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March 2008

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LEGAL | TAX NEWS

EMPLOYMENT AND PENSIONS

1. The template of the financing contract for the programme of human resources development

Order no. 499/2008 ("the Order") of the Ministry of Employment, Family and Equity of Chances regarding the approval of the financing contract template for the Sectorial and Operational Human Resources Development Programme" (the "SOHRDP") for 2007-2013 was published in the Official Gazette, Part I no. 845/16.12.2008.

Please find below the main elements of the contract:

1. The contract is concluded between the Management Authority for the Sectorial and Operational Human Resources Development Programme ("MASOHRDP") and a public or private legal entity, responsible for conducting an individual project and receiving public support, as beneficiary.
2. The contract's object consists in the granting of non-refundable financing by MASOHRDP for a project pertaining to the beneficiary, which fulfills the eligibility conditions established by Order no. 3/185/2008 of the Ministry of Employment, Family and Equity of Chances and the Ministry of Public Finances for the establishment of eligibility rules and eligible expenses list concerning the operations financed through SOHRDP.
3. The contract provides the period of implementation at the end of which the beneficiary has to submit documents regarding the use of the non-refundable financing to the competent authorities.
4. The beneficiary may request and receive a prefinancing, established in annual percentage instalments out of the eligible value of the financing contract afferent to each year of implementation. The prefinancing payment is contingent upon the granting of a security in order to cover both the entire value of the prefinancing and the eventual prejudice caused by the failure to perform its contractual obligations. The total value of the prefinancing and intermediary payments cannot exceed 95% of the eligible value of the contract.
5. The beneficiary is liable before MASOHRDP for the implementation of the project, both for its actions and failures to act as well as for the actions and failures to act of its partners.
6. The contract cannot be assigned. However, the contract may be subcontracted up to 30% of its value.
7. In case the beneficiary did not start the implementation of the project within 3 months after the conclusion of the contract without any default from its part, the contract is cancelled by right. The infringement of a contractual obligation by the beneficiary grants MASOHRDP the possibility to request the cancellation of the contract by notifying the beneficiary. As a precaution measure, prior to the cancellation, MASOHRDP may suspend the payments.
8. The cancellation of the contract due to the beneficiary's default leads to the beneficiary's exclusion from the public selection of projects and to the ceasing of the granted financing for a two-year period.

9. The Order also provides templates of documents necessary for the beneficiary in order to obtain the financing, which will be annexed to the contract.

2. Holiday tickets

Government Emergency Ordinance No. 8 regarding holiday tickets (the „Ordinance”) was published in the Official Gazette, Part I no. 110/24.02.2009. The Ordinance entered into force on 24.02.2009.

The main amendments provided by the Ordinance are the following:

1. The Ordinance provides the employers which conclude individual employment contracts with the possibility to grant vouchers, namely holiday tickets, to their employees. Such tickets can be granted to the employees only by the employers which obtained in the previous fiscal year profit or income, depending on the employer's fiscal status.
2. The value of the holiday tickets is integrally borne by the employer within the limits provided in this respect in the approved budget of expenses and revenues.
3. The maximum amount which may be granted as holiday tickets is of 6 (six) minimum monthly gross salaries per employee during a fiscal year.
4. The validity term of the holiday ticket is of 1 (one) year starting its issuance date.
5. The amount of the holiday tickets is deductible from the tax on profit, respectively the tax on income, for the employer and is exempted from the tax on income and the social contributions for the employee.
6. The amount of the holiday tickets does not affect the rights and obligations related to the salary. The amount of the holiday tickets is not included in the salary.
7. The provided nominal value of a holiday ticket is of lei 10, 20, 30, 40 and 50.
8. The employee who benefits from holiday tickets shall not benefit from any holiday bonus during a fiscal year.
9. The contracted touristic services are performed by entities authorized by the Minister of Tourism, namely affiliated entities. The maximum commission applied by the affiliated entities shall not exceed 10% of the value of the services packages offered to the beneficiaries of the holiday tickets.
10. The payments between the employer and the entities authorized by the Minister of the Public Finance to issue such tickets and the payment between the issuing entities and the affiliated entities shall be performed via banking system, according with the law.
11. The affiliated entities are not entitled to pay any change to the holiday ticket. The value of the touristic services performed by the affiliated entities which exceeds the holiday tickets shall be borne by the employee.

The Minister of Tourism and the Minister of Labor, Family and Social Protection shall submit to the Government for approval the Methodological Norms for implementing the Ordinance within 15 days starting the entrance into force of the Ordinance.

3. Adjustment of the value of meal tickets for the first semester of 2009

Order no. 161 of the Minister of Labor, Family and Social Protection (the "Order") regarding the adjustment of the value of a meal ticket for the first semester of the year 2009 was published in the Official Gazette, Part I no. 95/17.02.2009. The Order entered into force on 17.02.2009.

The main amendment provided by the Order consists in increasing the value of the meal ticket for the first semester of the year 2009, starting March 2009, to lei 8,48.

4. Law on social insurance state budget for 2009

Law no. 19 regarding the social insurance state budget for 2009 (the „Law”) was published in the Official Gazette, Part I no. 122/27.02.2009. The Law entered into force on 02.03.2009.

The main amendments provided by the Law are the following:

1. The Law provides the quotas of social contributions which applies starting the incomes related to February 2009, as follows:
 - a) 31.3%, out of which 10.5 % borne by the employee and 20.8% borne by the employer, in case of normal working conditions;
 - b) 36.3% out of which 10.5% borne by the employee and 25.8% borne by the employer, in case of difficult working conditions;
 - c) 41.3% out of which 10.5% borne by the employee and 30.8% borne by the employer, in case of special working conditions.

The quotas of other social contributions have not been amended.

