

Tax & Legal Newsletter October 2023

1. Latest news on accounting and fiscal regulations

1. New accounting accounts

Order no. 2649/2023 amending and supplementing certain accounting regulations has introduced **new accounting accounts**, which will become **applicable starting with the annual financial statements for the year 2023**. For companies with a financial year different from the calendar year, the changes apply starting with the first annual financial statements completed after 1 January 2024.

- Order came into effect on **6 October 2023**
- New accounts:
 - 6121** "Royalty expenses"
 - 6122** "Commercial leasing expenses"
 - 6123** "Rent expenses"
 - 616** "Expenses related to intellectual property rights"
 - 617** "Management expenses"
 - 618** "Consulting expenses"
- In the absence of any clear definitions of the terms used in the accounting legislation, the qualification or re-evaluation of transactions based on their nature can become a complex task, especially in terms of categorising them as royalties, rent, management and consulting

2. Changes regarding the contraventions covered by the Prevention Law; increase in applicable fines

Government Decision no. 97/2023 removes several contraventions from the scope of Law no. 270/2017 (the Prevention Law), allowing them to be directly sanctioned without requiring prior compliance and the issuing of a remediation plan.

- Decision comes into effect on **5 November 2023**
- Under this regulatory act, the following have been removed from the scope of the Prevention Law:
 - ❖ Law no. 227/2015 (Tax Code) and Law no. 207/2015 (Tax Procedure Code)
 - ❖ Emergency Ordinance no. 28/1999 on the obligation of economic operators to use electronic fiscal cash registers and Emergency Ordinance no. 193/2002 on the introduction of modern payment systems
- The contraventions that will no longer fall under the purview of the Prevention Law and can be fined directly include the following:
 - ❖ Non-submission of tax registration, deregistration or amendment declarations within the legal deadlines – **fines ranging between RON 1,000 and RON 5,000**
 - ❖ Failure to respect deadlines for the correct declaration of taxable goods, income, tax, fees and contributions and for the provision of required information, according to the legal requirements – **fines ranging between RON 1,000 and RON 5,000**
 - ❖ Failure to submit VAT summary declarations on time and the submission of incorrect or incomplete summary declarations (D390) – **fines ranging between RON 500 and RON 5,000**

- ❖ Failure to submit on time the informative statement regarding deliveries/services and acquisitions carried out within the national territory (D394) – **finances ranging between RON 2,000 and RON 14,000**
- ❖ Non-compliance with the obligation to prepare the transfer pricing documentation within the relevant deadlines and in accordance with the requirements specified in Order no. 442/2016, and non-compliance with the obligation to present the transfer pricing documentation upon request by the ANAF – **finances ranging between RON 2,000 and RON 14,000**
- Law no. 296/2023 on various fiscal-budgetary measures meant to ensure the long-term financial sustainability of Romania **removes the option to pay half of the amount of the minimum fine within 15 days** as of the date of delivery or communication of the offence report for those fined under the provisions of Law no. 227/2015 (Tax Code), Law no. 207/2015 (Tax Procedure Code), Law no. 82/1991 on accounting and Government Emergency Ordinance no. 28/1999 on the obligation of economic operators to use electronic fiscal cash registers. This provision **will come into effect within 15 days of the date on which Law no. 296/2023 is published in the Romanian Official Gazette (published in the Official Gazette no. 977/27.10.2023)**
- Law no. 296/2023 also introduces significant increases to the fines for the contraventions stipulated in Government Emergency Ordinance no. 28/1999 regarding the obligation of economic operators to use electronic fiscal cash registers, especially those relating to a failure to issue fiscal receipts and/or to record the amounts collected in the special register, which determines the existence of any unjustified sums. The increased fines can now go up to three times the value of the fines applicable prior to the entry into force of Law no. 296/2023 and repeat contraventions within a 12-month period can result in a doubling or tripling of the value of the fines already increased as a consequence of Law no. 296/2023. These changes will also come into effect within 15 days of the publication of Law no. 296/2023 in the Romanian Official Gazette

3. Amendments to Law no. 70/2015 – strengthening financial discipline with respect to cash receipts and payments

The limits for cash transactions specified in **Law no. 70/2015** with subsequent amendments and additions will be reduced, according to Law no. 296/2023 on various fiscal-budgetary measures meant to ensure the long-term financial sustainability of Romania.

