**GOVERNMENT ORDINANCE No 92/2003**
**on the Fiscal Procedure Code**
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*- Government Ordinance no 47/2007 concerning the regulation of some fiscal-financial measures, published in the Official Gazette of Romania no 603 of August 31, 2007*
*- Government Emergency Ordinance no 19/2008 for the modification and completion of Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania, no 163 of March 3, 2008.*
*- Government Emergency Ordinance no 226/2008 concerning the regulation of some fiscal-budgetary measures, published in the Official Gazette of Romania no 899 of December 31, 2008*
*- Law no 121/2009, published in the Official Gazette of Romania no 293 of May 5, 2009*
*- Government Emergency Ordinance no 34/2009 concerning to the budget amendment for 2009 and the regulation of some fiscal-financial measures, published in the Official Gazette of Romania no 249 of april 14, 2009, rectificated in Official Gazette of Romania no 254 of April 16, 2009*
*- Government Emergency Ordinance no. 46/2009 concerning the improving procedures and reducing tax evasion, published în the Official Gazette of Romania no 347 of May 25, 2009*
*- Government Emergency Ordinance no 39/2010 for the modification and completion of Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania no 28 of April 28, 2010*
*- Government Emergency Ordinance no 54/2010 concerning some measures for combat tax evasion, published in the Official Gazette of Romania no 421 of June 23 , 2010 rectificated in the Official Gazette of Romania no 526 of July 28, 2010*
*- Government Emergency Ordinance no 88/2010 for the modification and completion of Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania no 669 of September 30, 2010, approved by the Law no 126/2011 published in the Official Gazette of Romania no 433 of June 21, 2011*
*- Government Emergency Ordinance no 117/2010 for the modification and completation of Law nr.571/2003 concerning the Fiscal Code and the regulation of some fiscal-financial measures, published in the Official Gazette of Romania no 891 of December 30, 2010*
*- Government Ordinance no 29/2011 for the modification and completion of Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania no 626 of September 2, 2011*
*- Government Ordinance no 2/2012 for the modification and completion of Government Ordinance no 92/2003 concerning the Fiscal Procedure Code, published in the Official Gazette of Romania no 71 of January 30, 2012*

TITLE I
**General provisions**

CHAPTER 1
**Scope of the Fiscal Procedure Code**

ARTICLE 1

**Scope of the Fiscal Procedure Code**

(1) This code regulates the rights and obligations of the parties within the fiscal and legal relations concerning the administration of taxes and fees payable to the
State and local budgets as provided by the Fiscal Code.

(2) This Code also applies for the customs rights administration as well as for the administration of the receivables generated by the contributions, fines and other amounts constituting revenues of the general consolidated budget, according to the law, if not otherwise provided by the law.

(3) The administration of the taxes, fees, contributions and other amounts owed to the general consolidated budget shall mean the totality of the activities performed by the fiscal bodies related to:

a) tax registration;

b) declaration, determination, check and collection of the taxes, fees, contributions and other amounts owed to the general consolidated budget;

c) solving of the claims against the tax administration documents.

(4) The current code shall not apply in the case of receivables to the general consolidated budget established by legal contractual relations, with the exception of royalties in the mining and oil sector.

ARTICLE 2

**The relation between the Fiscal Procedure Code and other legal acts**

(1) The administration of taxes, fees, contributions and other amounts owed to he general consolidated budget as provided in art. 1 is to be enforced according to the provisions of the Fiscal Procedure Code, Fiscal Code and other regulations adopted for their implementation.

(2) This code constitutes the common right procedure for the administration of the taxes, fees, contributions and other amounts owed to the general consolidated budget.

(3) Where this code cannot be applied, the provisions of the Civil Procedure Code are to be applied.

ARTICLE 3

**Modification and completion of the Fiscal Procedure Code**

(1) This code is to be modified and completed only by law, promoted, as a rule, 6 months before the date of its entry into force.

(2) Any modification or completion to this code shall enter into force starting with the first day of the year next to the year of its adopting by law.

ARTICLE 4 - ABROGATED

CHAPTER 2

**General conduct principles in the administration of the taxes, fees, contributions and other amounts owed to the general consolidated budget**

ARTICLE 5

**Consistent application of the legislation**

(1) The tax body shall have the obligation to consistently apply the provisions of the fiscal law on the Romanian territory, aiming the correct determination of the taxes, fees, contributions and other amounts owed to the general consolidated budget.

(2) The Central Fiscal Commission, set up in compliance with article 6 of the Fiscal Code, shall have as responsibilities the elaboration of decisions regarding the consistent

application of this Code, of its legislation, as well as of the legislation within the scope of the National Agency for Fiscal Administration.

ARTICLE 6
**Exercise of the assessment right**
The fiscal body shall be entitled to assess, in the limits of its attributions and competences, the relevance of tax state of facts and to adopt the solution admitted by the law, based on complete findings concerning all the edifying circumstances in case.