- 2 The value of the pension point is of lei 718,40 starting 01.04.2009 and of lei 732.80 starting 01.10.2009.
3. The medium gross salary used for grounding the social insurance state budget for 2009 has been calculated to lei 1,693.
- 4 Starting 01.03.2009, the quotas for support in case of death is of lei 1.072 for the insured or retired person and of lei 851 for a family member of the insured or retired person.

ENERGY

1. Procedure for issuing guarantees of origin for electricity produced in high efficiency cogeneration

Government Decision no. 1461/2008 for approval of the procedure for the issuance of guarantees of origin for electricity produced in high efficiency cogeneration ("GD") was published In the Part I of the Official Gazette no. 813 on 04.12.2008

The procedure establishes:

- the conditions, the deadlines for applications and granting conditions for the issuance of guarantees of origin for electricity produced in high efficiency cogeneration, delivered electric network;
- the information contained in the guarantees of origin of electricity produced in high efficiency cogeneration;
- the registration and management of the information contained within guarantees of origin;
- the conditions for benefiting of the guarantees of origin, the conditions for transfer, withdrawal and alienation of such guarantees;
- the procedures for verifying the accuracy of the information supplied by the producers in the process of the issuance of the guarantees of origin.

The guarantees of origin are issued by the Romanian Energy Regulatory Authority (in Romanian *Agentia Nationala de Reglementare in Domeniul Energiei*, "ANRE"), at the request of producers of electricity, within terms and conditions stipulated by the GD.

The period of time for which a guarantee of origin may be requested shall not be less than one month, and shall not exceed than one year.

A guarantee of origin is issued for every 1 MW/h of electricity produced in high efficiency cogeneration delivered in the electric network. The validity of a guarantee of origin is of one year as of the issuance date, in case the guarantee is not withdrawn before that time. For the issuance of the guarantees, ANRE may request certain monetary contributions from the producers who apply for the issuance of guarantees of origin.

Suppliers of electricity may require guarantees of origin from the producers who own such guarantees for the electricity delivered into the electric network, in cases where:

- regulations of ANRE require the suppliers to recognize the label for the electricity supplied on the basis of guarantees of origin;
- the suppliers export the electricity and the importer requires guarantees of origin for such energy;

- fiscal facilities, provided in the ANRE regulations or other legal provisions, are conditional upon such guarantees.

Producers are entitled to sell the guarantees of origin they own to the suppliers, however, the price of a guarantee may not exceed the level of cash contributions collected by ANRE for the issuance of such guarantees.

ANRE shall elaborate the calculation methodology for determining the amount of electricity produced in high efficiency cogeneration which is necessary for the issuance of the guarantees of origin. The methodology shall be approved by order of the president of ANRE within three months from the entering into force of the GD, namely as of 06.12.2008.

2. Orders of the Romanian Energy Regulatory Authority regarding (i) finance for improving energy efficiency and use of renewable energy sources in the public sector, (ii) selection of solutions for connecting users to public networks of electricity, and (iii) approval of the Technical Code of electricity distribution networks

Order no. 3722/2008 of the President of the Romanian Energy Regulatory Authority approving the *Regulation for selection of applicants for the finance granted within the National Program for improving energy's efficiency and for use of renewable energy sources in the public sector for the years 2009-2010*, was published on 06.01.2009 in the 1st Part of the Official Gazette no. 6/2009.

The Regulation established the conditions to be met by (i) the applicants for non-refundable finance (local authorities which hold ownership over the heating system or parts thereof) and by (ii) the projects proposed by such applicants to be selected in the *National Program for improving energy efficiency and use of renewable energy sources in the public sector for the years 2009-2010*.

Order no. 129/2008 of the President of the Romanian Energy Regulatory Authority approving the Regulation regarding the selection of solutions for connecting users to public networks of electricity was published on 12.01.2009 in the 1st Part of the Official Gazette no. 23/2009.

The Regulation is aimed at ensuring non-discriminatory access of users to public networks of electricity, giving them the possibility to choose the solution for connection which they consider as being technically and economically appropriate for them.

The provisions of the Regulation do not apply to the solutions for building the installations to be connected to public networks of electricity.

Order no. 128/2008 of the President of the Romanian Energy Regulatory Authority approving the *Technical Code of Electricity Distribution Networks* was published on 36.01.2009 in the 1st Part of the Official Gazette no. 43/2009. The purpose of Code is to establish and enforce the rules and the minimum technical requirements to be followed by the distribution operators and by the users of electricity distribution networks in order to ensure a safe, stable and economic functioning of the distribution networks.

PUBLIC PROCUREMENT

1. Amendments regarding the public procurement regime

By the Government Emergency Ordinance no. 19 of 07.03.2009, published in the Official Gazette no. 156 of 12.03.2009, the Government amended the legal framework of public procurement (the Government Emergency Ordinance no. 34/2006 – “GEO 34”) for the approximation of Romanian legal provisions in this field with the ones existing in the European Union, mainly concerning the following issues:

