer, but are delivered to another person, the unused quantity of gas or electricity is considered to be consumed in the place where the new buyer is located or were he/she has his/her permanent office for which the goods are delivered. In the absence of such office, the buyer is considered of having consumed the goods in the place where the buyer has his/her usual domicile or residence.

(2) By way of derogation from provisions of par. (1) lett. a), when the place of a remote sale made in a Member State to Romania, the place of delivery is considered to be Romania if the delivery is made to a buyer taxable person or non-taxable legal person that benefits the derogation in the art. 126 par. (4), or to any other non-taxable person and if the following conditions are met:

a) the total value of the remote sales of which transport or shipping to Romania is made by a supplier during the calendar year when a certain remote sale is made, including the value of the respective remote sale, or during the previous calendar year, exceeds the ceiling for the remote sales of 35,000 euros, which its equivalents in lei is established by norms; or

b) the supplier has elect, within the Member State from which the goods are transported, that his/her remote sales, which involve the transport of goods from this Member State to Romania, to be considered as having place in Romania.

(3) The place of delivery in always in Romania in the case of remote sales of excisable products made from a Member State to non-taxable persons in Romania, other than non-taxable legal person without being applied the ceiling provided in par. (2) letter a).

(4) Derogation provided in par. (2) shall not apply in the case of remote sales made from other Member State to Romania:

a) sales of new means of transportation;

b) sales of goods installed or assembled on behalf on his name;

c) sales of goods taxed in the departure Member State, according to the special regime provided in art. 313, 326 or 333 of Directive 112, regarding the second-hand goods, works of art, collection objects and antics, as defined in art. 152^2 par. (1);

d) sale of gas distributed by the distribution system of the natural gas and electricity;

e) sales of excisable products, delivered to taxable persons and non-taxable legal persons.

(5) By way of derogation from provisions of par. (1) lett. a), the place of deliveries made in Romania to another Member State is considered within such state in the case the delivery is made by a person who does not communicate to the supplier a code for VAT purposes, attributed by the Member State where the transport or shipping ends, if the following conditions are met:

a) the total value of the remote sales, made by a supplier and which involve the transport or shipping of goods from Romania to another Member State, during the calendar year when a certain remote sale is made, including the value of the respective remote sale, or during the

previous calendar year, exceeds the ceiling for the remote sales, established in accordance with the legislation regarding the value-added tax of the respective Member State, such sales having the place of delivery in the respective state; or

b) the supplier had elect in Romania that his/her remote sales, which involve the transport of goods from Romania to another Member State, to be considered as having place in the respective Member State. This option is exercised under the conditions established by norms and shall apply to all remote sales made to the respective Member State during the calendar year when the option is exercised and during the following two calendar years.

(6) In the case of remote sales of excisable products made from Romania to non-taxable persons from another Member State, other than the non-taxable legal persons, the place of delivery is always in the other Member State.

(7) Derogation provided in par. (5) shall not apply in the case of remote sales made from Romania to another Member State:

a) sales of new means of transportation;

b) sales of goods installed or assembled by the supplier or by another person on his/her behalf;

c) sales of goods taxable in Romania, according to the special regime for second-hand goods, works of art, collection object and antics, provided in art. 152^2;

d) sale of gas distributed by the distribution system of the natural gas and electricity;

e) sales of excisable products, delivered to non-taxable legal persons and taxable persons.

(8) For purposes of par. (2) - (7), when a remote sale supposes the shipping and the transport of goods sold from a thirds territory and the import to a supplier in a Member State, other than the member state to which the goods are shipped or transported in order to be delivered to the client, such goods are considered of being shipped and transported from the Member State to which the import is made.

ART. 132^1

Place of intra-Community purchase of goods

(1) The place of the intra-Community purchase is considered to be the place where the goods are located at the moment when the shipping and transport of goods ends.

(2) In the case of intra-Community purchase of goods, provided in art. 126 par. (3) lett. a), if the buyer communicates to supplier a valid registration code for VAT purposes, issued by the authorities of another Member State, other than the state where the intra-Community purchase takes place, according to par. (1), the place of respective intra-Community purchase is considered to be within the Member State which issued the registration code for VAT purposes.

(3) In an intra-Community purchase was subject to taxation in another Member State, according to par. (1), and in Romania, according to par. (2), the taxation base is reduces accordingly in Romania.

(4) Provisions of par. (2) shall not apply if the buyer proves that the intra-Community purchase was subject to value-added tax in the Member State where the intra-Community purchase, according to par. (1).

(5) Provisions of par. (2) shall not apply, and the intra-Community purchase of goods, made according to par. (1), within a triangular operation in another Member State other than Romania, by the buyer reseller registered for VAT purposes in Romania, in accordance to art. 153, such

purchase shall be considered of being subject to the payment of the value-added tax within the respective other Member State, if the following conditions are met:

a) the buyer reseller registered for VAT purposes in Romania in accordance with the art. 153 proves that he/she made the intra-Community purchase in order to made a subsequent delivery to the respective other Member State, a delivery of which beneficiary registered for VAT purposes within the respective Member State was designated as person who is required to pay the related tax;

b) obligations regarding the declaration of these operations, established by norms, were met by the buyer reseller registered for VAT purposes in Romania according to art. 153.

ART. 132^2

Place of import of goods

(1) Place of import of goods is considered on the territory of the Member State were the goods are located when enter on the Community Territory.

(2) By exception from provisions of par. (1), when the goods referred to in art. 131 lett. a), not in free circulation, are included, when entering the Community, within one of regimes and situations referred to in art. 144 par. (1) letter a) point 1 - 7, the place of import for such goods is on the territory of the Member State where the goods are no longer included within such regimes or situations.

(3) When the goods referred to in art. 131 lett. b), in free circulation when entering the Community, are included in one of the situations which allow them, if had been imported within the Community, for purposes of the art. 131 lett. a), to benefit of one of the regimes provided in art. 144 par. (1) letter a) point 1 - 7 or are under an internal transition procedure, the place of import shall be considered the Member State on which territory these regimes and this procedure end.

ART. 133

Place of supply of services

(1) The place of supply of services is considered to be the place where the supplier is located or he/she had a permanent office from which the services are performed.

(2) By way of derogation from provisions of par. (1),), for the following supplies of services, the place of supply is considered to be:

a) the place where the immovable goods are located, for supplies of services that are directly connected with the immovable goods.

b) the place where the transport is actually performed based on distances covered, in the case of the transport services, other than those of intra-Community transport of goods;

c) the place of departure of an intra-Community transport of goods. By exception, in the case when the transport service is provided to a client that, for such provision, communicates a valid registration code for VAT purposes issued by the competent authorities from a Member State other than the state of departure of the transport, such transport is considered of taking place within the Member State that issued the registration code for VAT purposes. The intra-Community transport of goods is any transport of goods of which:

1. departure and arrival place are situated within two different Member States; or

2. the departure and arrival place are situated within the same Member State, but the transport is made in direct connection with an intra-Community transport of goods;

d) the place where the services are provided, in the case of a supply of services which consists of activities ancillary of the transport, such as loading, unloading, handling and other similar services. By exception, in the case when such services involve activities ancillary of an intra-Community transport and are provided for a client that communicate in exchange of such services a valid registration code for VAT purposes, issued by the competent authorities of a Member State other than the state where the services are actually provided, such supply is considered of taking place within the Member State which issued the registration code for VAT purposes;

e) within the Member State of the departure of the transport, for the services of intermediation provided in connection with an intra-Community transport of goods to the intermediaries that act on behalf and in the account of other persons. By exception, in the case when the client of such services communicates a valid registration code for VAT purposes issued by the competent authorities from a Member State other than the state of departure of the transport, the supply is considered of taking place within the Member State that issued the registration code for VAT purposes.

e) the place where such ancillary services are provided, the services of intermediation provided in connection with the services ancillary to the intra-Community transport of goods to the intermediaries that act on behalf and in the account of other persons. By exception, in the case when the client of such services communicates a valid registration code for VAT purposes issued by the competent authorities from a Member State other than the state where the services were provided, the supply is considered of taking place within the Member State that issued the registration code for VAT purposes.

g) the place where the client, for which such services are provided, is located or has the permanent office, provided that the respective client to be located or to have the permanent office outside the Community or to be a taxable person acting as such, located or which has a permanent office within the Community. but not within the same state as the supplier, in the case of following services:

1. the rental of tangible movable goods, except the means of transportation;

2. leasing operations that have as their subject the use of tangible movable goods, cu except the means of transportation;

3) the transfer and/or transmission of the use of copyrights, patents, licenses, trademarks and other similar rights;

4. advertising services and marketing;

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. offering the access to the systems of distribution of natural gas and electricity, including the services of transport and transmission through these network, as well as other supplies of services in direct connection with these;

10. telecommunications. Telecommunication services are services having as an object the transmission, emission or reception of signals, writings, 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. In the case in which the telecommunication services are provided by a person located outside the Community or has a permanent office outside the Community from which the services are provided to a non-taxable person located, who has his/her permanent or the usual residence within the Community, the supply is considered to take place in Romania, if the services have been actually used in Romania;

11. radio and television broadcasting services. In the case in which the radio and television broadcasting services are provided by a person located outside the Community or has a permanent office outside the Community from which the services are provided to a non-taxable person located, who has his/her permanent or the usual residence within the Community, the supply is considered to take place in Romania, if the services have been actually used in Romania;

12. electronically supplied services. In the case in which the electronically supplied services are provided by a person located outside the Community or has a permanent office outside the Community from which the services are provided to a non-taxable person located, who has his/her permanent or the usual residence in Romania, the supply is considered to take place in Romania.

13. 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;

14. the supply of services performed by intermediaries that intervene on behalf and on the account of other persons in the supply of services provided in the present letter;

h) 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. valuations of tangible movable goods, such as the processing of the goods. By exception, such services are considered to take place:

- in a Member State which issued the registration code for VAT purposes, in the case in which such services are provided to a client that communicates to the supplier a valid registration code for VAT purposes issued by the competent authorities in a Member State other than the state where the services are actually provided and cover the goods transported outside the Member State where the services are provided;

- in Romania, if a taxable person located in Romania temporarily exports goods outside the Community, for being valuated or repairing, and subsequently imports such goods, and the respective services are transacted to other persons, according to art. 129 par. (6);

i) the place of main operation for the services of intermediation related to this operation, provided by intermediaries who acts on behalf and on the account of other persons, when these services are provided in connection with other operations other than those provided in lett. e), f) and g). The main operation is the delivery of goods, supply of services, intra-Community purchase or the import of goods made by the person on behalf of and on the account which the intermediary acts. By exception, in the case when the client of such services communicates a registration code for VAT purposes issued by the competent authorities from a Member State other than the state where the operations are performed, the supply is considered of taking place within the Member State that issued the registration code for VAT purposes.

(3) By way of derogation from provisions of par. (1), the rental or the leasing of means of transportation is considered to have the same place with the supply:

a) in Romania, when such services are provided by a taxable person, located or who has a permanent office outside de Community from which the services are provided, if the services are actually used in Romania by the beneficiary;

b) outside the Community, when these services are provided by a taxable person, located or having the permanent office in Romania, from which the services are taxable, if the services are actually used outside the Community by the beneficiary.

CHAPTER 6

Generating event and chargeability of value-added tax

ART. 134

Generating event and chargeability - definitions

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

(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) Chargeability of the payment of the tax is the date on which a person is required to pay the tax to the state budget, according to the provisions of the art. 157 par. (1). This date represents also the moment at which delay penalties for non-payment of the tax are payable.

ART. 134^1

Generating event for goods and supplies of services

(1) The generating event occurs on the date of the delivery of the goods or the date of supply of services, except those provided in the present article.

(2) For the deliveries of goods under a consignment contract or in the case of the similar operations, such as stocks made available for the client, the deliveries of goods in order to test or check the conformity, as defined by norms, the goods are considered to be delivered on the date when their consignor or the beneficiary becomes the owner of goods.

(3) For deliveries of immovable goods, the generating event occurs on the date when the legal formalities for the transfer of the ownership right from seller to buyer are completed.

(4) For services settled on the basis of work situations, such as construction and assembly, consultancy, research, surveys and other similar services, the generating event occurs on the date of the issuance of the work situations or, as the case may be, on the date when these situation are accepted by the beneficiary.

(5) By way of derogation from par. (1), the generating event occurs:

a) in the case of deliveries of goods and/or supplies of services other than the operations provided in lett. b), performed on a continuous basis, giving place to discounted or successive payments, such as: the supplies of natural gas, water, phone services, electricity and other similar services, during the last day of the period specified in the contract regarding the payment of the goods delivered or services provided, but the period cannot exceed a year;

b) in the case of operations of closing, leasing, assignment and rental of goods o the date specified in the contract regarding the payment.

ART. 134^2

Chargeability event for goods and supplies of services

(1) The chargeability of the tax occurs on the date when the generating event occurs.

(2) By way of derogation from provisions of par. (1), the chargeability of the tax occurs:

a) on the date when the fiscal invoice is issued before the date when the generating event occurs.

b) on the date when advance payments are collected, in the case of the collection of advance payments before the generating event occurs. Excepted from these provisions are advance payments collected for the payment of imports and the related value-added tax, 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;

c) on the date of the withdrawing of the cash for the deliveries of goods and for supplies of services made by means of automatic machines for sale, gambling or other similar machines.

ART. 134^3

Chargeability for intra-Community deliveries of goods exempted from tax

(1) By exception from provisions of art. 134^2, in the case of an intra-Community delivery of goods, exempted form tax according to art. 143 par. (2), chargeability of tax occurs in the 15th day following the month when the generating event occurs.

(2) By exception from provisions of par. (1), chargeability of the tax occurs to the issuance of an invoice provided to art. 155 par. (1), if the invoice is issued before the 15th day following the month when the generating event occurs.

ART. 135

Generating event and the chargeability for the intra-Community purchases of goods

(1) In the case an intra-Community purchase of goods, the generating event occurs on the date when the generating event for similar deliveries of goods would occur within the Member State where the purchase is made.

(2), In the case of a intra-Community purchase of goods, the chargeability of tax occurs in the 15th day following the month when the generating event occurs.

(3) By exception from provisions of par. (2), the chargeability of the tax occurs on the date of issuance the fiscal invoice provided by the legislation of another Member State in the equivalent art. 155 par. (1), if the invoice is issued before the 15th day following the month when the generating event occurs.

ART. 136

Generating event and the chargeability for the intra-Community import of goods

(1) In the case in which the imported goods are subject to custom duties, agricultural taxes of other similar Community fees, following a joint policy, the generating event and the chargeability of the value-added tax occur on the date when the generating event and the chargeability of the respective Community taxes occur.

(2) In the case in which, the imported goods are subject to the Community taxes provided in par. (1), generating event and the chargeability of the value-added tax occur when the

generating event and the chargeability of the respective Community taxes, if the imported goods have been subject such taxes.

(3) In the case in which, the imported goods are included under a special custom regime provided in art. 144 par. (1) lett. a) and d), the generating event and the changeability of the tax occur on the date when these are no longer included in such regime.

CHAPTER 7

Base of taxation

ART. 137

Base of taxation for deliveries of goods and supplies of services 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) for the operations stipulated in art. 128 par. (3) lett. c), the related offsetting;

c) for operations stipulated in art. 128 par. (4) and (5), for the transfer stipulated in art. 128 par. (10) and for the intra-Community purchases considered as being for payment and stipulated in art. 130^1 par. (2) and (3), the acquisition prices for such goods or for similar ones or, in absence of them, the cost price, determined at the moment of delivery for the operations. If the goods are fixed assets, the base of taxation is to be established as provided in norms;

d) for operations stipulated in art. 129 par. (4), the amount of expenses effected by a taxable person for performing supplies of services for the operations provided;

e) in the case of exchange provided in art. 130 and, in general, when the payments made wholly or partially in kind or when the amount of the payment for a delivery of goods or a supply of services was not established by the parties and cannot be easily established, the base of taxation is the usual amount for such delivery/supply. The normal value of a good/service is all that a buyer who trade such goods or services to the place of the operation is required to pay to an independent supplier inside the country at the moment when the operation is made under competition conditions in order to obtain the same good/service.

(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 by the supplier to the purchaser or the beneficiary. The expenses invoiced by the supplier of goods or services to the buyer, are the subject of a separate contract and are in connection with the deliveries of such goods and services, are ancillary expenses.

(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, after the date of delivery or supply;

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 and in account of his customer that are later reimbursed to such supplier, as well as the amounts cashed in the name and in account of other person.

ART. 138

Adjustment of the base of taxation

The base of taxation 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, when the total or partial termination of the contract regarding such delivery or the supply, following a final and irrevocable judgment, or following a arbitrage, or if there is a written agreement between parties.

c) when rebates, refunds, discounts, and other price reductions stipulated in art. 137 par. (3) lett. a) are granted after the delivery of goods or the supply of services;

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 stipulated by the Law no. 85/2006 concerning the insolvency procedure, a final and irrevocable judgment;

e) in the case where the purchasers return packaging in which the commodity is dispatched, for packaging that circulates based on invoicing.

ART. 138^1

Base of taxation for the intra-Community purchases

(1) For the intra-Community purchases of goods, the base of taxation is established based on the same elements used according to art. 137 for establishing the base of taxation in the case of delivery of the same goods inside the country. In the case an intra-Community purchase of goods, according to art. 130^1 par. (2) lett. a), the base of taxation is established according to the provisions of the art. 137 par. (1) lett. c) and the art. 137 par. (2).

(2) The base of taxation includes also the excises paid or due in a Member State other than Romania by the person who makes the intra-Community acquisition, for the goods purchased. In the case in which the excises are reimbursed to the person who made the intra-Community acquisition in the Member State where the shipping or the transport of the goods started, base of taxation of the intra-Community acquisition in Romania is adjusted accordingly.

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 due in Romania, as well as those due following the import of goods in Romania, exclusive of the value-added tax to be collected.

(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, or in the absence of such documents, the first place of unloading in Romania.

(3) The base of taxation is not to include the elements provided in art. 137 par. (3) lett. a) - d).

ART. 139^1

Currency exchange rate

(1) If the amount used to determine the base of taxation for an import of goods is expressed in a foreign currency, the exchange rate is to be established according to the Community provisions that regulate the computation of the customs value.

(2) If the amount used to determine the base of taxation for an operation, other than the import of gods, is expressed in a foreign currency , then the exchange rate shall be the last exchange rate communicated by the National Bank of Romania or the exchange rate used by the bank by which the settlements are made, on the date when the chargeability of the tax for the respective operation occurs.

CHAPTER 8

Rates of value-added tax

ART. 140

Rates

(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 and cultural events, cinemas, other than those exempt from the value- added tax according to art. 141 par. (1) letter m);

b) delivery of books, newspapers and magazines, school manuals, with the exception of those intended exclusively for publicity;

c) deliveries of prostheses 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. 134^2 par. (2), 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, the adjustments are to be made to apply the rates in force on the date of deliveries of goods or supplies of services, for the operations provided in art. 134^2 par. (2).

(5) The applicable rate for an import of goods is the rate applied on the territory of Romania for the delivery of the same good.

(6) The applicable rate for intra-Community acquisitions of goods is the rate applied on the territory of Romania for the delivery of the same good in force on the date when the chargeability of the tax occurs.

CHAPTER 9

Exempt operations

ART. 141

Exemptions for operations inside the country

(1) The following operations of general interest are exempt from the value-added tax:

a) hospital treatment, medical 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;

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, according to the legal provisions applicable on the matter;

d) transport of sick or injured persons in vehicles specially designed for this purpose by entities authorized to carry out such activities;

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 public institutions and other units, including the vocational training of adults, as well as supplies of services and the deliveries of goods closely related to such activities;

g) supplies of services or deliveries of goods closely related to canteens organized near public institutions or other entities stipulated in lett. f),exclusively for the use of the persons directly involved in the activities exempted according to lett. f);

h) private lessons performed by the teachers from fields of pre-university and high education;

i) 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, including those provided for elderly living in auspicious;

j) 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;

k) 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;

l) 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;

m) supplies of cultural services and/or deliveries of goods closely related to such services performed by public institutions or other cultural bodies without a patrimonial purpose, recognized as such by the Ministry of Culture and Religious Affairs;

n) supplies of services and/or deliveries of goods performed by persons whose operations are exempt as provided in lett. a), f) and i) - m), 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;

o) services related to broadcasting of the public radio and television channels, other than commercial activities ;

p) public postal services, as well as the supply of goods in connection with such services;

q) supplies of services performed by independent groups of persons whose operations are exempt or not inclined within the scope of value added tax, groups created for providing services in direct connection with the activity of their members, in the case in which such groups require to their members only the reimbursement of the joint expenses, within the limits and under the conditions established by norms and when this exemption does not produce distortions of competition;

r) supply of personnel performed by the religious of philosophical institutions for carrying out the activities provided in lett. a), f), i) and j).

(2) Other operations exempt from the value-added tax:

a) 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 negotiation of credit guarantees or collateral guarantees for credit, as well as the management of credit guarantees by the person granting the credit;

3. transactions, including the negotiation, regarding the deposit or current accounts, payments, money transfers, receivables, checks and other negotiable instruments, except for the recovery of receivables;

4. transactions, including the negotiation, regarding the currency, the coins or banknotes used as legal means of payment, except the collection objects, such as gold, silver or other

metal coins or banknotes that are not normally used as legal means of payment or the numismatic coins;

5. transactions, including the negotiation, except the management or safely keeping, of shares, social parts in trading companies or associations, guaranteed bonds and other financial instruments, except the documents which provide right of ownership over the goods;

6. administration of special investments funds;

b) insurance and/or reinsurance operations, as well as the supply of services in connection with insurance and/or reinsurance operations that are performed by taxable persons who intermediate such operations;

c) bets, lotteries and other forms of gambling organized by persons authorized according to law to carry out such activities;

d) supply at the nominal value of postal stamps used in providing the services performed by the postal offices, supply of tax stamps and other similar stamps;

e) the rental, concession, lease and the leasing 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. rental of spaces o locations for parking vehicles;

3. the rental of equipment and machinery that is affixed to immovable goods;

4. the rental of safes;

f) delivery to any person of a building, part of such building or the land on which such building is located, as well as of any other land. By exception, the exemption does not apply for the delivery of a new building, part of such building or of a building land. For purposes of the present article, the terms below have the following meaning:

1. building land is any developed or undeveloped land, on which any constructions may be performed, according to law in force;

2. construction means any structure set in or on the ground;

3. the delivery of a new building or of a part of such new building is the delivery made ob or before December 31 of the year following the first use of the building or of a part of such building, as the case may be, following the its arrangement;

4. a new building includes any construction transformed so that its structure, nature or destination are modified or, in the absence of these modifications, when the cost of such transformations, except the valued-added tax, is over 50% of the market price of the respective building, exclusive the value of the land, after the transformation;

g) 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. (5) lett. a) and b).

(3) Any taxable person may elect to tax operations provided in par. (2) lett. e) and f), under the conditions established by norms.

ART. 142)*

Exemptions for import of goods and intra-Community purchases

(1) Are excepted for value-added tax:

a) the intra-Community import and the purchase for goods whose delivery in Romania is exempt from value-added tax inside the country;

b) intra-Community purchase of goods whose delivery in Romania is exempt from value-added tax, according to the present article;

c) intra-Community purchase of goods for which, according to art. 145 par. (2) lett. b) - d), the buyer of such goods would have always the right to the reimbursement of the entire due tax, if the respective purchase was not exempted;

d) the final import of goods which meet the exemption conditions provided in: Council Directive 83/181/EEC of 28 March 1983 determining the scope of art. 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods, published in Official Journal of European Communities (JOCE) no. L 105 of April 23, 1983, with further modifications and completions, Council Directive 69/169/EEC of May 28, 1969 on the harmonization of provisions laid down by Law, Regulation or Administrative Action relating to exemption from turnover tax and excise duty on imports in international travel, published in Official Journal of European Communities (JOCE) no. L 133 of June 4, 1969, with further modifications and completions, and Council Directive 79/2006/EC of October 5, 2006 on exemption from import tax of small non-commercial traffic of goods from third countries, published in Official Journal of European Communities no. L 286 of October 17, 2006;

e) the import of goods by diplomatic missions and consular exempt from value-added tax;

f) the import of goods performed by representative offices of international organizations accredited in Romania, as well as by the employees of such organizations, within the limits and in accordance with the conditions provided in the conventions establishing such organizations or in agreement related to their offices;

g) 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. This includes the import by the armed forces of Great Britain and Northern Ireland located in Cyprus, according the Treaty establishing the Republic of Cyprus of August 16, 1960, for use by the armed forces or by the civilian personnel accompanying the armed forces or for the provisioning of their canteens;

h) reimportation of goods in Romania by the person who exported goods outside the Community, if such goods have the same status they were at the moment of the export and the respective import is exempt form custom duties;

i) reimportation of goods in Romania, by the person who exported goods outside the Community, in order to such tangible goods to be repaired, transformed, adjusted, assembled, only if this exemption is limited to the value of the goods at the moment of their exportation outside of the Community;

j) the import, performed in ports by fishing companies, of piscicultural products, unprocessed or after their conservation in order to be sold, but before their delivery;

k) import of natural gas thought the distribution system of the natural gas and electricity;

l) import in Romania of goods which were transported from a third country, if the delivery of such goods by the importer is exempt of value-added tax according to art. 143 par. (2);

m) import of gold performed by the National Bank of Romania.

(2) The necessary documents are established by norms, when necessary, in order to justify the exemption from the value-added tax for the operations provided in par. (1) and, as the case may be, the procedure and the conditions to meet for the application of the exemption from the value-added tax.