ARTICLE 7
**Active role**
(1) The tax body advises the taxpayer on his rights and obligations during the procedure development, according to the fiscal law.
(2) The fiscal body is to be entitled to examine ex officio the actual state of fact, to obtain and use all information and documents that are necessary for a correct assessment of the taxpayer's tax state of fact. The analysis performed by the fiscal body is to identify and consider all relevant circumstances of each case.
(3) The tax body is to have the obligation to objectively examine the tax state of fact and also to advise the taxpayers in the declarations and other documents submission and correction, each time this is necessary.
(4) The tax body is to decide upon the nature and volume of examinations, according to circumstances special to each of the cases and within the limits provided by the law.
(5) The fiscal body is to guide the taxpayer in the application of the provisions of the fiscal law. Assistance is to be provided either upon the taxpayer requests or upon the initiative of the fiscal body.

ARTICLE 8
**Official language in the fiscal administration**
(1) The official language in the fiscal administration is Romanian language.
(2) If to the fiscal bodies are submitted petitions, justifying documents, certificates or other writs in a foreign language, the fiscal bodies shall request to be accompanied by their translations into Romanian, certified by authorized translators.
(3) The legal provisions concerning the use of the national minorities' language is to be applied accordingly.

ARTICLE 9
**Right to be listened to**
(1) Before taking the decision, the tax body is to have the obligation to assure to the taxpayer the possibility to express his point of view regarding the facts and circumstances relevant for the decision making.
(2) The fiscal body is not have the obligation to apply the provisions of par. (1) in the following cases:
a) the delay in the decision taking endangers the real tax state of fact related findings concerning the obligations fulfillment by the taxpayer or the adoption of other measures provided by the law;
b) the tax state of fact presented shall be modified insignificantly concerning the amount of the tax receivables;
c) the information presented by the taxpayer, given by this one in a declaration or application, is accepted;
d) measures of mandatory execution are to be undertaken.

ARTICLE 10
**Obligation to cooperate**
(1) The taxpayer is to have the obligation to cooperate with the tax bodies in view of determination of the tax state of fact, by presenting the facts known by this one, as a whole, according to reality, and by indicating the proving means which he knows.
(2) The taxpayer is to have the obligation to undertake measures in view of obtaining the necessary proving means, by using all the available legal and effective possibilities.

ARTICLE 11
**Fiscal secret**
(1) The public officers within the tax body, including the persons not having anymore this capacity, are to have the obligation, according to the law, to keep the secret on the information they have following to the exercise of their job attributions.
(2) The information regarding the taxes, fees, contributions and other amountsowed to the general consolidated budget may be transmitted only:a) to the public authorities, with the aim of fulfilling the obligations provided bythe law;
b) to the tax authorities of other countries, in conditions of reciprocity on the
basis of certain conventions;
c) to the competent legal authorities, according to the law;
d) in other cases provided by law.
(3) The authority receiving tax information is to have the obligation to keep the secret regarding the information received.
($3^1$) The information of the nature specified in indent (1) may be provided, included for the taxpayer capacity period, to the following:
a) the taxpayer himself;
b) the taxpayer's successors.
($3^2$) For the purpose of applying the provisions of indent (2) a), the public authorities may conclude information exchange protocols.
(4) The transmission of fiscal information in other cases than those under par. (2), is to be allowed only after ensuring that no identity of any individual or legal person is thus disclosed.
($4^1$) ABROGATED
(5) Not respecting the obligation of keeping the fiscal secret results in liability according to the law.

ARTICLE 12
**Good faith**
The relations between the taxpayers and the tax bodies should be founded on good faith, in view of performing the legal requests.

CHAPTER 3
**Applying of the fiscal law provisions**

ARTICLE 13
**Law interpretation**
The tax regulation interpretation should respect the legislator will as expressed by the law.

ARTICLE 14
**Economic criteria**

(1) The revenues, other benefits and property values are to be subject to the fiscal law regardless if they are obtained or not from activities observing or not the requirements of other legal provisions.
(2) Based on the economic contents, the tax authorities decide which factual situations are relevant from a fiscal point of view.

ARTICLE 15
**Elusion of the fiscal law**
(1) If, by eluding the goal of the fiscal law, the tax liability has not been determined or has not been correlated with the real tax basis, the due obligation, and, respectively, the correlative tax receivable are the ones legally determined.
(2) In cases provided in par. (1) are to apply the provisions of art. 23.

CHAPTER 4
**Tax legal relation**

ARTICLE 16
**Content of the tax procedural law relation**
The tax procedural law relation contains the rights and obligations of the parties, according to the law, for the fulfillment of the modalities provided for the determination, exercise and extinction of the rights and obligations of the parties from the tax material law relation.