1. Increase of the thresholds of the value of a public procurement contract depending on which a public authority may directly procure goods or assign services or works at a value equal or lower than 15,000 euro per each contract;
2. Defining the application area of GEO 34 by excluding the GEO 34 from applicability to the awarding of the public procurement contract by structures of contracting authorities which operate in the territories of other states, when the contract’s estimated value is equal to or lower than the value thresholds considered in order that the public authorities are entitled to apply the request for tenders procedure. Moreover, the GEO 34 shall not apply if the public procurement contract is awarded as a consequence of the application of a specific procedure provided by European Community legislation, in the context of regional cooperation programmes and projects;
3. Increase of the thresholds of the estimated value, without VAT, of the public procurement contract depending on which a public authority is entitled to apply the request for tenders procedure at a value equal to or lower than the equivalent of:
 - 100,000 euro, for the supply contract;
 - 100,000 euro, for the public services assignment agreement;
 - 750,000 euro, for the public works assignment contract;
4. Increase of the estimated aggregated annual value, without VAT, to 20,000 euro for the media advertising contracts related to which the contracting authority is bound to publish a announcement of participation and an announcement of awarding using the electronic system of public utility available on the Internet, as well as on its own web-site;
5. In case of restricted tendering, competitive dialogue and negotiation procedure with prior publication of an announcement of participation, the diminishment to 10 days, 20 days and 10 days respectively of time periods within which the contracting authority is bound to send the announcement of participation for publication in the Public Procurement Electronic System (“PPES”) if its publication in the European Union’s Official Journal is mandatory;
6. The supply of the express commitment of the person who economically and financially supports the bidder concluded in authentic form (i.e. notarized);
7. Increase of the time periods within which the contracting authority is entitled to conclude the public procurement contract to 11 days from the date of the communication dispatch regarding the result of the procedure application, if the estimated value of the contract exceeds 125,000 euro, 400,000 euro respectively, depending on the contracting authority, in case of supply or service assignment contract/framework contract and exceeds 5,000,000 euro in case of works assignment contract/framework contract and to 6 days from the date of the communication

- dispatch regarding the result of the procedure application, in case the contract's estimated value is equal to or lower than the aforementioned thresholds;
8. Extension of the applicability of the time periods mentioned at the above item, as well as of the cases when their compliance is not mandatory, supplemented by the case when the contract is awarded as a result of using a dynamic procurement system, to the design contest;
 9. Establishment of a tender assessment period of maximum 20 days, which may be extended only on justified grounds by the contracting authority for maximum 20 days;
 10. Elimination of the public authority's obligation to publish through PPES the reasons of annulment of the awarding procedure in case of negotiation without prior publication of an announcement of participation;
 11. Establishing that also the complaints related to awarding procedures regarding assignment of services related to national transport infrastructure shall be raised under the conditions provided by Law no. 554/2004. By derogation from the latter normative act, the time period for requesting the to issuant public authority or to the higher one to rescind the individual administrative act prior to introducing an action into the court of law for administrative disputes, the time period for request settlement and the time period for filing a request of annulment of an administrative individual act are reduced to 5 days;
 12. Provision of the possibility to request the annulment of the act and/or the recognition of the disputed right or of the legitimate interest either to the National Council for Solving Conflicts ("NCSC") or to the court of law, without having the possibility to file a request to the both authorities at the same time, in this latter case the waiver in respect to the administrative jurisdictional alternative being assumed, the party being bound to notify NCSC regarding the bringing of such request into a court of law;
 13. Elimination of the possibility to file a complaint to NCSC regarding its decision concerning settlement of the complaint and imposing fines , being possible that such complaint is filled only in a court of law;
 14. Retention of the case for re-examination by the court of law subsequent to the admission of a complaint against a NCSC's decision settled in court by exception and to the suppression of the respective decision and taking into consideration also the reasons which determined the decision's suppression.
 15. Establishing that the administrative and fiscal disputes department of the Tribunal under which jurisdiction is located the registered office of the contracting authority is competent to settle at first instance trials and claims regarding acts issued by the contracting authorities, damages for the prejudice caused during the awarding procedure, as well as actions regarding the performance, annulment, cancellation, or unilateral termination of public procurement contracts;
 16. The express provision that damages for the prejudice caused by an act of the contracting authority or due to late settlement of a claim regarding the awarding procedure, by breach of the legal provisions regarding public procurement, may be granted only after the prior annulment of the respective act or after the act's rescission or any other remedies by the contracting authority. In case damages consisting in the expenses regarding tender elaboration and participation at the awarding procedure are claimed, the injured person shall provide only evidence of the GEO 34's breach, as well as of the fact that it would have had a real opportunity the contract to be awarded to it and such opportunity has been compromised as a result of the respective infringement;
 17. The enlisting of fixed terms regarding the court settlement of disputes referring to public procurement procedures, such as:

- A 5 - 10 days term calculated from the date of the illegal act acknowledgement for introducing the action into court ;
 - A 3 days term from the communication of the action into court for submitting a statement of defence;
 - A 3 days term for submitting a response to the statement of defence, calculated from its communication;
 - The first court hearing within no more than 20 days from the action's registration date;
 - Further short hearing terms even established from one day to another and not exceeding 10 days;
 - A 3 days term from the completion of debates for the delivery of the judgment;
 - A 5 days term from the delivery of the judgement for its communication;
 - A 5 days term from its communication for appealing the first jurisdiction judgment;
18. The prohibition to conclude the public procurement contract before the settlement of case by the court of law, regardless of its judgement upon the suspension of the awarding procedure;
19. Establishment of the situations when the court of law may ascertain the contract's nullity as well as of the situations when it may take alternative measures, like limitation of the contract's effects or imposition of fines;
20. Provision of the possibility to claim the annulment of the public procurement contract by means of separate action within maximum 30 days from the publishing of the announcement of assignment or from the communication to the involved tenders of the awarding decision and if the announcement of assignment has not been published yet or has not been published in compliance with the provisions of GEO 34, within maximum 6 months from the contract's conclusion date;
21. The establishment of a stamp duty amounting to 2% of the contract's value for the actions introduced into the courts of law regarding public procurement contracts, public works assignment contracts and services assignment contracts. Moreover, the damages claims for the prejudice caused during the awarding procedure shall be stamped with 2% of the prejudice value, and the non-pecuniary claims, such as the contract's annulment, imposing the authority's obligation to issue a non-pecuniary act, the ascertainment of the disputed right and any other claims without patrimonial value shall be stamped with 2000 RON, except when such claims refer also to the compensation of prejudice, in which situation they the stamp establish based on the value of the prejudice shall apply.