**) According to art. I par. 13 and art. II of the Government Emergency Ordinance no. 127/2008, starting with December 1, 2009, the article 142 paragraph (1), letter d) shall modify and shall have the following content:*

"d) the final import of goods which meet the exemption conditions provided in: Council Directive 83/181/EEC of 28 March 1983 determining the scope of art. 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods, published in Official Journal of European Communities (JOCE) no. L 105 of April 23 1983, with further modifications and completions, Council Directive 2007/74/EC of December 20, 2007 on the exemption from value added tax and excise duty of goods imported by persons traveling from third countries, published in Official Journal of European Communities (JOCE) no. L 346 of December 29, 2007, and Council Directive 79/2006/EC of October 5, 2006 on exemption from import tax of small non-commercial traffic of goods from third countries, published in Official Journal of European Communities no. L 286 of October 17, 2006;"

ART. 143

Exemptions for exports or other similar operations and for intra-Community deliveries and international and intra-Community transport

(1) Are excepted for value-added tax:

a) deliveries of goods that are dispatched or transported outside the Community by the supplier or by another person on his behalf;

b) deliveries of goods that are dispatched or transported outside the Community by a purchaser that is not established in Romania 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. The delivery of goods transported in the personal luggage of travelers coming from outside the Community shall be exempt from tax, if the following conditions are met:

- the traveler is not established within the Community, meaning his/her address or permanent residence is outside the Community. The address or permanent residence is the place specified in the passport, identity card or other document recognized as identification document by the Ministry of Interior and Administrative Reform;

- goods are transported outside the Community before the end of the third month following the delivery of such goods;

- the total value of the delivery, plus VAT, is higher than the equivalent in lei of 175 euros, established on a annual basis by the application of the exchange rate on the fist working day of October and applicable starting with January 1 of the following year;

- the evidence of the export shall be made by an invoice or another similar document having the approval of the custom office when leaving the Community;

c) supplies of services, including transport and supplies of services ancillary to transport, with the exception of those provided in art. 141, that are directly connected with the export of goods or with goods that are placed under regimes or situations provided in art. 144 par. (1) letter a);

d) supplies of services, including transport and supplies of services ancillary to transport, with the exception of those provided in art. 141, if they are directly connected with the import of goods and their value is included in the base of taxation of imported goods, as provided in art. 139;

e) supplies of services in Romania on the tangible goods acquired or imported for been processed in Romania and later they are transported outside the Community by the purchaser of the services or by the client, if he/she is not established in Romania, or by another person on behalf of any of them;

f) intra-Community transport of goods, from and to the islands which form the autonomous regions of Azores and Madeira, as well as the services ancillary to them;

g) the international transport of passengers;

h) 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, modification, repair, maintenance, freightage, leasing and rental of ships; as well as the delivery, leasing, rental, repair and maintenance of the equipment included or used on a ship, including the fishing equipment;

2. delivery of fuel and supplies that are intended for use on the ship, including for war ships provided in the Nomenclature Code (NC) code 8906 10 00, which leave the country and go to other ports where they shall be anchored, except for the supplies in the case of ships used for coastal fishing;

3. supplies of services, other than those provide in pt. 1, performed for the direct needs of the ships and/or for its cargo;

i) in the case of aircraft used by the airlines for supplying international transport of persons and/or products performed in exchange of a payment, the following operations:

1. delivery, modification, repair, maintenance, leasing and rental of the aircrafts, as well as the delivery, leasing, rental, repair and maintenance of the equipment incorporated or used on an aircraft;

2. deliveries of fuel and supplies that are intended for use on the aircraft;

3. supply of services, other than those provide in pt. 1 or in art. 144^1, performed for the direct needs of the aircrafts and/or for its cargo;

j) 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;

f) deliveries of goods and supplies of services for the benefit of representative offices of international organizations accredited in Romania, as well by the employees of such organizations, within the limits and in accordance with the conditions provided in the conventions establishing such organizations or in agreement related to their offices;

l) deliveries of goods which were not transported outside of Romania and/or supplies of services performed in Romania for official use by the armed forces of Member States of NATO 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;

m) deliveries of goods or supply of services to a Member State other than Romania, for the use by the armed forces of any Member State of NATO, other than the Member State of

destination, or by the 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; deliveries of goods or supply of services to the armed forces of the United Kingdom located on the island of Cyprus following the Treaty establishing the Republic of Cyprus of August 16, 1960, for use by the armed forces or by the civilian personnel accompanying the armed forces or for the provisioning of their canteens;

n) deliveries of gold to the National Bank of Romania;

o) deliveries of goods to the bodies which transport and ship these goods outside the Community, as part of the humanitarian, charitable and training activities, 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.

(2) The following are also exempt from the value-added tax:

a) deliveries intra-Community to a person who communicates to the purchaser a valid registration code for VAT purposes, issued by the fiscal authorities from another Member State, except:

1. intra-Community deliveries performed by a small enterprise, other than the new means of transportation;

2. intra-Community deliveries under the special regime for the second-hand goods, work of art, collection objects and antics, for purposes of art. 152^2;

b) intra-Community deliveries of new means of transportation to a buyer who does not communicate to the purchaser a valid registration code for VAT purposes;

c) intra-Community deliveries of excisable products to a taxable person or to a non-taxable legal person who does not communicate to the purchaser a valid registration code for VAT purposes, in the case on transport of goods performed according to art. 7 par. (4) and (5) or art. 16 of the Council Directive 92/12/EEC of February 25 1992, on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products, published in Official Journal of European Communities (JOCE) no. L 76 of March 23, 1992, with further modifications and completions, except:

1. intra-Community deliveries performed by a small enterprise;

2. intra-Community deliveries under the special regime for the second-hand goods, work of art, collection objects and antics, for purposes of art. 152^2;

d) intra-Community deliveries of goods, provided in art. 128 par. (10), which would benefit of the exemption provided in lett. a), if they have been performed to another taxable person, except the intra-Community deliveries under the special regime for the second-hand goods, work of art, collection objects and antics, according to art. 152^2.

(3) The necessary documents are established by an order of the Minister of Public Finances, when necessary, in order to justify the exemption from the value-added tax for the operations provided in par. (1) and (2) and, as the case may be, the procedure and the conditions to meet for the application of the exemption from the value-added tax.

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 to be:

1. under the custom regime of temporary admittance, with total exemption from the payment of the rights of import;

2. presented to the custom authorities for customs clearance and, as the case may be, placed under a customs warehouse regime;

3. placed in a free area or in a free warehouse;

4. placed under a customs warehouse regime;

5. placed under an inward processing regime, with exemption from the payment of the import rights;

6. placed under an external customs transit regime;

7. accepted into the territorial waters:

- incorporated on the drilling or production platforms, for building, repair, maintenance, modification or re-equipment of such platforms or for connecting such drilling or production platforms to continent;

- for supply with fuel and goods of the drilling or production platforms;

8. placed under a VAT warehouse regime, defined as follows:

- for excisable products, any location in Romania, defined as fiscal warehouse fiscal, for purposes of the art. 4 lett. (b) of Council Directive 92/12/EEC, with further modifications and completions;

- for goods, other than the excisable products, a location in Romania and defined by norms;

b) deliveries of goods performs to the locations provided in lett. a), as well as the delivery of goods placed under one of the regimes or situations provided in lett. a);

c) supplies of services, other than those provide in art. 143 par. (1) lett. c) and art. 144^1, related to deliveries provided in lett. a) or performed in the locations provided in lett. a), for goods placed under one of the regimes or situations provided in lett. a);

d) deliveries of goods still placed under the internal customs transit regime, as well as for the supplies of services related to such deliveries, other than those provided in art. 144^1;

e) import of goods which are to be placed under a VAT warehouse regime.

(2) The necessary documents are established by an order of the Minister of Public Finances in order to justify the exemption from the tax for the operations provided in par. (1) and, as the case may be, the procedure and the conditions to meet for the application of the exemption from the value-added tax.

ART. 144^1

Exemptions for intermediaries

The services provided by intermediaries on behalf and in account of other person, if these services are provided in connection with the operations exempt from tax provided in art. 143 and 144, except the operations provided in art. 143 par. (1) lett. f) and par. (2), or in connection with the operations performed outside the Community.

CHAPTER 10

Regime of deductions

ART. 145

Scope of application of right of deduction

(1) The right of deduction arises at the moment when the value- added tax becomes chargeable.

(2) Any taxable person has the right to deduct the tax related to deliveries, intended for use for one of the following operations:

a) taxable operations;

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, if the operations had been carried out in Romania;

c) operations exempt from the value-added tax, as provided in art. 143, 144 and 144^1;

d) operations exempt from the value-added tax, as provided in art. 141 par. (2) letter a) point 1 - 5 and lett. b), if the buyer or the client is located outside the Community of if such operations are in direct connection with goods which shall be exported to a country outside the Community, as well as in the case of operations performed by intermediaries on behalf of and in account of other person, when they interfere in the performance of such operations;

e) operations stipulated in art. 128 par. (7) and art. 129 par. (7), if the tax would apply to the respective transfer.

(3) If he/she does not contradict the provisions of par. (2), the taxable person has the right to deduct the value-added tax and in the cases provided in art. 128 par. (8) and art. 129 par. (5).

(4) Under conditions provided by norms, the right of deduction of the value- added tax for the acquisition performed by a taxable person before his/her registration for VAT purposes, according to art. 153.

(5) The value-added tax may not be deducted for the following:

a) tax related to the amounts paid on behalf and in account of the client and that are subsequently reimbursed to them, as well as the tax related to the amounts cashed on behalf and in account of other person; which are not included in the base of taxation of deliveries/supplies performed according to art. 137 par. (3) letter e);

b) tax due or paid for acquisitions of alcoholic beverages and tobacco products intended, except for the cases in which these goods are intended to be resold or used for supply of services.

ART. 146

Conditions for exercising of the right of deduction

(1) For exercising the right of deduction, the taxable person must meet the following conditions:

a) for the tax due or paid related to the goods delivered or which are to be delivered to such person or to the services supplied or which are to be supplied for the benefit of such person, the taxable person must have an invoice which includes the information provided in art. 155 par. (5);

a) for the tax due or paid related to the goods delivered or which are to be delivered to his/her beneficiary, but for whom the taxable person is not required to pay a tax, as provided in art. 150 par. (1) lett. b) - g):

1. he/she must have an invoice which includes the information provided in art. 155 par. (5) or the documents provided in art. 155^1 par. (1); and:

2. to register the tax as collected one for the fiscal period when the chargeability of the value-added tax occurs;

c) for the tax paid for the import of goods , other than those provided in lett. d), the taxable person must hold the customs statement concerning the import or the justifying document issued by the custom bodies, which specifies the taxable person as importer of goods for tax purposes, as well as the documents which prove the payment of the tax by the importer or by the other person on his/her behalf;

d) for the tax due for the import of goods performed according to art. 157 par. (4) and (5), the taxable person must hold the custom statement concerning the import or the justifying document issue by the custom bodies, which specifies the taxable person as importer of goods for tax purposes, as well as the due tax. The taxable person must also the register the value-added tax as a collected one for the fiscal period when the chargeability of the value-added tax occurs;

e) for the tax related to an intra-Community purchase of goods:

1. he/she must hold an invoice or a document provided in art. 155^1 par. (1); and:

2. to register the tax as collected one for the fiscal period when the chargeability of the value-added tax occurs;

f) for the tax related to an operation assimilated with an intra-Community purchase of goods, provided in art. 130^1 par. (2) lett. a), he/she must hold the document provided in art. 155 par. (4), issue by the Member State from which the goods were transported or shipped, or the document provided in art. 155^1 par. (1) to register such tax as a collected one for the fiscal period when the chargeability of the value-added tax occurs;

(2) The cases in which the documents or the responsibilities, other than those provided in par. (1) must be presented or fulfill in order to justify the deduction of the tax, shall be established by norms.

ART. 147

Deduction of tax for taxable person with mixed regime and partially taxable person

(1) Any taxable person 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 taxable person with a mixed regime. The person who performs both operations for which such person has not the quality of taxable person, according the provisions of art. 127, and operations for which such person has the quality of taxable person is called person partially taxable.

(2) The right of deduction of the value-added tax related to goods and services that are acquired by any taxable person with a mixed regime is to be determined according to the present article. The person partially taxable does not have the right of deduction for the acquisitions intended to activities for which such person has not the quality of taxable person. If the person partially taxable carries out activities as taxable person from which both operation with deduction right and operation without deduction right result, such person is considered mixed taxable for the respective activities and the provisions of the present article apply. Under

the conditions established by norms, the person partially taxable may request the application of a special pro-rate if such person cannot separate keep records regarding the activity carried out as taxable person and the activity for which the respective person has not the quality of taxable person.

(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 and the value-added tax related to such acquisitions is to be deducted based on pro rata.

(6) Pro-rata referred to in par. (5) is to be determined as a ratio between:

a) incomes obtained from operations that allow the right of deduction, including subsidies directly connected to their price, as the numerator; and

b) as the denominator, incomes obtained from operations provided in lett. a). delivery of goods and supply of services that do not allow the right of deduction. In the computation of pro rata is to be added subsidies 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.

(7) The following are excluded from the computation of pro-rata:

a) the value of any delivery of capital goods used by the taxable person for his/her economic activity;

b) the value of any self deliveries of goods or supplies of services performed by the taxable person and provided in art. 128 par. (4) and art. 129 par. (4), as well as the transfer provided in art. 128 par. (10);

c) the value of the operations stipulated in art. 141 par. (2) lett. a) and b), as well as of the real estate operations, other than those provided in lett. a), if they are ancillaries to the main activity.

(8) The final pro-rata is determined on an annual basis, and its computation includes all the operations provided in par. (6), for which the changeability occurs during the respective calendar year. The final pro-rata is determined as a percentage and shall be rounded up to the following unit digit. To the reimbursement of the tax provided in art. 156^2, regarding the adjustment provided in par. (12), a document presenting the computation method of the final pro-rate is attached.

(9) Pro-rata temporarily applicable for a year is the final pro-rata, provided in par. (8), determines for the previous year, or the pro-rate estimated based on the operations supposed to be performed during the current calendar year, in the case of the taxable persons for which the weight of operations with right of deduction of the total of operations shall modify during the

current year compared to the previous 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 body at the beginning of each fiscal year, not later than January 25th. In the case of a taxable person newly registered, the temporary pro-rate shall be estimated based on the operations supposed to be performed during the current calendar year, which must be communicated before the date on which the taxable person must submit his/her first reimbursement of the tax, provided in art. 156^2.

(10) The value-added tax to be deducted during a calendar year is temporarily determined by multiplication of the value of the deductible tax provided in par. (5) for each fiscal period of the respective calendar year and the temporary pro-rata provided in par. (9), determined for the respective year.

(11) The tax to be deducted for a calendar year is computed by multiplication of the total amount of the deductible tax for the respective calendar year, provided in par. (5), and the final pro-rata provided in par. (8), determined for the respective year.

(12) At the end of the year, the mixed taxable persons must adjust the temporarily deducted tax as follows:

a) from the final tax to be deducted, according to par. (11), the deducted tax for a year temporarily computed is deducted according to par. (10);

b) the result of such deduction provided in lett. a), higher or lower as the case may be, is recorded on the line of regularizations from resulting from the reimbursement of the tax, provided in art. 156^2, related to the last fiscal period of a year, or from the reimbursement of the tax related to the last fiscal period of the taxable person, in the case of the cancellation of the registration of such person.

(13) In the case of the tax to be deducted related to the capital goods as provided in art. 149 par. (1), used for operations provided in par. (5):

a) the first deduction is established based on the temporary pro-rate provide in par. (9), for the year in which the right of deduction occurs. At the end of the year, the deduction is adjusted, according to par. (12), and based the final pro-rate provided in par. (8). This first deduction is computed for the total value of the tax initially deducted;

b) the subsequent adjustments take into consideration the fifth part, in the case of movable goods, or the twentieth part, in the case of immovable goods, as follows:

1. the initial deductible tax is divided by 5 or 20;

2. the result of the computation as provided in pt. 1. is multiplied with the final pro-rate provided in par. (8), related for each of the following 4 or 19 years;

3. the tax initially deducted during the first year, according to the final pro-rata, is divided by 5 or 20;

4. the results of the computation as provided in pt. 2 and 3 are compared, and the difference, higher or lower, is the adjustment to be made, which is recorded on the line of regularizations from resulting from the reimbursement of the tax, provided in art. 156^2, related to the last fiscal period of a year.

(14) In special case when the pro-rata is computed according to the provisions of the present article does not provide the correct value of the tax to be deducted, the Ministry of Public Finance, through the specialized directorate, may, upon the grounded request of the taxable persons:

a) to adopt the application of a special pro-rata. If the approval was granted during the year, the taxable persons are required to compute again the tax deducted at the beginning of the year based on the approved special pro-rata. The mixed taxable person may waive to the application of the special pro-rate only at the beginning of a calendar year and is required to inform the competent fiscal body on or before January 25 of the respective year;

b) to authorize the taxable person to establish a special pro-rate for each sector of his/her economic activity, provided keeping accounting records for each sector.

(15) Following the propositions of the competent fiscal body, the Ministry of Public Finance, through its specialized directorate, may imposed to taxable person certain criteria regarding the exercising of the right of deduction for the future operations of such person, such as:

a) to apply a special pro-rata;

b) to apply a special pro-rata for each sector of his/her economic activity;

c) to excise his/her right of deduction only based on direct attribution, according to provisions of the par. (3) and (4), for all operations or for only a part of such operations;

d) to keep separate records for each sector of his/her economic activity.

(16) Provisions of par. (6) - (13) shall apply also in the case of special pro-rata provided in par. (14) and (15). By exception from provisions of par. (6), in computing the special pro-rata the following shall be taken into consideration:

a) the operations specified in the decision of the Ministry of Public Finance, for the cases provided in par. (14) lett. a) or par. (15) lett. b);

b) operations performed for each sector of activity, for the cases provided in par. (14) lett. b) or par. (15) letter b).

ART. 147^1

Right of deduction excised by reimbursement of tax

(1) Any taxable person registered for VAT purposes, according to art. 153, has the right to deduct from the total value of collected tax, for a fiscal period, the total value of the tax for which, during the same period, the right of deduction occurred and it can be exercised, according to art. 145 - 147.

(2) In the case in which the conditions and formalities for exercising the right of deduction are not met or if the document justifying the tax provided to art. 146 were not received, the taxable person may exercise the right of deduction by the reimbursement related to the fiscal period for which these conditions and formalities are met or by a subsequent reimbursement, but not for more 5 years, starting January 1 or the year following the year when the right of deduction occurs.

(3) The conditions necessary for the application of the provisions of the par. (2) are established by norms, in the case in which the right of deduction is exercised after more than 3 consecutive years after the year in which such right occurs.

(4) The right of deduction is exercised even if there is not a tax collected or the tax that is o be deducted is higher than the tax collected for the fiscal period provided in par. (1) and (2).

ART. 147^2

Reimbursement of tax to taxable persons who are not registered for VAT purposes in Romania

(1) Under the conditions established by norms:

a) the taxable person who is not registered and is not required to register for VAT purposes in Romania, established in another Member State, may request the reimbursement of the paid tax;

b) the taxable person who is not registered and who is not required to register for VAT purposes and he/she is not established within the Community may request the reimbursement of the paid tax, if, in accordance with the law of the country where such person is established, a taxable person established in Romania would have the same right of reimbursement of the value-added tax or of other taxes/similar fees applied in the respective country;

c) the non-registered person and who is not required to register for VAT purposes, but who perform in Romania a intra-Community delivery exempt form new mean of transport may require the reimbursement of the paid tax for the acquisition of the respective new mean of transport performed by such person in Romania. The reimbursement cannot exceed the tax that would apply if the delivery by such person of the new means of transport have been a taxable delivery;

d) the non-registered taxable person established in Romania who is not required to register for VAT purposes, may require the reimbursement of the tax paid related to operations provided in art. 145 par. (2) lett. d) or in other cases provided by norms.

(2) In the case in which the requests of reimbursement provided in par. (1) lett. a) are considered fraudulent and an administrative penalty is not applied, the competent fiscal bodies, shall refuse any reimbursement to the taxable person for a period of 2 years after the submission of the fraudulent request.

(3) In case in which the reimbursement provided in par. (1) lett. a) was fraudulently or incorrectly obtained, an administrative penalty was applied and the ancillary fiscal obligations were determined, and the amounts were not paid, the competent fiscal bodies shall proceed as follows:

a) the shall suspend any other reimbursement to the taxable person until the due amounts shall be paid; or

b) they shall deduct the respective amounts from any future requests reimbursement of the taxable persons.

ART. 147^3

Reimbursement of tax to taxable persons registered for VAT purposes, according the art. 153

(1) If the tax related to the purchases performed by a taxable person for VAT purposes, according to art. 153, deductible during a fiscal year, is higher than the collected tax for taxable operations, , then a surplus results in the reporting period, which is hereafter referred to as the negative amount of value-added tax.

(2) 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 persons must perform the rectification provided by the present article through the reimbursement of the tax provided in art. 156^2.

(3) 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.

(4) 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 provided in art. 156^2, from the balance of the value- added tax payable for the preceding fiscal period.

(5) Through the declaration of value-added tax provided in art. 156^2, 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.

(6) Taxable persons registered according to art. 153, 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 5,000 lei, inclusively, such balance being carried over obligatorily to the declaration of the following fiscal period.

(7) In the case of legal persons that 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.

(8) 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.

(9) The reimbursement of the balance of the negative amount of value-added tax is to be performed by the fiscal bodies under the conditions and according to the procedures provided by procedural norms in force.

(10) For operations exempt from value-added tax with right of deduction as provided in art. 143 par. (1) lett. b), j), k), l) and o), persons that are not registered as payers of the value-added tax according to art. 153, may benefit from the reimbursement of the value-added tax, according to procedures provided by an order of the Ministry of the Public Finance.

ART. 148

Adjustment of deductible tax in the case of purchases of the services and goods, other than capital goods

If the rules regarding the self delivery or the self supply do not apply, the initial deduction is adjusted in the following cases:

a) deduction is higher or lower than the deduction which the taxable person shall have the right to adjust such deduction;

b) if there are modifications of elements taken into consideration for the determination of the deductible amount, occurred after the submission of the of the declaration of value-added tax, including the cases provided in art. 138;

c) the taxable person looses the right of deduction of tax for movable goods and services unused at the moment of the loss of the right of deduction.

ART. 149

Adjustment of deductible tax in the case of capital goods

(1) For the purposes of this article:

a) the capital goods are all the fixed tangible assets, defined in art. 125^1 par. (1) pt. 3, as well as the operations of construction, transformation or modernization of the fixed tangible assets, except the repairs or maintenance works on such assets, even if such operations are performed by the beneficiary of a rental, leasing or any other contract by which the fixed tangible assets are made available to another person;

b) the goods that make the subject of the rental, leasing, concession or of any other method by which they are made available to a person are considered capital goods belonging to the person who rent, lease or made them available to other person;

c) packages that may used many times are not considered capital assets;

d) the deductible tax related to the capital assets is the tax paid or due related to any operation in connection with purchase, production, construction, transformation or modernization of these goods, except the tax paid or due related to the repair or the maintenance of such goods or the tax related to the acquisition or the spare parts for the repair or the maintenance of the capital goods.

(2) The deductible tax related to capital goods, shall be adjusted, if the rules regarding the self purchase or supply and in the cases provided to par. (4) lett. a) - d):

a) for a period of 5 years, for the capital goods purchased or produced, other than those provided to lett. b);

b) for a period of 20 years, for the construction or purchase of an immovable good, such as for the transformation and the modernization of a immovable good, if the value of the modernization of at least 20% of total value of immovable transformed and modernized good.

(3) The period of adjustment begins:

a) starting with January 1 after the purchase and production of goods, in the case of capital goods mentioned in par. (2) lett. a), purchased or produced, after the date of accession to European Union;

b) starting with January 1 after the first use of goods, in the case of capital goods provided in par. (2) lett. b), which are constructed, and is applied for the total amount of deductible tax related to capital good, including the tax paid or due before the accession to European Union, if the year of the first use is the year of accession to European Union or another year following the year of accession;

c) starting with January 1 after the purchase of goods, in the case of capital goods provided in par. (2) lett. b), which are purchased, and is applied for the total amount of deductible tax related to capital good, including the tax paid or due before the accession to European Union, if the legal formalities for the transfer of property from the seller to the buyer were fulfilled during the year of accession to European Union or during another year following the year of accession;

d) starting with January 1 after the first use of goods, after their transformation and modernization, in the case of transformations or modernizations of capital goods provided in par. (2) lett. b), which value is at least of 20% of the total value of the transformed or modernized immovable good, and is applied for the deductible tax related to transformation or

modernization, including the deductible tax related to the respective transformation and modernization, paid or due before the date of accession to European Union, if the year of the first use after the transformation or modernization is the year of accession or a year following the accession.

(4) The adjustment of the deductible tax provided in par. (1) lett. d) is performed:

a) if the capital good is used by the taxable person:

1. integrally or partially, for other purposes than economic activities;

2. for the performance of operations that do not allow the right of deduction of the tax;

3. or the performance of operations that do not allow the right of deduction of the tax in a different proportion compared to the initial deduction;

b) if certain modifications of the elements used for the computation of the deducted tax occur;

c) if a capital goods with a imitated, partially or wholly, right of deduction is the subject of any operation for which the tax is deductible. In the case of a delivery of goods, the additional value of the tax that is to be deducted is limited to the value of the collected tax related to the acquisition of the respective good;

d) if the capital good ceases to exist, except the cases in which it is proved that the respective capital good was the subject of a self purchase or delivery for which the tax is deductible;

e) in the cases provided in art. 138.

(5) The adjustment of the deductible tax is performed as follows:

a) in cases stipulated under par. (4) lett. a), the adjustment is performed within adjustment period provided in par. (2). The adjustment of the deduction is performed once for the entire remaining adjustment period, including the year of the change of destination of use occurs. The transitory rules regarding the case in which an adjustment for 2007 was performed as provided in par. (4) lett. a) for the fifth part or, as the case may be, for the twelfth part of the initially deducted tax are established by norms;

b) in the case referred to in par. (4) lett. b), the adjustment is performed within adjustment period provided in par. (2), or the fifth part or, as the case may be, for the twelfth part of the initially deducted tax, for each year when the modification of the elements of the deducted tax occur;

c) in cases stipulated under par. (4) lett. c) and d), the adjustment is performed once for the entire remaining adjustment period, including the year when the obligation of adjustment occurs, and is less or equal to the fifth part or, as the case may be, the twelfth part per year, of:

1. the value of the non-deducted tax until the moment of adjustment, in the cases stipulated under the par. (4) letter c);

2. the value of the initially deducted tax, in the cases stipulated under the par. (4) letter d);

d) in cases stipulated under par. (4) lett. e), the adjustment is performed in the cases listed in art. 138, according to procedure provided by norms.

(6) the taxable person is required to keep a record of the capital goods that are subject to the adjustment of the deductible tax which allow a control of the deductible tax and of the adjustments performed. This record must be kept for a period starting with the chargeability of the tax related to the purchase of the capital good and ending after 5 years following the end of the period of the submission of the request for the adjustment of the deduction. Any other

records, documents and journals regarding the capital goods must to be kept for the same period.

(7) The provisions of the present article shall not apply if the amount resulting from the adjustment is insignificant, according to the provisions of norms.

