

LEGAL UPDATE - FEBRUARY 01ST-15TH, 2016

ANAF Order no. 370/2016 for the approval of the procedure regarding the establishment of the amount representing the average motor vehicles stamp and for the approval of the model and content of some forms entered into force on February 01st, 2016. We mention below several regulated issues:

- Order approves:
 - The procedure regarding the establishment of the amount representing the average motor vehicles stamp, provided in Annex no. 1;
 - The model and content of the following forms:
 - *"Application regarding the establishment of the amount representing the average motor vehicles stamp"*, code 14.13.02.50/c, provided in Annex no. 2;
 - *"Application regarding the establishment of the amount representing the average motor vehicles stamp which are the subject of the contracts for leasing"*, code 14.13.02.50/c.1., provided in Annex no. 3;
 - *"Report regarding the establishment of the amount representing the timbre the average motor vehicles stamp"*, provided in Annex no. 4;
 - *"Decision regarding the establishment of the amount representing the average motor vehicles stamp"*, code 14.13.02.50, provided in Annex no. 5;
 - *"Decision establishing the differences of amounts representing the average motor vehicles stamp"*, code code14.13.02.50/d, provided in Annex no. 6.

Law no. 15/2016 of the Romanian Parliament on amending and supplementing Law no. 349/2002 on preventing and combating the effects of the consumption of tobacco products will enter into force on March 17th, 2016. We mention below several regulated issues:

- Law establishes measures concerning the prevention and combating of the consumption of tobacco products by a complete interdiction on smoking in all closed public spaces, in closed work and playgrounds spaces, by inscribing packages with tobacco products, by carrying out campaigns to inform and educate the public, by informing consumers about the tobacco products which they buy, by indicating into final products of the contents of tar, nicotine and carbon monoxide, by some measures concerning the use of ingredients for tobacco products.
- Through enclosed public space shall mean any space accessible to the public or intended for collective use, regardless of the form of ownership or right to access, which has a roof, ceiling and which is limited by at least two walls, regardless of their nature or the temporarily or permanently character.
- Through closed work space shall mean any space which has a roof, ceiling and which is limited by at least two walls, regardless of their nature or the temporary or permanent character which is in a work space, so as defined in the Law on safety and health at work no. 319/2006.

- The law prohibits smoking in all enclosed public spaces, enclosed work spaces, means of transport in common, and playgrounds for children.
- The persons responsible of the institutions and establishments which administers the spaces mentioned, shall develop and implement internal rules for the application of the provisions of the law, including by providing for the infringement as serious disciplinary offense and marking the spaces mentioned with signs that would indicate "No smoking" and the use of the international symbol, respectively cigarette crossed by a transversal line.
- The failure of the individuals to the provisions of the law is punishable by a fine from 100 lei to 500 lei.
- The failure of the legal persons to the provisions of art. 3 (1), (1¹), (5), (5²), (6), (6¹), (7¹) and of art. 4 (2) is punishable by a fine of 5,000 lei for the first offense, by a fine of 10,000 lei and the complementary sanction of suspension of work until the situation which led to the suspension of activity has been corrected; committing a new offense to the law is punishable by a fine of 15,000 lei and complementary sanction of closing the unit.

ANAF Order no. 442/2016 concerning the amount of the transactions, the time limits for the drawing up, the content and the conditions of application of the price transfer file and the procedure for adjusting/estimation of prices of the transfer entered into force on February 02nd, 2016. We mention below several regulated issues:

- The taxpayers/payers from the category of big taxpayers, established by order of the President of the National Agency of Fiscal Administration, which carry out transactions with affiliated persons with a total annual value, calculated by adding the value of the transactions carried out with all affiliated persons, exclusive VAT, higher than or equal of any thresholds of significance, as provided for in the Order, have the obligation of drawing up the price transfer file annually.
- The deadline for drawing up the price transfer file is the legal time limit established for filling the annual declarations on the profit tax, for each fiscal year.
- Order provides, among others things, the level of the value of threshold of significance for the taxpayers/payers of the category of big taxpayers, as well as for the taxpayers/payers of the categories of small and medium-sized contributors, depending on the type of transaction carried out.
- The taxpayers/payers of the category of big taxpayers, which do not fall within the criteria established, as well as the taxpayer/payers of the categories of small and medium-sized taxpayers which carry out transactions with affiliated persons with a total annual value, calculated by adding the value of the transactions carried out with all affiliated persons, exclusive VAT, higher than or equal to any of the thresholds of significance, have the obligation of drawing up and submission of the price transfer file only at the request of the tax authority within a tax inspection.