REAL ESTATE AND CONSTRUCTION

1. Amendments on Law 50/1991 regarding the authorization of the execution of construction works

Government Emergency Ordinance no. 214/2008 for the amendment and completion of Law 50/1991 on the authorization of the execution of works ("GEO"), was published in the Part I of the Official Gazette no. 847, on 16.12.2008. The scope of the GEO is harmonizing the national legislation with European law for environmental protection and with the legislation in the field of participation of the public to the decision making process and in the field of access to the legal system. The GEO entered into force on the 14.02.2009.

The GEO replaced the wording regarding the "project of the building permit" with the phrase "technical documentation - DT" and redefined the term "building permit". Thus, a building permit represents the ultimate document issued by the local authority based on which the execution of construction works are authorized, in compliance with the legal provisions regarding the location, design, use and post-use (decommissioning, dismantling and demolition) of constructions.

The evaluation of the projects' impact on the environment is introduced as a different stage in the process of obtaining the building permit. The evaluation of the impact on the environment shall be the first state after obtaining the urbanism certificate and shall forego the obtaining of all other permits and approvals required through the certificate of urbanism.

GEO established, as a new requirement for the issuance of the certificate of urbanism, the condition for the applicant to provide the cadastral number and the land registry number of the plot. In practice, such provision could be interpreted as a prohibition for the authorities to issue certificates of urbanism for plots which are not registered with the land registry.

A new procedure was established for the authorization of execution of construction works for the investments which are designed to be located within the borders of several territorial-administrative units. In order to harmonize the requirements for such investments the "coordinating notice" was introduced as an act of authority which shall be issued by the Ministry of Development, Public Works and Housing. Based on such document the presidents of the county councils or the Mayor of Bucharest shall issue building permits for the works done within their territorial-administrative area of competency. The coming into force of the last building permit issued in such circumstances shall be the entry into force of all other previous permits.

The specific measures for the protection of the environment set by the authority in charge with the protection of the environment must be taken into consideration upon the preparation of the technical documentation for the building permit and shall not be modified during the building permit approval procedure or through the contents of the building permit. When occurred modifications require a separate building permit such permit shall be issued subject to the competent environment authority's acknowledgement that the amendments do not exceed the limits imposed by the previous building permit.

The GEO established that the building/dissolution permit, as well as the permits/approvals and the administrative act of the environment authority, including the urbanism certificate, and all annexes which

are part of the building permit, are public documents which may be accessed by any interested party. Local authorities have the obligation to make these documents available either on their websites or by displaying them at their headquarters so that individuals who are involved, affected by or who have a legitimate interest to contest documents issued by the authorities may contest such acts either through an administrative or through a judicial procedure, or may contest the decisions rejecting applications for investments which are subject to an assessment of environmental effects.

The amendments clarify the options available to the authority when receiving a request for issuing a new building permit following a modification of the design subject. A new building permit shall be issued (according to the requested modifications) if the amendments proposed through the technical documentation fall within the limits of the administrative act of the environment authority, as well as within the conditions set in the permits and approvals obtained for the initial building permit, otherwise the entire building permit's issuance procedure should must be repeated.

GEO also established an obligation for investors and owners to pay a contribution of 0.5% of the estimated value of the construction works to the Constructors' Social Insurance House, in all cases in which a building permit is required, regardless of the financing source and the ownership title over the property - land and/or buildings, except for construction works for individual housing facilities which are not done by real estate developers. The GEO does not define the concept of real estate developer.

The Government Emergency Ordinance no. 228/2008 („GEO”) regarding amendments to certain rules and regulations was published on 05.01.2009 in the 1st Part of the Official Gazette no. 3/2009. Certain amendments concern the real estate and constructions area of practice.

Law 50/1991 regarding the authorization of execution of works was further amended, following another set of amendments enacted in December 2008, which entered into force in February 2009. The new amendments refer to the competent authorities to issue the building permit for the execution of construction works for certain categories of buildings. Thus, the amendments established certain exceptions from the general rule according to which the local public authorities are competent in the authorization process of construction works. According to the amendments, construction of military works shall be authorized by the ministries and other specialized bodies of the central public administration, based on procedures jointly established by such ministries and the Ministry of Regional Development and Housing. The construction works related to the infrastructure of roads of national interest shall be authorized by the Ministry of Transports.

In addition, the GEO repelled the obligation for investors and owners to pay on a monthly basis a quota equal to 0,3% of the cost of the construction works to the State Inspectorate in Construction, as it has been previously imposed by the Government Emergency Ordinance no. 214/2008 for the amendment and completion of Law no. 51/1991.

2. Housing Law Completion

Law no. 114/1995 – housing law, was amended by the Government Emergency Ordinance no. 210/2008 (“GEO”) published in the Part I of the Official Gazette no. 835 on 11.12.2008. The amendments are aimed to support the owners of new residential assemblies/ condominiums who could not previously establish

owners' association – a situation which led to the inability of such owners to conclude utilities contracts for the residential assemblies. According with the amendments the owners of the apartment within the condominium have the right to associate, according to the legal provisions.

To avoid any inadvertences, GEO defines the concept of condominium as an immobile consisting of land with one or more buildings, some parts of which being jointly owned while the rest are individual properties. A collective land registry shall be opened for the condominium and several separate land registries shall be opened for each individual unit exclusively owned. An individual unit is defined as part of a condominium.

The amendments introduced by the GEO are important not only in terms of clarifying the issues related to the registration of condominiums and individual units with the land registry but also in terms of the possibility to dispose of the individual units with their related annexes and indivisible quota of the condominium.

The housing facilities shall be identified by a single cadastral number and a single land registry number. The beneficiary or the investor must hold and prove to hold with ownership documents and a land registry excerpt, a valid title over the land designed for housing facilities. The housing facilities and the individual units may be alienated and appropriated and the ownership right over the common parts of the building shall be alienated of only together with the exclusive ownership right over the house or over the individual unit.