CHAPTER 11

Payers of value-added tax

ART. 150

Payer of value-added tax for taxable operations in Romania

(1) The following persons are payers of value-added tax, if such tax is due according to the provisions of the present title:

a) taxable person who performs taxable deliveries of goods or supplies of services, according to the provisions of the present title, except the cases in which the client is required to pay the tax according to the provisions of lett. b) - g);

b) taxable person who acts as such and benefits of the services provided in art. 133 par. (2) lett. g), if such services are provided by a taxable person who is not established in Romania, even if he/she is registered as payers of the value-added tax in Romania, according to art. 153 par. (4) or (5);

c) person registered according to art. 153 or 153^1, who benefits of services provided in art. 133 par. (2) lett. c) - f), lett. h) pt. 2 and lett. i) and who communicated to the supplier a valid registration code for VAT purposes in Romania, if such services are provided by a taxable person who is not established in Romania, even if he/she is registered as payers of the value-added tax in Romania, according to art. 153 par. (4) or (5);

d) person registered according to art. 153 or 153^1, to whom natural gas or electricity is supplied under the conditions provided in art. 132 par. (1) lett. e) or f), if such supplies are performed by a taxable person who is not established in Romania, even if he/she is registered as payers of the value-added tax in Romania, according to art. 153 par. (4) or (5);

e) taxable person or non-taxable legal person, registered according to art. 153 or 153^1, who is the beneficiary of a subsequent delivery performed within a triangular operation, under the following conditions:

1. the buyer reseller of the goods is not established in Romania, is registered for VAT purposes in another Member State and performed an intra-Community non-taxable purchase of such goods in Romania, according to art. 126 par. (8) lett. b); and

2. the goods related to the intra-Community purchase, provided in pt. 1, were transported by the supplier or by the buyer reseller or by another person, on behalf of the supplier of buyer reseller, from a Member State, other than the state where the buyer reseller is registered for VAT purposes, directly to the beneficiary of the delivery; and

3. the buyer reseller designates the beneficiary of the subsequent delivery as person who is required to pay the tax for such delivery;

f) such person because of that the goods are no longer under the regimes and situations provided in art. 144 par. (1) letter a);

g) the taxable person who acts as such or the non-taxable legal person, established or not in Romania, but registered by a fiscal representative, who is the beneficiary of deliveries of goods or supplied of services performed in Romania, according to art. 132 or 133, other than those provided in lett. b) - e), if they are performed by a taxable person who is not established and registered in Romania, according to art. 153.

(2) By way of derogation from provisions of par. (1):

a) when the person who is required to pay the tax, according to par. (1), is a taxable person established within the Community, but not in Romania, such person may, under the conditions established by norms, to designate a fiscal representative as person who is required to pay the tax;

b) when the person who is required to pay the tax, according to par. (1), is a taxable person who is not established within the Community, such person is required, under the conditions established by norms, to designate a fiscal representative as person who is required to pay the tax;

(3) Any person who writes the tax on an invoice or any other similar document is required to pay the tax.

ART. 151

Person who is required to pay the tax related to intra-Community purchases

Person who performed a taxable intra-Community purchase of goods, according to the present title, is required to pay the tax.

ART. 151^1

Person who is required to pay the tax related to the import of goods

The payment of the tax related to the taxable import of goods, according to the present title, is born by the importer.

ART. 151^2

Individual and joint liability for the payment of the tax

(1) The beneficiary is responsible, individually and jointly, for the payment of the tax, if the person who is required to pay the tax is the supplier or the purchaser, according to art. 150 par. (1) lett. a), if the invoice provided in art. 155 par. (5):

a) is not issued;

b) includes incorrect/incomplete data related to one of the following information: name, address, registration code for VAT purposes of the contracting parties, name or quantity of the goods delivered or of the services supplied, elements necessary to compute the base of taxation;

c) does not specify the value of the tax or incorrectly specifies such value.

(2) By way of derogation from provisions of par. (1), if the beneficiary proves the payment of the tax to the person who is required to pay the tax, the beneficiary is no longer responsible, individually or jointly, for the payment of the tax.

(3) The supplier or the purchaser is responsible, individually and jointly, for the payment of the tax, if the person who is required to pay the tax is the beneficiary, according to art. 150 par. (1) lett. b) - e), if the invoice provided in art. 155 par. (5) or the self invoice provided in art. 155^1 par. (1):

a) is not issued;

b) includes incorrect/incomplete data related to one of the following information: name, address, registration code for VAT purposes of the contracting parties, name or quantity of the goods delivered/of the services supplied, elements necessary to compute the base of taxation;

(4) The supplier is responsible, individually and jointly, for the payment of the tax, if the person who is required to pay the tax for an intra-Community purchase of goods is the beneficiary, according to art. 151, if the invoice provided in art. 155 par. (5) or the self invoice provided in art. 155^1 par. (1):

a) is not issued;

b) includes incorrect/incomplete data related to one of the following information: name, address, registration code for VAT purposes of the contracting parties, name or quantity of the goods delivered, elements necessary to compute the base of taxation;

(5) The person who represents the importer, the person who submits the custom declaration related to the imported goods and the owner of the goods are responsible, individually or jointly, for the payment of the tax, beside the importer provided in art. 151^1.

(6) For applying the warehouse regime of the value-added tax, provided in art. 144 par. (1) letter a) point 8, the warehouse and the transporter of the good from warehouse or the person responsible for the transport are liable, individually or jointly, for the payment of the tax, beside the person who is required to pay such tax, according to art. 150 par. (1) lett. a), f) and g) and art. 151^1.

(7) Person who designates another person as fiscal representative, according to art. 150 par. (2), is responsible, individually or jointly, for the payment of the tax, beside his/her fiscal representative.

CHAPTER 12

Special exemption regime

ART. 152

Special regime of reimbursement for small enterprises

(1) The taxable person established in Romania whose annual turnover, declared or realized, is less than the threshold of 35,000 euros, which equivalent in lei is established at the exchange rate communicated by the National Bank of Romania, valid on the day of the accession to European Union and is rounded up to the following thousand, may request the reimbursement of the tax, hereinafter called special regime of reimbursement for the operations provided in art. 126 par. (1), except the intra-Community deliveries of new means of transportation, exempted according to art. 143 par. (2) letter b).

(2) Turnover which serves as a reference when applying par. (1) includes the total value of the deliveries of goods and supplies of services taxable if they have been carried out by a small enterprise, performed by a taxable person during a calendar year, including the exempted operations with and without right of deduction, provided in art. 141 par. (2) lett. a), b), e) and f), if they are not ancillary to the main activity, except the following:

a) deliveries of fixed tangible or intangible assets, as defined in art. 125^1 par. (1) pt. 3, performed by a taxable person;

b) intra-Community deliveries of new means of transportation, exempted according to art. 143 par. (2) letter b).

(3) The taxable person who meets the conditions provided in par. (1) for the application of the special regime of exemption may choose any time for the application of the normal regime of taxation.

(4) A taxable person new-established may benefit of the application of the special regime of exemption, if at the moment of starting the economic activity declares an annual estimated turnover, according to par. (2), less than the ceiling of exemption and does not choose the application of the normal regime of taxation, according to par. (3).

(5) For purposes of par. (4), for the taxable person who begins an economic activity during a calendar year, the ceiling of exemption provided in par. (1) is established proportionally to the period remaining from the establishment and until the end of the year, the fraction of month being considered an entire calendar month.

(6) The taxable person who applies the special regime of exemption and which the turnover, provided in par. (2), is more or equal to the ceiling of exemption during a calendar year, is must require the registration for VAT purposes, according to art. 153, within 10 days form the date of the achievement and overrunning of the ceiling. The date of the achievement and overrunning of the ceiling is considered to be the first day of the calendar month following the month of the achievement or overrunning of the ceiling. The special regime of exemption shall apply on the date of the registration for VAT purposes, according to art. 153. If the taxable person does not require or requires the late registration, the competent fiscal bodies are entitled to established obligations concerning to the payable tax and the related ancillaries, starting with the date on which such person should be registered for purposes of taxation, according to art. 153.

(7) After achieving or overrunning the ceiling of exemption or exercising the option provided in par. (3), the taxable person may not apply again the special regime of exemption, even if such person achieves subsequently an annual turnover less than the ceiling of exemption.

(8) Taxable person who applies the special regime of exemption:

a) has not the right of deduction of tax related to acquisitions, according to art. 145 and 146;

b) has not the right to specify the tax in an invoice or another document;

c) is required to specify in any invoice a reference to the present article, based on which the exemption is applied.

(9) The rules of registration and the adjustments that are to be performed in the case of the regime of taxation are established by norms.

ART. 152^1

Special regime for travel agencies

(1) For applying the provisions of the present article, a travel agency is any person who on his/her own behalf or in his/her capacity of agent, intermediates, provides information or undertakes to provide to the persons who travel individually or with other persons, travel services, which include the hotel accommodation, guesthouses, homes, holiday houses and other locations used for accommodation, air, terrestrial or sea transport, organized trips and other tourist services. The travel agencies include also the tour operators.

(2) If a travel agency acts on its own behalf and uses deliveries of goods and supplies of services performed by other persons, all the operations performed by the travel agency related

to the travel are considered an unique service performed by such agency for the benefit on the traveler.

(3) Unique service provided in par. (2) is performed in Romania, if the travel agency is established or has its permanent office in Romania and the service is supplied through its office in Romania.

(4) The taxation base of the unique service provided in par. (2) includes the profit margin, exclusively the tax, which is established as difference between the total amount which shall be paid by the traveler, without tax, and the costs of the travel agency, including the tax, related to the deliveries of goods and supplies of services for the direct benefit of the traveler, in the case in which these deliveries and supplies are performed by other taxable persons.

(5) If the deliveries of goods and the supplies of services performed for the direct benefit of the client are carried our outside the Community, the unique service of the travel agency is considered a service performed by an intermediary and is exempted of taxation. If the deliveries of goods and the supplies of services performed for the direct benefit of the client are carried out both inside and outside the Community, only the part of the unique service performed by the travel agency related to the operations carried out outside the Community is exempted of taxation.

(6) Without breaching the provisions of art. 145 par. (2), the travel agency does not the right of deduction or reimbursement of the tax invoiced by the taxable persons for the deliveries of goods and supplies of services for the direct benefit of the traveler and used by the travel agency for providing the unique service stipulated in par. (2).

(7) The travel agency may choose also the application of the normal regime of taxation for the operations provided in par. (2),with the following exception, for which the taxation in the case of special regime is compulsory:

a) when the traveler is a natural person;

b) if the travel services include also the components for which the place of the operation is considered to be outside Romania.

(8) The travel agency is required to keep, beside the records provided in the present title, any other records necessary for the determination of the tax payable according to the present article.

(9) The travel agencies do not have the right to register separately the tax in invoices or other legal documents which are to be sent to the traveler, for the unique services under the special regime, in this case the tax is registered separately in the documents including the mention "VAT included".

(10) When the travel agency performs both operations under normal regime of taxation and operation under the special regime of taxation, such agency is required to keep accounting records for each category of operation.

(11) The special regime provided in the present article shall not apply for the travel agencies that acts as intermediaries, the provisions of the art. 137 par. (3) lett. e) concerning the base of taxation shall apply in this case.

ART. 152^2

Special regimes for second-hand goods, works of art, collection objects and antics

(1) For purposes of the present article:

a) woks of art are:

1. hand made paintings, collages and similar decorative plates, pictures and drawings, other than architectural or engineering plans and drawings and other industrial, commercial, topographic plans and drawings, original and hand made, manuscripts, photographic reproduction on chloride paper and carbon copies of the plans, drawings of manuscripts listed above and industrial items manually decorated (NC tariff code 9701);

2. engravings and lithographs, old and modern originals, in black and white or colored, of one or more plates fully hand made by an artist, regardless of the process and the material used by the artist, without including the mechanical or photomechanical processes (NC tariff code 9702 00 00);

3. original statues and sculptures, of any material, only if they are fully made by the artist; the copies performed by an artist other than the artist of the original work (NC tariff code 9703 00 00);

4. tapestries (NC tariff code 5805 00 00) and wall papers (NC tariff code 6304 00 00), hand made after the original models made available by the artist, provided that there are over 8 copied of each model;

5. individual ceramics fully made and signed by the artist;

6. copper enamels, fully hand made, in over 8 copies with the signature and the name of the workshop, except the gold and silver jewels;

7. the photos made on paper by the artist himself or under his/her surveillance, signed, numbered and limited to 30 copies, including all dimensions and mountings;

b) collection objects are:

1. postal stamps, fiscal stamps, postal marks, "first day" envelops, complete postal series, obliterates or non-obliterates, but without exchange rate, or intended to have one (NC tariff code 9704 00 00);

2. zoological, botanical, mineralogy and anatomic collections and collection pieces or that are importance from the historical, archeological, paleonthologic, ethnographic or numismatic point of view (NC tariff code 9705 00 00);

c) antics are objects, other than work of art and collection objects, older than 100 years (NC tariff code 9706 00 00);

d) second-hand goods are tangible goods that may be reused as such or after being modified, other than works of art, collection objects or antics, precious stones and other goods provided by norms;

e) Taxable person realer is the taxable person who, while carrying out an economic activity, purchases or imports second-hand goods and/or works of art, collection objects or antics in order to resale them, regardless such taxable person act on his behalf or on the behalf o f another person under a contract related to the commission for selling or buying;

f) the organizer of a public auction sale is the taxable person who, while carrying out the economic activity, sales goods by public auction in order to be purchased by the tenderer at the highest price;

g) the profit margin is the difference between the sale price requested by the taxable person reseller and the acquisition price, of which:

1. the sale price is the amount obtained by the taxable person reseller from the buyer or a third person, including the subsidies in direct connection with this transaction, the taxes, payment obligations and other expenses, such as those related tot he commission, packing,

transport and insurance requested by the taxable person reseller to the buyer, except the discounts;

2. the acquisition price is the amount obtained, according to the definition of the sale price, by the supplier from the taxable reseller person;

h) social regime includes all the special regulations provided in the present article for the taxation of the deliveries of second-hand, works of art, collection objects and antics at the rate of the profit margin.

(2) The taxable person reseller shall apply the special regime for the deliveries of second-hand goods, works of art, antics, other than the taxable works of art delivered by their authors or by the legal successors of such authors, goods acquired within the Community, from one of the following suppliers:

a) a taxable person;

b) a taxable person, if the delivery performed by such taxable person is exempted from taxation, according to art. 141 par. (2) letter g);

c) a small entreprise, if the respective acquisition is related to capital goods;

d) a taxable person reseller, if the delivery performed by such person is under the special regime of taxation.

(3) Under the conditions established by norms, the taxable person reseller may choose for the application of the special regime for the delivery of the following goods:

a) works off art, collection objects or antics that such person imported;

b) works of art acquired by the taxable person reseller from the authors of these objects or from the legal successors of such authors, for which there is an obligation to collect the tax.

(4) In case of deliveries provided in par. (2) and (3), for which the option provided in par. (3) is exercised, the base of taxation is the profit margin established according to par. (1) lett. g), only for the value of the related value. By exception, for the deliveries of work of art, collection objects or antics imported by the taxable person reseller, according to par. (3), the acquisition prize for the computation of the profit margin includes the base of taxation for imports, established according to art. 139, plus the tax due or paid for imports.

(5) Any delivery of second-hand goods, works of art, collection objects or antics, performed under a special regime, is exempted of taxation, under the conditions of art. 143 par. (1) lett. a), b), h) - m) and o).

(6) The taxable person reseller does not have the right of deduction of the tax due or paid for the goods provided in art. (2) and (3), if the delivery of these goods is taxed under the special regime.

(7) The taxable person reseller may apply the normal regime of taxation for any delivery for which may be apply the special regime, including the deliveries of goods for which it may be exercised the option for the application of the special regime provided in art. (3).

(8) If the taxable person reseller applies the normal regime of taxation for the goods for which such person may choose to apply the special regime provided in par. (3), such person shall have the right of deduction of the tax due or paid for:

a) import of work of art, collection objects or antics;

b) for work of art acquired from their authors or from the legal successors of such authors.

(9) The right of deduction provided in par. (8) arises at the moment when the collected tax related to the delivery for which the taxable person reseller opts for the normal regime of taxation becomes chargeable.

(10) The taxable persons do not have the right to the personnel deduction related to the tax due or paid for the goods which were or are to be purchased from the taxable person reseller, if the delivery of such goods by the taxable person reseller is subject to =the special regime.

(11) The special regime shall not apply for:

a) the deliveries performed by a taxable person reseller for the goods purchased within the Community from person who benefited of exemption from taxation, according to art. 142 par. (1) lett. a) and e) - g) and art. 143 par. (1) lett. h) - m), at the acquisitions, the intra-Community purchase or the import of such goods, or who benefited of reimbursement of the tax;

b) the intra-Community deliver to a taxable person reseller of new means of transportation exempted of taxation, according to art. 143 par. (2) letter b).

(12) The taxable person reseller has not the right to register separately the tax related to the deliveries of goods under the special regime in the invoices issued by the clients. The mention "VAT included and non-deductible" shall replace the amount of the due tax on the invoices and other documents issued to the buyer.

(13) Under the conditions provided by norms, the taxable person reseller who applies the special regime is required to meet the following conditions:

a) to establish the collected tax under the special regime for each fiscal period when such person is required to submit the declarations of the reimbursement of the tax, according to art. 156^1 and 156^2;

b) to keep the record of the operations under the special regime.

(14) Under the conditions established by norms, the taxable reseller person who performs both operations under special regime and operation under normal regime of taxation, is required to meet the following conditions:

a) to keep separate records for operations under each regime;

b) to establish the collected tax under special regime for each fiscal period when such person is required to submit the declarations of the reimbursement of the tax, according to art. 156^1 and 156^2.

(15) Provisions in par. (1) - (14) shall apply also to sales by public auction performed by the taxable person reseller who acts as organizers of public auction sales under the conditions established by norms.

ART. 152^3

Special regime for gold intended to investments

(1) Investment gold is:

a) the gold, in the form of ingots or plates accepted/quoted on the markets of precious metals, with a minimum purity of 995 per thousand, represented or not by securities, except of ingots or plates with a weight of maximum 1 g;

b) gold coins which satisfied the following conditions:

1. to have a security over or equal to 900 per thousand;

2. are remade after 1800;

3. are or was the legal exchange coin in the state of origin; and

4. are sold normally at a price which not exceed the value on the free market of gold coins with over 80%;

(2) The coins of numismatic importance are not included in the scope of the present article.

(3) The following operations are exempted from taxation:

a) intra-Community deliveries, acquisitions and the import of investment gold, including the investments in securities, for the nominated or denominated gold or negotiated in gold accounts and which includes especially loans and exchange of gold which give right of ownership or security over the investment gold, as well as the operations related to the investment gold consisting in futures and forward contracts on terms, that generate a transfer of the right of ownership of security over the investment gold;

b) the services of intermediation for the delivery of investment gold provided by agents who act on behalf of an principal.

(4) The taxable person who produces the investment gold or transform any gold in investment gold may opt for the normal regime of taxation for the deliveries of investment gold to another taxable person who normally would be exempted of taxation, according to the provisions of par. (3) letter a).

(5) The taxable person who usually delivers gold for industrial purposes may opt for the normal regime of taxation, for the deliveries of investment gold provided in par. (1) lett. a) to another taxable person, who normally would be exempted of taxation, according to par. (3) letter a).

(6) The intermediary who provides services of intermediation for the delivery of gold, on behalf and in the account of a principal, may opt for taxation, if the principal exercised the option provided in par. (4).

(7) Options provided in par. (4) - (6) are exercised by a notification sent to the competent fiscal body. The option enters into force on the date of the registration of the notification sent to the competent fiscal bodies or on the date of submission of such notification by mail with receipt confirmation, as the case may be, shall apply to all the deliveries of investment gold performed on that date. In the case of an option exercised by an intermediary, such option is applied for all the services of intermediation provided by the respective intermediary for the benefit of the same principal who exercised the option provided in par. (5). In the case of exercising the options provided in par. (4) - (6), the taxable persons may return to the special regime.

(8) If the delivery of investment gold is exempted from taxation, according to the present article, the taxable person has the right to deduct:

a) tax due or paid, for the acquisitions of investment gold performed by a person who exercised the option of taxation;

b) the tax due or paid, for intra-Community purchases or import of gold, that shall be later transformed in investment gold by the taxable person or by a third person on behalf of the taxable person;

c) the tax due or paid for the services provided for his benefit, consisting in the change of the form, weight and purity of gold, including the investment gold.

(9) The taxable person who produces investment gold or transforms the gold in investment gold has the right to the deduction of the tax due or paid for acquisitions related to the production of the respective gold.

(10) For the deliveries of alloys or semi-finished products of gold with a security over or equal to 325 per thousand, as well as for the deliveries of investment gold, performed by taxable persons who exercised the option of taxation to the buyers, taxable persons, the buyer is the person who is required to pay the tax, according to norm.

(11) The taxable person who trades investment gold shall keep the record of all transactions of investment gold and shall keep the documentation allowing the identification of the client in these transactions. These records shall be kept for a least 5 years after the end of the year following the performance of such operations.

ART. 152^4

Special regime for unregistered taxable persons who provide electronic services to the non-taxable persons

(1) For purposes of the present article:

a) the unregistered taxable person is the taxable person who does not have a permanent office and is not established within the Community, and who is not required, for other reasons, to register within the Community for VAT purposes and who provides electronic services to the non-taxable persons established within the Community;

b) the Member Stat of registration is the Member State elected by the unregistered taxable person for declare the beginning of his/her activity as taxable person on the territory of the Community, according to article;

c) Member State of consumption is the Member State where the electronic services are located, according to art. 56 par. (1) lett. k) of Directive 112, where the beneficiary who does not act as taxable person in carrying out his/her economic activity is established, domiciled or has his/her usual residence.

(2) The non-registered taxable person who provides electronic services, as defined in art. 125^1 par. (1) point 26, to certain non-taxable persons established within the Community or who have their domicile or usual residence in a Member State may use a special regime for all the electronic services provided within the Community. The special regime allows also the registration of a taxable person in a single Member State, according to the present article, for all the electronic services provided within the Community to non-taxable persons established within the Community.

(3) If a unregistered non-taxable person opt for Romania as Member State of registration, on the date of the beginning of the taxable operations, such person is required to submit in electronic format the declaration of starting the activity to the competent fiscal body. Such declaration must include the following information: name, postal address, e-mails, including the own web page of the taxable person, the national registration fiscal code , if necessary, as well as a declaration that confirms that the respective person is not registered for VAT purposes within the Community. The subsequent modifications of the data included in the registration declaration must be must be electronically informed to the competent fiscal body.

(4) After receiving the declaration od starting the activity, the competent fiscal body shall register the unregistered person under a special registration code for VAT purposes and shall electronically communicate this code to the respective person. The designation of a fiscal representative is not necessary for the registration.

(5) The unregistered taxable person must electronically inform the competent fiscal body when ceasing the activity or in case of subsequent modifications that exclude such person from the special regime.

(6) The unregistered taxable person shall be erased from the records by the competent fiscal body, if one of the following conditions is met:

a) the taxable person informs the fiscal body that he/she no longer provides electronic services;

b) the competent fiscal body acknowledges that the taxable operations of the taxable person are ceased;

c) the taxable person no longer satisfies the requirements for allowing him/her the use of the special regime;

d) the taxable person breaches repeatedly the rules of the special regime.

(7) Within 20 days from the end of each calendar quarter, the non-registered taxable person is required to submit electronically to the competent fiscal body a special discount of tax, according to the model established by the Ministry of Public Finance, regardless whether or not these electronic services were provided during the reporting fiscal period.

(8) The special discount of tax must contain the following information:

a) the registration code provided in par. (4);

b) the total value, exclusively the tax, of the supplies of the electronic services, for the reporting fiscal period, the rates of the applicable tax and the value corresponding to the tax due to each Member State of consumption where the tax is chargeable;

c) the total value of the tax due within the Community.

(9) The special discount of tax is computed in lei. If the supplies of services were performed in other currencies, the exchange rate on the last day of the reporting fiscal period shall be used for fulfill the discount of tax. The used exchange rates are those published by the European Central Bank on the respective day or those on the following days, if they are not published on that day.

(10) The unregistered taxable person must pay the entire tax due to Community in a special account, in lei, open to the treasury and specified by the competent fiscal body until the date on which such person is required to submit the special discount. The remittance procedure of the amounts due to each Member State for the electronic services performed on their territory by the unregistered taxable person, registered in Romania for VAT purposes, are established by norms.

(11) The unregistered taxable person is required to keep a detailed record of the services under the special regime of taxation, for allowing to the competent fiscal bodies from the Member States of consumption to determinate if the discount provided in par. (7) is correct. such records are made available in electronic format, upon the request of the competent fiscal body, as well as of the Member State of consumption. The unregistered taxable person shall keep these records for a period of 10 years after the end of the year when the services were performed.

(12) The unregistered taxable person who uses the special regime does not exercised the right of deduction by the special discount of the tax, according to art. 147^1, but such person may excise this right by reimbursement of the paid tax, according to the provisions of the art. 147^2 par. (1) lett. b), even if a taxable person established in Romania have not the right to a similar compensation related to this tax or to a similar tax, under the conditions provided by the legislation of the country where the unregistered taxable person has her office.

CHAPTER 13

Obligations

ART. 153

Registration of payers of value-added tax

(1) The taxable person established in Romania, according to art. 125^1 par. (2) lett. b), who carries out or is to carry out an economic activity which involves operations taxable and/or exempted form value-added tax with right of deduction must request the registration for VAT purposes to the competent fiscal body, as follows:

a) before carrying out such operations, in the following cases:

1. if such person declares that he/she is to achieved a turnover equal or over the ceiling of exemption provided in art. 152 par. (1), regarding the special regime of exemption for small enterprises;

2. if he/she declares that he/she is to achieve a turnover less than the ceiling of exemption provided in art. 152 par. (1), but he/she chooses the normal regime of taxation;

b) if during a calendar year such person achieves or exceeds the ceiling of exemption provided in art. 152 par. (1), within 10 days after the end of the month when such person achieved or exceeded this ceiling;

c) if the turnover achieved during a calendar year is less than the ceiling of exemption provided in art. 152 par. (1), but he/she chooses the normal regime of taxation.

(2) Provisions of par. (1) shall apply for the taxable person who:

a) performs operations outside Romania with right of deduction of the tax, according to art. 145 par. (2) letter b);

b) performs operations exempted of taxation and opts for their taxation, according to art. 141 par. (3).

(3) Provisions of par. (1) shall not apply for person treated as taxable person only because such person performs occasionally intra-Community deliveries of new means of transportation.

(4) An unregistered taxable person, according to art. 125^1 par. (2) lett. b), and who is not also registered for VAT purposes in Romania to the competent fiscal bodies for operations performed on the territory of Romania with right of deduction of the tax, before the performance of such operations, except the cases in which such person who is required to pay the tax is the beneficiary, according to art. 150 par. (1) lett. b) - g). According to the present article, the persons established outside the Community who perform electronic services to non-taxable persons in Romania and who are registered in another Member State, according to special regime for electronic services, for all electronic services provided within the Community, is not required to register in Romania.

