

ACCOUNTANCY REGULATIONS

The presentation hereby has in view the legal provisions in force on the 31st of March 2004

Applicable legislation in this field:

- Law no. 82/1991 on accounting, republished in the Official Gazette no. 629/26th of August 2002
- Order of the minister of public finances no. 94/2001 for the approval of the accounting regulations reconciled with the 4th Directive of the of the European Economic Communities and with the International Accounting Standards, published in the Official Gazette no. 85/20th of February 2001
- Order of the minister of public finances no. 1879/2001 on the amendment of the Order of the minister of public finances no. 94/2001 for the approval of the accounting regulations reconciled with the 4th Directive of the European Economic Communities and with the International Accounting Standards, published in the Official Gazette no. 640/12th of October 2001
- Order of the minister of public finances no. 1982/2001 for the approval of the accounting regulations reconciled with the Directive of the European Economic Communities no. 86/635/CEE and with the International Accounting Standards applied for the credit institutions, published in the Official Gazette no. 694/1st of November 2001
- Order of the minister of public finances no. 2390/2001 on the approval of the accounting regulations specific for the field of insurances, reconciled with the European Directives and with the International Accounting Standards, published in the Official Gazette no. 34/18th of January 2002
- Government Ordinance no. 62/2002 for the amendment of the Government Ordinance no. 70/1997 on the fiscal control, published in the Official Gazette no. 646/30th of August 2002

- Order of the minister of public finances no. 1276/2002 on the approval of the term for filing in of the retreated financial situations according to the reconciled accounting regulations order of the minister of public finances no. 728/7th of October 2002
- Law no. 12/2003 on the approval of the Government Ordinance no. 67/2002 for the amendment of the Emergency Government Ordinance no. 75/1999 on the activity of financial audit, published in the Official Gazette no. 38/23rd of January 2003
- Law no. 49/2003 on the approval of the Government Ordinance no. 62/2002 for the amendment of the Government Ordinance no. 70/1997 on fiscal control, published in the Official Gazette no. 54/30th of January 2003
- Order of the minister of public finances no. 38/2003 for the approval of the General norms on the exercising of the activity of internal public audit, published in the Official Gazette no. 130/27th of February 2003
- Order of the minister of public finances no. 705/2003 on the amendment of the Order of the minister of public finances no. 94/2001 for the approval of the Accounting regulations reconciled with the 4th Directive of European Economic Communities and with the International Accounting Standards, published in the Official Gazette no. 395/6th of June 2003
- Order of the minister of public finances no.1829/2003 on approval of the Accounting regulations for non-profit legal persons, published in the Official Gazette no. 66/27th of January 2004
- Order of the minister of public finances no. 1827/2003 on amendment and completion of certain regulations in the accountancy field, published in the Official Gazette no. 53/22nd of January 2004
- Order of the minister of public finances no. 1826/2003 for the approval of the Specifications on certain measure on organizing and conducting of management accountancy, published in the Official Gazette no. 23/12th of January 2004

- Law nr. 571/2003 – Fiscal Code, published in the Official Gazette no. 927/23rd of December 2003
- Government Decision no. 44/2004 for the approval of the Methodological norms for the enforcement of the Law no. 571/2003 on Fiscal Code, published in the Official Gazette no. 112/6th of February 2004
- Government Ordinance no. 92/2003 on Code of Fiscal Procedure, published in the Official Gazette no. 941/29th of December 2003

I. Obligation of Keeping Accountancy

According to the Art.1 of the Accounting Law – Law no. 82/1991, republished – the obligation of organization and management of the personal accounting lies on:

- trade companies;
- national companies;
- regies autonomes;
- national research – development institutions;
- cooperative enterprises and other legal persons with a lucrative purpose
- public institutions
- associations and other legal persons with and without lucrative purpose
- freelancers

The legal persons that fulfill cumulatively the following criteria:

- i) turnover – over 9 million Euro;
- ii) total assets – over 4.5 million Euro;
- iii) average number of employees – 250,

apply in the accounting the Accounting regulations approved by the Order of the minister of public finances no. 94/2001, as amended.