ARTICLE 17
**Parties to the Fiscal Legal Relationship**
(1) The parties in the legal fiscal relationship are the government, the territorial and administrative divisions or sub-divisions of municipalities, as the case may be, according to the definition given by the Local Public Administration Law 215/2001, as republished, as amended, as well as the taxpayers and other persons having rights and responsibilities from such a relationship.#
(2) The taxpayer is any individual or legal person or any other entity without legal personality who owes taxes, fees, contributions, and other amounts to the general consolidated budget, according to the law.
(3) The State is represented by the Ministry of Public Finances through the National Agency for Fiscal Administration and its subordinated units with legal personality.
(4) The territorial and administrative divisions or the municipality sub-divisions, as the case may be, are authorities of the local public administration, as well as dedicated compartments within the authorities of the local public administration, according to the powers delegated to them by the respective authorities. ..
(5) The National Agency for Fiscal Administration its territorial subordinated units as well as the specialized departments of the local public administration authorities are designated in this code as tax bodies.

ARTICLE 18
**Empowered parties**
(1) The taxpayer may be represented by an empowered person in the relations with fiscal bodies. The content and limits of the representation are the ones contained in the empowerment or established according to the law, as the case may be. The designation of an empowered person shall not stop the taxpayer to personally fulfill his tax obligations, even if he did not revoke the empowerment according to par. (2).

(2) The empowered person is obliged to register the power of attorney at the fiscal body in original or authenticated form. The revocation of the empowerment becomes effective with the fiscal body at the registration date of the revocation document.
(3) If the tax payers are represented in relation with the tax bodies by a lawyer, the form and content of the empowerment are the ones referred to by the legal provisions on the lawyer's job organization and exercise.
(4) The tax payer with no fiscal residence in Romania, who has the obligation of submitting tax declarations to the tax bodies, should designate an empowered person, with tax residence in Romania, which should fulfill, on behalf of and from the taxpayer's wealth, the taxpayer's obligations against the tax body.
(5) The provisions of this article are also applicable to the tax representatives designated according to the Fiscal Code, unless otherwise provided by the law.

ARTICLE 19
**Tax trustee appointment**
(1) If there is no empowered person according to art. 18, the tax body is to request, according to the law, to the competent court to appoint a fiscal trustee for an absent taxpayer whose fiscal domicile is unknown or who, due to illness, infirmity, old age or handicap of any kind cannot personally exercise or fulfill his rights and obligations under the law.
(2) For his activity, the fiscal trustee shall be paid according to the judgment, all the expenditure referring to this representation being in the charge of the person represented.

ARTICLE 20
**Duly representatives' obligations**
(1) The duly representative of the natural and legal persons as well as the ones of the associations with no legal personality should fulfill the tax obligations of the represented persons, on behalf of them and from their wealth.
(2) In case, due to any reason, the tax obligations of the associations without legal personality are not fulfilled as provided in par. (1), then partners are to be jointly liable for their fulfillment.

TITLE II
**General dispositions concerning the tax material right relation**

CHAPTER 1
**General provisions**

ARTICLE 21
**Tax receivables**
(1) Tax receivables represent patrimony rights which, according to the law, are generated by the tax material law relations.
(2) Legal fiscal relations provided in par. (1) generate both the content and the amount of tax receivables, representing determined rights consisting of:
a) the right to collect taxes, fees, contributions and other amounts representing revenues to the general consolidated budget, the right to the refunding of the value added tax, the right to the refunding of taxes, fees, contributions and other amounts representing revenues to the general consolidated budget, according to par. (4), hereinafter called main tax receivables;

b) the right to collect late payment interests, penalties or increments, as the case may be, under legal conditions, called *ancillary tax receivables*.
(3) In the cases provided for by the law, the fiscal body is entitled to request to the person having the obligation to fulfill the relevant obligation on behalf of the debtor, to settle the relevant obligation.
(4) To the extent to which it is found out that the payment of the amounts representing taxes, fees, contributions and other revenues to the general consolidated budget was made without legal base, the person who made such a payment is entitled to have that specific amount reimbursed.

ARTICLE 22
**Tax obligations**
Tax obligations in the meaning of this code, are:
a) the obligation to declare the taxable goods and revenues, or, the taxes, fees, contributions and other amounts due to the general consolidated budget, as the case may be;
b) the obligation to compute and record in the accounting and tax evidences the taxes, fees, contributions and other amounts due to the general consolidated budget;
c) the obligation to pay at the legal deadlines the taxes, fees, contributions and other amounts due to the general consolidated budget;
d) the obligation to pay late payment interests, penalties or increments, as the case may be, related to deferred payments of the taxes, fees, contributions and other amounts due to the general consolidated budget, called *ancillary tax obligations*;
e) the obligation to compute, retain and record in the accounting and payment records, at the legal deadlines, the taxes and contributions which are paid by withholding the them at source;
f) to fulfill any other obligations incumbent on taxpayers, natural or legal persons, following the application of the tax laws.

ARTICLE 23
**Origin of tax obligations and receivables**
(1) Unless otherwise provided by the law, the right of tax receivable and the correlative tax obligation appear when, according to the law, the tax base generating them is constituted.
(2) According to par. (1) the right of the fiscal body to determine and assess the due tax obligation is to arise.

ARTICLE 24
**Settlement of tax receivables**
Tax receivables shall be settled by collection, offset, mandatory execution, exemption, cancellation, statute of limitation and by other methods provided by law.