ENVIRONMENT

1. Amendments on the provisions regarding environment protection

Government Emergency Ordinance no. 164/2008 ("OUG") for the modification of the Government Emergency Ordinance no. 195/2005 regarding environment protection was published on 03.12.2008 in Part I of the Official Gazette of Romania no. 808/2008.

The legal concept of *environmental permit for establishing the environment obligations* (in Romanian *aviz de mediu pentru stabilirea obligațiilor de mediu*) has been eliminated. At the same time a similar (but simplified) procedure has been established based on an obligation of the holder of activities for which an environment authorization has been issued, to notify the environment authorities in case such holder is subject of the following activities: sale of the majority package of shares, sale of assets, concession, merger, spin off, dissolution followed by liquidation, liquidation, bankruptcy or other situations involving change of the holder of the activity in consideration of which an environment authorization has been issued. Following such notice the environmental authorities shall inform the holders of such activities regarding the environmental liabilities to be assumed by the parties (either by the new holder of the activity or by the initial holder).

Following the amendments, the validity period of the environment authorization and of the integrated environment authorization has been increased from 5 to 10 years. As an exception to the rule above, in case the environmental authorization was issued within the terms and condition of a compliance program, such authorizations are valid throughout the duration of the program, but not more than 60 days after the due date for the completion of the last step established within such program.

According with the amendments, for the mining projects/ activities using dangerous substances during the technological process and having a production capacity of more than 5 million tons/year or for which the exploitation area exceeds 1000 ha, (i) the environmental permit / the decision to rejecting the application and (ii) the environmental authorization/ integrated environment authorization shall be issued by means of a governmental decision.

2. Technical provisions for developing green spaces

Order no. 1549 of the Ministry of Development, Public Works and Housing approving the Technical Provisions for elaboration of the local green spaces Registry was published on 10.12. 2008, in Part I of the Official Gazette no. 829/2008.

Each local public authority shall conclude registers to keep record of green spaces located in their administrative territory.

Local registries of green spaces shall be established on the basis of geographic information systems ("GIS"), which shall contains a set of detailed data, information and plans regarding the land identification.

The local registry of green spaces will reflect the situation of green spaces on public and private property within the designated area for construction (*intra-murros*).

The local registry for green spaces should be correlated with the provisions of the master plans and of the urban planning regulations established under Law no. 350/2001 regarding territory zoning and urbanism, as subsequently amended. The green spaces identification and representation shall be done by drawing up topographic and cadastral plans or orthoplans, which shall be made available by the Agency for Cadastre and Real Estate Publicity, on analog or digital format, subject to certain legal fees.

The GIS digital map for a local administrative unit must include: the plots defined as green spaces, the distribution of protected and isolated trees, damaged plots which could be turned into green spaces. In addition to the digital map, the local registry of green spaces shall keep record of all documents issued by the authorities: urbanism certificates, building permits, tree cutting permits, controls, contraventions, any documents having an effect on the status of the green spaces etc.

The local green spaces registry will be updated every 2 years.

3. The procedure for classifying, packaging and labelling of dangerous substances

Government Decision no. 1408/2008 regarding the classification, packaging and labelling of dangerous substances in view of establishing the marketing conditions for such substances ("GD") was published on 04.12.2008 in the Part I of the Official Gazette no. 813/2008. The GD implements the EU Council Directive 67/548/EEC on classification, packaging and labelling of dangerous substances. The DG entered into force on 14.12.2008.

DG' s provisions shall not apply:

- to the transport of dangerous substances transported by railroads, roads, air, or by internal or maritime navigable waterways;
- to any substances in transit, which are under customs supervision, provided that they are not transformed or processed in any way.

The DG provides for an express prohibition of marketing dangerous substances if the packaging does not meet certain requirements. For marketing dangerous substances in Romania, the labels of such substance must be in Romanian.

The DG expressly prohibits any advertising of substances enlisted in the annexes of the DG unless such advertising contains references to the category or categories of dangerous substances the respective substance is part of.

Failure to observe the provisions of DG constitutes a contravention and may be sanctioned by fine between RON 10,000 and RON 50,000.

EU AND COMPETITION

1. State aid scheme for ensuring sustainable economic development

On 30 December 2008 the Romanian Government adopted the Decision no. 1680 regarding the implementation of a state aid scheme for ensuring sustainable economic development ("**Decision**"). The Decision is aimed to stimulate regional development by investments and to create jobs. The Decision implements the provisions of the General Regulation of the European Commission no. 800/2008 on the exemption of state aid categories and the provisions of Council Regulation (EC) no. 659/1999 for the implementation of article 93 of the Treaty establishing the European Communities.

This aid scheme applies to any company registered under Law no. 31/1990 regarding commercial companies, which invests in Romania and cumulatively meets the following conditions:

- (i) performs an initial investment with a value exceeding the equivalent in RON of EUR 30 million; and
- (ii) creates at least 300 jobs as a result of this initial investment. *Initial investment* is an investment in tangible and intangible assets relating to the establishment of new facilities, expansion of existing facilities, diversification of the production facilities by new products or a fundamental change of the whole production process of an existing facility.

The Decision provides that this state aid scheme may benefit to companies operating in any sector of activity, except for the cases expressly provided by the Decision (such as agriculture, hunting, forestry and fisheries, coal mining, manufacture of beverages, tobacco and textiles, steel industry, the supply of steam and air conditioning, transport, land, water and air, the post and courier services, professional, scientific and technical service activities and administrative activities in support services, etc.).

The method of granting state aid under the Decision consists in the allocation of non-refundable amounts from the state budget by the Ministry of Economy and Finance. The maximum level of state aid of any eligible company is equivalent to EUR 28.125 million. Nevertheless, for investments in the development area no 8 Bucharest-Ifov, the maximum level of state aid was set at the amount of EUR 22.5 million.