II. Keeping and managing of the accountancy

Persons stipulated under the previous point keep and manage accounting records, by distinct departments, led by the business director, by

the chief accountant or by any other person empowered to do so. These persons must have superior economic studies and are responsible together with the subordinated personnel on the keeping and managing of accountancy, subject to the conditions of the law.

The accounting records may be kept and managed on the basis of contract of performing of services and by the authorized legal persons of the legal persons having the capacity of expert accountants, respectively certified accountant.

For legal persons at which accounting records are not organized in distinct departments, which do not employ qualified staff, according to the law, or do not have contracts of performing of services in the field of accountancy, concluded with certified natural or legal persons, the Ministry of Public Finances establishes, according to the evolution of inflation and the development of the profession, thresholds of value beyond which the obligation of conclusion of contracts for the drawing up of the annual financial situations only by legal or natural qualified, authorized persons, becomes applicable.

The responsibility for the accountancy keeping and managing lies with the manager, funds coordinator or any other person in charge with the entity's management.

III. Aspects regarding accounting records

Patrimonial operations are recorded in the accountancy chronologically.

Any economic-financial operation made is registered in the moment of its performance in a document, which is at the basis of the accounting records, thus acquiring the capacity of certifying document.

Accountancy is kept in Romanian language and in the national currency.

Accountancy operations evidencing foreign currency transactions must be kept both in national currency and in foreign currency, according to the regulations developed for this purpose.

For their own information necessities, the persons having the obligation of keeping accounts, except public institutions, may choose to draw up the financial situations in a stable currency, too.

The accounting record of the assets elements is made at the purchase price, of production or at the fair value for other entries than those through purchasing or production, as the case may be.

Assets and liabilities are recorded in the accountancy at their nominal value.

Persons having the obligation of keeping accounts are also obliged to make the general inventory of the assets and liabilities elements held, at least once a year in the course of their functioning, in case of merger or ceasing of activity, as well as in other situations provided by law.

Ministry of Public Finances approves exceptions from the rule of annual inventory for certain goods with a special character, which are under the management of public institutions, at the main funds coordinators' proposal.

The result of the inventory is recorded in the accountancy according to the accounting regulations drawn up in this respect by the Ministry of Public Finances.

The profit or the loss is established in accountancy on monthly basis, cumulated from the beginning of the year. The final result of the financial year is established at its closing. The profit distribution is registered in accountancy on the destinations stipulated by law. The accounting loss is covered from the profit of the financial year and the reported one, from reserves, registered capital and other personal financial resources, according to the decision of Shareholders' or Partners' Meeting and according to the methodology issued by the Ministry of Public Finances.

IV. Accounting Books

The compulsory accounting books are the following ones: Journal – Ledger, Inventory – Ledger and the General – Ledger.

For the verification of the correct registration in accountancy of the performed operations, the trial balance is made on monthly basis.

Journal-Ledger, Inventory-Ledger, the General-Ledger as well as the certifying documents which are at the basis of the registrations in the financial accounting are kept in the archive of the persons stipulated under the first point for 10 years, starting from the date of the closing of the financial year in the course of which they were drawn up, except the payrolls, which are kept for a period of 50 years.

In case of loss, embezzlement or destruction of certain accounting documents measures shall be taken for the reconstitution of those documents within 30 days from the establishment.

V. Yearly Financial Situations

The official documents for the presentation of the economic-financial situation of the persons having the obligation of keeping accountings are the yearly financial situations.

Trade companies holding participations in the capital of other trade companies, denominated group trade companies, shall draw up and present consolidated yearly financial situations, according to the specific regulations elaborated by the Ministry of Public Finances for this purpose.

The drawing up of the yearly financial situations must be preceded by the general inventory of the assets and liabilities elements and of other goods and values, which are in management and administration, according to the norms issued for this purpose by the Ministry of Public Finances.