ARTICLE 25
**Creditors and debtors**
(1) In the relations of material fiscal law, creditors are the persons holding certain rights on tax receivables as provided in art. 21, while debtors are those persons that by law have the related obligation to pay such rights.
(2) In case the debtor failed to satisfy the payment obligation, the following shall become debtors by law:
a) the heir that accepted the succession of the debtor taxpayer;

b) the person that takes over, either fully or partially, the rights and obligations of the debtor subject to division, merger or legal reorganization, as the case may be;
c) the person whose liability was determined according to the legal provisions regarding bankruptcy;
d) the person that takes over the debtor's payment obligation through a payment commitment or through another act concluded in an authenticated form, ensuring the payment obligation by a proper guarantee;
e) the legal person, for the tax obligations due by its secondary offices;
f) other persons as provided by law.

ARTICLE 26
**Payer**
(1) Payer of the tax obligation shall be the debtor or the person who, on behalf of the debtor, by law, has the obligation to pay or withhold and pay, as the case may be, taxes, fees, contributions and other amounts owed to the general consolidated budget.
(2) With regard to the secondary registered offices of taxpayers, the person having the obligation to pay the tax obligations is the respective taxpayer, unless the tax to be paid is the wage income tax , in which case the person having the obligation to pay the tax is the secondary registered office that must be registered for tax purposes as a payer of wages and other incomes assimilated to wages, according to the law.
3) The taxpayers specified in indent (2) have the obligation to declare, on behalf of the secondary registered offices that are registered for fiscal purposes, the wage income tax that these offices have to pay, according to the law.

ARTICLE 27
**Joint liability**
(1) The following people are jointly liable with the debtor:
a) The associates of the associations without legal personality, including the members of family businesses, for fiscal obligations owed by them, under the conditions provided in the article 20, together with the legal representatives who, in bad faith, determined the failure to declare and/or to pay the fiscal obligations at maturity;
b) third parties seized, in cases provided in article 149 at the paragraphs (9), (10), (12) and (15), within the limits of the amounts withdrawn from blocking.
c) the taxpayer's legal representative who, with the intent to deceive, declares to the bank that he/she does not hold other funds, according to art. 149 indent (12) a).
(2) For the outstanding payment obligations of the debtor declared insolvent, under the conditions of this code, the following people are jointly liable:
a) individuals or legal persons who, before the date of the insolvency declaration, in bad faith, acquired assets by any means from the debtors who thus determined their insolvency;
b) the administrators, the associates, the shareholders and any other persons who determined the insolvency of the debtor legal persons by alienating or hiding, in bad faith, in any manner, debtor's assets;
c) the administrators who, during their mandate, in bad faith, failed to meet the legal obligation to require the competent court to open the insolvency procedure, for the fiscal obligations for that period and unpaid at the date of declaring the insolvency status;
d) the administrators or any other person who, in bad faith, determined the failure to pay and/or to pay fiscal obligations at maturity;
e) the administrators or any other persons who, in bad faith, determined the restitution or the reimbursement of amounts of money from the general consolidated budget although they were not owed to the debtor.

(3) The legal person shall be jointly liable with the debtor declared insolvent under this code or declared insolvent if, directly or indirectly controls, is controlled or is under joint control with the debtor and if at least one of these conditions is met:
a) acquires, with any title, the right of ownership on tangible assets of the debtor, and the accounting value of these assets is at least half of the accounting value of all tangible assets of the acquirer;
b) has or had commercial contractual relationships with the customers and/or the providers, others than those for utilities, having had or having contractual relationships with the debtor at least half of the total value of the transactions;
c) has or had work or civil relationships of service provisions with at least half of the employees or the service providers of the debtor.
(4) According to paragraph (3), the following terms and expressions shall have the following meaning:
a) *control* – the majority of the rights to vote, either in the general meeting of the associates of a trading company or of an association or a foundation, either in the board of administration of a trading company or in the board of directors of an association or a foundation;
b) *indirect control* – the activity through which a person exercises the control by one or more persons.

ARTICLE 28
**Special provisions regarding determination of liability**
(1) Persons' liability provided in art. 27 shall be established according to the provisions of this article.
(2) For the purpose provided in par. (1), the fiscal body is to prepare a decision to include the reasons de facto and de jure for which the liability of the person in question is engaged. This decision shall be submitted to the fiscal body management in order to be approved.
(3) The decision approved according to par. (2) is to be a tax receivable title regarding the payment obligation of the person responsible according to art. 27 and is to include, besides the elements provided in art. 43 par. (2), also the following:
a) the tax identification code of the responsible person having the obligation to pay the debtor main tax obligation, as well as any other identification data;
b) the main debtor's surname and forename or denomination; the tax identification code; the residence or location of this one, as well as any other identification data;
c) the quantum and the nature of the amounts due;
d) the deadline within which the liable person should pay the obligation of the main debtor;
e) the legal grounds and actual reasons for the commitment of liability.
(4) The liability shall be determined both for the main tax obligation and for its ancillary tax obligations.
(5) The writ of receivable specified in indent (3) is communicated to the person who has the payment obligation. The provisions of art. 111 indent (2) apply accordingly.
(6) The receivable title communicated according to par. (5) may be contested according to the legal provisions.