ANAF Order no. 514/2016 amending the Order of the President of the National Agency for Fiscal Administration no. 3.744/2015 on establishing special enforcement cases, as well as the authority empowered with the fulfillment of the precautionary measures and conducting the enforcement proceedings entered into force on February 02nd, 2016. We mention below several regulated issues:

- The staff of the Special enforcement cases division may participate directly in carrying out special enforcement cases actions, as tax enforcement coordinators, usually, in the following situations:

- if the amount of the sums due to the state budget exceeds the threshold of 10 million Euros, the equivalent in lei;
- if the debtors belong to the category of big taxpayers;
- if freezing of funds and economic resources of the designated persons which are the subject of the international sanctions, according to the law;
- at the written request of the vice president coordinator of the activity of the collection of budget revenues;
- in cases identified in the Special enforcement cases division as very complex.

ANAF Order no. 558/2016 on the Procedure for the publication of the lists of debtors which registers tax liability outstanding and the amount of these obligations entered into force on February 03rd, 2016.

We mention below several regulated issues:

- Order approves the Procedure for the publication of lists of debtors which registers the tax liability outstanding and the amount of these obligations.
- Central tax authorities publish on its webpage of the National Agency of Fiscal Administration the list of debtors which registers the tax liability outstanding, as well as the amount of these obligations, for each budget administered by the central tax authorities.
- The procedure provides for, among other things, tax obligations outstanding which are the subjects of the publication, as well as those which are not subject to publication.

MFP Order no. 155/2016 on the repeal of the Order no. 1.853/2011 of the Minister of Public Finance for the approval of the Procedure for the application of the provisions of the Emergency Ordinance of the Romanian Government no. 29/2011 regarding the granting of payment rescheduling entered into force on February 03rd, 2016.

ANAF Order no. 155/2016 for the approval of the model and content of some forms for informative statements entered into force on February 03rd, 2016. We mention below several regulated issues:

- Order approves the following:
 - model, content and instructions for completion of the form (392A) "*Informative statement on supplies of goods and of services carried out in the year*", code 14.13.01.02/ia, provided in Annex no. 1;
 - model, content and instructions for completion of the form (392B) "*Informative statement on supplies of goods, of services and acquisitions carried out in the year*", code 14.13.01.02/ib, provided in Annex no. 2;
 - model, content and instructions for completion of the form (393) "*Informative statement of revenue obtained from the sale of tickets for international road transport of persons, with the place of departure from Romania in the year*", code 14.13.01.02/v, provided in Annex no. 3.
- The procedure for the management of forms (392A), (392B) and (393) is provided in Annex no. 4.

MFP Order no. 123/2016 on the main aspects of drawing up and submitting the annual financial statements and annual accounting reports of economic operators to the territorial units of the Ministry of Public Finance entered into force on February 04th, 2016. We mention below several regulated issues:

- Order approves the structure of the forms "*Informative data*" (code 30) and "*The situation of the fixed assets*" (code 40), provided in Annex no. 4.
- Order regulates, among other things, issues relating to:

- the main aspects related to the drawing up and submitting the annual financial statements, in Annex no. 1;
- the annual accounting report system on 31 December, in Annex no. 2;
- the annual accounting reports drawn up on 31 December by the companies whose securities are admitted to trading on a regulated market, in Annex no. 3;
- the structure of the form "Informative data" (code 30) and "The situation of the fixed assets" (code 40) and how to complete them, in Annex no. 4;
- the structure of the annual financial statements drawn up by non-profit legal persons carrying out economic activities, as well as by non-profit legal persons of public interest, in Annex no. 5.

ANAF Order no. 560/2016 for the approval of the procedure for the management and monitoring of medium-sized taxpayers and for amending certain provisions relating to the management of the medium-sized taxpayers entered into force on February 04th, 2016. We mention below several regulated issues:

- Order approves The procedure for the management and monitoring of medium-seized taxpayers, contained in Annex no. 1;
- Order approves the model and content of the following forms:
 - The situation of the obligations to the state budget and the payments made on these obligations - form 01, provided in Annex no. 2;
 - The situation of the obligations to the state social insurance budget and the payments made on these obligations - form 02, provided in Annex no. 3;
 - The situation of the obligations to the health insurance budget and payments made on these obligations - form 03, provided in Annex no. 4;
 - The situation of the obligations to the unemployment insurance budget and the payments made on these obligations - form 04, provided in Annex no. 5.

ANAF Order no. 531/2016 on taxes, contributions and other amounts representing tax receivables, which are paid by taxpayers in a single account entered into force on February 05th, 2016. We mention below several regulated issues:

- Order approves:
 - The list of tax obligations due to the state budget which are payable in the single account 20.A.47.01.00 "*Amounts collected for the state budget to the single account, under distribution*", provided in the Annex no. 1;
 - The list of the tax obligations due to the social insurance budget and special funds, which are payable in the single account 55.02 "*Available social insurance budgets and special funds, under distribution*", provided in Annex no. 2.
- The order shall be used for the payment into the single account of taxes and fees due from 1 January 2016, provided in Annexes no. 1 and 2.