



## No. 10/25 June 2010

Emergency Government Ordinance no 54/2010 regarding certain measures to combat tax evasion, was published in Official Gazette no 421/23.06.2010.

Ordinance changes several laws including the Fiscal Code, Fiscal Procedure Code and Company Law. The main changes to the Fiscal Code, Fiscal Procedure Code and to Company law are as follows:

### I. Amendments to the Codului Fiscal

#### 1. Value added tax

- a. Starting on 1 August 2010, it will be created the Register of intra-community operators ("Register"). The Register will include all taxable persons and non-taxable legal entities carrying out intracommunity operations.

VAT registered persons are required to entry into the Register if they intend to perform one or more intra-community operations.

In order to entry into the Register, entities must submit to the competent tax authorities a registration request accompanied by other supporting evidence, established by order of President of the National Tax Administration Agency ("ANAF"). Taxable persons should enclose criminal records of the associates, except for joint stock companies, and of administrators.

Ordinance provides persons who cannot be entered in the Register and the situations in which people are removed from the Register.

Organization and operation of the Register, including the procedure for entry and removal from the register, will be approved by order of ANAF President.

- b. Reverse charge is introduced for the supply of goods from the following categories: cereals, industrial crops, vegetables, fruit, meat, sugar, flour, bread and bakery products, as determined by order of the Minister of Public Finance;

Reverse charge mentioned in previous paragraph applies only to deliveries on the Romanian territory.

#### 2. Excise duties

- a person who will perform its activity as authorized warehouse must not record outstanding tax liabilities at the general consolidated budget;
- to ensure the risk of non-payment of excise duty regarding authorized warehousekeepers for production of exciseable goods a 6% guarantee has been established;
- were introduced obligations for authorized warehousekeepers when they assign and alienate shares or social parts.



## II. Amendments to the Fiscal Procedure Code

### 1. Joint liability

- It is removed the limitation in time (previously it was three years) of the joint liability for individuals and legal persons who, previously to declaring insolvency, in bad faith, acquire assets from the debtors who have caused its insolvency;
- It is extended the scope of joint liability by including in the category of persons jointly liable with the debtor of the following:
  - associates from associations without legal status, including members of family businesses, for tax liabilities owed by those who, in bad faith, determined failure to declare and/or pay in due time tax liabilities;
  - garnishees, in the limits of the amounts hidden from dispossession;
  - individuals or legal persons who, before declaring insolvency, in bad faith, in any way acquired assets from debtors who have caused such insolvency;
  - administrators, associates, shareholders and other persons who determined insolvency of debtor legal person by alienation or hiding, in bad faith, on whatever form, the debtor's assets;
  - administrators who have not fulfilled their legal obligation to require the court opening of the insolvency proceedings;
  - administrators or any other persons who, in bad faith, determined failure to declare and/or to pay in due time tax liabilities or reimbursement from state budget certain unworthy amounts.
- There have been changed the criteria by which the legal person is jointly liable with the debtor declared insolvent.
- Garnishment on the debtors' income individuals or legal persons shall be established by execution body, by an address which will be communicated to third party garnishee, including fax or e-mail (previously communication could only be done by recommended letter with receipt confirmation).

### 2. *Contraventions and sanctions to the regime of „the Register of intracommunity Operators”*

It is punishable with a fine from 1,000 to 5,000 RON performance of intracommunity operations by persons who are required entering into the Register of intracommunity operations without being registered in the Register.

## III. Amendments to Company Law

Transfer of social parts is made after publication of the associates decision and after the the expiry of 30 days opposition period, during which the Trade Registry Office notifies ANAF on this operation.