ARTICLE 29
**Rights and obligations of successors**
(1) Rights and obligations derived from the tax legal relation shall be taken over by the successors of the debtor, under the conditions of common law.
(2) Provisions in par. (1) are not to apply in the case of payment obligation of the amounts representing fines applied to the debtor that is an individual, by law.

ARTICLE 30
**Provisions regarding the transfer of taxpayers' tax receivables**
(1) Main or ancillary tax receivables regarding taxpayers' reimbursement or refund rights, as well as amounts intended for the guarantee of the execution of a tax obligation can be transferred only after their assessment by law.
(2) The transfer shall become effective for the competent tax body only as of the date when such body was notified on the transfer.
(3) The cancellation of the transfer or the ascertainment of its severance subsequent to the settlement of the tax obligation is not to be opposable to the tax body.

CHAPTER 2
**Tax domicile**

ARTICLE 31
**Tax domicile**
(1) In the case of tax receivables administered by the Ministry of Public Finances through the National Agency for Fiscal Administration, tax domicile shall have the following meanings:
a) for individuals, the address of domicile, by law, or the address where they actually live, if such address differs from the domicile one;
b) for legal persons independently developing economic activities or exercising liberal professions, the registered office or the office where the main activity develops effectively;
c) for legal persons, the registered office or the office where the administrative management and business management develop effectively, if they are not performed in the declared registered office;
d) for associations and other entities without legal personality, their registered offices or offices where they actually carry out the main activity.
(2) The address where they actually live means, to the purpose of par. (1) letter a), the address of the residence that a person uses on a continuous basis for more than 183 days in a calendar year, short-term interruptions being neglected. If the purpose of the stay is exclusively a visit, a leave, a treatment or other similar personal purposes and does not exceed a one-year period, such residence is not to be considered the address where such person actually lives.
(3) In case the fiscal domicile cannot be determined based on par. (1) letters c) and d), the fiscal domicile is to be the place where the majority of the assets are located.
($3^1$) The tax domicile, defined according to indent (1) or (3), must be registered with the tax authorities in all instances where the tax domicile is different from the social domicile or office, by submitting a request seeking to change the tax domicile, together with all the required documentary evidence to prove the information contained therein.
($3^2$) The request must be submitted to the competent tax body having jurisdiction over the area where the respective tax domicile is to be established. The request will be solved by the tax body, within 15 business days from its submission date, through a ruling issued for changing the tax domicile that is communicated to the taxpayer according to art. 44.
($3^3$) The tax body will issue ex-officio a ruling for changing the tax domicile, whenever the tax domicile is found to be different from the social domicile or office, even though no request for changing the tax domicile has been submitted by the respective taxpayer.
($3^4$) The change in the tax domicile becomes effective on the day when the ruling for changing the tax domicile is communicated to a taxpayer.

(4) In the case of other tax receivables to the general consolidated budget, the tax domicile shall be considered the domicile regulated upon according to common law or the registered office by law.

TITLE III
**General procedural provisions**

CHAPTER 1
**Competence of the fiscal body**

ARTICLE 32
**General competence**
(1) Fiscal bodies have a general competence as regards the administration of tax receivables, carrying out of the audit and the issuance of norms foe the application of the legal provisions on tax matters.
(2) With respect to the income tax and the social contributions, a different special administration competency may be established through a decision issued by the Government.
(3) Taxes, fees and other amounts payable in customs by law shall be administered by the customs bodies.
(4) Assistance and guidance of taxpayers concerning the uniform application of the legal provisions concerning the taxes, fees, contributions and other amounts due to the budget, administered by the National Agency for Fiscal Administration shall be performed by this Agency and its subordinated units according to the procedures established by order of the President of the National Agency for Fiscal Administration.

ARTICLE 33
**Territorial competence**
(1) For the administration of taxes, fees, contributions and other amounts owed to the general consolidated budget, the competence shall stay with the county, local or Bucharest fiscal body established by order of the President of the National Agency for Fiscal Administration, within whose territorial jurisdiction the tax domicile of the taxpayer or the revenue payer, in case of taxes and contributions withheld at source according to the law, is located.
(2) In case of non-resident taxpayers that carry out activities within the territory of Romania through one or more permanent offices, the competence shall stay with the fiscal body within whose jurisdiction each of the permanent offices is located. In case the activity of a permanent office deploys under the territorial jurisdiction of more than one fiscal body, the competent shall stay with that fiscal body under which territorial jurisdiction the relevant permanent office begins its activity.
(3) The competence for the administration of tax receivables payable by large taxpayers, including by their secondary offices, by the fiscal bodies subordinated to the National Agency for Fiscal Administration may be determined in charge of fiscal bodies other than those provided in par. (1), by order of the President of the National Agency for Fiscal Administration.