(5) A taxable person who is not established in Romania and is unregistered for VAT purposes in Romania, who has or not a permanent office in Romania and who wants to perform an intra-Community purchase of goods for which he/she is required to pay the tax, according to art. 151, or an intra-Community delivery of goods exempted from taxation, shall request the registration for VAT purposes, according to the present article, before the performance of the intra-Community purchase or delivery.

(6) The competent fiscal bodies shall register for VAT purposes, according to the present article, all the persons who, according to the present article, are required to request the registration, according to par. (1), (2), (4) or (5).

(7) If a person is required to register, according to the provisions of par. (1), (2), (4) or (5), and does not request the registration, the competent fiscal bodies shall register ex officio such person.

(8) The competent fiscal bodies may cancel the registration for VAT purposes of a person, according to the present article, if, according to the provisions of the present article, the person was not obliged to request the registration for VAT purposes, according to the present article. The competent fiscal organ may also cancel ex officio the registration of a person for VAT purposes, according to the present article, in the case of the taxable persons who are registered in the special records and in the list of the inactive taxpayers. The procedure for the cancellation of the registration is established by procedural norms in force. After the cancellation of the registration for VAT purposes, the taxable persons may request the registration for VAT purposes only after the circumstances that generated the cancellation of the registration no longer exist.

(9) The registered person according to the present article, within 15 days form the date of the occurrence of one of the events below, shall inform in writing the competent fiscal bodies about the following:

a) modifications of the data related to his/her registration declared in the registration request, communicated by another procedure to the competent fiscal body, or registered in the registration certificate;

b) ceasing of his/her economic activity.

(10) The condition for the application of the present article are established by norms.

ART. 153^1

Registration for VAT purposes of other persons who perform intra-Community purchases

(1) The taxable person who is not registered and who is not required to register, according art. 153, and the non-taxable legal person who wants to performed an intra-Community purchase in Romania are obliged to request the registration for VAT purposes, according to present article, before the performance of the intra-Community purchase, in the case in which the value of the intra-Community acquisition exceeds the ceiling for intra-Community purchases during the calendar year when the intra-Community purchase is performed.

(2) The taxable person who is not registered and is not require to register, according to art. 153, and the non-taxable legal person may require to register, according to the present article, if they carry out intra-Community purchases, according to art. 126 par. (6).

(3) The competent fiscal bodies shall register, for VAT purposes, according to the present article, any person who request the registration, according to par. (1) or (2).

(4) If the person who is required to register for VAT purposes, under the conditions provided in par. (1), does not request the registration, the competent fiscal bodies shall register ex officio such person.

(5) The registered person for VAT purposes, according to par. (1), may request at any moment the cancellation of the registration, after the end of the calendar year following the year of the registration, if the value of his/her intra-Community acquisitions did not exceed the ceiling of acquisitions during the year when such person requests the cancellation or during the previous calendar year, if he/she did not exercise the option according to par. (7).

(6) The registered person for VAT purposes, according to par. (2), may request at any moment the cancellation of the registration after 2 calendar years following the year when he/she opted for the registration, if the value of his/her intra-Community purchases did not exceeded the ceiling of acquisitions during the year of the submission of this request or during the previous calendar year, if he/she did not exercised the option according to par. (7).

(7) If at the end of the calendar year provided in par. (5) or at the end of the 2 calendar years provided in par. (6), following the year of the registration, the taxable person performs an intra-Community purchase based on the registration code for VAT purposes, obtained according the present article, then it is considered that the respective person opted according to art. 126 par. (6), except the case in which such person exceeded the ceiling of intra-Community purchases.

(8) The competent fiscal bodies shall cancel the registration of a person, according to the present article, if:

a) the respective person is registered for VAT purposes, according to art. 153; or

b) the respective person had the right to the cancellation of the registration for VAT purposes, according to the present article and requests the cancellation according to art. (5) or (6).

ART. 154

General provisions related to the registration

(1) Any taxable person registered for VAT purposes, according to art. 153 and 153^1, has the prefix "RO", according to International Standard ISO 3166 - alpha 2.

(2) The cancellation of the registration for VAT purposes of a person do not to exonerate such person from his/her responsibility, according to the present article, for any action previous the date of the cancellation and from the obligation to request the registration under the conditions of the present article.

(3) The department of a public institution may be registered for VAT purposes, if they can be considered as separate part of the organization structure of a public institution, by which taxable operations are performed.

(4) The cases in which the person unregistered in Romania may be exempted from the registration for VAT purposes, according to the present article, are established by norms.

(5) Unregistered persons:

a) according to art. 153 they communicate the registration code for VAT purposes to all the purchasers/suppliers or clients. This notification is optional if the person benefits of supplies of services, according to art. 133 par. (2) lett. c) - g), lett. h) pt. 2 and lett. i);

b) according to art. 153^1 they communicate the registration code for TVA purposes to the supplier each time they performed an intra-Community of goods. The communication of the codes is optional if the respective person benefits of supplies of services, according to art. 133 par. (2) lett. c) - g), lett. h) pt. 2 and lett. i). In case of other operations related to deliveries of goods and supplies of services the communication of registration code for VAT purposes, obtained according to art. 153^1 to the purchasers/suppliers or clients is prohibited.

(6) The taxable person unregistered in Romania, who designated a fiscal representative, shall communicate the name and the registered code for VAT purposes, issued according to art. 153 to his/her fiscal representative, clients and suppliers, for the operations performed for or which he/she benefited of in Romania.

ART. 155

Invoice

(1) The taxable person who performs a delivery of goods or a supply of services, other than a delivery/supply without right of deduction of the tax, according to art. 141 par. (1) and (2), is required to issue a fiscal invoice to each beneficiary, at the latest by the 15th day of the month that follows the month in which the event that generated the tax occurs, except the case in which the invoice was already issued. The taxable person is also required to issue an invoice to each beneficiary for the advanced payments related to a delivery of goods or a supply of services, at the latest by the 15th day of the month that follows the month in which he/she cashed the advanced payments, except the case in which the invoice was already issued.

(2) Person registered according to art. 153 is required to self invoices, within the period provided in art. (1), each self delivery of goods or supply of services.

(3) The taxable person shall issue an invoice, within the period provided in par. (1), for each remote sale that he/she performed, under the conditions of the art. 132 par. (2).

(4) The taxable person shall issue a self invoice, within the period provided in par. (1), for each transfer that he/she performed in other Member State, according to art. 128 par. (10).

(5) The invoice shall compulsory include the following information:

a) registration number, based on one or more series, that identifies the invoice;

b) date of issue of the invoice;

c) name, address and registration code provided in art. 153, as the case may be, of the taxable person who issues the invoice;

d) name, address and registration code provided in art. 153, of the fiscal representative, in the case in which the purchaser/supplier is not established in Romania and designated a fiscal representative, if the latter is not the person who is required to pay the tax;

e) name, address and registration code provided in art. 153, of the buyer of goods and services, as the case may be;

f) the name and the address of the buyer, as well as the registration code for VAT purposes, in the case in which the buyer is registered, according to art. 153, as well as the exact address of the place where the goods were delivered, in the case of the intra-Community deliveries of goods provided in art. 143 par. (2) letter d);

g) name, address and registration code provided in art. 153, of the fiscal representative, in the case in which the other part is not established in Romania and designated a fiscal representative in Romania, if the fiscal representative is the person who is required to pay the tax;

h) the registration code for VAT purposes communicated by the client for the services provided in art. 133 par. (2) lett. c) - f), lett. h) pt. 2 and lett. i);

i) the registration code for VAT purposes by which the buyer shall be identified in the other Member State, in the case of the operation provided in art. 143 par. (2) letter a);

j) the registration code for VAT purposes by which the supplier was identified in other Member State and under which the intra-Community purchase was performed in Romania, as well as the registration code for VAT purposes, provided in art. 153 or 153^1, of the buyer, in the cases provided in art. 126 par. (4) letter b);

k) name and the quantity of the goods delivered, the name of the services provided, as well as the particularities provided in art. 125^1 par. (3) for defining the goods, in the case of the intra-Community delivery of new means of transportation;

l) date of the delivery of goods/supply of services or the date of cashing an advanced payment, except the case in which the invoice was issued before the delivery/supply or cashing of the advanced payment;

m) the base of taxation of the goods and services, for each rate, exemption or non-taxable operation, the unitary price, exclusively the tax, as well as the rebate, repayments, returns and other discounts;

n) specification, depending on the rates of the tax, the collected tax and the total amount of the collected tax in lei, or of the following specifications:

1. if the tax is not due, a special mention related to the provisions applicable of the present title or of the Directive 112 or the specifications "exempted with right of deduction", "exempted without right of deduction", "non-taxable in Romania" or, as the case may be, "non included in the base of taxation";

2. if the tax is due by the beneficiary as provided in art. 150 par. (1) lett. b) - d) and g), a mention related to the provisions of the present article or of the Directive 112 or the mention "reverse taxation" for the operations provided in art. 160;

3. if the special case in applied for the travel agencies, the reference to the art. 152^1 or to art. 306 of the Directive 112 or any other reference which indicates the application of the special regime;

4. if one of the special regimes for second-hand goods, works of art, collection objects and antics is applied, the reference to art. 152^2 or to art. 313, 326 or 333 of the Directive 112 or any other reference which indicates the application of one of special regimes;

o) a reference to other invoices or documents previously issued, then more invoices and documents shall be issued for the same operation;

p) any other specification requested by this title.

(6) The signing and the stamping of the invoice are not mandatory.

(7) By way of derogation from par. (1) and without breaching the provisions of the par. (3), the taxable person is exempted of the obligation to issue an invoice, for the following operations, except the case when the beneficiary requests the 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 containing at least the information provided in par. (5).

(8) The following conditions shall be established by norms:

a) an overview invoice for more separate deliveries of goods or supplies of services;

b) invoices may be issued by the buyer or client on behalf and in account of the purchaser/supplier;

c) invoices may be issued by electronic means;

b) invoices may be issued by a third part on behalf and in account of the purchaser/supplier;

e) invoices may be kept in a certain place.

(9) By exception to the provisions of par. (5), simplified invoices may be issued in the cases provided by norms. Regardless the situation, the issued must be issued in simplified system and include al least of the following information:

a) the date of issuance;

b) the identification of the taxable person who issued the invoice;

c) the identification of categories of provided goods and services;

d) the tax that is to be paid or the information necessary for its computation.

(10) Any document or message which modifies and specifies expressly and clearly the initial invoice shall be treated as an invoice.

(11) Romania shall accept the documents or the messages on paper or in electronic format as invoices, if they meet the conditions provided in the present article.

(12) If the packages which contain more invoices are sent or made available to the same receiver by electronic means, information common for individual invoices may be specified once, except the case in which they are accessible for each invoice.

ART. 155^1

Other documents

(1) The taxable person or the non-taxable legal person, who is required to pay the tax, according to the art. 150 par. (1) lett. b) - e) and g) and art. 151, must self-invoice, at the latest by the 15th day of the month that follows the month in which the event that generated the tax occurred, in the case in which such person does not detain the invoice issued by the purchaser/supplier.

(2) Self invoice provided in par. (1) must include the following information:

a) a sequential registration number and the date of the issuance of the self-invoice;

b) name and the address of the parties involved into operation;

c) registration code for VAT purposes, according to art. 153 or, as the case may be, to art. 153^1, of the person who issues the self-invoice;

d) the date of the generator event, in the case of an intra-Community purchase;

e) elements provided in art. 155 par. (5) lett. j);

f) the specification, per rates, of the base of taxation and the due tax;

g) the number under which is registered the self-invoice in the purchase journal, in the register for non-transfers or in the register of the goods received, in the case of movable tangible goods transported in Romania from another Member State, that the taxable person is required to fulfill, according to art. 156 par. (4).

(3) After receiving the invoice related to the operations provided in par. (1), the taxable or the non-taxable legal person shall mention on the invoice a reference to the self-invoicing, and on the self-invoice, a reference to the invoice.

(4) In the case of the deliveries for testing or verifying the conformity of the stocks under consignment regime or the stocks made available to the client, on the date of the making available or shipping of the goods, the taxable person shall issue to the receiver of the goods a document which shall include the following information:

a) a sequential registration number and the date of the issuance of the document;

b) the name and the address of the parties;

c) date of making available or of the shipping of goods;

d) name and the quantity of the goods.

(5) In the cases provided in par. (4), the taxable person is required to issue a document to the receiver of the goods, at the moment of reimbursement wholly or partially of the goods by such person. This document must include the information provided in par. (4), except the date of the making available or of the shipping of the goods, which is replaced by the date of the receipt of the goods.

(6) Fro the operations specified in par. (4), the tax shall be issued at the moment when the receiver becomes the owner of the goods and a reference to the documents issued according to par. (4) and (5).

(7) The documents provided in par. (4) and (5) must not be issued in the case in which the taxable person performs deliveries of goods under consignment regime or delivers goods for stocks made available to the client, from Romania in another Member State who does not apply simplification measures, in this case such person is required to self-invoice the transfer of goods, according to art. 155 par. (4).

(8) In the case in which the taxable person makes available the goods or ships them to the receiver is not established in Romania, such person is not required to issue the documents provided in par. (4) and (5). In this case, the taxable person who is the receiver of the goods in Romania shall issue a document which includes the information provided in par. (4), except the date of the making available or of the shipping of the goods, which is replaced by the date of the receipt of the goods.

(9) The taxable person who receives goods in Romania, in the cases provided in art. (8), shall issue also a document, at the moment when the goods are wholly and partially returned. This document includes the information provided in par. (4), except the date of the making available or of the shipping of the goods, which is replaced by the date on the goods are return. In addition, a reference to this document shall be made in the received invoice, at the moment when the taxable person becomes the owner of the goods or at the moment considered to be the moment of the delivery of the goods.

(10) The entire or partial transfer of assets, provide in art. 128 par. (7) and art. 129 par. (7), shall be recorded in a document drafted by the parties involved in the operation, and each part shall receive a copy of this document. Such document must include the following information:

a) a sequential registration number and the date of the issuance of the document;

b) the date of transfer;

c) name, address and registration code for VAT purposes provided in art. 153, of both parties, as the case may be;

d) an exact description of the operation;

e) the value of the transfer.

ART. 156

Records of operations

(1) Taxable persons established in Romania are required to keep correct and complete records of all operations performed while carrying out the economic activities.

(2) The persons who are required to pay the tax for any operation or who are identified as registered as payers of the value-added tax, according to the present article, in order to perform any operation, are required to keep records for any operations regulated by the present title.

(3) The taxable persons and the non-taxable legal persons are required to keep correct and complete records of all the intra-Community purchases.

(4) Records provided in par (1) - (3) must be drafted and kept so that they include the information, documents and accounts, including the record of the non-transfers and the register of the goods received from another Member State, according to the provisions of the norms.

(5) In the case of the association in participation which are not a taxable person, the legal rights and obligations related to the tax of the associate who accounts the incomes and the expenses, according to the contract concluded by the parties.

ART. 156^1

Fiscal period

(1)) The fiscal period for the value-added tax is the calendar month.

(2) By way of derogation from par. (1), the fiscal period is the calendar quarter for the taxable person that during the preceding calendar year have not exceeded a turnover from taxable operations and/or exempt operations with right of deduction of 100.000 euros which equivalent in lei is computed according to norms.

(3) Taxable person who register during the current year is required to declare, upon the registration according to art. 153, the turnover that such person estimates to achieved during the period remain until the end of the calendar year. If the estimated turnover does not exceed the ceiling provided in par. (2), recomputed based on the number of months remaining until the end of the calendar year, the taxable person shall submit quarterly discounts during the year of registration.

(4) Small enterprises registered for VAT purposes, according to art. 153, during the current year, are required to declare upon the registration the obtained turnover, recomputed based on the activity corresponding to an entire calendar year. If the turnover exceeds the ceiling provided in par. (2), during the respective year, the fiscal period shall be the calendar month, according to par. (1). If the recomputed turnover does not exceed the ceiling provided in par. (2), the taxable person shall use the calendar quarter as fiscal period.

(5) If the turnover obtained during the registration year, recomputed based on the activity corresponding to an entire calendar year, exceeds the ceiling provided in par. (2), during the following year, the fiscal period shall be the calendar month, according to par. (1). If the actual turnover does not exceed the ceiling provided in par. (2), the taxable person shall use the calendar quarter as fiscal period.

(6) The taxable person who, according to par. (2) and (5), is required to submit the quarterly discounts, is obliged to submit to the competent fiscal bodies, on or before January 25, a notification mentioning the turnover of the previous year, obtained or, as the case may be, recomputed.

(7) The situations and the conditions under which a fiscal period other than the calendar month or quarter may be used, if such period does not exceed a calendar year, shall be established by norms.

ART. 156^2

Declaration of tax discount

(1) Persons registered according to art. 153 are required to submit a tax discount declaration to the competent fiscal bodies for each fiscal period, on or before 25th day of the month following the end or of the respective fiscal period.

(2) Tax discount declaration drafted by the persons registered according to par. 153 shall include the amount of the deductible tax for which the deduction right during the fiscal reporting period occurs, and, as the case may be, the amount of the tax for which the right of deduction is exercised, under the conditions provided to article art. 147^1 par. (2), the amount of the collected tax whose chargeability occurs during the fiscal reporting period and, as the case may be, the amount of the collected tax which was not registered in the declaration of tax discount for the fiscal period when the chargeability of the tax occurred, as well as the information provided in the model established by the Ministry of Public Finance.

(3) The date incorrectly recorded in a declaration of tax discount may be corrected by a discount for a subsequent period and shall be registered in the lines for adjustments.

ART. 156^3)*

Other declarations

(1) Persons registered according to art. 153^1, but unregistered and who are not required to register according to art. 153, must submit to the competent fiscal bodies a special declaration of the tax discount for:

a) intra-Community purchased, other than the intra-Community purchased of new means of transportation or excisable products;

b) operations for which they are required to pay the tax, according to par. 150 par. (1) lett. c), d) and e).

(2) Unregistered taxable persons and who are not required to register according to art. 153, regardless whether they are registered or not acceding to art. 153^1, are required to submit to the competent fiscal bodies a special decoration of tax discount for the operations for that they are required to pay the tax, according to art. 150 par. (1) letter b).

(3) Unregistered persons who are not required to register according to art. 153, regardless whether they are registered or not according to art. 153^1, are required to submit to the competent fiscal bodies a special declaration of tax discount for the intra-Community purchases of new means of transportation.

(4) Taxable persons who are unregistered and who are not required to register according to art. 153, and the non-taxable legal persons, regardless whether they are registered or not according to art. 153, must draft and submit to the competent fiscal bodies a special declaration of the tax discount for:

a) intra-Community purchases of excisable goods;

b) operations for which they are required to pay the tax, according to par. 150 par. (1) lett. f), except the case in which an import of goods or an intra-Community purchase is performed;

c) operations for which they are required to pay the tax, according to par. 150 par. (1) letter g).

(5) The special discount on the value-added tax must be draft according to the model established by the Ministry of Public Finance and shall be submitted on or before the 25th day of the month that follows the month when the chargeability of the operations occurs, in cases provided in par. (1) - (4). The special tax discount must be submitted only for periods when the chargeability of the tax occurs.

(6) The taxable persons registered for VAT purposes, according to art. 153, whose turnover, according to art. 152 par. (2), achieved at the end of a calendar year, is less than 10,000 euros, computed at the exchange rate in the last working day of the year, are required to communicate by a written notification to the competent fiscal bodies, on or before February 25 of the following year, the information below:

a) the total amount of the deliveries of goods and supplies of services, as well as the amount of the tax, to persons registered for VAT purposes, according to art. 153;

b) the total amount of the related deliveries of goods and supplies of services, to persons who are not registered for VAT purposes, according to art. 153.

(7) The taxable persons unregistered for VAT purposes, according to art. 153, whose turnover, according to art. 152 par. (2), except the incomes from the sale of tickets for international road transport of passengers, achieved at the end of a calendar year, is between 10,000 and 35,000 euros, computed at the exchange rate in the last working day of the year, are required to communicate by a written notification to the competent fiscal bodies, on or before February 25 of the following year, the information below:

a) the total amount of the deliveries of goods and supplies of services, to persons registered for VAT purposes, according to art. 153;

b) the total amount of the deliveries of goods and supplies of services, to persons who are not registered for VAT purposes, according to art. 153;

c) the total amount and the tax related to the acquisitions from persons registered for VAT purposes, according to art. 153;

d) the total amount of the acquisitions from person who are not registered for VAT purposes, according to art. 153.

(8) The taxable persons registered for VAT purposes, according to art. 153, who provide services of international transport are required to communicate by a written notification to the competent fiscal bodies, on or before the February 25 of the following year, the total amount of incomes obtained from the sale of tickets for international road transport of passengers whose the departure place is Romania.

**) According to art. I par. 14 and art. II of the Government Emergency Ordinance no 127/2008, starting with November 1, 2009, the article 156^3, paragraph (5) shall modify and shall have the following content:*

"(5) The special tax discount must be submitted only for periods when the chargeability of the tax occurs. This must be drafted according to the model established by the Ministry of Economy and Finance and shall be submitted:

a) on or before 25 of the month that follows the month when the chargeability of the intra-Community purchases occurs;

b) before the registration in Romania of a new mean of transportation, by the persons provided in par. (3), but no later than the 25 day of the month following the month when the chargeability of the intra-Community purchase occurs."

ART. 156^4

Summary declaration

(1) Each taxable person registered according to art. 153, is required to draft and submit to the competent fiscal bodies, on or before the 25th day of the month following a calendar quarter, a summary declaration related to the intra-Community deliveries, according to the model established by the Ministry of the Public Finance, which shall include the following information:

a) the total amount of the intra-Community deliveries of goods exempted from taxation, according to the art. 143 par. (2) lett. a) and d) for each buyer, for whom the chargeability of the tax occurred during the respective calendar quarter;

b) the total amount of the deliveries of goods performed within a triangular operation, according to art. 132^1 par. (5) lett. b), performed by the Member State of arrival or goods shipped or transported, for each beneficiary of the subsequent delivery that issued a T code, and for which the chargeability of the tax occurred during the respective calendar quarter.

(2) Each taxable person registered for VAT purposes, according to art. 153 and 153^1, is required to draft and submit to the competent fiscal bodies, on or before the 25th day of the month following a calendar quarter, a summary declaration related to the intra-Community purchases, according to the model established by the Ministry of the Public Finance, which shall include the following information:

a) the total amount of the intra-Community acquisitions of goods, for each supplier, for which such taxable person is required to pay the tax, according to art. 151, and for which the chargeability of the tax occurred during the respective calendar quarter;

b) the total amount of the purchases of goods performed within a triangular operation, for which the supplier designated the beneficiary taxable person as the person obliged to pay the tax, according to the provisions of the art. 150 par. (1) letter e)

(3) The summary declarations are submitted only for the periods when the tax becomes chargeable for such operations.

ART. 157

Payment of value-added tax to the budget

(1) Any person is required to pay the due tax to the competent fiscal bodies before the date on such person is required to submit one of the discounts or declarations provided in art. 156^2 and 156^3.

(2) By way of derogation from provisions of par. (1), the taxable person registered according to art. 153 shall register the discount provided in art. 156^2, both as collected tax and deductible tax, within the limit and under the conditions provided in art. 145 - 147^1, the tax related to the intra-Community purchases, goods and services acquired for own benefit, for which the respective person is obliged to pay the tax, according to the art. 150 par. (1) lett. b) - g).

(3) Tax for import of goods , except the imports exempted from taxation, is paid to the custom body, according to the regulations in force regarding the rights of import.

(4) By exception from provisions of par. (3), between April 15, 2007 - December 31, 2011 the payment of the tax is not made to the custom bodies by the taxable persons registered for VAT purposes according to art. 153, who obtained a certificate for payment deferment, under the conditions established by an order of the Minister of Economy and Finance. Starting with January 1, 2012, by exception from the provisions of the par. (3), the payment of the tax is not made to the custom bodies by the taxable persons registered for VAT purposes according to art. 153.

(5) Taxable persons provided in par. (4) register the tax related to the imported goods in the discount provided by art. 156^2, both as collected tax and deductible tax, within the limit and under the conditions provided in art. 145 - 147^1.

(6) If the taxable person is not established in Romania and is exempted, under the conditions of the art. 154 par. (4), from registration, according to art. 153, the competent fiscal bodies are required to issue a decision specifying the method for the payment of the tax for the deliveries of goods and/or supplies of services performed occasionally, for which the taxable person is required to pay the tax.

(7) Starting with April 15, 2007, for the import of goods exempted form tax according to art. 142 par. (1) lett. l), the value-added tax is guaranteed by the custom bodies. The guarantee concerning the valued-added tax related to such imports is issued upon the request of the importers under the conditions established by an order of Minister of Public Finance.

ART. 158

Responsibility of payers and fiscal bodies

(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. 156^2 and 156^3, to the competent fiscal body, according to the present title and the customs legislation in force.

(2) The value-added tax is to be administered by the fiscal bodies 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.

ART. 158^1

Records of taxable persons registered as payers of value-added tax

Ministry of Public Finance - National Agency for Fiscal Administration shall take measures for creating an electronic database which includes information regarding the transactions performed by the taxable persons registered as payers of value-added tax, in order to exchange information related tot he value-added tax with the Member States of the European Union.

CHAPTER 14

Common provisions

ART. 159

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, or a new document including the information and the

correct values shall be issued and a document including the values with a minus sign where are mentioned the number and date of the corrected document shall be simultaneously issued.

(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, except the cases provided in art. 138 letter d);

ART. 160

Simplification measures

(1) The suppliers and the beneficiaries of the goods/services provided to par. (2) are required to apply the simplification measures provided in the present article. The compulsory condition for the application of the simplification measures is both the supplier and the beneficiary to be registered for VAT purposes, according to art. 153.

(2) The goods and the services for whose delivery or supply are applied the simplification measures are the following:

a) wastes and secondary materials, resulted from their sale, as defined in the Government Emergency Ordinance no. 16/2001 on the management of recyclable industrial wastes, republished, as further amended;

b) the goods and/or services delivered or provided for persons for whom the insolvency procedure was initiated, except the goods delivered within a retail sale;

c) wood, according to the provisions of norms.

(3) In the invoices issued for the deliveries of goods provided in par. (2) the suppliers are required to mention "reverse taxation", without register the related tax. In the invoices received from the suppliers, the beneficiaries shall mentioned the related tax, that they registered both as collected tax and deductible tax in the discount of tax. For the operations subject to simplification measures the payment of the tax is not made between the supplier and the beneficiary.