The possible errors found in accounting, after the approval and submission of the yearly financial situations, shall be corrected in the year in which they are found.

The yearly financial situations are accompanied by the administrators' report.

- a) For the legal persons subject to the Directives of European Economic Communities and to the International Accounting Standards the yearly financial statements comprise: **balance sheet, profit and loss account, capital movement statement, treasury cash flows, accounting policies and explanatory notes.**

Yearly financial situations of the legal persons that enforce the reconciled accounting regulations are subject to financial audit, performed by the financial auditors, authorized legal and natural persons, according to the law.

One counterpart of the yearly financial situations shall be filed with the general department of the county public finances, respectively the Bucharest municipality, within 120 days from the conclusion of the financial year.

- b) Legal persons that do not comply with the criteria established for the enforcement of the reconciled accounting regulations must draw up simplified yearly financial situations, reconciled with the European directives, which comprise: **balance sheet, profit and loss account, accounting policies and explanatory notes.**

One counterpart of the yearly financial situations shall be filed with the general department of the county public finances, respectively the Bucharest municipality, within 90 days from the conclusion of the financial year.

- c) The yearly financial situations for all the other persons stipulated under the Art. 1 from the Law no. 81/1992, except those above-mentioned at letter a) and b) comprise: **balance sheet and profit and loss account.**
- d) Yearly financial situations for micro enterprises comprise: **balance sheet and profit and loss account.**

VI. Keeping and managing the simple accountancy

The following are obliged to keep simple accountancy:

- Taxpayers obtaining incomes from independent activities;

The incomes from independent activities comprise:

- commercial incomes; the incomes from taxpayers' deeds of commerce, performing of services as well as practicing a profession are considered as commercial incomes;
 - incomes from free professions; the incomes obtained through the exercising of the medical professions, of lawyer, notary public, auditor, authorized accountant, advisor of capital investment in movables, architect or other resembling professions, performed independently, according to the law, are considered incomes deriving from free professions;
 - incomes from intellectual property rights, made individually and/or in a form of association, including adjacent activities.
- Taxpayers obtaining incomes from agricultural activities and choose for the establishing of the net income in real system.

Simple bookkeeping shall be kept according to the Methodological Norms approved through the Order no. 54/2003.

VII. Fiscal auditing

All persons, regardless of their organization form having obligations of establishing, withholding and paying taxes and duties and of other fiscal obligations stipulated by law, are subject to fiscal auditing.

Fiscal obligations

Fiscal obligations comprise:

- a) the obligation to declare the taxable goods and incomes or, as the case may be, the taxes owed, fees, contributions to special funds;
- b) the obligation to calculate and to register in the accounting and payment books, at the legal terms, the taxes, fees, contributions to special funds;
- c) obligation to calculate, retain and register in the accounting and payment books, at the legal terms, taxes made through estoppels at the source;
- d) any other legal obligations incumbent to taxpayers, legal or natural persons, in the enforcement of fiscal laws.

Fiscal auditing bodies

Fiscal auditing is directly and non-restrictedly exercised by the National Agency of Fiscal Management that may delegate this competence to another fiscal body.

Period subject to fiscal auditing

According to Art.90 Code of fiscal procedure, fiscal auditing is performed within the term of prescription of the right to establish fiscal obligations. The period subject to fiscal auditing is determined as follows:

- in the case of great taxpayers it begins in the moment of ending of the previous control;
- for the other categories of taxpayers the fiscal auditing is performed on the debts occurred in the last 3 fiscal years for which the obligation of filing tax returns exists. Fiscal auditing may extend over the period of prescription of the right to establish fiscal obligations if: a) there are indices regarding the diminution of the taxes and fees; b) no tax returns have been filed.

Before the fiscal auditing taking place, fiscal body is obliged to notify the taxpayer on the action that is to take place, by sending a notification of fiscal auditing that is communicated to the taxpayer in writing, before the beginning of the fiscal auditing as follows:

- a) 30 days before for great taxpayers;
- b) 15 days before for other taxpayers.