- The amendments come into force **15 days after publication in the Official Gazette of Law no. 296/2023 (published in the Official Gazette no. 977/27.10.2023)**
- Receipts cannot be issued to legal entities for amounts in excess of RON 1,000. Legal entities must therefore make any payments in excess of RON 1,000 by other, i.e. non-cash, methods
- Cash payments to legal entities are limited to 1,000 RON/person and no more than 2,000 RON/day
- Cash payments to cash & carry stores may be made up to a maximum amount of 2,000 RON/day
- Cash receipts and payments involving individuals are limited to 5,000 RON/person until 31 December 2024, and 2,500 RON/person as of 1 January 2025
- Cash receipts/payments relating to loans, regardless of their nature and purpose, from/to individuals with the status of associates, shareholders, administrators, natural persons or other creditors with the exception of institutional creditors involved in financial intermediation activities as provided for by law can only be made using non-cash payment instruments

A new limit has been introduced regarding the amount of cash that may remain in the cash register at the end of each day, which now cannot exceed RON 50,000. Where this limit is exceeded, the corresponding amount of cash must be deposited into the entity's bank accounts within 2 working days.

These limits also apply to foreign currency receipts and payments made within the territory of Romania.

4. The e-Seal mechanism

Law no. 296/2023 on various fiscal-budgetary measures meant to ensure the long-term financial sustainability of Romania **introduced the national RO e-Seal system**. This system aims to ensure the traceability of goods transported by road in Romania.

- The law comes into effect **15 days after publication in the Official Gazette of Law no. 296/2023 (published in the Official Gazette no. 977/27.10.2023)**
- The system is based on **advanced electronic seals and an IT platform** that gives authorities the ability to monitor the transportation of goods on the roadways in real time, regardless of whether they are in transit or have a final destination at a company located within the national territory
- Within the national territory, the National Agency for Fiscal Administration (ANAF) and the Romanian Customs Authority are responsible for the application of smart seals and the monitoring of the road transportation of goods based on a risk analysis
- Failure to comply with this obligation by a driver constitutes a contravention, attracting **finances ranging between RON 20,000 and RON 50,000**, with the exception of cases that may be considered offences under the law.

Source:

* Order no. 2649/2023 amending and supplementing various accounting regulations

** Government Decision no. 937 of 5 October 2023 amending Annex no. 1 to Government Decision no. 33/2018 regarding the determination of offences falling under the scope of Law no. 270/2017 (Prevention Law) and the model for a remediation plan, amending and supplementing various normative acts

*** Law no. 296 of 26 October 2023 regarding various fiscal and budgetary measures aimed at ensuring the long-term financial sustainability of Romania

2. Legislative proposal for the amendment of the Companies Act

On Monday, 23 October 2023, the Romanian Senate adopted a legislative proposal for the amendment of Law no. 31/1990. In addition to the initial provisions of the draft regarding the possibility of electronic voting, it was also proposed to eliminate various formalities that hinder the functioning of companies, such as the requirement that the identification data of beneficial owners be included in the articles of association and the requirement that the resolutions of general meetings of shareholders be published in the Official Gazette.

The most important proposal is the adoption of electronic voting at general meetings of shareholders or associates. At present, public limited companies listed on the stock exchange can use electronic voting to take decisions, and this proposed change to the law is intended to unify the regulatory framework by allowing all types of companies to use electronic voting systems.



The removal of the requirement that the resolutions of general meetings be published in Part IV of the Official Gazette is another change under discussion. This requirement is currently mandatory and must be carried out after filing the resolutions with the Trade Registry Office. This amendment is considered necessary by senators, who are argue that in practice shareholders get information about the corporate events of a company via other channels and that the current regulation is excessive, redundant and inefficient.

Another proposed change seeks to remove the requirement for the identification data of beneficial owners to be included in the articles of association for reasons related to the processing of personal data, but also on the grounds that this procedure is problematic for public limited liability companies not only because of issues pertaining the power to amend articles of association, but also because of the impossibility of managing changes to the data on beneficial owners in light of the very short period of time available for their registration.

The legislative proposal also envisages the following amendments:

- regulation of the ability to delegate to the board of directors the power to establish or close secondary offices in order to streamline the decision-making process within a company
- the possibility, where a company has its own website and where the articles of association provide for it, for the convocation of a general meeting of shareholders to be published on this site only through an announcement to this end that remains in place until the date of the meeting
- introduction of a new provision to Article 117, index 1 of the Companies Act, whereby the board of directors may subsequently amend such a convocation within 15 days of its publication

In order to come into force, the draft legislation must be debated and submitted to a final vote of the Chamber of Deputies, followed by promulgation by the President of Romania and publication in the Official Gazette.

Source: Legislative proposal to amend Law no. 31/1990 (Companies Act)

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Kind regards,
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