ARTICLE 34
**Competency of Secondary Registered Offices**

(1) For the secondary offices registered for fiscal purposes, the tax body managing the obligations of the taxpayer having established such offices has the jurisdiction with regard to the administration of the wage income tax payable by the respective secondary offices.
(2) The competent tax body having jurisdiction over the area where the secondary offices are established have jurisdiction in respect of the registration for tax purposes of the secondary offices as payers of salaries and other revenues assimilated to salaries, under the law.

ARTICLE 35
**Competency of Special Compartments of the Local Public Administration Authorities**
The special compartments of the local public administration authorities have jurisdiction to administer the taxes, fees and other payments to the local budgets of the territorial and administrative divisions or the municipality sub-divisions, as the case may be.

ARTICLE 36
**Special competence**
(1) In case the taxpayer has no tax domicile, the territorial competence shall stay with the fiscal body within whose jurisdiction the act or fact that is subject to legal tax provisions is ascertained.
(2) Provisions in par. (1) are also to apply to legal emergency measures required in cases of disappearance of identification elements of the actual taxation base, as well as in case of forced execution.
(3) For administration by the fiscal bodies subordinated to the National Agency for Fiscal Administration of the tax receivables owed by non-resident taxpayers who do not have in Romania a permanent office, the jurisdiction lies with the fiscal body established by the Order of the Minister of Public Finances, upon the proposal of the President of the National Agency for Fiscal Administration.

ARTICLE 37
**Conflict of competence**
(1) A conflict of competence is when two or more fiscal bodies declare that they are all of them either competent or incompetent. In this case, the fiscal body that vested itself competent the first or declared itself incompetent the last is to continue the undergoing procedure and is to apply to the common higher hierarchical body to decide on the conflict.
(2) In case the fiscal bodies between which the conflict of competence occurs are not subordinated to a common higher hierarchical body, the conflict of competence arisen shall be solved by the Central Fiscal Committee within the Ministry of Public Finances.
(3) In the case of local budgets, the Central Fiscal Committee shall be completed by a representative of the Association of Communes in Romania, the Association of Towns in Romania, the Association of Municipalities in Romania, the National Union of County Councils in Romania and the Ministry of Administration and Interior.
(4) The body that has the authority to solve the conflict of competency shall immediately issue a ruling with regard to the conflict, and such ruling shall be communicated to the tax bodies in conflict, for implementation, with other stakeholders being informed on the issue, as the case may be.

ARTICLE 38
**Agreement on competence**

Upon the approval of the fiscal body that according to this Code holds the territorial competence, as well as upon the approval of the taxpayer in question, another fiscal body may take over the activity of administration of such taxpayer.

ARTICLE 38[1]
Change of Competency

(1) When a change occurs in the tax domicile, the competency shall be passed on to the new tax body having jurisdiction over the new tax domicile, as of the effective date of the respective change, according to the law.

(2) The provisions contained in indent (1) shall apply accordingly to large and medium-sized taxpayers as well, as defined in the law, whenever a change has occurred as to their classification.

(3) Where any tax procedure is in progress, except for an enforcement procedure, the tax body having started the respective procedure shall have the authority to finalize it.

ARTICLE 39
**Conflict of interest**

The civil servant within the fiscal body involved in a tax administration procedure is in a conflict of interest if:

a) within such procedure, such civil servant is a taxpayer, a spouse of a taxpayer, a relative up to the third degree inclusively of the taxpayer, or is a representative of an empowered person of such taxpayer;

b) within such procedure the civil servant may acquire a benefit or suffer a direct disadvantage;

c) there is a conflict between the civil servant, his/her spouse, relatives up to the 3rd degree inclusively, by one hand and one of the parties or the spouse, relatives of the party up to the 3rd degree inclusively, by the other hand;

d) in other cases provided by law.

ARTICLE 40
**Abstention and challenge**

(1) The civil servant that is aware being in one of the cases provided in art. 39 shall have the obligation to inform the head of the fiscal body and to refrain from carrying out the procedure.

(2) Where conflict of interest concerns the head of the fiscal body, it shall have the obligation to notify the hierarchically higher body.

(3) Abstention shall be proposed by the public officer and shall be decided immediately by the head of the fiscal body or by the hierarchically higher body.

(4) The taxpayer involved in the ongoing procedure may ask the challenge of the public officer in conflict of interest.

(5) The challenge of the public officer is to be immediately decided upon by the head of the fiscal body or by the higher hierarchical body. The decision to reject the request of challenge may be appealed to the competent court. The application for challenge does not suspend the administrative procedure in progress.

CHAPTER 2
**Documents issued by the fiscal bodies**

ARTICLE 41
**Concept of tax administration document**

For the purposes of this Code, the Tax Administration Document is issued by the fiscal body competent in applying of the law concerning the establishment, modification or extinguishing of the tax rights and obligations.