In case of sudden control or in case of actions performed at the taxpayer's request, the communication of the fiscal auditing notification is not necessary.

Place and time of performing fiscal auditing (Art. 95, Code of fiscal procedure)

Fiscal auditing usually takes place in the taxpayer's working spaces. The taxpayer has to place at disposal an appropriate space, as well as necessary logistics for the fiscal auditing. If there is no appropriate space for the fiscal auditing, then the inspection activity shall take place at the fiscal body's headquarters or in another place established by mutual agreement with the taxpayer.

Fiscal auditing usually takes place within taxpayer's working hours. Outside taxpayer's working hours the inspection shall take place subject to taxpayer's written agreement and subject to approval from the manager of the fiscal body.

Fiscal auditing takes place only one time for each tax or fee and for each period subject to taxation. By exception, the competent coordinator of the fiscal auditing may decide upon rechecking of a certain period, if, from the date of the conclusion of the fiscal auditing and until the date of the filling of the prescription term, additional data appear, not known to fiscal inspectors at the date of the verifications or miscalculations that have influence upon their outcomes.

Taxpayer's cooperation obligation (Art. 97 Code of Fiscal Procedure)

Taxpayer is obliged to cooperate for the establishment of the status of fiscal facts. He is obliged to provide information, to present at the place of fiscal auditing all the documents, as well as any other data necessary for the clarification of the situations of fact relevant from the fiscal point of view.

At the beginning of fiscal auditing, the taxpayer shall be informed on the fact that he may appoint persons to provide information. If the taxpayer's information or those of his attorney in fact are insufficient, then the fiscal auditor may address also to other persons in order to get information.

Taxpayer's rights (Art. 98 Code of Fiscal Procedure)

Contributors shall be informed during the fiscal auditing on the establishments resulted from the fiscal auditing. At the conclusion of the fiscal auditing, the fiscal body shall have a final discussion with the taxpayer on the establishments and their fiscal consequences. The date, hour, place and subject of the discussion shall be notified to taxpayer in due time. The taxpayer has the right to present, in writing, his point of view on the establishments of fiscal auditing.

Fiscal auditing result (Art. 100 Code of Fiscal Procedure)

Fiscal auditing result shall be registered in a written report, in which the establishments of auditing shall be presented, from the factual and legal point of view. If, as a result of auditing, the amount subject to taxation shall be changed, the report drawn up shall be at the basis of the taxation decision issuance. If the amount subject to taxation is not changed, the taxpayer shall be notified about this in writing.

Sanctioning Regime

The following are contraventions, if they were not made in such a way in which, according to the criminal law, to be considered offences:

- holding, under any title, of corporal securities, securities, cash and other rights and liabilities, as well as the performance of economic operations, without being registered in accountancy;
- non-compliance with the regulations issued by the Ministry of Public Finances regarding:
 - the use and keeping of accounting books
 - drawing up and use of certifying documents and accounting documents for all the operations performed, their registration in accountancy in the period to which they refer, their keeping and archiving as well as the reconstitution of the lost, subtracted or destroyed documents;
 - performing of inventory;
 - drawing up and auditing of the yearly financial situations;
 - drawing up and filing of the periodical financial situations established by the Ministry of Public Finances;
 - failure to file in the declaration from which to result that the persons stipulated under Art. 1 did not perform activity.
- Presentation of financial situations with erroneous data or non-correlated, including regarding the identification of the reporting person.

Contraventions stipulated are sanctioned with a fine whose quantum varies from lei 1,000,000 to lei 50,000,000.

The establishment of the contraventions and the enforcement of sanctions are made by the persons having duties of financial auditing and by other persons empowered for this purpose by the Ministry of Public Finances.

Specification

The deliberate performance of inexact registrations, as well as the deliberate omission of registrations in accountancy, having as a consequence the distorting of incomes, spending, financial results, as well as of the assets and liabilities elements reflecting in the balance sheet, is the offence of intellectual forgery and is punishable according to the law.