In order to ensure a viable and efficient level of investments eligible for state aid, the Decision provides that the beneficiary should contribute to the financing of the investment at least 50% of the eligible costs.

This state aid scheme shall be valid for period 2009-2013.

The Decision entered into force from 1 January 2009.

2. Communication of the European commission regarding the abusive exclusionary conduct

The European Commission has published on 24 February 2009 in the Official Journal of the European Union no. 2009/C45/02 the Communication regarding the application of Article 82 of the Treaty

establishing the European Community ("Treaty") to the abusive exclusionary conduct developed by dominant undertakings ("Communication").

The purpose of the Communication is to set out the enforcement priorities that will guide the Commission's actions regarding the prevention of the abusive exclusionary conduct in order to insure that dominant undertakings do not prevent effective competition by foreclosing competitors in an anti-competitive manner.

In the light of the Communication, the application of Article 82 of the Treaty depends on elements such as the assessment of whether an undertaking is in a dominant position, the degree of market power it holds compared to the competitors' market shares, the potential impact of expansion by actual competitors and the entry on the market of potential competitors. The Commission will intervene where, on the basis of cogent and convincing evidence, the allegedly abusive conduct is likely to lead to anti-competitive foreclosure.

The Anti-competitive Foreclosure describes a situation where effective access of actual or potential competitors to supplies or markets is hampered or eliminated as a result of the conduct of the dominant undertaking whereby the dominant undertaking is likely to be in a position to profitably increase prices to the detriment of consumers.

The Communication strictly relates to abuses committed by an undertaking holding a single dominant position on one or more relevant markets. The most common types of exclusionary abuses are:

- Exclusive dealing;
- Tying and Bundling;
- Predation;
- Refusal to supply.

Exclusive dealing refers to certain situations where a dominant undertaking tries to foreclose its competitors by hindering them from selling to customers, through use of exclusive purchasing obligations or rebates.

Tying represents the situation where the customer that purchases one product (the tying product) is required also to purchase another product from the dominant undertaking (the tied product).

Bundling refers to the way products are offered and priced by the dominant undertaking.

Predation refers to practices used by dominant undertakings by deliberately incurring losses or foregoing profits in the short term ("sacrifice" practices), so as to foreclose one or more of its actual or potential competitors with a view to strengthening or maintaining its market power, thereby causing consumer harm.

Refusal to supply mainly refers to the refusal to supply products to existing or new customers, refusal to license intellectual property rights or refusal to grant access to an essential facility or a network.

The Communication also describes the situations of price-based exclusionary conduct. In such situations, the Commission will only intervene where the conduct concerned has already been or is capable of hampering competition from competitors which are considered to be as efficient as the dominant undertaking. However, the Commission recognises that, in certain circumstances, less efficient competitors may also exert a constraint in the case of price-based exclusionary conduct.

REGULATORY

Regulations regarding conclusion of mandatory housing insurance of dwellings against earthquake, land-sliding or floods

Order no. 23/2008 of the Insurance Supervisory Commission approving the Regulations regarding the authorization of insurers for concluding mandatory insurance of dwellings against earthquakes, land-sliding or floods was published on 05.01.2009 in the 1st Part of the Official Gazette no. 3/2009.

To conduct such activities, insurers are requested to hold licenses to conclude insurances, according with Law no. 32/2000 regarding the insurance activity and insurance supervision, and, cumulatively, are requested to meet certain conditions imposed by the aforementioned regulations.

Authorized insurers for this type of insurance against disasters shall assume responsibility for all the insurance policies distributed through insurance agents, including for wording errors or omissions and shall also be requested to become shareholders of the Pool Insurance against Natural Disasters (in Romanian *Poolul de Asigurare împotriva Dezastrelor Naturale*).

TAX

1. Specifications on finance-accountancy related documents

The Order no. 3.512 of the Finance and Economy Minister regarding the finance- accountancy related documents (the „Order”) and its appendixes no. 1 and no. 4 were published in the Official Gazette, Part I no. 870/23.12.2008. The appendixes no. 2 and no. 4 to the Order were published in the Official Gazette, Part I no. 870 bis /23.12.2008. The Order entered into force on 23.12.2008.

The Order includes the methodology regarding the filling in and use of the finance-accountancy related documents. Such Methodology refers to accounting books, registration in accounting books, methods related to the analytical accountancy of goods, restoration of lost, stolen or destroyed finance-accountancy related documents, archiving and keeping of finance-accountancy related registries and documents, minimal requirements regarding the software used in finance and accountancy related activity and conditions for filling in, editing and electronic archiving of the finance-accountancy related documents. Furthermore, the Order includes the specific methodology on filling in and use of the finance-accountancy related documents and the templates of the finance-accountancy documents which can be adapted to the necessities of the activity of the person or entity as the format is concerned, provided that a minimal contents is met.

Based on art 25(2) of Law no. 82/1991 on accountancy, the Order stated the accounting registries and justifying documents which have to be kept for 5 years.

2. Amendment of the Fiscal Code and of its norms

The Government Emergency Ordinance no. 200 dated 04.12.2008 (the „Ordinance”) for the amendment and completion of Law no. 571/2003 regarding the Fiscal Code („Fiscal Code”) was published in the Official Gazette, Part I no. 815/04.12.2008. The Ordinance entered into force on 01.01.2009, except for the provisions mentioned below on item 4, which entered into force on 15.12.2008.