ARTICLE 42

**Individual Advance Tax Rulings and Transfer Pricing Agreements**

(1) The individual advance tax ruling is an administrative decision issued by the National Agency for Tax Administration in answer to a request by which a taxpayer seeks a solution regarding a future tax situation. The future tax situation shall be assessed taking into account the request submission date.

(2) The advance transfer pricing agreement is the administrative decision issued by the National Agency for Tax Administration in answer to a request submitted by a taxpayer seeking to establish the circumstances and the means by which the transfer prices are to be determined, during a fixed interval, in respect of transactions between affiliates, as defined by the Tax code. The future transactions subject to advance pricing agreements shall be assessed taking into account the request submission date.

(3) The anticipated individualized tax solution or the advance pricing agreement shall be communicated only to the taxpayer for whom they are intended.

(4) The anticipated individualized tax solution and the advance pricing agreement are binding and enforceable against the issuing fiscal bodies only provided that their terms and conditions have been observed by the taxpayer.

(5) The taxpayer shall propose the contents of the anticipated individualized tax solution or of the advance pricing agreement, as may be the case, by submitting an application in this regard.

($5^1$) For the purpose of solving the request, the competent tax body may:

a) pay a visit to the taxpayer's tax domicile, or meet with the taxpayer in any other mutually agreed location, for a documentary review aimed at supporting the draft individual advance tax ruling or the draft advance pricing agreement, in line with the procedure approved in the order issued by the Head of the National Agency for Tax Administration;

b) request clarifications from the taxpayers with regard to the submitted request and/or documents.

($5^2$) The competent tax body shall submit to the taxpayer the draft individual advance tax ruling or the draft advance pricing agreement, as the case may be, allowing the an opinion of the taxpayer according to art. 9 indent (1), unless the taxpayer has waived this right and notified the competent tax body accordingly.

($5^3$) The taxpayer may submit the clarifications mentioned in indent ($5^1$) b) or his/her opinion mentioned in indent ($5^2$) within 60 business days from the request for clarifications or the communication date.

(6) The solution for the taxpayer's application shall represent the anticipated individualized tax solution or the advance pricing agreement. In case the taxpayer does not agree to the issued anticipated individualized tax solution or advance pricing agreement, he/she shall notify the issuing fiscal body, in writing, in term of 15 days from the relevant document receipt date. The anticipated individualized tax solution or the advance pricing agreement in relation to which the taxpayer has notified the issuing fiscal body shall have no legal effect.

(7) The taxpayer, titular of an advance pricing agreement, shall have the obligation to submit an annual report regarding the manner in which has observed the terms and conditions of the agreement during the fiscal year, to the issuing fiscal body. The report shall be submitted by the deadline provided by law for the submission of the annual financial statements.

(8) The anticipated individualized tax solution and the advance pricing agreement shall be no longer valid if the legal provisions of the tax material law on which basis the decision has been taken, are modified.
(9) The issuing of an anticipated individualized tax solution, as well as the issuing or change of an advance pricing agreement are subject to fees cashed by the issuer and established by Government Decision.
(10) The applicant taxpayer is entitled to a reimbursement of the fee that has been paid if the competent tax body rejects the issuance/change of the individual advance tax ruling or the advance pricing agreement.
(11) The deadline for issuing an advance pricing agreement is 12 months for unilateral agreement, and 18 months for bilateral or multilateral agreements, as the case may be. The deadline for issuing the individual advance tax ruling is of up to 3 months. The provisions of art. 70 shall apply accordingly.
(12) The issuing procedure for the anticipated individualized tax solution and the advance pricing agreement shall be approved by Government Decision.

ARTICLE 43
**Content and grounding of the tax administrative document**
(1) The tax administrative document shall be issued only in writing.
(2) The tax administrative document shall include the following elements:
a) designation of the issuing fiscal body;
b) the date of issuance and the date when it becomes effective;
c) identification data for the taxpayer or the person empowered by the taxpayer, as the case may be;
d) the object of the tax administrative document;
e) de facto reasons;
f) legal grounds;
g) the name and the signature of the persons empowered by the fiscal body, by law;
h) the stamp of the issuing fiscal body;
i) the possibility of appeal, the appeal submission deadline and the fiscal body where the appeal shall be submitted;
j) specifications concerning the hearing of the taxpayer.
(3) The administrative tax decision issued under indent (2) from a massive printing center is valid even if it does not have the signature of the persons empowered by the tax body according to the law, or the stamp of the issuing body, provided it does meet the relevant legal requirements.
(4) The categories of tax administrative decision that must be issued under indent (3) by the tax bodies under the National Agency for Tax Administration are established by order of the public finance minister.
(5) The categories of tax administrative decisions that may be issued under indent (3) by the tax bodies of the public local administration are established by a joint order issued by the interior and public finance ministers; it is for the local councils to decide, in a decision, whether the tax bodies of the respective public local administration may issue tax administrative decisions under the terms of indent (3).