(4) Beneficiaries who are taxable persons under mixed regime shall apply the provisions of the art. 147, depending on the destination of the respective acquisitions.

(5) Both the suppliers/providers and the beneficiaries are responsible for the applications of the provisions of the present article. If the supplier/provider did not mention "reverse taxation" in the invoices issued for the goods/services provided in par. (2), the beneficiary is required to apply the reverse taxation, to not pay the tax to the supplier/provider, to register on his own initiative the mention "reverse taxation" in the invoice and to meet the obligations provided in par. (3).

*ART. 160^1 *** Repealed*

CHAPTER 15

Transitional provisions

ART. 161)*

Transitional provisions

(1) For the application of par. (2) - (14):

a) an immovable goods or a part of such good is considered to be realized before the date of accession the European Union, if such immovable good or a part of it was used for the first time before the date of accession;

b) an immovable good or a part of such good is considered as being purchased before the date of the accession, if the legal formalities for the transfer of the property from the seller to the buyer was fulfilled before the date of accession;

c) the transformation or modernization of an immovable good or of a part of such good is considered of being performed until the date of accession if, after the transformation or modernization, the immovable good or a part of it was used for the first time before the date of accession;

c) the transformation or modernization of an immovable good or of a part of such good is considered of being performed after the date of accession if, after the transformation or modernization, the immovable good or a part of it was used for the first time after the date of accession;

e) provisions of par. (4), (6), (10) and (12) shall apply only for works of modernization or transformation stated before the date of accession and that was finished after the date of accession, and that do not exceed 20% of the value of the immovable good or of a part of such good, exclusively the value of the land, after the transformation or modernization.

(2) The taxable person who had the right of whole or partial deduction of the tax and who, on or after the date of accession, does not opt for taxation or cancels the option for taxation for any of operations provided in art. 141 par. (2) lett. e), for an immovable goods or a part of such good, made, purchased, transformed or modernized before the date of accession, by way of derogation from provisions of art. 149, shall correct the tax, according to norms.

(3) The taxable person who had the right of whole or partial deduction of the tax related to an immovable good or a part of such good, made, purchased, transformed or modernized before the date of accession, opts for taxation of any of operations provided in art. 141 par. (2) lett. e), on or after the date of accession, by way of derogation from provisions of art. 149, shall correct the related deductible tax, according to norms.

(4) If an immovable good or a part of such good, made, purchased, transformed or modernized before the date of accession, is transformed or modernized after the date of accession, and the value of each transformation or modernization performed after the date of accession does not exceed 20% of the value of the immovable good or of a part of such good, exclusively the value of the land, after the transformation or modernization, the taxable person who had the right to whole of partial deduction of the related tax, and who does not opt for the taxation of the operations, provided in art. 141 par. (2) lett. e), or cancels the option for taxation, on or after the date of taxation, by way of derogation from provisions of art. 149, shall correct the tax, according to norms.

(5) If an immovable good or a part of such good, made, purchased, transformed or modernized before the date of accession, is transformed or modernized after the date of accession, and the value of each transformation or modernization performed after the date of accession exceeds 20% of the value of the immovable good or of a part of such good, exclusively the value of the land, after the transformation or modernization, the taxable person who had the right to whole of partial deduction of the related tax, does not opt for the taxation of the operations, provided in art. 141 par. (2) lett. e), or cancels the option for taxation on or after the date of accession, shall correct the related deductible tax according to the provisions of art. 149.

(6) If an immovable good or a part of such good, made, purchased, transformed or modernized before the date of accession, is transformed or modernized after the date of accession, and the value of each transformation or modernization performed after the date of accession exceeds 20% of the value of the immovable good or of a part of such good, exclusively the value of the land, after the transformation or modernization, the taxable person who had the right to whole of partial deduction of the related tax, opts for the taxation of the operations, provided in art. 141 par. (2) lett. e), on or after the date of accession, by way of derogation from provisions of art. 149, shall correct the related deductible tax, according to norms.

(7) If an immovable good or a part of such good, made, purchased, transformed or modernized before the date of accession, is transformed or modernized after the date of accession, and the value of each transformation or modernization performed after the date of accession does not exceed 20% of the value of the immovable good or of a part of such good, exclusively the value of the land, after the transformation or modernization, the taxable person who had the right to whole of partial deduction of the related tax, opts for the taxation of the operations, provided in art. 141 par. (2) lett. e), on or after the date of accession, shall correct the tax according to the provisions of art. 149.

(8) The taxable person who had the right to whole or partial deduction of the tax related to a building or a part of such building, of the land on which the respective building is situated or of any other land which is not developed, that are built, purchased, transformed or modernized before the date of accession, an that, on or after the date of accession, does not opt for the taxation of the operations provided in art. 141 par. (2) lett. f), shall correct the related deductible tax, according to art. 149, but the correction period is limited to 5 years.

(9) The taxable person who had not the right to whole or partial deduction of the tax related to a building or a part of such building, of the land on which the respective building is situated or of any other land which is not developed, that are built, purchased, transformed or modernized before the date of accession, and that, on or after the date of accession, opts for the taxation of the operations provided in art. 141 par. (2) lett. f), shall correct the related deductible tax, according to art. 149, but the correction period is limited to 5 years.

(10) If a building or a part of such building, the land on which it is situated or any other land which is not developed, that are built, purchased, transformed or modernized after the date of accession, and the value of each transformation or modernization performed after the date of accession does not exceed 20% of the value of the building, exclusively the value of the land, after the transformation or the modernization, by way of derogation from provisions of art. 149, the taxable person who had the right to whole or integral deduction of the related tax, does not opt for the taxation of the operations provided in art. 141 par. (2) lett. e), on or after the date of accession, shall correct the deducted tax before and on the date of accession, according to art. 149, but the correction period is limited to 5 years.

(11) If a building or a part of such building, the land on which it is situated or any other land which is not developed, that are built, purchased, transformed or modernized after the date of accession, and the value of each transformation or modernization performed after the date of accession exceeds 20% of the value of the building, exclusively the value of the land, after the transformation or the modernization, the taxable person, who had the right of whole or partial deduction of the related tax, does not opt for the taxation of the operations provided in art. 141 par. (2) lett. e), on or after the date of accession, shall correct the deducted tax before and on the date of accession, according to art. 149.

(12) If a building or a part of such building, the land on which it is situated or any other land which is not developed, that are built, transformed or modernized after the date of accession, and the value of each transformation or modernization performed after the date of accession

exceeds 20% of the value of the building, exclusively the value of the land, after the transformation or the modernization, the taxable person who had not the right of whole or partial deduction of the related tax opts for the taxation of the operations provided in art. 141 par. (2) lett. f), on or after the date of accession, shall correct the non-deducted tax before and on the date of accession, according to art. 149, but the correction period is limited to 5 years.

(13) If a building or a part of such building, the land on which it is situated or any other land which is not developed, that are built, purchased, transformed or modernized after the date of accession, and the value of each transformation or modernization performed after the date of accession exceeds 20% of the value of the building, exclusively the value of the land, after the transformation or the modernization, by way of derogation from provisions of art. 149, the taxable person who had not the right to whole or integral deduction of the related tax, opts for the taxation of the operations provided in art. 141 par. (2) lett. f), on or after the date of accession, shall correct the non-deducted tax before and on the date of accession, according to art. 149.

(14) Provisions of par. (8) - (13) shall not apply in the case of a delivery of a new building or of a part of a building, as defined in art. 141 par. (2) letter f).

(15) In the case of contracts of sale of goods with installment payment, legally concluded, before or on December 31, 2006, that are in force even after the date of accession, the chargeability of the tax related to the installments that must be paid after the date of accession, the taxable person intervenes to each of the data specified in the contract in order to pay the installments. In the case of leasing contracts legally concluded, before or on December 31, 2006, that are in force even after the date of accession, the interests related to the installments that must be paid after the date of accession are not included in the base of taxation of the value-added tax.

(16) In the case of the immovable goods introduced in the country before the date of accession by the leasing companies, Romanian legal persons, based on leasing contracts concluded with users, Romanian natural or legal persons, and that have been placed under the custom regime of import, with exemption from the payment of the amount related to the rights of import, including of the value-added tax, if they are purchased after the date of accession by users, the regulations applicable on the date of the entry into force of the contract shall apply.

(17) The investment objectives achieved by a capital good, of which the year following the putting into operation is the year of accession of Romania to European Union, are subject to the correction regime for the deductible tax provided in art. 149.

(18) Certificates for the exemption form the payment of the tax issued before the date of accession related to deliveries of goods and supplies of services financed from non-disbursable loans granted by the foreign governments, international bodies and non-profit and charitable organizations form abroad and from inside the country or by the natural persons remain valid during the period of the implementation of the objectives. Additions to certificates of exemption are prohibited after January 1, 2007.

(19) In the case of firm contracts concluded on or after December 31, 2007, the legal provisions in force on the date of the entry into force of the contracts shall apply for the following operations:

a) reseach-developement and innovation activities for the implementation of the programs and subprograms and projects, as well as of the actions included in the National Plan for Research, Development and Innovation into the projects, in the core and sectors plans provided by the Government Ordinance no. 57/2002 on scientific research and technological development, approved with modifications and completions by Law no. 324/2003, as further

amended, as well as the research, development and innovation actions financed by an international, regional and bilateral partnership;

b) work in construction, facilities, maintenance and repairs to monuments that commemorate combated heroes, victims of war and the Revolution of December 1989.

(20) To the additional documents to the contracts provided in par. (19), concluded on or after January 1, 2007, the legal provisions in force after the date of the accession are applicable.

(21) For performance guarantees retained from the counter-value of the constructions - mounting works, registered as such in fiscal invoices on or before December 31. 2006, the legal provisions in force on the date of such guarantee establishment, regarding the chargeability of the value-added tax.

(22) For real estate works resulting in a immovable goods, for which the general entrepreneurs opted, before January 1, 2007, that the payment of the tax to be performed on the date of the delivery of the immovable good, shall apply the legal provisions in force on the date on which they expressed this option.

(23) Associations in participation between Romanian taxable persons and taxable persons established abroad or exclusively between taxable persons established abroad, registered as payers of value-added tax, on or before December 31, 2006, according to the law in force on the date of the establishment, are considered separate taxable persons and remain registered for VAT purposes, until the date of the termination of the contracts for which they have been established.

(24) The operations performed on the date on the accession based on contracts in progress on such date shall be subject to the provisions of the present title, with the exception provided in the present article and by the art. 161^1.

**) See the note at the end of the normative act.*

ART. 161^1

Operations performed before and on the date of the accession

(1) Provisions in force, at the moment in which the goods have been placed under one the suspension regimes provided in art. 144 par. (1) letter a) point 1 - 7 or under a similar regime in Bulgaria, shall continue to apply from the date of the accession, until the exit of the goods from such regimes, when the respective goods, coming from Bulgaria or from the Community area, as it was before the date of the accession:

a) entered in Romania before the date of accession; and

b) were placed in a such regime while entering in Romania, and

c) have not been out of such regime before the date of accession.

(2) The occurrence of any of the events below or after the date of accession shall be considered as import in Romania:

a) the exit of the goods from the temporary admission regime in Romania under which they have been placed before the date of the accession under the conditions mentioned in par. (1), even if the legal provisions have not been respected;

b) the exclusion of the goods from the suspension custom regimes in Romania under which they have been placed before the date of accession, according to provisions provided in art. (1), even if the legal provisions have not been respected;

c) the conclusion in Romania of a internal transit procedure initiated in Romania before the date of accession, for the delivery by a taxable person who acts as such. Delivery of goods by mail shall be considered for this purpose an internal transit procedure;

d) conclusion in Romania of an external transit procedure before the date of accession;

e) any non-conformity or breaching of law committed in Romania during an internal transit initiated under the conditions provided to lett. c) or during an external transit procedure provided in lett. d);

f) the use in Romania, from the date of accession, by any person, of the good delivered before the date of the accession, from Bulgaria or from the Community area, as it was before the date of the accession:

1. delivery of goods was exempted or was probably exempted, according to art. 143 par. (1) lett. a) and b); and

2. the goods were not imported before the date of accession, in Bulgaria or in the Community area, as it was before the date of the accession.

(3) When an import of goods is performed in any of the situations mentioned in par. (2), there is not any event generator of tax if:

a) the goods are shipped or transported outside the Community territory, as it was before the date of the accession; or

b) the imported goods, for purposes of par. (2) lett. a), do not represent means of transportation and are shipped again or transported to a Member State from which they have been exported and to the person who exported them; or

c) the imported goods, for purposes of par. (2) lett. a), rare means od transportation that were purchased or imported before the date of the accession, under the general conditions of taxation from Romania, Republic of Bulgaria or another Member State of the Community territory, as it was before the date of accession, and/or that did not beneficiated of the exemption from the payment of the tax or from the reimbursement of the tax following the export. This condition is considered fulfilled when the date of the first use of such means of transportation is previous of January 1, 1999 and the amount of the due tax for the import is insignificant, according to the provisions of the norms.

ART. 161^2

Directives transposed into national law

The present title implements the Directive 112.

TITLE VII

Excise duties and other special duties

CHAPTER 1

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) energetic goods;

h) electricity.

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 customs law in force;

e) authorized warehouse-keeper is a natural 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) accompanying simplified document - DIS is the document that must be used when moving the excisable products with excises paid within the Community;

i) NC code means the tariff position, tariff sub-position or tariff code, according to the EC Regulation no. 2658/87 of the Council of July 23, 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in force starting with October 19, 1992, and in the case of energetic products, in force starting with January 1, 2002. Any time modifications arise of the Combined nomenclature of the Common Customs Tariff, the correlation between the NC codes provided in the present article, and the new NC codes shall be made according to the provisions of the norms;

j) the registered operator is the natural or legal person authorized to received for exercising of the economic activity excisable products under suspension regime, coming from other Member States of the European Union, such operator cannot hold or ship products under the suspension regime;

k) the unregistered operator is the natural or legal person authorized to received occasionally, for exercising his/her profession, excisable products under the regime of suspension, coming from other Member States, this operator cannot hold or ship the products under the suspension regime, coming from other Member States of the European Union, such operator cannot hold or ship products under the suspension regime.

ART. 163^1

Community territory

(1) The provisions of chapter I of the present title shall apply on the territory of the Community, as defined for each Member State by the Treaty Establishing the European Community and especially in art. 227, except following national territories:

a) for the Federal Republic of Germany: Island of Helgoland and territory of Busingen;

b) for the Italian Republic: Livigno, Campione d'Italia and Italian waters of the Lake Lugano;

c) for the Kingdom of Spain: Ceuta, Melilla and the Canary Islands;

d) for the Republic of France: overseas territories.

(2) Performed operations coming from or having as destination:

a) Principality of Monaco, shall be treated as performed operations coming form or having as destination the Republic of France;

b) Jungholz and Mittelberg (Kleines Walsertal), shall be treated as performed operations coming or having as destination the Federal Republic of Germany;

c) Isle of Man, shall be treated as performed operations coming or having as destination the United Kingdom of Great Britain and Northern Ireland;

d) San Marino, shall be treated as performed operations coming form or having as destination the Republic of Italy.

ART. 164

Generating event

The products provided in art. 162 are subject to excises at the moment of their production on the Community territory or at the moment of their import to the territory.

ART. 165

Exigibility

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, including occasional one, of excisable products from a suspension regime;

b) any production, including occasional one, of excisable products outside a suspension regime;

c) any import, including occasional one, of excisable products - except electricity, natural gas, coal and coke - 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;

f) receipt, by an registered or unregistered operator, of excisable products, moved from a fiscal warehouse from another Member State of the European Union.

(2) The release for consumption is considered also the any holding for commercial purposes by a trader of excisable products, that were released for consumption in another Member State of imported to another Member State and for which the excise was paid in Romania.

(3) 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 to:

a) another fiscal warehouse in Romania or in another Member State;

b) an operator registered in another Member State;

b) an operator unregistered in another Member State;

d) a country outside the Community territory.

(4) The damage of excisable products in a fiscal warehouse, caused by unexpected or force majeure events or by the failure to fulfill of the legal provisions of trading, under the conditions established by an order of the Minister of Public Finance is not considered a release for consumption.

ART. 167

Import

(1) For purposes of the present title, import means any entry of excisable products from outside the Community territory, 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, warehouses and ports, 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 event that generates the payment obligation of the excises to the entry of the excisable products from outside the Community territory.

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) Provisions of par. (1) and (2) shall not apply for beer, wines and fermented beverages, other than beer and wines, produced in individual households for own consumption.

(4) Provisions of par. (1) and (2) shall not apply for electricity, natural gas, coal and coke.

SECTION 2

Excisable products

ART. 169

Beer

(1) For purposes of the present title, beer means any product included in NC Code 2203 00 or any product that contains a mixture of beer and a non- alcoholic beverage, included in NC 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 shall be applied also for the beer coming from the small independent producers from the Member States with an annual nominal capacity not exceeding 200,00 hl/year.

(3) Each warehouse-keeper authorized as beer producer shall have the obligation to submit to the competent fiscal body until January 15 of each year a declaration on own liability concerning the production capacities owned according to the provisions of norms.

(4) All economic agents small producers that cumulatively satisfy the following conditions are to benefit from the reduced level of excises: they are economic agents producers of beer which, from legal and economic point of view, are independent from any other economic agent producer of beer; they use physical installations that are distinct from the installations of 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 case the warehouse-keeper authorized for the beer production benefiting of reduced level of excises increases its production capacity by the acquisition of new facilities or by the extension of the existing ones, such person is to notify in writing the competent fiscal body about the modifications occurred, to compute and remit the excises proper to the new production capacity to the state budget, starting with the month that immediately follows the month in which the capacity is put into service, according to the provisions of norms.

(6) Beer produced by an individual and consumed by such individual and members of his or her family is to be exempted from the payment of the excises, provided not to sell it.

ART. 170

Wines

(1) For purposes of the present title, wines are:

a) still wines, which include all products that are included in *NC* 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 1.2% by volume, but not more than 15% by volume, provided that the alcohol contained in the final product results entirely from fermentation.

b) sparkling wines which include all products included at the following codes: *NC* 2204 10; 2204 21 10, 2204 29 10 and 2205, and which:

1. are presented in sealed bottles by mushroom stoppers that are affixed by connections or by being 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 an individual and consumed by such individual and members of his or her family is exempted from the payment of the excises, provided not to be 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 fermented still beverages included within *NC* 2204 and 2205 and which are not provided in art. 170, as well as all products within codes *NC* 2206 00, except other sparkling fermented beverages as defined in letter b), and the product provided in art. 169, having:

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 codes: *NC* 2206 00 31; 2206 00 39; 2204 10; 2204 21 10; 2204 29 10 and 2205, not being under art. 170. and which are presented in sealed bottles by mushroom stoppers that are affixed by connections or by being under pressure due to carbon dioxide in solution equal to or greater than 3 bars; and which:

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 an individual and consumed by such individual and members of his or her family are exempted from the payment of the excises, provided not to be 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 codes: *NC* 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) letter 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) letter b), but that has an alcohol concentration of more than 8.5% by volume and that does not result entirely from fermentation.

ART. 173

Ethyl alcohol

(1) 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 NC 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 NC codes 2204, 2205 and 2206 00;

c) plum brandy and fruit spirits;

d) any other product in solution or not that contains drinkable spirits.

(2) The plum brandy and fruit spirits designated to the own consumption of the individual households in the limit of a quantity equivalent with maximum 50 liters of product for each individual household/year, with the alcohol concentration of 100% in volume, shall be excised by applying a quote of 50% from the standard quote of the excise applied to the ethyl alcohol, according to the provisions of the norms.

(3) For the ethyl alcohol produced in the small distilleries whose production does not exceed 10 hectoliters of pure alcohol/year, reduced excises shall be applied.

(4) From the reduced excises shall benefit the small distilleries independent from legal and economic point of view from any other distillery, not operating under product license of another distillery and meeting the conditions provided by norms.

ART. 174

Processed tobacco

(1) For purposes of the present title, processed tobacco means:

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, as follows:

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) *** Repealed*

(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

Energy goods

(1) For purposes of the present title, energy goods are:

a) products with the codes NC 1507 - 1518, in case they are designated to the use as fuel for heating or fuel for engine;

b) products with the codes NC 2701, 2702 and from 2704 to 2715;

c) products within NC Code 2901and 2902;

d) products with code N.C. 2905 11 00, not synthetic, only in case they are designated to the use as fuel for heating or fuel for engine;

e) products within NC Code 3403;

f) products within NC Code 3811;

g) products within NC Code 3817;

h) products with the codes NC 3824 90 99, in case they are designated to the use as fuel for heating or fuel for engine.

(2) Only the following energy goods are under the provisions of Section 4 and 5 of the chapter I from the present title:

a) products with the codes NC 1507 - 1518, in case they are designated to the use as fuel for heating or fuel for engine;

b) products with codes NC 2707 10, 2707 20, 2707 30 and 2707 50;

c) products with codes NC from 2710 11 to 2710 19 69. For the products with codes NC 2710 11 21, 2710 11 25 and 2710 19 29, the provisions of section 5 shall apply only in case they are traded in bulk;

d) products with codes NC 2711, except 2711 11, 2711 21 and 2711 29;

e) products within NC Code 2901 10;

f) products with codes NC 2902 20, 2902 30, 2902 41, 2902 42, 2902 43 and 2902 44;

d) products with code N.C. 2905 11 00, not synthetic, only in case they are designated to the use as fuel for heating or fuel for engine;

h) products with the codes NC 3824 90 99, in case they are designated to the use as fuel for heating or fuel for engine.

(3) Energy goods for which excises are payable are:

a) leaded petrol within NC Codes 2710 11 31, 2710 11 51 and 2710 11 59;

b) unleaded petrol within NC Codes 2710 11 31, 2710 11 41, 2710 11 45 and 2710 11 49;

c) gas oil within codes NC from 2710 19 41 to 2710 19 49;

g) kerosene within NC Codes 2710 19 21 and 2710 19 25;

e) liquid petroleum gas within NC Codes 2711 12 11 up to 2711 19 00;

f) natural gas with codes NC 2711 11 00 and 2711 21 00;

g) heavy fuel within codes NC from 2710 19 61 to 2710 19 69;

h) coal and coke with codes NC 2701, 2702 and 2704.

(4) Mineral oils, other than those of par. (3), are subject to excises if they are designated to the use, sold or used as fuel for heating or for engine. The level of the excise shall be established according to the destination, at the applicable level for equivalent fuel for heating or for engine.

(5) Besides the energy goods provided in par. (1), any product designated to be use, sold or used as fuel or additive for engine or for the increase of the final volume of fuel for engine shall be excised at the level of the equivalent fuel for engine.

(6) Besides the energy goods provided in par. (1), any other products, except peat, designated to be used, sold or used as fuel for heating shall be excised using the excise applicable to the equivalent energy good.

(7) The consumption of energy goods within the place of production of energy goods 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.

ART. 175^1

Natural gas

(1) Natural gas shall be excised and the relevant excise shall become payable at the moment of the delivery of this product by the suppliers authorized according to the law directly to the final consumers.

(2) The economic operators authorized in the field of natural gas shall have the obligation to register with the competent fiscal body according to the norms.

ART. 175^2

Coal and coke

(1) The coal and coke shall be excisable and the relevant excise shall become payable at the moment of the delivery of these products by the extraction and production companies.

(2) The coal and coke extraction and production companies as operators of excisable products shall have the obligation to register with the competent fiscal body according to the norms.

ART. 175^3

Electric energy

(1) For the purpose of the present title, the electric energy is the product with the code N.C.2716.

(2) The electric energy shall be excisable and the relevant excise shall become payable at the moment of the invoicing of the electric energy to the final consumers.

(3) the electricity designated to the production of electricity, electricity and thermic power as well as to the consumption for the maintenance of the electricity production, transportation and distribution, in the limits established by the National Regulatory Energy Authority, shall not be considered as electricity for consumption.

(4) The economic operators authorized in the field of electricity shall have the obligation to register with the competent fiscal body according to the norms.

ART. 175^4

Exceptions

(1) Are exempted from excise payment:

1. heating resulted and the products with the codes NC 4401 and 4402;

2. the following uses of energy goods and electric energy:

a) energy goods used in purposes other than as fuel for engine or for heating;

b) dual use of energy goods.

An energy good is dually used when it is used both as fuel for heating as in other purposes than for heating or for engine. Use of the energy goods for the chemical reduction and in electrolytic and metallurgic processes shall be considered as dual use;

c) electricity used mainly for the chemical reduction and in electrolytic and metallurgic processes;

d) electricity when represents more than 50% of the cost of a product according to the norms;

e) mineralogical processes according to the norms.

(2) Energy goods production shall not be considered:

a) operations during which small quantities of energy are obtained according to the provisions of norms;

b) operations by which the user of an energy good makes possible the re-use within the enterprise provided that the excise already paid for such a product not to be less than the excise which may be owed if the reused energy good is an excisable one;

c) an operation representing the mixture - besides a production place or a fiscal warehouse - of energy goods with other energy products or materials, provided that:

1. excises related to components would has been paid previously; and

2. the amount paid has not been less than the excise amount which would be applied for the mixture.

(3) Condition provided in par. (2) lett. c) point 1 shall not be applied if that mixture is exempted for excise because of a special use.

SECTION 3

Excise levels

ART. 176

Excise levels

(1) The level of the harmonized excises during 2007 - 2010 is that provided in annex no 1 which is part of the present title.

(2) The level of the excises provided at no 5 - 9 from the annex no 1 contains also the contribution for the financing of certain health expenses provided in title XI from the Law no 95/2006 on the reform in health field. The amounts related to this contribution shall be remitted in the account of the Ministry of Public Health.

(3) For the energy goods of which excisable level is established at 1,000 liters, the volume shall be measured at a temperature of de 15 degrees C.

(4) for the gas oil designated to the use in agriculture shall be applied a reduced excise.

(5) Level and conditions concerning the application of the reduced excise shall be established by Government Decision upon the proposal of the Ministry of Public Finance.

ART. 177

Computation of excise on cigarettes

(1) For cigarettes, the due excise is equal with the sum of special excise and the ad valorem excise, which should not be less than at least 91% of the excise due for the cigarettes from the most sold category of prices, which is the minimum excise. When the sum of the special excise and of the ad valorem excise is smaller than the minimum excise, the minimum excise shall be paid.

(1^1) Semestrial, by order of the minister, the Ministry of Public Finance shall establish the level of the minimum excise according to the development of the excise related to the cigarettes from the price category of the most sold ones.

(2) The specific excise is computed in the euros equivalent for 1,000 cigarettes.

(3) The ad valorem excise is computed by applying the legal percentage established by law to the maximum retail sale 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 price for any brand of cigarettes is determined by the person who manufactures or imports cigarettes in Romania and is brought to public attention in accordance with the requirements of the 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

Warehousing 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) Fiscal warehouse may not be used for retail sale of excisable products.