Please find below a brief description of the main amendments provided by the Ordinance:

1. The Ordinance introduced fiscal incentives for the research and development activities, in the condition provided by a state aid scheme of the Ministry of Education, Research and Youth aiming to develop research, development and innovation. The incentives imply mainly the additional deduction of 20% of the eligible expenses for the research and development activities for the calculation of the taxable profit, calculated per trimester or per year, and the implementation of the accelerated amortization method in case of installations and equipments used in research and development activities.
2. The provisions of the Fiscal Code regarding non-taxation of revenues obtained by the implementation within the country of an invention patented in Romania were annulled. Consequently, such revenues are taxable.

3. By way of exception from the provisions of the Fiscal Code, starting with 01.01.2009, the revenues representing interests of term deposits and saving instruments are not taxable, including the revenues obtained in Romania from natural persons residing in other states than those members of the European Union.
4. As a part of the social policy, the Ordinance introduces the VAT quota of 5%, applied on the taxation base for the delivery of houses, including the land the houses are built on. Thus, the 5% quota is applicable to the delivery of buildings, including the land they are built on, having as destination retired and elder people houses and recovery and rehabilitation centers for handicapped persons under the age of 18.

The Ordinance provides the taxation with 5% for the delivery of houses having a usable area of maximum 120 m², excluding house annexes, and whose value includes the land, shall not exceed 380.000 lei, VAT excluded, in certain conditions. Thus, the houses should be used as such at the moment of the sale and the land they are built on should not exceed 250 m². Single persons or families may buy only one house falling under the 5% taxation, provided that the single person, respectively the husband/the wife did not own and does not own at present a house acquired with the VAT quota of 5%.

The reduced quota of 5% taxation is also applicable to deliveries of buildings, including corresponding land, towards the city halls in view of their allocation with subsidized rent to persons or families which, due to economic reasons, cannot rent or own a house at the market price.
5. The Ordinance introduced special provisions applicable to importers holding an unique authorization for simplified customs procedures, issued by a member state. For the purpose of deducting the VAT, they must possess an excise and VAT import statement and to submit a counterpart of such statement to the customs authorities until the due date of the VAT.

In the case of importers holding an unique authorization for simplified customs procedures issued by another member state which transport excisable products meant for consumption in Romania or in the case of importers registered in Romania holding an unique authorization for simplified customs procedures issued by the Romanian customs authority which transport excisable products meant for consumption in other member states participant to the simplified customs procedure, the transport of such excisable products may be performed under suspensive regime, provided that certain conditions are fulfilled. Thus, the importer has to be authorized to transport the excisable products under suspensive regime, has to hold an excise code in the authorization state, the transport of the products must take place between a customs office situated in Romania/community territory and a fiscal warehouse or an operator in Romania, and the products must be accompanied by at least 3 counterparts of the administrative transportation documents of the products.
6. The Ordinance provides the exemption of payment of the tax on reinvested dividends, starting with 2009, in case the dividends are reinvested for the purpose of maintaining existing jobs and creating new jobs for the development of Romanian legal entities which distribute dividends. Also, the dividends reinvested in the share capital of another Romanian legal entity, for the purpose of creating new jobs, are exempted from the payment of the tax.

The Norms of the Fiscal Code were also amended by Government Decision no. 1618/2008 (the „Decision”) for the amendment and completion of the Application Norms of Law no. 571/2003 regarding

the fiscal Code, approved by Government Decision no. 44/2004, published in the Official Gazette, Part I no. 865 dated 22.12.2008. The Decision entered into force on 22.12.2008.

1. The Decision prolonged until 01.01.2012 the term until which the fiscal group may be composed only of taxable person who are considered big tax payers; after such date other tax payers shall be authorized to form a fiscal group.
2. The Decision provided the procedure for the application of the 5% VAT quota for the houses delivered as a part of the social policy, newly introduced in the Fiscal Code.
3. Regarding the exemption from the VAT payment for the delivery of a construction or part thereof and of the land it is built on, and for the delivery of any other plot of land, the Decision amended the norms related to the case in which the construction and the land represent a single immovable good, identified by a sole cadastral number, case in which the regime of the construction or of the land is followed, depending on their value, or, in case of equal value, depending on their surface.
4. The provision according to which taxable persons that opted for the taxation of lease of agricultural land, license, lease and leasing of a construction or part thereof or of a land, other than buildable land, cannot apply the VAT exemption regime for the delivery of a construction or part thereof and of the land it is built on, was repealed by the Decision.
5. The Decision stipulated that the sole operation of aditivation of energetic products may take place in a lodge fiscal warehouse.
6. The Decision introduced the obligation of undertakings to obtain the final user authorization in order to be excepted from the payment of excises for the purchase of energetic products provided in art. 175(2) of the Fiscal Code, used for other purposes than as motor fuel and/or heating fuel.
7. The Decision introduced the obligation to install a surveillance system through video cameras in the places of production of ethylic alcohol and distilled products, with the exception of the small distilleries. The surveillance of the warehouses shall be permanent, including in the period when the warehouse is closed, and the images on the video cassettes shall be stored for at least 30 days.
8. The Decision established the new conditions for the restitution of excises paid following the sale for consumption of the products submitted to harmonized excises which are returned to the production warehouses, for the restitution of excises corresponding to the imported products that are returned to the external supplier and of those corresponding to products that are marked through stripes or stamps. In addition, the Decision provides the conditions in which the destruction of the products sold for consumption or imported in Romania and returned to the external supplier, can take place.
9. In the case of execution of the warranty submitted by the authorized undertaking, that assures the payment of the excises that be become due, such authorization is suspended until completion up to the initial amount.
10. The Decision modifies the validity term of the final user authorizations based on which the charity organization are exempted from the payment of excises on energetic products, and the validity term of the final user authorizations based on which the undertakings are exempted from the payment of excises on energetic products used as fuel for heating hospitals, sanatoriums, shelters, orphanages and other social care institutions, education institutions and cult houses. Such authorities are valid for a period of 12 consecutive months as of their issuance.