(4) 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.

(5) Excepted from the provisions of par. (3) shall not apply to fiscal warehouses delivering energy goods to airplanes and vessels or supplying excisable products from duty free shops, according to the norms.

(6) Excepted from the provisions of par. (1) shall not apply to the small producers of still wines manufacturing in average less than 200 hl of wine per year.

ART. 179

Application for authorization as fiscal warehouse

(1) A fiscal warehouse may operate only on the basis of a valid authorization issued by the competent fiscal body.

(2) In order to obtain authorization for a place to work as a fiscal warehouse, the person intends to be authorized warehouse keeper for that place should submit an application to the competent fiscal body in the manner and form provided in the norms.

(3) The application should contain information about, and be accompanied by documents on:

a) location and nature of the place;

b) the types and quantity of excisable products estimated to be produced and / or stored within a year;

c) the identity and other information about the person who is to operate as warehouse keeper authorized;

d) the capacity of the person to be authorized as warehouse-keeper to meet the requirements of art. 183.

(4) Provisions of par. (3) shall be adapted according to the specific activity to be developed by the fiscal warehouse according to the provisions of the norms.

(5) A person who intends to be authorized as warehouse keeper shall, also, produced a copy of the management contract or of the ownership documents related to the premises where the fiscal warehouse is located.

(6) A person exercising expressly his/her intention of being authorized warehouse keeper for more fiscal warehouses may submit to the competent fiscal authority a single application. The application shall be accompanied by the documents provided by this title, corresponding to each of the locations.

ART. 180

Conditions for authorization

(1) The competent fiscal body shall issue the fiscal warehouse authorization for a premises only if the following conditions are met:

a) the premises shall be used to produce, bottle, pack, receive, store and/or dispatch the excisable products. In case of a premises to be authorized only as fiscal warehouse for storing, the quantity of excisable products stored should be bigger than the quantity provided in norms, different according to the group of products stored and to the potential related excises;

b) the premises is located, built and equipped so as to prevent the removal of excisable products from such premises without the payment of excises, according to the provisions of the norms;

c) the premises may not be used for the retail sale of excisable products;

d) in the case of an individual that is to carry out the activity as authorized warehouse-keeper, such individual should not be convicted by a final judgment for tax evasion, abuse of trust, forgery, use of forgery, fraud, theft, false testimony, offering or acceptance of bribes, in Romania or in any of the foreign States in which such individual has the domicile/residence during the last 5 years, or for one of the offences regulated by this Code, by the Government Ordinance 92/2003 on the Fiscal Procedure Code, republished as subsequently amended and completed, by the Law no 86/2006 on the Romanian Customs Code, by the Law no 241/2005 for the tax evasion prevention and control, by the Accounting Law no 82/1991, republished, by the Law no 31/1990 on trading companies, republished, as subsequently amended and completed, or for any other fact against the fiscal regime regulated by the Criminal Code of Romania, republished, as subsequently amended and completed;

e) in the case of a legal person that is to carry out the activity as authorized warehouse-keeper, the administrators of such legal person should not be convicted by a final judgment for tax evasion, abuse of trust, forgery, use of forgery, fraud, theft, false testimony, offering or acceptance of bribes, in Romania or in any of the foreign States in which such individual has the domicile/residence during the last 5 years, or for one of the offences regulated by this Code, by the Government Ordinance no 92/2003, republished as amended and completed, Law no 86/2006, republished, by the Law no 241/2005, republished, by the Law no 82/1991, republished, by the Law no 31/1990 on trading companies, republished, as subsequently amended and completed, or for any other fact against the fiscal regime regulated by the Criminal Code of Romania, republished, as subsequently amended and completed;

f) the person that is to carry out the activity as authorized warehouse-keeper should demonstrate that is capable of satisfying the requirements provided in art. 183.

(2) Provisions of par. (1) shall be adapted accordingly on groups of excisable products and on categories of warehouse keepers according to the provisions of norms.

(3) Premises related to the State reserve and reserve for mobilization shall be assimilated to the fiscal warehouses according to the provisions of norms.

ART. 181

Authorization as fiscal warehouse

(1) Fiscal competent body shall notify in writing the authorization as fiscal warehouse, in 60 days from the date of submission of complete documentation for 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 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 case of a fiscal warehouse authorized for storage, the maximum storage capacity of the proposed fiscal warehouse is to be determined by mutual agreement with the competent fiscal body, according to the provisions of norms. 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 shall be necessary to request approval for the changed circumstances in 15 days from the modification of the initial capacity.

(4) The competent fiscal body may modify authorizations.

(5) In order to modify an authorization, the competent fiscal body should inform the authorized warehouse-keeper about the proposed modification and the reason for such action.

(6) An authorized warehouse-keeper may request to the competent fiscal body to modify the authorization, according to the provisions of the norms.

(7) Procedure for the authorization of the fiscal warehouses shall not be under the legal provisions of the mutual approval.

ART. 182

Repeal of the authorization application

(1) The repeal 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 the authorized warehouse-keeper

(1) Any authorized warehouse-keeper is required to meet the following requirements:

a) to submit to the competent fiscal body, if necessary, a guarantee for the production, processing and possession of excisable products, and a mandatory guarantee for the movement of these products under the conditions laid down by norms;

b) to 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) to maintain accurate and timely records regarding the raw materials, works in progress and finished excisable products, produced or received in the fiscal warehouses and dispatched from the fiscal warehouses, and to provide adequate records upon the request of the competent fiscal bodies;

d) to maintain an adequate recording system for the control of inventories in the fiscal warehouse, including a management, accounting and security system;

e) to provide the competent fiscal bodies 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 opened for the receipt or dispatch of products;

f) to present the excisable products for inspection by the competent fiscal bodies, upon their request;

g) upon the request of the competent fiscal bodies, to provide for free an office within the fiscal warehouse, available for them;

h) to investigate and report to the competent fiscal bodies any loss, shortage or other irregularity relating to excisable products;

i) to notify the competent fiscal authority regarding any proposed extension or modification to the structure of the fiscal warehouse, as well as of the method of operation in such fiscal warehouse that may affect the amount of the guarantee established according to lett. a);

j) to notify the competent fiscal bodies about any modification of the initial data based on which was issued the warehouse-keeper authorization, in term of 30 days from the date of the modification occurrence;

*k) *** Abrogated*

l) to comply with other requirements imposed by the norms.

(2) Provisions of par. (1) shall be adapted accordingly on groups of excisable products and on categories of warehouse keepers according to the provisions of norms.

ART. 184

Authorization transfer

(1) Authorizations are to be issued only for the named authorized warehouse-keeper and are not transferable.

(2) When the relevant premises is sold, the authorization is not to be transferred automatically to the new owner. The new possible authorized warehouse-keeper should submit an application for authorization.

ART. 185

Authorization cancellation, revocation and suspension

(1) The competent fiscal body 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.

(2) The competent fiscal body is to revoke an authorization for a fiscal warehouse in the following cases:

a) in the case of an authorized warehouse-keeper, individual, if:

1. the individual died;

2. the individual was convicted by a final judgment in Romania or in another State for the offence of abuse of trust, forgery, use of forgery, dilapidation, untrue witness, giving or receiving of bribe or another offence out of those regulated by the present Code, by the Government Ordinance no 92/2003, republished as amended and completed, Law no 86/2006, republished, by the Law no 241/2005, republished, by the Law no 82/1991, republished, by the Law no 31/1990 on trading companies, republished, as subsequently amended and completed, or for any other fact against the fiscal regime regulated by the Criminal Code of Romania, republished, as subsequently amended and completed;

3. the activity carried out is in bankruptcy or liquidation;

b) in case of an authorized warehouse-keeper that is a legal person, if:

1 is in bankruptcy or liquidation proceeding; or

2. any of its administrators was convicted by a final judgment in Romania or in another State for the offence of abuse of trust, forgery, use of forgery, dilapidation, untrue witness, giving or receiving of bribe or another offence out of those regulated by the present Code, by the Government Ordinance no 92/2003, republished as amended and completed, Law no 86/2006, republished, by the Law no 241/2005, republished, by the Law no 82/1991, republished, by the Law no 31/1990 on trading companies, republished, as subsequently amended and completed, or for any other fact against the fiscal regime regulated by the Criminal Code of Romania, republished, as subsequently amended and completed;

c) the authorized warehouse-keeper does not observe any of the requirements provided in art. 183 or in art. 195 - 198;

d) when the warehouse-keeper concludes a sale contract for the warehouse premises;

e) in the case provided in par. (9);

f) 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, according to art. 180 par. (1) letter a).

(3) The competent fiscal body may revoke the authorization of a fiscal warehouse also in case when a final judgment was delivered for an offence out of those regulated by the present Code, by the Government Ordinance no 92/2003, republished as amended and completed, Law no 86/2006, republished, by the Law no 241/2005, republished, by the Law no 82/1991, republished, by the Law no 31/1990 on trading companies, republished, as subsequently amended and completed, or for any other fact against the fiscal regime regulated by the Criminal Code of Romania, republished, as subsequently amended and completed;

(4) Upon the proposal of the audit bodies, the competent fiscal body may suspend the authorization of a fiscal warehouse as follows:

a) for a period of 1 - 6 months, in case it was ascertained the perpetration of one of the civil violations leading to the authorization suspension;

b) until the final solution of the criminal case, when the criminal action was filled in for an offence out of those regulated by the present Code, by the Government Ordinance no 92/2003, republished as amended and completed, Law no 86/2006, republished, by the Law no 241/2005, republished, by the Law no 82/1991, republished, by the Law no 31/1990 on trading companies, republished, as subsequently amended and completed, or for any other fact against

the fiscal regime regulated by the Criminal Code of Romania, republished, as subsequently amended and completed;

(5) Decision by which the competent fiscal body has decided the suspension, revocation or cancellation of the fiscal warehouse authorization shall be communicated to the warehouse-keeper holder of the relevant authorization.

(6) An authorized warehouse-keeper may contest a decision of suspension, revocation or cancellation of an authorization for a fiscal warehouse according to the law in force.

(7) Decision for the suspension, revocation or cancellation of the fiscal warehouse authorization may produce effects starting with the date of its communication or starting with other date contained in it, as the case may be.

(8) Challenging the decision of suspension, revocation or cancellation of the fiscal warehouse authorization suspends the legal effects of this decision for the period of delivering a solution for such an appeal in administrative procedure.

(9) In case the warehouse-keeper authorized wants to renounce to the authorization for a fiscal warehouse this one shall have the obligation to notify this intention to the competent fiscal body with at least 60 days priory to the date of effective renouncement to the authorization.

(10) In case of authorization cancellation, the application for a new authorization may only be submitted after a period of at least 5 months from the date of cancellation.

(11) In case of authorization revocation, the application for a new authorization may only be submitted after a period of at least 6 months from the date of revocation.

(12) The authorized warehouse-keepers holders of a suspended, revoked or cancelled authorization who hold in their warehouse inventories of excisable products at the date of suspension, revocation or cancellation, may market the products recorded as inventories - raw materials, semi-finished products, finished products - only with the approval of the competent fiscal body under the conditions provided by norms.

SECTION 4^1

Registered and not registered operator

ART. 185^1

Registered operator

(1) The registered operator should be registered with the competent fiscal body according to the norms before the receipt of the products.

(2) The registered operator should observe the following conditions:

a) to guarantee the payment of the excises according to the conditions established by the competent fiscal body;

b) to keep the accounting of the product deliveries;

c) to present the products any time requested by the audit bodies;

d) to accept any monitoring or verification of the inventory.

(3) For the not registered operators, the excise shall become payable at the receipt of the products.

ART. 185^2

Non-registered Operator

The non-registered operator has the following obligations:

a) to submit a declaration to the competent fiscal authority, before the products are delivered by the authorized warehouse keeper; and to guarantee the payment of the excise, under the norms conditions;

a) for registered operators - the working day following immediately the one when the excisable products were received;

c) to accept any audit allowing to the fiscal bodies to be sure of the products receipt and related excises payment.

SECTION 5

Moving and receiving excisable products under duty-suspension arrangements

ART. 186

The movement of excisable products under duty-suspension arrangements

(1) The warehouse-keepers authorized by the competent fiscal bodies of a Member State shall be recognized as being authorized both for the national movement and for intra-Community movement of the excisable products.

(2) During the movement of an excisable product, the excise duty is suspended, if the following requirements are met:

a) movement takes place between:

1. two fiscal warehouses;

2. one fiscal warehouse and a registered operator;

3. one fiscal warehouse and a not registered operator;

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 product is moved, is properly sealed, according to the norms provisions;

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 duty-suspension arrangements is permitted only when accompanied by the accompanying administrative document. The model of the accompanying administrative document shall be provided in the norms.

(2) For the movement of excisable products under duty-suspension arrangements, this document is executed in 5 copied, used as follows:

a) the first copy is kept by the fiscal warehouse-dispatcher;

b) the 2, 3 and 4 copies of the document accompanying the excisable products during the movement to fiscal warehouse receiver, registered operator or non-registered operator. Upon the arrival of the products at the destination location, these shall be filled in by the receiver and shall be certified by the competent fiscal authority under which jurisdiction it carries out its activity of receiver, with the exceptions provided in the norms. After the certification, the copy no. 2 of the accompanying administrative document shall be kept by this, the copy no. 3 shall be sent to the shipper, and the copy no. 4 shall be sent to and kept by competent fiscal authority of the receiver;

c) The copy no. 5 is forwarded by the shipper, at the time of shipment of the products, to the competent fiscal authority under which jurisdiction it operates.

(3) The fiscal warehouse-receiver, the registered operator or the non-registered operator shall send to the fiscal warehouse-dispatcher the copy no. 3 of the accompanying administrative document, in accordance with the legislation of the Member Stat of the shipper.

ART. 188

The receipt of the excisable products under duty-suspension arrangements

For a product under a duty-suspension arrangements that is moved, the excise duty continues 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 par. (2);

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-receiver shall obtain from the competent fiscal authority a certification of the accompanying administrative document for the excisable products received, except as provided in norms;

d) in term of 15 days subsequent to the month in which products are received in the fiscal warehouse this one returns the copy no 3 of the accompanying administrative document to the dispatcher fiscal warehouse.

ART. 189

Excises during the movement

(1) In case of any violation of art. 186 - 188, the excise shall be owed by the dispatcher of 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 it receives from the receiver fiscal warehouse, registered operator or not registered operator, the copy no 3 of the accompanying administrative document certified in the proper manner.

ART. 189^1

Discharge of the accompanying administrative document

If a person that dispatched an excisable product under excise suspension regime does not receive the certified accompanying administrative document, in 45 days from the date of the product dispatch, that person shall have the obligation to submit the excise declaration to the competent fiscal body within the following 5 days and to pay the excises for the relevant product, in 7 days from the date of expiry of the term for the receipt of such document.

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 dispatcher fiscal warehouse is required to provide to the competent fiscal bodies, 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

(1) For the movement of an excisable product between a fiscal warehouse in Romania and a customs office of exit from the Community Territory, or between a customs office of entry on the Community Territory and a fiscal warehouse in Romania, the excise duty shall be suspended if the conditions laid down in norms are met. These conditions are in accordance with the principles laid down in art. 186 - 190.

(2) In case of movement of an excisable product between a fiscal warehouse from Romania and a customs office of exit from the Community territory, the suspension regime is proved by the justifying document issued by the relevant customs office attesting that the products left really the Community territory. The relevant customs office should send back to the dispatcher the copy of the accompanying administrative document certified which is addressed to it, in term of 15 days from the date of the effective performing of the export.

ART. 192

Moment of the eligibility of the excises

(1) For any excisable product, the excise becomes payable 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 shortcomings, the excise for an excisable product becomes exigible on the date when a loss or a lack of excisable product is ascertained.

(4) The provision of par. (3) shall not apply and the payment of excise is not due if the loss or lack occurs while the excisable product is under suspension regime and if any of the following conditions are met:

a) the product is not available for use in Romania due to spillage, breakage, fire, flood or other force majeure events, but only in case the competent fiscal body is provided 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 causes which are the result of natural production, possession or movement of the product, but only if the quantity of product which is not available to be used in Romania does not exceed limits provided by the norms.

(5) For an excisable product, which has the right to be exempted from excise duty, the excise duty becomes exigible on the date on which the product is used for any purpose that is not in accordance with the exemption.

(6) For an energy good, for which the excise has not been previously exigible, the excise becomes exigible on the date on which the energy good is used as fuel for engine or fuel for heating.

(7) For an excisable product, for which the excised has not been previously exigible and which is stored in a fiscal warehouse for which the authorization is to be revoked or cancelled, the excise becomes exigible on the date of revocation or cancellation of the authorization for the excisable products that may be released for consumption.

(8) The excises are calculated on the share and at the exchange rate in force when the excise becomes exigible.

(9) Any person in one of the cases provided in par. (3), (5), (6) and (7) shall have the obligation to submit a excise declaration and to pay the excise in term of 5 days from the date when the excise becomes exigible.

ART. 192^1

Excise refunds

(1) For the energy goods accidentally contaminated or combined, returned to the fiscal warehouse for recycling, the excises paid shall be refunded under the conditions provided by the norms.

(2) For alcoholic drinks and tobacco products withdrawn from the market, if their condition or outdated make them improper for consumption, the paid excise shall be refunded under the conditions provided in norms.

(3) The refunded excise may not exceed the amount actually paid.

SECTION 5^1

The shortcomings and nonconformities occurred during the intra-community movement of the excisable products under suspension regime

ART. 192^2

Shortcomings during the suspension

(1) The authorized warehouses benefit from exemption for the losses as those provided in art. 192 par. (4), occurred during the intra-community movement of the products under suspension regime. In this situation, the losses shall be proved according to the rules of the receiver Member State. These exemptions are applied also to registered operators and to non-registered operators during the movement under suspension regime.

(2) Without breaching the provisions of art. 192^3 in the case of shortcoming, other than the losses referred to in par. (1), and in the case of the losses for which there are not granted the exemptions provided in par. (1), the excise shall be established based on the quotes applicable in the relevant Member States, when the losses - correctly established by the competent fiscal bodies- occurred or, if necessary, when the shortcoming was registered.

(3) The shortcomings referred to in par. (2) and the losses which are exempted according to the provisions of par. (1), for all situations, shall be specified by the competent fiscal bodies on the overleaf of the copy of the accompanying administrative document which shall be returned to the dispatcher, according to the procedure established by norms.

ART. 192^3

Nonconformities and deviations

(1) If during the movement a nonconformity or deviation was committed involving also the excises exigibility, the relevant excise shall be due in the Member State where the fact was committed by the individual or legal person from the origin country who/which guaranteed the payment of the excise for movement without affecting in any way by this payment the initiation of the criminal prosecution procedure.

(2) In case the excise is paid in a Member State other than the origin one for the relevant products, the Member State cashing the excises shall inform the competent fiscal bodies of the origin country.

(3) If during the transportation was ascertained a nonconformity or deviation, not being possible to determine where it occurred then the relevant nonconformity/deviation shall be deemed to be occurred on the territory of the Member State where it was ascertained.

(4) When the excisable products do not arrive at destination and it is not possible the determination of the place where the nonconformity or deviation has been committed, it shall be considered that it occurred in the Member State where products are delivered, which shall collect the excise applying the quote in force on the products delivery date, except the case when during 4 months from the delivery date, proves are submitted to the competent fiscal bodies regarding the correctness of the transaction or the clarification about the place where effectively the relevant deviation or nonconformity occurred.

(5) If before the expiry of the period of 3 years from the date of the draw up of the accompanying administrative document the Member State where the nonconformity or deviation occurred is established for sure, that Member State shall collect the excise by applying the quote in force on the date of goods delivery. In this case, immediately after the submission of the document justifying the excise collection, the excise paid initially shall be refunded.

SECTION 5^2

Intra-Community movement of products with excises paid

ART. 192^4

Products with paid excises, used for commercial purposes in Romania

(1) In case of excisable products already released for consumption in a Member State, which are held for trading purposes in Romania, the excise shall be collected in Romania.

(2) Trading purposes are considered all the purposes other than the personal needs of the individuals.

(3) The excise is due, as the case may be, by the trader from Romania or by the person receiving the products to be used in Romania.

(4) Products provided in par. (1) moves between the Member State where they have been already released for consumption and Romania, accompanied by the simplified accompanying document.

(5) The trader or the person referred to in par. (3) should fulfill the following requirements:

a) to submit to the competent fiscal bodies a declaration concerning the place where the products are to be received and to guarantee the payment of excises, before the dispatch of the products;

b) to pay the excises according to the provisions of art. 193;

c) to be available for any audits carried out by the competent fiscal bodies in order to be certified the effective receipt of the products and the payment of relative excises.

(6) In case of excisable products already released in consumption in Romania and which are delivered in another Member State, the trader delivering them may benefit of refund for the excises paid in Romania, according to art. 192^6.

ART. 192^5

Simplified accompanying document

(1) The simplified accompanying document is drafted by the shipper in 3 copies and it is used as follows:

a) the first copy is kept by the shipper;

b) the copy no. 2 and 3 of the Simplified accompanying document accompany the excisable products during the transportation to the receiver;

c) copy no. 2 is kept by the products receiver;

d) copy no 3 shall be returned to the shipper with the receipt certificate and with the specification of the subsequent fiscal treatment of the merchandises in the destination Member State if the supplier clearly requests this within a request of refund of excises.

(2) The model of the simplified accompanying document shall be provided in the norms.

ART. 192^6

Refund of the excise for the products with paid excise

(1) A trader, during its activity, may request the refund of the excises related to the excisable products which were released for consumption in Romania, when these products are intended for consumption in another Member State, by observing the following conditions:

a) before the products release, the dispatching trader shall submit a request of refund to competent fiscal body and shall prove that the excise was paid;

b) the delivery of the products to the destination Member State is made in accordance with the provisions of the art. 192^4;

c) the dispatcher trader shall produce to the competent fiscal body the returned photocopy of the document provided in art. 192^5, certified by the receiver, which shall be accompanied by a document certifying that the excise was paid in the destination Member State. The dispatcher trader shall also produce the notice to the competent fiscal body office in the Member State of destination and the acceptance date of the declaration of the receiver by the competent fiscal body of the Member State of destination, together with the registration number of this declaration.

(2) For the products subject to excise duties, which are marked and released for consumption in Romania, the excise duties may be refund by the competent fiscal authority, if this authority established that those marking respective were destroyed under the conditions provided in the norms.

(3) In the cases provided in art. 192^3, the competent fiscal body shall refund the excise paid only when the excises have been paid previously by the Member State of destination, according to the procedure provided in art. 192^3 par. (5).

(4) In the cases provided in art. 192^8 par. (1), the competent fiscal body, upon the request of the seller, may refund the excise paid when the seller followed the procedures provided in art. 192^8 par. (4).

ART. 192^7

Individuals

(1) For the products subject to the excise duties and released for consumption in another Member State, purchased by individuals for own needs, and transported by themselves, the excise duties are due in the Member State where the products were purchased.

(2) The products purchased by individuals are deemed to be indented for commercial purpose, under the conditions and in the quantities provided by the norms.

(3) The products purchased and transported in quantities higher than the limits provided in norms and designated to the consumption in Romania shall be considered as being purchased for trading purposes and, in this case, the related excise shall be owed in Romania.

(4) The excise becomes exigible in Romania also for the quantities of energy goods released for consumption in another Member State and transported by individuals or on their behalf, by using atypical transportation methods. Atypical transportation method are considered the fuel transportation other than in the reservoirs of the vehicles or in proper reserve containers, as well as the transport of the liquid fuel for heating other than in fuel tankers used on behalf of professional traders.

ART. 192^8

Remote sale

(1) The products subject to excise duties, bought by persons who do not have the capacity of authorized warehouse or registered operator or non-registered operator, and which are directly or indirectly shipped or transported by the seller or on its behalf, are excise duties in the destination Member State. For the purpose of this article, the "Member State of destination" is the Member State where the dispatch or transport of excisable products arrive.

(2) The delivery of products subject to excise duties, already released for consumption in Member State and which are directly or indirectly shipped or transported by the seller or on its behalf by a person provided in par. (1), settled in another Member State, makes the excise duty to be due for these products in the Member State of destination. In this situation, the paid excise duties in the origin Member State of the goods shall be repaid upon the request of the seller , under the conditions established by norms.

(3) The excise of the Member State of destination shall be due by the seller upon the delivery.

(4) The Member State where the seller is established should ensure that this one is able to fulfill the following requirements:

a) to guarantee the payment of the excises in the conditions established by the Member State of destination before the products delivery and to pay the relevant excises after the products arrival;

b) to keep the accounting of the product deliveries;

ART. 192^9

Fiscal representative

(1) For the products subject to excises originated from another Member State, the warehouse authorized as dispatcher may designate a fiscal representative.

(2) The fiscal representative shall be settled in Romania and registered with the competent fiscal body.

(3) The fiscal representative shall instead and on behalf of the receiver, who does not have the capacity of authorized warehouse-keeper, observe the following requirements:

a) to guarantee the excises payment in the conditions established by the competent fiscal bodies from the Member State of destination;

b) to pay the excises upon the merchandises receipt, according to the procedures established by norms;

b) to keep the accounting of the product deliveries;

d) to represent to the competent fiscal bodies the place of delivery.

(4) For the cases regulated by art. 192^8, the seller may designate a fiscal representative, under the form and method provided in par. (2) and (3).

ART. 192^10

Declaration regarding the intra-Community purchases and deliveries

The registered and non-registered operators, as well as the fiscal representative shall send to the competent fiscal authority a monthly situation of the purchases and deliveries of excisable products, by the 15th, including, of the month following the one the situation refers to, under the conditions established by norms.

SECTION 5^3

Registration of the excisable product operators

ART. 192^11

Electronic Data Register

(1) The competent fiscal body shall undertake the measures necessary to design and generate an electronic database containing a list of the persons authorized as fiscal warehouse-keepers and registered operators as well as a list of the premises authorized as fiscal warehouses.

(2) To the persons authorized as warehouses-keepers and registered operators, as well as the locations authorized as fiscal warehouses, shall be attributed by the competent fiscal body an excise code, of which configuration shall be made according to the provisions of the norms.

(3) Data provided in par. (1) shall be communicated to the competent fiscal body from each of the Member States. All data shall be used only to verify if a person or premises is authorized or registered.

(4) The competent fiscal body shall undertake the measures necessary to allow the persons involved in the intra-Community movement of products obtaining the confirmation for the information held.

(5) Any information communicated, regardless its nature, is a confidential one, being subject of the fiscal secret and benefiting of the special protection applied to similar information according to the national law of the Member State receiving it.

SECTION 6

Obligations of the excise payers

ART. 193

Payment of the excises to the state budget

(1) The excises are revenues to the state budget. The excises are to be paid by the 25th, including, of the month following the month when the excise becomes exigible.

(2) By exception from provisions of par. (1), the excise payment term is:

a) for registered operators - the working day following immediately the one when the excisable products were received;

b) for electric energy or natural gas authorized suppliers - the 25th of the month following the one when the final consumer was invoiced.

(3) For the import of a excisable product, which is not under suspension regime, by derogation from par. (1), the excise payment date is the date of customs import declaration registration.

ART. 194

Submission of excise declarations

(1) Any economic agent payer of excises is required to submit to the competent fiscal body an excise declaration for each month, regardless whether excise is or is not payable for such month.

(2) By exception from provisions of par. (1), the non-registered operator shall have the obligation to submit the e3xcise declaration for each of the operations, distinctly.

(3) The excise declaration is to be submitted to the competent fiscal body by the economic agents payers on or before the 25th of the month that follows the month to which the declaration refers, except the cases provided in art.. 189^1 and art. 192 par. (9).

(4) For cases provided in art. 166 par. (1) letters b) and e), it should submit immediately an excise declaration to the competent fiscal body and, by way of derogation from the provisions of art. 193, the excise shall be paid in the working day following the day of declaration submission.

ART. 195

Fiscal Documents

(1) For excisable products other than those marked, which are transported or held outside the fiscal warehouse or customs warehouse, the origin should be established using the document to be determined by the norms. The document can not be older than 5 days. This provision is not applicable to excisable products transported or held by persons other than traders, to the extent that these products are packed in packages intended for retail sale.

(2) All shipments of excisable products are accompanied by a document, as follows:

a) the movement of excisable products under suspension regime is accompanied by the accompanying administrative document;

b) the movement of excisable products released for consumption is accompanied by invoice that shall specify the amount of the excise, the model being provided in the norms;

c) the transportation of excisable products, while the excise was paid, is accompanied by an invoice or accompanying endorsement, as well as by a simplified accompanying document; as the case may be.

ART. 196

Accounting records

Any payer of excise shall have the obligation to keeper accurate accounting records according to the law in force containing enough information to enable the fiscal bodies to verify the observance of the provisions of the present title.

ART. 197

Responsibilities of the excise payers

(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 body according to the present title and the customs law in force.

(2) The authorized production warehouses shall monthly submit, by the 15th of each month, for the previous month, to the competent fiscal authority a situation containing the information regarding the stock of raw materials received and finished products during the month, the purchase of raw materials, the quantity manufactured during the month, the stock of finished products and raw materials at the end of the reporting month and the quantity of delivered products, according to the model presented in the norms.

ART. 198

Guarantees

(1) The authorized warehouse - after accepting the conditions of authorization of the fiscal warehouse -, the registered operator, non-registered operator and the fiscal representative shall submit to the competent fiscal authority a guarantee, according to the provisions of the norms, to ensure the payment of the excise duties which may become exigible.

(2) The calculation method, the amount and duration shall be provided in norms.

(3) The amount of the guarantee is to be analyzed periodically in order to reflect any change in the volume of the business or in the level of excise duties due.

SECTION 7

Exemptions from excise payment

ART. 199

General exemptions

(1) The excisable products are exempt from the excise payment when they are intended for:

a) delivery in the context of diplomatic or consular relations;

b) international organizations recognized as such by the public authorities of Romania, and the member of these organizations, within the limits and under the conditions laid down by international conventions, which bring the bases of these organizations, or by agreements concluded at state or government level;

c) the armed forces of any state Party to the North Atlantic Treaty (NATO), except for the Armed Forces of Romania, as well as for the civil personnel that accompanies them or for the supply of the officers' mess or their canteen;

d) the consumption subject to an agreement concluded with non-member states or international organizations, provided that such an agreement is permitted or authorized in respect with the exemption for value added tax.

(2) The method and conditions for granting the exemptions provided in par. (1) shall be regulated by norms.

(3) The excise duties are not to apply to the import of excisable products in the luggage of travelers and other natural persons, whether domiciled in Romania or abroad, within the limits and in accordance with the requirements provided by the norms.

ART. 200

Exemptions for ethyl alcohol and other alcoholic products

(1) The ethyl alcohol and other alcoholic products are exempt from the payment of excise duties provided in art. 162, when they are:

a) completely denaturated, according to the legal specifications;

b) denaturated and used to produce products not intended for human consumption;

c) used to produce steel with the code NC 2209;

d) used to produce medicines;

e) used to produce food flavorings for the preparation of food or soft drinks that have a concentration not exceeding 1.2% by volume;

f) used for medical purposes in hospitals and pharmacies;

g) directly used or as part of semi-finished products to produce food with or without cream, provided that in each case the concentration of alcohol do not exceed 8.5 liters of pure alcohol per 100 kg of product included in the composition of chocolate and 5 liters of pure alcohol per 100 kg of product included in the composition of other products;

*b) *** Abrogated*

*f) *** Abrogated*

*f) *** Abrogated*

*k) *** Abrogated*

(2) The method and conditions for granting the exemptions provided in par. (1), as well as the products used for the denaturation of alcohol shall be regulated by norms.

ART. 200^1

Exemption for the processed tobacco

(1) The processed tobacco is exempted from excide duties payment, when is exclusively intended for scientific tests and those test concerning the products quality.

(2) The method and conditions for granting the exemptions provided in par. (1) shall be regulated by norms.

ART. 201

Exemption for energy products and electric energy

(1) There are exempt from excise duty:

a) the energy products supplied for use as fuel for aircraft engines, other than the aviation for private tourism purposes. Private tourism aviation means the use of an aircraft by its owner or by the individual or legal person that leased or other way holds it, for other purposes than commercial ones and in particular for other purposes than the transport of passengers or goods or for the supply of services for onerous consideration or for the needs of the public authorities;

b) the energy products delivered to be used as engine fuel for the navigation in the Community waters and for the navigation in the inner navigable channels, including those for fishing, others than for the navigation of the leisure private watercrafts. The electricity produced on the board of the watercrafts is also exempted from excise duties. Leisure private watercraft means any by its owner watercraft used by the its owner or by the individual or legal person that leased or other way holds it, for other purposes than commercial ones and in particular for other purposes than the transport of passengers or goods or for the supply of services for onerous consideration or for the needs of the public authorities;

c) energy goods and electricity used for the electricity production as well as electricity used for maintaining of the capacity to produce electricity;

d) energetic goods and electricity used for the combined production of electric power and thermal power;

e) energetic goods - natural gas, coal and solid fuels - used in households and/or charitable organizations;

f) fuels for the engine used in production, development, testing and maintenance of aircrafts and vessels;

g) fuels for engine used for the dredging operations performed on the navigable watercourses and in harbors;

f) mineral oils injected into blast furnaces or other industrial aggregate for the purpose of reducing chemical as an additive to coke used mainly as fuel;

i) mineral oils entering in Romania from a third country, contained in standard tanks of a motor vehicle designated to the use as fuel for that vehicle as well as in special containers designated for the use for the operation during the transportation of the systems of the relevant containers;

j) any mineral oil that is removed from state reserves or reserve mobilization, being given free of charge for purposes of humanitarian aid;

k) any mineral oil purchased directly from economic operators which are producers, importers or distributors, used as fuel for heating of hospitals, asylums, orphan shelters and other institutions for social assistance, education and religious education;

l) mineral oils if such products are obtained from one or more of the following products:

- products contained within codes NC from 1507 to 1518;

- products contained within codes NC 3824 90 55 and from 3824 90 80 to 3824 90 99, for their components produced from biomasses;

- products contained within codes NC 2207 20 00 and 2905 11 00, which have no synthetic origin;

- products obtained from biomasses, including products within codes NC 4401 and 4402;

m) electricity produced from renewable sources;

n) electricity obtained by electric accumulators, mobile generating set, electric installations located on any kind of vehicles, stationary sources of direct current, electric installations located within the territorial sea not branched to the electric network and electric sources with an installed active power of 250 KW;

o) products contained at NC code NC 2705, used for heating.

(2) The method and conditions for granting the exemptions provided in par. (1) shall be regulated by norms.

(3) Energetic goods containing one or more products enumerated in par. (1) letter l) benefit of a reduced level of excises according to the norms.

(4) Provisions of par. (1) and (3) shall cease to apply in case the community law imposes the compliance with the obligations to put on market a minimum proportion of the energetic goods refer to in par. (1) letter l), but not earlier than the coming into force of the present law.

SECTION 8

Marking of the alcoholic products and processed tobacco

ART. 202

General rules

(1) The provisions of this section shall apply to the following excisable products:

a) intermediate products and alcohol, except as provided by norms;

b) processed tobacco.

(2) The marking obligation is not to apply to any excisable product that is exempt from the payment of excises.

(3) Products provided in par. (1) may be released for consumption or may be imported on the territory of Romania only if they are marked according to the provisions of the present section.

ART. 203

Responsibility of marking

The responsibility of marking the excisable products belong to the authorized warehouse-keepers, registered operators or authorized importers, according to the provisions of norms.

ART. 204

Procedures for marking

(1) Marking of products is made by stamps or bands.

(2) The dimensions and elements that are to be written on the markings are to be established by norms.

(3) The authorized warehouse-keeper or importer is required to apply the markings 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 markings.

(4) The excisable products marked by stamps, bands damaged or non conform with those provided in par. (2) and (3) shall be considered as not marked.

ART. 205

Issue of markings

(1) The competent fiscal body approves the issuance of markings according to the procedure provided in the norms.

(2) Issuance of markings is made by:

a) the warehouse-keeper authorized for the products excisable provided in art. 202;

b) the registered operators purchasing excisable products provided in art. 202;

c) persons importing excisable products provided in art. 202, based on the importer authorization. The importer authorization is granted by the competent fiscal authority, in accordance with the norms.

(3) Requiring of marks is made by the submission of an application and a guarantee to the competent fiscal authority, in the form and manner specified in norms.

(4) Issuance of markings is done by the unit specialized in printing them, authorized in this regard by the competent fiscal authority, as specified in norms.

(5) The counter-value of the marking is to be provided by the state budget, from the amount of excises related to products subject of marking, according to the provisions of norms.

ART. 206

Seizure of processed tobacco

(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 body that ordered the confiscation, for destruction, to the warehouse-keeper authorized for the production of the tobacco products 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 registered operators or importers are to be handed over in full to those ones;

b) brands that are not in the nomenclatures provided in letter a) shall be handed in by the bodies which seized them , in custody, to the warehouse-keepers authorized for the production of tobacco products whose market share is over 5% .

(2) The allocation of each batch of tobacco products confiscated, taking over of it by the warehouse-keepers, registered operators and importers, and the procedure of destruction is carried out in accordance with the 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 seized batch that was distributed to such person.

*SECTION 8^1 *** Abrogated*

*ART. 206^1 *** Abrogated*

CHAPTER 2

Other excisable products

ART. 207

Scope of application

The following products are subject to excises:

a) green coffee within NC Codes 0901 11 00 and 0901 12 00;

b) roasted coffee, including coffee with substitutes with the codes: NC 0901 21 00; 0901 22 00 and 0901 90 90;

c) soluble coffee, including blends with soluble coffee, within NC codes 2101 11 and 2101 12;

d) natural fur garments with the codes: NC 4303 10 10; 4303 10 90 and 6506 92 00, except those from rabbit, sheep and goat;

e) crystal products with the codes: NC 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 NC code 7113 19 00, except wedding bands;

h) perfumery products within NC codes 3303 00 10 and 3303 00 90;

h) weapons and hunting guns other than those for military use, with the codes: NC 9302 00 00; 9303; 9304 00 00, except cases provided by law;

i) yachts and other vessels and boats with or without motor for recreation within codes: NC 8903 10; 8903 91; 8903 92 and 8903 99;

j) engines with capacity of over 25 CP designated for yachts and other vessels and boats for recreation with codes: NC 8407 21 10; 8407 21 91; 8407 21 99; 8407 29 20; 8408 10 11; 8408 10 19; 8408 10 22; 8408 10 24; 8408 10 26; 8408 10 28; 8408 10 31; 8408 10 39 and 8408 10 41.

ART. 208

Level and computation of excise

(1) The excise levels during 2007 - 2011 for the green coffee, the roasted coffee including coffee with substitutes and for soluble coffee are provided in annex no 2 which is part of the present title.

(2) The level of the harmonized excises during 2007 - 2010 for other products are provided in annex no 3 which is part of the present title.

(3) For yachts and other vessels and boats with or without engine for recreation the excise levels are between 0% and 50% and shall be established differently based on the criteria provided in norms.

(4) There do not fall under the provisions of par. (3):

a) boats with or without engines with a length smaller than 8 meters and with engine with capacity less than 25 CP;

b) yachts and other vessels and boats designated to the use in sport under the conditions provided in norms.

(5) For engines of over 25 CP designated to yachts and other vessels and boats for recreation the excise levels are between 0% and 50% and shall be established differently based on the criteria provided in norms.

(6) For coffee, coffee with substitutes and soluble coffee, the excises are due once and are to be computed by applying fixed amounts per unit of measure to the quantities entered on the territory of Romania. For the mixtures of soluble coffee entered on the territory of Romania, the excises are due and computed only for the quantity of soluble coffee contained in the mixtures.

(7) In case of products provided in par. (2), (3) and (5) the excises precede the value-added tax and are to be computed once by applying the percentage quotes provided by law to the taxation base, which represents:

a) the producer delivery price, less the excise - for the products from the domestic production;

b) purchase prices - for all the products come from the Community territory;

b) the customs value established by law, to which are added customs duties and other special fees, as the case may be - for products from extra-community territories.

ART. 209

Excise payers

(1) Excise payers for the products provided in art. 207 are the economic operators - legal persons, family associations and authorized individuals - producing or purchasing from the community territory or from the extra-community territories such products.

(2) Excise payers are also the individuals entering in the country the products provided in art. 207 letters h), i) and j).

(3) Economic operators purchasing from the community territory the products provided in art. 207, should be registered with the competent fiscal body under the norms, before the receipt of products and should observe the following requirements:

a) to guarantee the payment of the excises according to the conditions established by the competent fiscal body;

b) to keep the accounting of the product deliveries;

c) to present the products any time requested by the audit bodies;

d) to accept any monitoring or verification of the inventory.

ART. 210

Exemptions

(1) There are exempt from excise duty:

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. It shall not be under these provisions the products provided in art. 208 par. (3), when such products are under transit customs regime, temporary admission regime or import regime, based on leasing contracts developing according to the law, during the entire contract period;

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 operators e3xporting or delivering in another Member State brands of coffee obtained following processing of the coffee purchased directly by them from other Member States or from import, may request to the competent fiscal bodies, based on justifying documents, the refund of the excises remitted to the state budget related to the quantities of coffee used as raw material for the coffee exported or delivered in other Member State. From this refund of the excises remitted to the state budget benefit the economic operators also for the quantities of coffee purchased directly by them from a Member State or from import and returned to the suppliers.

(2^1) From the refund of excises benefit also the economic operators purchasing directly from another Member4 State or from import products as provided in art. 207 letter d) - j) subsequently returned to the suppliers and which are exported or delivered in other Member State without any modification.

(3) The method for granting the exemptions provided in par. (1), (2) and (2^1) shall be regulated by norms.

ART. 211

Exigibility

(1) The moment of excises exigibility 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 all the products come from the Community territory, upon their receipt;

c) for imported products, on the date of registration of the customs import declaration.

(2) For products provided in art. 207 letter i), the excise exigibility occurs upon the first registration in Romania.

(3) In case of individuals purchasing products as provided in art. 207 letter h), the exigibility arises upon the registration with the competent authorities by law.

ART. 212

Payment of the excises to the state budget

(1) Excises are to be paid to the state budget on or before the 25th of the month that follows the month in which the excise becomes exigible.

(2) For other excisable products, come from the community territory or from import, the payment of excises is made in the working day following to the receipt date of the products or on the date of the submission of the customs import declaration, as the case may be.

(3) For products provided in art. 207 letter i), the excise payment is made upon the first registration in Romania.

(4) In case of individuals purchasing products as provided in art. 207, excise payment is made on the date of his/her registration with the competent authorities according to the law.

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 body an excise declaration for each month, regardless whether excise is payable or not for such month.

(2) The excise declaration is to be submitted to the competent fiscal body by the economic agents payers of excises on or before the 25th of the month that follows the month to which the declaration refers.

*CHAPTER 2^1 *** Abrogated*

Special fees for cars and motor vehicles

*ART. 214^1 *** Abrogated*

*ART. 214^2 *** Abrogated*

*ART. 214^3 *** Abrogated*

CHAPTER 3

Tax for oil from domestic production

ART. 215

General provisions

(1) For the oil from domestic production, the economic operators authorized according to the law owe to the state budget the tax at the delivery moment.

(2) The tax owed for the oil is of 4 Euro/tone.

(3) The owed tax is computed by applying the fixed quote provided in par. (2) to the quantities delivered.

(4) The tax on oil from domestic production is exigible at the delivery date.

ART. 216

Exemptions

The oil and natural gas from domestic production exported directly by the economic agents - producers, are exempted from this tax.

ART. 217

Fiscal declarations

(1) Any economic agent payer of excises is required to submit to the competent fiscal body a fiscal declaration for each month, regardless whether tax is payable or not for such month.

(2) The fiscal declaration is to be submitted to the competent fiscal body by the economic agents payers of this tax on or before the 25th of the month that follows the month to which the declaration refers.

CHAPTER 4

Common provisions

ART. 218

Conversion of the amounts expressed in Euro into lei

The value in lei of the excises, of the special fee for cars/motor vehicles and of the tax on he oil from domestic production owed to the state budget, established according to this title in Euro per unit shall be determined by conversion of the amounts n Euro using the exchange rate valid for the first working day from October of the previous year as published in the Official Gazette of the European Union.

ART. 219

Payers' obligations

(1) Economic operators payers of excises and tax on the oil from domestic production shall have the obligation to register with the competent fiscal body according to the law.

(2) Economic operators shall have the obligation to compute the excises and the tax on the oil from domestic production, as the case may be, to record them distinctly in the invoice and to remit them to the state budget on the deadlines established, being responsible for the accuracy of the computation and the integral remittance of the owed amounts.

(3) Payers shall have the obligation to keep the records for excises and tax on the oil from domestic production, as the case may be, according to the norms, and to submit annual settlement reports concerning the excises and the tax on the oil from domestic production according to the legal provisions concerning the payment obligations to the state budget until the April 30 of the year following the reporting year.

ART. 220

Settlements between economic operators

(1) Settlements between economic operators suppliers of excisable products and economic operators buyers of such products shall be made integrally through bank units.

(2) There do not fall under the provisions of par. (1):

a) product deliveries subject to excise to the economic operators marketing such products in retail system;

b) product deliveries subject to excise, carried out under the system of offset of the obligations to the state budget, approved by special normative acts. The amounts of excises may not be the object of offset if the special normative acts provide otherwise;

c) the offset performed among economic operators through the Information and Management Institute according to the legal provisions in force. The amounts representing excises may not be subject of the offset.

ART. 220^1

The regime of the excisable products held by the economic operators with outstanding tax obligations

(1) Excisable products held by the operators with outstanding tax obligations may be sold by forced execution procedure carried out by the competent bodies, according to the law.

(2) Persons getting excisable products following their marketing according to par. (1), should meet the conditions provided by law, as the case may be.

CHAPTER 5

Final and transitional provisions

ART. 220^2

Minimum excise for cigarettes

Minimum excise for cigarettes in force on December 31, 2006, established according to the provisions of art. 177, shall be applied until January 15, 2007.

ART. 221

Derogation for the energetic goods

By way of derogation from the provisions of art. 193, the delivery of mineral oils from fiscal warehouses is made only when the buyer presents payment document attesting the remittance to the state budget of the amount of excises related to the quantity to be invoiced. On the occasion of filling in of the monthly excise declaration shall be adjusted any potential differences between the amount of excises remitted to the state budget by the products beneficiaries on behalf of the fiscal warehouse and the amount of the excises related to the quantities of energetic goods actually delivered by the fiscal warehouse during the preceding month.

ART. 221^1

Derogation for cars

By way of derogation from the provisions of art. 214^2, for cars and other goods subject of excises, entered in Romania based on leasing contracts, initiated before the date of the coming into force of the provisions of this title and which shall ceased after this date, shall be owed to the state budget the amounts computed according to the excise levels in force on the moment of the commencement of the leasing contracts.

ART. 221^2

Directives transposed into national law

The present title transposes the EEC Directive no 92/12, published in the Official Gazette no L 76 of March 23, 1992, as subsequently amended, the EEC Directives no 92/83 and 92/84, published in the Official Gazette no L 316 of October 31, 1992; the EEC Directives no 92/79 and 92/80, published in the Official Gazette no L 316 of October 31, 1992, as modified by EC Directive no 2002/10, published in the Official Gazette no L 46 of February 16, 2002; the EC Directive no 95/59, published in the Official Gazette no L 291 of December 6, 1995, as modified by EC Directive no 2002/10, published in the Official Gazette no L 46 of February 16, 2002; the EC Directive no 2003/96, published in the Official Gazette no L 283 of October 31, 2003.

ANNEX 1)*

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No	*Product designation or of the products group*	*Unit*	*Excise* (equivalent euro/Unit) January 1 2007*	*Excise* (equivalent euro/Unit) July 1 2007*	*Excise* (equivalent euro/Unit) 2008*
0	*1*	*2*	*3*	*4*	*5*

1	Beer	hl/ 1 degree Plato*1)	0.748	0.748	0.748
	of which:				
	1.1. Beer produced by independent producers with an annual production..... capacity not exceeding 200 thousand hl		0.43	0.43	0.43
2	Wines	hl of product			
	2.1. Still wines		0.00	0.00	0.00
	2.2. Sparkling wines		34.05	34.05	34.05
3	Fermented drinks other than beer and wines	hl of product			
	3.1. still drinks		0.00	0.00	0.00
	3.2. Sparkling drinks		34.05	34.05	34.05
4	Intermediary products	hl of product	51.08	51.08	51.08
5	Ethyl alcohol	hl of alcohol pure*2)	750.00	750.00	750.00
	5.1. Produced by small distilleries with an annual capacity not exceeding 10 hl of pure alcohol/year		475.00	475.00	475.00
	Tobacco products				

6	Cigarettes**	1,000 cigarette.	34.50	41.5	50	
7	Cigars and cigarillos	1,000 pieces	34.50	41.5	50	
8	Fine-cut smoking tobacco, for cigarette rolls	kg	46.00	55.00	66.00	
9	Other smoking tobacco	kg	46.00	55.00	66.00	
	Energy goods					
10	Leaded petrol	tone	547.00	547.00	547.00	
		1.000 liters	421,19	421,19	421,19	
11	Unleaded petrol	tone	425.06	425.06	425.06	
		1.000 liters	327,29	327,29	327,29	
12	Gas oil	tone	307.59	307.59	325.00	
		1.000 liters	259,91	259,91	274.625	
13	Heavy oil	1.000 kg				
	13.1 used in non-commercial purpose		13.00	13.00	13,70	
	13.2 used in non-commercial purpose		13.00	13.00	14.00	
14	Liquefied petroleum gas	1.000 kg				
	14.1 used as fuel for		128,26	128,26	128,26	

	engine					
	14.2 used as fuel for heating		*113,50*	*113,50*	*113,50*	
	*14.3 used in domestic consumption*3)*		*0.00*	*0.00*	*0.00*	
15	*Natural gas*	*GJ*				
	15.1 used as fuel for engine		*2.60*	*2.60*	*2.60*	
	15.2 used as fuel for heating					
	15.2.1 used in comm. purpose		*0.17*	*0.17*	*0.17*	
	15.2.1 used in uncomm. purp.		*0.17*	*0.17*	*0.22*	
16	*Kerosene*4)*					
	16.1 used as fuel for engine	*tone*	*469.89*	*469.89*	*469.89*	
		1.000 liters	*375,91*	*375,91*	*375,91*	
	16.2 used as fuel for heating	*tone*	*469.89*	*469.89*	*469.89*	
		1.000 liters	*375,91*	*375,91*	*375,91*	
17	*Coal and coke*	*GJ*				
	17.1 used in non-commercial purpose		*0,15*	*0,15*	*0,15*	
	17.2 used in non-commercial purpose		*0.30*	*0.30*	*0.30*	

18	Electricity				
	18.1 Electricity used in commercial purpose	Mwh	0.26	0.26	0.34
	18.2 Electricity used in non-commercial purpose	Mwh	0,52	0,52	0,68

- continuing -

No	Product designation or of the products group	Unit	Excise* (equivalent euro/Unit) 2009	Excise* (equivalent euro/Unit) 2010
0	1	2	3	4
1	Beer	hl/ 1 degree Plato*1)	0.748	0.748
	of which:			
	1.1. Beer produced by independent producers with an annual production..... capacity not exceeding 200 thousand hl		0.43	0.43
2	Wines	hl of product		
	2.1. Still wines		0.00	0.00
	2.2. Sparkling wines		34.05	34.05
3	Fermented drinks other than beer and wines	hl of product		

	3.1. still drinks		0.00	0.00
	3.2. Sparkling drinks		34.05	34.05
4	Intermediary products	hl of product	51.08	51.08
5	Ethyl alcohol	hl of alcohol pure*2)	750.00	750.00
	5.1. Produced by small distilleries with an annual capacity not exceeding 10 hl of pure alcohol/year		475.00	475.00
	Tobacco products			
6	Cigarettes**	1,000 cigarette.	61.2	74
7	Cigars and cigarillos	1,000 pieces	61.2	61.20
8	Fine-cut smoking tobacco, for cigarette rolls	kg	81.00	81.00
9	Other smoking tobacco	kg	81.00	81.00
	Energy goods			
10	Leaded petrol	tone	547.00	547.00
		1.000 liters	421,19	421,19
11	Unleaded petrol	tone	436.00	452,000

		1.000 liters	335,72	348.040	
12	Gas oil	tone	336.00	347.00	
		1.000 liters	283,92	293.215	
13	Heavy oil	1,000 kg			
	13.1 used in non-commercial purpose		14,40	15.00	
	13.2 used in non-commercial purpose		15.00	15.00	
14	Liquefied petroleum gas	1,000 kg			
	14.1 used as fuel for engine		128,26	128,26	
	14.2 used as fuel for heating		113,50	113,50	
	14.3 used in domestic consumption*3)		0.00	0.00	
15	Natural gas	GJ			
	15.1 used as fuel for engine		2.60	2.60	
	15.2 used as fuel for heating				
	15.2.1 used in comm. purpose		0.17	0.17	
	15.2.2 used in uncomm. purp.		0.27	0.32	
16	Kerosene*4)				

	16.1 used as fuel for engine	tone	469.89	469.89
		1.000 liters	375,91	375,91
	16.2 used as fuel for heating	tone	469.89	469.89
		1.000 liters	375,91	375,91
17	Coal and coke	GJ		
	17.1 used in non-commercial purpose		0.15	0.15
	17.2 used in non-commercial purpose		0,30	0,30
18	Electricity			
	18.1 Electricity used in commercial purpose	Mwh	0.42	0.50
	18.2 Electricity used in non-commercial purpose	Mwh	0,84	1,00

*) The excise levels shall be maintained under the condition of the maintenance of the actual minimum levels provided in the community directives in this field. For the products in the group of tobacco products the related excise shall come into force on July 1 of each of the year, according with the commitments assumed by Romania during the negotiations of the Chapter 10 "Taxation" with the European Union.