11. The Decision provides general information regarding the final user authorizations, i.e. cases in which it can be annulled by the issuing territorial fiscal authority, possibility of contestation etc.
12. The provisions regarding the calculation method for excises of energetic products obtained from bio fuels such as fuels that contain a minimum of 2% products obtained from bio fuels were repealed and the new calculation method for excises of energetic products which contain a minimum of 4% products obtained from bio fuels was provided.
13. The authority to which the undertakings must submit the order for obtaining the check mark for excisable products has been modified and is currently the specialized authority within the National Customs Authority or the county authority/Bucharest authority in charge with excises and customs operations.
14. The Decision introduced the restitution procedure for excises paid for products obtained from the internal production which are directly delivered by the producer for products subject to non harmonized excises.
15. The restriction regarding the deduction between the suppliers and buyers of excisable products performed exclusively through banks is repealed by the Decision.
16. The Decision stipulates that the undertakings authorized for the production of excisable products who did not obtain positions or tariff codes for the final products until 30.04.2008 have the obligation to submit certain documents to the National Customs Authority until 31.01.2009. Also, the authorized undertakings have the obligation to submit to the National Customs Authority the results of the lab tests within 15 days as of their receipt. The non-execution of the above mentioned obligations is sanctioned with the withdrawal of the authorization.
17. The Decision provides that within 60 days as of its publication, the undertakings holding a final user authorization have the obligation of providing the warranty corresponding to the quantity of excisable products not yet purchased from the approved quantity.

3. Interpretation of provisions in fiscal procedural code and customs code

The Order of the president of the National Agency for Fiscal Administration („NAFA”) no. 1754 dated 17.12.2008 regarding the approval of the Decision of the fiscal procedures Commission no. 2/2008 (the „Decision”) was published in the Official Gazette no. 864/22.12.2008. The Order entered into force on 22.12.2008.

The purpose of the Decision is the interpretation of several provisions of Government Ordinance no. 92/2003 regarding the Fiscal Procedural Code („Fiscal Procedural Code”) and of Law no. 141/1997 regarding the Romanian Customs Code. Important precisions were made with regard to the following aspects: calculation, interruption and suspension of limitation terms ongoing at the moment of entering into force of the Fiscal Procedural Code, distraint of the amounts due to the authors by the garnished debtor following the use of such creations, the order of extinction of debts in case of tax payers which are in insolvency, calculation of delay penalties corresponding to the differences of customs taxes for the customs operations registered with the customs authority until 31.12.2006.

According to the Decision, the provisions of art 114 (4) – (6) of the Fiscal Procedural Code regarding the correction of errors in payment documents are applicable as of 22.06.2006, regardless whether the payments were made prior or after such date.

4. Amendments to the methodology related the computation of contributions and taxes due to the environment fund

Order no. 1607 of the Ministry of Environment and Sustainable Development (the "Order") which amended Order no. 578/2006 of the Ministry of Environment and Water Administration approving the Methodology related to the computation of contributions and taxes due to the Environment Fund (the "Methodology") was published in the Official Gazette, Part I no. 864 of 22.12.2008. The Order came into force on 22.12.2008.

The main amendments provided by the Order are the following:

1. The Order states that the Methodology shall apply in the case of the contribution payable by the administrative-territorial units starting 01.07.2010 in case the annual reduction target of 15% of the quantities of municipal waste and equivalent, collected and delivered for final destruction is not met, as well as of the ecotax for bags of materials which are not biodegradable.
2. The contribution of 3% of income will also apply on incomes from sale of goods to be disassembled by natural or legal persons which do not operate as authorized collectors and/or sellers according to the law.
3. The Methodology determines the computation of the contribution due by the administrative-territorial units in case the annual reduction target of 15% of the quantities of municipal waste and equivalent, collected and delivered for final destruction is not met, as well as of the ecotax for bags of materials which are not biodegradable.

5. Amendments to the vehicle pollution tax

Government Emergency Ordinance no. 218 dated 11.12.2008 (the „Ordinance”) regarding the amendment and completion of Government Emergency Ordinance no. 50/2008 related to the vehicle pollution tax („GEO 50”) was published in the Official Gazette, Part I no. 836/11.12.2008. The Ordinance entered into force on 15.12.2008, except for the provisions regarding the repealing of Government Emergency Ordinance no. 208/08.12.2008 related to the establishment of certain measures regarding vehicle pollution tax („GEO 208”), that entered into force on 11.12.2008.

The Ordinance stipulates that for the period 15.12.2008-31.12.2009, the cars having Euro4 pollution norm and less than 2000 cm³, and industrial vehicles having Euro4 pollution norm, which are registered for the first time in Romania or in another member state of the European Union are exempted from the payment of the pollution tax as implemented by GEO 50.

Cars and industrial vehicles that do not fulfil the above mentioned conditions have to pay the pollution tax, calculated according to the annexes of the Ordinance, based on the following criteria: carbon dioxide emission, pollution norm, category of the vehicle.

The tax payers that have already paid the pollution tax according to GEO 208, repealed by the Ordinance, are entitled to the restitution of the difference between the paid tax and the due tax calculated according to GEO 50, as per Order no. 1748/2008 regarding the amendment and completion of the Order of the president of the National Agency for Fiscal Administration no. 986/2008 for the approval of the procedure regarding the calculation of the vehicle pollution tax, published in the Official Gazette, Part I no. 874/23.12.2008.

6. Law on state budget

Law no. 18 regarding the state budget for 2009 (the „Law”) was published in the Official Gazette, Part I no. 121/27.02.2009. The Law entered into force on 02.03.2009.

The Law provides and authorizes the revenues for the budgetary year 2009 on sections and items, as well as the expenses on destinations and principal authorizing officers in case of the state budget and the budgets for the National Fond of Health Social Insurances, external credits, external non-reimbursable funds and activities which are integrally financed from non-budgetary incomes.

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