**) Structure of the total excise expressed in equivalent Euro/1000 cigarettes shall be established by Government Decision

*1) 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.

2) Hl 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.

3) Liquid petroleum gas used for home consumption means liquid petroleum gas distributed in cooking-type bottles. The cooking-type bottles are those bottles with a capacity of up to 12.5 kg.

4) Kerosene used as fuel by individuals is not subject to excise.

NOTE:

Related to the minimum level of the excise for cigarettes and to other specifications provided for the enforcement of the title VII "Excises and other special fees" from the Law no 571/2003 on the Fiscal Code, see also the Order of the Minister of Economy and Finance no 1984/2008.

ANNEX 2)*

**) Annex no 2 is reproduced in photocopy.*

No	Product or products group designation	2007 Excise euro/ tone	2008 Excise euro/ tone	2009 Excise euro/ tone	2010 Excise euro/ tone	2011 Excise euro/ tone
1.	Green coffee	612	459	306	153	0
2.	Roasted coffee, including coffee with substitutes	900	675	450	225	0
3.	Soluble coffee	3600	2700	1800	900	0

ANNEX 3)*

**) Annex no 3 is reproduced in photocopy.*

No	Product or products group designation	2007 Excise (%)	2008 Excise (%)	2009 Excise (%)	2010 Excise (%)
1.	Natural fur garments (except those from rabbit, sheep, goat)				

		45	45	45	45
2.	Crystal products*1)	55	30	15	0
3.	Gold an/or platinum jewelries, except wedding bands	25	15	10	0
4.	Perfumery products				
	4.1.Perfumes,	35	35	35	35
	of which:				
	- eau de perfume	25	25	25	25
	4.2. eau de toilette,	15	15	15	15
	of which:				
	- eau de cologne	10	10	10	10
5.	Weapons and hunting guns, other than those of military use	100	100	100	100

1) Crystal means glass that has a minimum of 24% lead monoxide by weight.

ANNEX 4)*

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Pollution norm or car type / motor vehicle	Cylinder capacity (cmc)	euro/1 cmc
1	2	3
Hybrid		0
Euro4	< 1600	0.15
	1601 - 2000	0,35
	2001 - 2500	0,5

	2501 - 3000	0,7
	> 3000	1
Euro3	< 1600	0.5
	1601 - 2000	0,6
	2001 - 2500	0,9
	2501 - 3000	1,1
	> 3000	1,3
Euro2	< 1600	1.3
	1601 - 2000	1,4
	2001 - 2500	1,5
	2501 - 3000	1,6
	> 3000	1,7
Euro1	< 1600	1.8
	1601 - 2000	1,8
	2001 - 2500	1,8
	2501 - 3000	1,8
	> 3000	1,8
Non-euro	< 1600	2
	1601 - 2000	2
	> 2001	2

ANNEX 4.1

LEVEL

*of the special fee for motor vehicles from the categories *) N2, N3, M2 and M3*

Pollution norm of the motor vehicle	*euro/1 cmc*
Euro 4	*0*
Euro 3	*0*
Euro 2	*0,2*
Euro 1	*0,9*
Non-euro	*1.2*

**) Categories are defined in the Regulations concerning the type homologation and issue of the vehicle identity book as well as the type homologation of the products used by these - RNTR2.*

ANNEX 5)*

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Car/motor vehicle age	*Correlation coefficient*	*Reduction (%)*
1	*2*	*3*
until 1 year including	*0.9*	*15*
1 - 2 years including	*1.8*	*25*
2 - 4 years including	*2.3*	*32*
4 - 6 years including	*2.5*	*43*
over 6 years	*2.7*	*47*

TITLE VIII

Special measures on the supervision of production, import and movement of excisable products

CHAPTER 1

The system of supervision of the production of ethyl alcohol

ART. 222

Scope of application

Supervisory system applies to all warehouse keepers authorized for the production of not denatured ethyl alcohol and distillates.

ART. 223

Fiscal controllers

(1) For each fiscal warehouse authorized for production of ethyl alcohol and distillates shall be appointed permanent representatives of the competent fiscal body called hereinafter fiscal controller. The presence of the fiscal controllers shall be assured during the entire production process, respectively, for the three shifts and during the legal holiday.

(2) The fiscal warehouse-keepers authorized for the production of the ethyl alcohol and distillates shall draw up and submit to the competent fiscal body along with the authorization application also the working schedule on months providing the quantity estimate to be produced during one year according to the production capacity.

ART. 224

Meters for the alcohol production

(1) To assure the correct recording of the entire production of ethyl alcohol and distillates obtained, each of the fiscal warehouses for the production of ethyl alcohol and distillates should be mandatory equipped by the authorized warehouse-keeper with means of measurement called hereinafter meters, approved by the Romanian Legal Metrology needed to determine the quantity of ethyl alcohol and distillates, and with the meters for determining the legal alcohol concentration for each ethyl alcohol product, as appropriate. The meters and the measurements carried out with these equipment are mandatory subject of the state metrological inspection according to the applicable law.

(2) In case of the warehouse-keepers authorized for the production of ethyl alcohol, the meters shall be located at the exit of the distillation columns for the rough 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 that to be measured all the quantities of alcohol obtained.

(3) In case of the warehouse-keepers authorized for the production of distillates, the meters shall be located at the exit from the distillation columns or at the exit of the distillation installations, as the case may be.

(4) The use of mobile pipes, flexible hoses or other similar pipes, the use of containers that are not calibrated, as well as the placement before meters of taps or valves through which quantities of alcohol or distillates may be extracted without being metered shall be prohibited;

ART. 225

Calibration certificate

The warehouse-keepers authorized for the ethyl alcohol and distillates production shall be compelled to present to the fiscal controllers the calibration certificates issued by a metrology laboratory agreed by the Romanian Legal Metrology Office, for all the reservoirs and vessels in which alcohol, distillates and their related raw materials are stored, regardless their nature.

ART. 226

Seals

(1) On the entire technologic flow from the exit of the rough, refined and technical alcohol from the distillation, refining columns and up to the meters, inclusively, seals shall be applied. In case of the warehouse-keepers authorized for the production of distillates the seals shall be applied at the exit of the distillates from the distillation columns or installations. In all cases the seals shall be applied on all the assembling-connecting elements of the meters, on any existing orifice and valve, on the entire continue or discontinue technologic flow.

(2) Devices and elements from the entire circuit of the distillation and refining columns as well as from the circuit of the distillation installation should be connected in order to allow their sealing. Seals belong to the competent fiscal body and they shall be given a series and shall bear mandatory the identification elements of the relevant fiscal body. Sealing and opening operations shall be carried out by the fiscal controller appointed in order not to damage the devices and components. Seals applied should be maintained in perfect condition. Sealing and opening shall be recorded in a minutes.

(3) The seals provided in par. (2) are complementary to the metrological seals applied to the meters according to the special provisions established by the Romanian Legal Metrology Office.

(4) The determination of the types of seals, provided in par. (2), and of their features, the uniformization and/or personalization of seals as well as the coordination of all the operations necessary shall be the responsibility of the Ministry of Public Finance, namely, of the administrative directorate within this ministry.

ART. 227

Receipt of raw materials

(1) Quantitative receipt of the raw materials entered in the fiscal warehouse as well as their introduction in the production shall be performed using the legal meters.

(2) In case for the ethyl alcohol and distillates production shall be purchased raw materials from individuals, the purchase and receipts documents shall be drawn up in 2 counterparties being mandatory stamped by the fiscal controller. One counterparty of these documents remains in the fiscal warehouse purchaser of the raw material and the counterparty 2 shall go to the supplier, individual.

ART. 228

Fiscal controller obligations

(1) Fiscal controllers shall have the obligation to verify:

a) the existence of the calibration certificates for the reservoirs and storing vessels of the alcohol, distillates and related raw materials;

b) to record correctly the entries of raw materials;

c) To record correctly the alcohol and distillates obtained in the daily production reports and in the delivery-transfer documents to the fiscal warehouses authorized for the processing or storing of the finished products according to the records read on meters;

d) the concordance between the monthly norms of raw material consumption and monthly energy consumption, and the alcohol and distillates production obtained in a month;

e) to keep updated the daily inventories of rough, refined, denaturated, technical alcohol and distillates in the operation records of the fiscal warehouses authorized for storing such products;

f) to draw up the monthly centralizing document containing the transfer documents to the fiscal warehouses authorized for processing the alcohol and distillates;

g) to verify the concordance between the quantities of alcohol and distillates delivered by the fiscal warehouse authorized for production and those recorded in the fiscal documents;

h) to establish the method to compute, record and remit the excises for alcohol and distillates as well as for spirits obtained by the fiscal warehouse authorized for production developing the activity in integrated system;

i) to submit on term to the competent fiscal body the declarations concerning the payment obligations for excises and the settlement documents related to excises according to the legal provisions;

j) to draw up any other documents and to carry out any other operations leading to the accurate determination of the tax obligations to the state budget;

k) to record correctly the import export operations developed by the fiscal warehouse-keeper authorized to develop such operations.

(2) The fiscal controllers shall have also the obligation to record in a special register all the requests of the fiscal warehouse-keepers authorized for production or of the audit bodies concerning sealing and unsealing of the installations.

(3) To certify the real nature of all the operations recorded in the documents related to the production of ethyl alcohol and distillates, starting with the entry of raw material up to the delivery of the alcohol and distillates to the processing sections or to third parties, all the documents drawn up, including the fiscal ones, shall be mandatory produced to the fiscal controller appointed in order to approve them.

ART. 229

Installation unsealing

(1) Unsealing of the devices and components of the technologic flow shall be made only based on a written application justified, submitted by the fiscal warehouse-keeper authorized for production of ethyl alcohol and distillates or in case of faults.

(2) The unsealing application shall be communicated to the fiscal controller with at least three days priory to the term established for carrying out of the unsealing operation. Upon unsealing, the fiscal controller shall draw up an unsealing minutes. In this minutes it shall record the date and time of unsealing, the quantity of ethyl alcohol and distillates - in liters and degrees - read by the meters at the unsealing moment as well as the alcohol and distillate inventories existing in the reservoirs and containers.

(3) The seals applied by the fiscal controllers shall not be damaged by the authorized warehouse-keepers. In case the seal is damaged accidentally or in case of fault, the authorized warehouse-keeper shall have the obligation to require the presence of the fiscal controller to ascertain the causes of the seal accidental damage or installation fault.

(4) If the authorized warehouse-keeper ascertained an incident or dysfunction of a meter, it shall have the obligation to submit immediately a declaration in this regard to the fiscal controller which shall be recorded in a special register designated to this purpose, being undertaken immediately the remedy of the fault. Meanwhile, the authorized warehouse-keeper shall require the presence of the representative of the Romania Legal Metrology Office authorized for repairs of meters from the relevant category in view of unsealing, putting into operation and re-sealing of the meters.

(5) The faulting meters may be replaced under metrological supervision, by other meters being specified in a minutes drawn up by the fiscal controller the indexes starting with which the production is resumed.

(6) If the meters remedy exceeds 24 hours, the alcohol and distillates production shall be suspended. The relevant installations shall be unsealed.

(7) Suspension shall be made based on a minutes of suspension drawn up in 3 counterparties by the fiscal controller, in the presence of the duly representative of the authorized warehouse-keeper.

(8) In the minutes drawn up, the causes of the accident or fault generating the interruption of the activity, the date and time of the interruption, the existing alcohol and distillates inventories and the indexes read by the meters at the interruption moment shall be recorded.

(9) The original counterparty of the unsealing minutes or suspension minutes, as the case may be, shall be submitted to the competent fiscal body in term of 24 hours from its drawing up. The second counterparty of the minutes shall remain to the authorized warehouse-keeper and the third one shall be kept by the fiscal controller.

(10) Resuming of the activity after the unsealing of the relevant installations shall be made based on a fault remedy declaration drawn up by the authorized warehouse-keeper and approved by the fiscal controller, accompanied by an endorsement issued by the specialist who performed the repair. The fiscal controller shall seal again the technologic flow.

CHAPTER 2

The surveillance system of the ethyl alcohol and distillates movement in bulk from domestic production or import

ART. 230

Conditions of quality

The ethyl alcohol and distillates delivered by the warehouse-keepers authorized for production to the legal users should be compliant with the legal standards in force. Each delivery shall be accompanied by analysis certificates filled in according to the legal standards in force issued by the own laboratory of the producer, in case agreed upon, or by other authorized laboratories. The analyses certificates shall contain at least 7 physical-chemical parameters provided by the legal standards in force.

ART. 231

Transportation in bulk

(1) All the tanks and containers with which the quantities of alcohol and distillates are transported, shall be sealed by the fiscal controller and shall 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.

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 3

System of control for plum brandy and fruit brandies

ART. 233

Means of measurement

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 delivered and equipped with vessels that are delivered 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 4

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 207 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 sampling is to be completed by the preparation of an official report of sampling, 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 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) 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 +/- 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 5

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 15th 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 bodies 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) *** Abrogated*

*ART. 238 *** Repealed*

CHAPTER 6

Special measures regarding the production, import and circulation of mineral oils

ART. 239

Limitations

(1) Any commercial operation with mineral oils that are not derived from fiscal warehouses of production is prohibited.

(2) By exception from provisions of par. (1) all residues of mineral oils operating results, in locations other than tax warehouses production can be sold only for processing by a tax warehouse production, can be sold only for processing by a tax warehouse production, under the conditions provided by norms.

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 degrees 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

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.

CHAPTER 7

Other special measures

*ART. 243 *** Repealed*

ART. 244

Delays in the payment of excises

A delay in the payment of excises by more than 5 days after the legal deadline results in the revocation of the authorization of the warehouse- keeper and the closing-down of activity until the payment of outstanding amounts.

ART. 244^1)*

Other measures

(1) The economic agents who wants to distribute and sell in wholesale system alcoholic beverages and tobacco products are required by March 31, 2005 to register to the territorial fiscal authority and to fulfill the following conditions:

a) to hold proper storage spaces, in ownership, rent, commodate or any other legal title;

b) to have specified in the activity object according to Classification of the activities. in the national economy - NACE, approved by Government Decision no. 656/1997, as further amended, marketing activity and wholesale trading of alcoholic beverages or marketing activity and wholesale trading of tobacco products;

c) to equip himself with necessary means for discovering the false and counterfeit marks, in the case of the trading of products subject to marking according to Title VII.

(2) The alcoholic drinks delivered by economic producers to economic distributors or wholesale traders shall be accompanied also by a copy of the mark certificate of the producer, that proves that the respective mark belongs to such producer.

(3) The distributors and wholesale traders of alcoholic drinks and tobacco products are responsible for the illegal origin of the products held and they are required to verify the authenticity of the received invoices.

**) According to art. I par. 15 and art. II of the Government Emergency Ordinance no. 127/2008, starting with November 1, 2008, to article 244^1, after paragraph (3) four new paragraphs shall be included, paragraphs (4), (5),(6) and (7), shall have the following contents:*

"(4) The economic operators who wants to marketing in retail system the energetic products provided in art. 175 par. (3) lett. a) - e), are required to register to the territorial fiscal authority, according to the procedure and to meet the conditions that are to be established by an order of the President of the National Agency for Fiscal Administration.

(5) The economic operators who carry out the trading activity in retail system of energetic products provided in art. 175 par. (3) lett. a) - e) are required to meet the procedure and the conditions that are to be established by an order of the President of the National Agency for Fiscal Administration provided in par. (4), within 90 days from the date of the publication of the Order in the Official Gazette of Romania, Part I.

(6) The carrying out of the trading activity by the economic operators provided in par. (4), who do not meet the procedure and the conditions established according to par. (4), constitutes civil law violations and is to be sanctioned by fine between 20,000 lei up to 100,000 lei and the confiscation of amounts resulted from such sale.

(7) The carrying out of the trading activity by the economic operators provided in par. (5), who do not meet the procedure and the conditions established according to par. (4), after deadline in par. (5), constitutes civil law violations and is to be sanctioned by fine between lei 20,000 lei up to 100,000 lei, and the confiscation of amounts resulted from such sale and the cessation of the marketing activity of excisable products for a period between 1 and 3 months."

CHAPTER 8

Sanctions

*ART. 245 *** Repealed*

*ART. 246 *** Repealed*

TITLE IX

Taxes and local taxes

acest titlu nu se traduce, deoarece aceste impozite şi taxe nu sunt administrate de ANAF

TITLUL IX^1

Infracţiuni

ART. 296^1

(1) Constituie infracţiuni următoarele fapte:

*a) *** Abrogată*

b) producerea de produse accizabile ce intră sub incidenţa sistemului de antrepozitare fiscală în afara unui antrepozit fiscal autorizat de către autoritatea fiscală competentă;

c) achiziţionarea de alcool etilic şi de distilate de la alţi furnizori decât antrepozitarii autorizaţi pentru producţie sau importatorii autorizaţi de astfel de produse, potrivit titlului VII;

d) utilizarea alcoolului brut, alcoolului etilic de sinteză şi a alcoolului tehnic ca materie primă pentru fabricarea băuturilor alcoolice de orice fel;

e) achiziţionarea de uleiuri minerale rezultate din prelucrarea ţiţeiului sau a altor materii prime, care provin pe circuitul economic de la alţi furnizori decât antrepozitarii autorizaţi pentru producţie sau importatorii autorizaţi potrivit titlului VII;

f) livrarea de uleiuri minerale de către antrepozitarii autorizaţi pentru producţie fără prezentarea de către cumpărător, persoană juridică, a documentului de plată care să ateste virarea la bugetul de stat a valorii accizelor aferente cantităţii ce urmează a fi facturate;

g) comercializarea uleiurilor minerale neaccizabile, rezultate din prelucrarea ţiţeiului sau a altor materii prime, care au punctul de inflamabilitate sub 85 grade C, altfel decât direct către utilizatorii finali care folosesc aceste produse în scop industrial;

h) marcarea cu marcaje false a produselor accizabile supuse marcării ori deţinerea în antrepozitul fiscal a produselor marcate în acest fel;

i) împiedicarea sub orice formă a organului de control de a efectua verificări inopinate în antrepozitele fiscale;

j) livrarea reziduurilor de uleiuri minerale către alţi clienţi decât antrepozitele fiscale de producţie, autorizate să le colecteze şi să le prelucreze, ori fără viza reprezentantului organului fiscal teritorial aplicată pe documentul de livrare;

k) achiziţionarea de către antrepozitele fiscale de producţie a reziduurilor de uleiuri minerale de la alţi furnizori decât unităţile care le obţin din exploatare ori fără viza reprezentantului organului fiscal teritorial aplicată pe documentul de livrare.

(2) Infracţiunile prevăzute la alin. (1) se pedepsesc astfel:

a) cu închisoare de la 1 an la 3 ani, cele prevăzute la lit. c), d), e), g) şi i);

b) cu închisoare de la 2 ani la 7 ani, cele prevăzute la lit. b), f) şi h);

c) cu închisoare de la 6 luni la 2 ani cele prevăzute la lit. j) şi k).

(3) După constatarea faptelor prevăzute la alin. (1) lit. c) - i) şi k) organul de control competent dispune oprirea activităţii, sigilarea instalaţiei şi înaintează actul de control autorităţii fiscale care a emis autorizaţia, cu propunerea de suspendare a autorizaţiei de antrepozit fiscal.

[o1]

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 concerning the patents, republished in the Official Gazette of Romania, Part I, no. 752 of 15 October 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 12 July 2001;

5. Paragraph (2) of article 41 of the Law no. 422/2001 as regards the protection of historical monuments, published in the Official Gazette of Romania, Part I, no. 407 of 24 July 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 I, no. 406 of 23 July 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 18 June 2002;

8. Law no. 345/2002 as regards the value-added tax, republished in the Official Gazette of Romania, Part I, no. 653 of 15 September 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 27 June 2002, as amended and completed;

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 2 August 2002, as amended and completed;

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 9 December 2002, as amended and completed;

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 with in 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 23 December 1997, as amended and completed;

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 25 February 2002;

18. Letters b) and c) 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 12 January 2000;

19. Article 6, article 7 and paragraph (1) of the 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 26 January 2001;

20. Government Ordinance no. 83/1998 as regards the tax on incomes realized from Romania by non-resident natural 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 12^2 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. Paragraphs (1) and (2) of article 6 and article 8 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 2 September 2000, approved with amendments and completions by Law no 335/2001, as amended and completed;

24. Government Ordinance no. 7/2001 as regards the income tax, published in the Official Gazette of Romania, Part I, no. 435 of 3 August 2001, approved with amendments and completions by Law no 493/2002, as amended and completed;

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, as amended and completed;

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 10 September 2002, as amended and completed;

28. Article 162 of the 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 2nd February 2003, approved with amendments 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 31 August 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 29 October 1997, as amended and completed;

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 30 June 1999, approved with amendments 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 14 July 2001, approved with amendments and completions by Law no 200/2002;

36. Government Emergency Ordinance no. 208/2000 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 12 December 2000, approved with amendments 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 5 October 2001, as amended and completed;

39. Government Emergency Ordinance no. 158/2001 as regards the excise regime, published in the Official Gazette of Romania, Part I, no. 767 of 30 November 2001, approved with amendments and completions by Law no 523/2002, as amended and completed;

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 9 April 2002, approved with amendments 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 17 March 2003, approved with modifications by Law no. 273/2003;

42. Government 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 I, 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 7 October 1997, as amended and completed;

*43^1. *** Abrogated*

44. Any other provisions that are inconsistent with the present code.

*(2) *** Abrogated*

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*) Law no. 630/2002 was repealed by the Government Ordinance no. 39/2005.

Government Ordinance no. 39/2003 was repealed by the Government Ordinance no. 92/2003.

Government Emergency Ordinance no 102/1999 was repealed by the Law no. 448/2006.

Government Emergency Ordinance no 97/2000 was repealed by the Government Emergency Ordinance no. 99/2006.

Government Emergency Ordinance no 28/2002 was repealed by the Law no. 297/2004.

NOTES:

1. We shall reproduce below the provisions of art. II, II^1 and III of the Government Emergency Ordinance no. 138/2004, approved with modifications by Law no. 163/2005, as subsequently amended and completed.

"ART. II

In the case of imported cars and jeeps, including used cars, entered in the country based on leasing contracts initiated after the date of entering into force of the present Government Emergency Ordinance, the taxation base for excises is equal to the entering value to which the quantum of the custom taxes and of other special taxes, as the case may be, due at the moment of the closure of the import operation is added.

ART. II^1

To the cashed advanced payments for the deliveries of living animals the fiscal regime regarding the value-added tax in force on the date of the cashing of such advanced payments shall apply.

ART. III*)

(1) By way of derogation from the provisions of art. 4 par. (2) of Law no 571/2003 regarding the Fiscal Procedure Code, the provisions of the present Government Emergency Ordinance enter into force starting with January 1, 2005, with the following exceptions:

a) starting with May 1, 2005: lett. a) of art. 42; par. (2) of art. 43; lett. k) of par. (4) of art. 55; art. 76; art. 77;

a) starting with June 1, 2005: lett. g) of art. 41; lett. g) of art. 42; lett. a) of par. (2) of art. 65; par. (1) of art. 66; par. (4) and (4^1) of art. 66; par. (2) of art. 67; lett. a), a^1), a^2), a^3), e), e^1) and g) of par. (3) of art. 67; par. (4) and (5) of art. 67; art. 77^1 - 77^3; par. (3^1) of art. 83; lett. b) of par. (4) of art. 83;

c) *** Repealed

(2) *** Abrogated

(3) *** Abrogated

(4) *** Abrogated

(5) Taxation rate of 16% shall apply also starting with January 1, 2006 for the incomes obtained by the non-resident natural and legal persons, provided in art. 115, except the incomes obtained from gambling for which the taxation quota is of 20% ."

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*) Art. III of the Government Emergency Ordinance no. 138/2004 was modified by art. I par. 39 from the Law no 163/2005.

Constitutional Court, by the Decision no. 568/2005, established the provisions of art. I par. 39 from the Law no 163/2005 for the approval of the Government Emergency Ordinance no 138/2004 for the amendment and completion of the Law no 571/2003 regarding the Fiscal Code, concerning the provisions of the art. III par. (1) lett. a) and b) of Government Emergency Ordinance no. 138/2004, are unconstitutional, because they are inconsistent with the art. 78 of Constitution.

Subsequently, art. III of the Government Emergency Ordinance no. 138/2004 was modified also by art. VI pt. 5 from the Law no 343/2006.

2. We shall reproduce below the provisions of art. II - IV from Law no. 343/2006 as modified by the rectification published in the Official Gazette of Romania, Part I, no. 765 of 7 September 2006.

"ART. II

The provisions of par. (15) of art. 161 from the Law no 571/2003 regarding the Fiscal Code, with subsequent modifications and completions, a well as those provided by the present law, shall not apply in the case in which, by additional acts concluded after the date the date of publication in the Romanian Official Gazette, Part I, of the provisions of the present law, the validity of the installment sale contracts and/or leasing contracts is extended after the date of accession.

ART. III

(1) Within 60 day form the date of the publication of the present law in the Official Gazette of Romania, Part I, upon the proposition of the Ministry of Public Finance and Ministry of Administration and Internal Affairs, by Government Decision, the local taxes and fees applicable during the fiscal year 2007 established by Law no. 571/2003, as further amended and supplemented, as well as those provided by the present law.

(2) Within 45 day from the date of the publication in the Official Gazette of Romania, Part I, of the Government Decision provided in par. (1), the deliberative authorities of the local public administration adopt decisions regarding the local taxes and fees applicable during the fiscal 2007, according to the law.

(3) The decisions adopted before the date provided in par. (2) by the deliberative authorities of the local public administration cease to apply.

ART. IV

(1) The provisions of art. I shall apply starting with January 1, 2007, except otherwise specified.

(2) The provisions of art. II shall enter into force within 3 days after the date of publication in the Official Gazette of Romania, Part I."