ARTICLE 44
**Communication of the tax administrative document**
(1) The tax administrative document should be communicated to the taxpayer to whom it is intended. In case of taxpayers without fiscal domicile in Romania, who appointed their empowered persons according to art. 18 par. (4), and in case of appointment of a fiscal

trustee under art. 19, the tax administrative document shall be communicated to the relevant empowered person or fiscal trustee, as the case may be.
(2) The administrative decision issued by the tax authorities shall be communicated either by handing it over to the taxpayer/agent, under a signature for reception, or by sending it in the form of registered mail.
($2^1$) The administrative decision issued by the tax authorities may be communicated through other means, including fax, email or other electronic transmission means, is specifically requested by the taxpayer and provided that a confirmation is received for the transmission of the respective administrative decision.
($2^2$) Where the communication under indent (2) or ($2^1$), as the case may be, has not been possible, the communication of the respective administrative decision shall be done by public domain.
(3) Communication by advertising shall be carried out by means of posting a notice mentioning the fact that the tax administrative document has been issued to the taxpayer, both at the offices of the issuing fiscal body and on the website of the National Agency for Fiscal Administration. In case of tax administrative documents issued by the fiscal bodies provided in art. 35, posting shall be performed simultaneously on their offices and on the homepage of the relevant local public administration authority. In case the local public administration authority does not own a website, the information shall be posted on the website of the county council. In all the above cases, it is considered that the tax administrative document has been communicated in 15 days from the date of posting of the notice.
(4) The provisions of the Civil Procedure Code regarding the communication of procedural documents shall be adequately applied.

ARTICLE 45
**Binding of the tax administrative document**
(1) The tax administrative document shall become effective as of the moment when it is communicated to the taxpayer or on a subsequent date, as mentioned in the communicated administrative document, under the law.
(2) Any administrative decision issued by the tax authorities that failed to be communicated according to art. 44 shall not be legally binding on the taxpayer and shall not produce any legal effect.

ARTICLE 46
**Nullity of the tax administrative document**
The lack of any of the elements of the tax administrative document referring to the surname, forename and capacity of the empowered person of the fiscal body, to the taxpayer's surname and forename or designation, to the subject of the tax administrative document or to the signature of the empowered person of the fiscal body, with the exception provided by art. 43 par. (3) is to trigger such tax administrative act nullity. Nullity may be ascertained upon request or ex officio.

ARTICLE 47
**Abolition or Revision of the Administrative Decisions issued by Tax Authorities**
(1) Any administrative decision issued by a tax authority may be revised, annulled or abolished under the terms of the current code.
(2) The final abolition or revision, either total or partial, according to the law, of the administrative decisions issued by tax authorities for assessing the principal tax claims shall involve the cancellation, abolition or revision of the administrative decisions issued by the

tax authorities for assessing the auxiliary tax claims attached to the principal tax claims shown in the administrative decisions that had been cancelled or abolished in the first place, even though the administrative decisions issued by the tax authorities for assessing the auxiliary tax claims as well as any subsequent administrative decisions may have remained final with respect to the legal or administrative appeal system. In this latter case, the issuing tax authorities shall issue a new administrative decision, either ex-officio or upon request by the taxpayers, to accordingly abolish or revise any administrative decisions having established auxiliary tax receivables as well as any subsequent administrative decisions.
(3) The administrative decisions of the tax authorities by which any auxiliary tax claims were wrongfully assessed in respect of principal tax claims shall be abolished or cancelled, either totally or partially, irrespective of any appeals lodged against such decisions.

ARTICLE 48
**Correction of Material Errors in the Administrative Decisions issued by Tax Authorities**
(1) The tax body may, ex-officio or upon request by the taxpayers, correct the materials errors in the administrative decisions.
(2) The provisions of indent (1) shall not apply to any administrative decisions issued by the tax authorities that have been subject to appeals according to the law and for which a final ruling has been given.
(3) For the purpose of the current article, a material error is any writing error, any oversights or wrong mentions in the content of the administrative decisions issued by the tax authorities, with the exception of those that will normally lead to the annulment of the respective administrative decision, according to the law, or those referring to the merits of the administrative decisions issued by the tax authorities.
(4) Where a material error is found ex-officio in an administrative decision issued by the tax authorities that has been already communicated to the taxpayer, the tax body will provide the respective taxpayer with a decision including a correction of the material error.
(5) Where the correction of a material error is sought by a taxpayer, the tax body shall:
a) issue and communicate to the taxpayer a correction decision, where the request for correcting the material error is duly grounded;
b) reject the taxpayer's request in a decision that is communicated to the taxpayer, where the request for correcting the material error is baseless.
(6) The decision correcting the material error and the rejection of the request for correcting a material error must be in compliance with the legal regime of the initial decision and they may be appealed against under the provisions of the law that would apply in case of an appeal lodged against the initial decision.

ARTICLE 48[1]
**Provisions on Enforcement Decisions and other Documents issued by the Tax Authorities**
The provisions of articles 44, 45 and 48 shall apply accordingly to enforcement decisions and to other documents issued by the tax authorities, unless otherwise required by the law.

CHAPTER 3
**Administration and assessment of evidence**
SECTION 1
**General provisions**

ARTICLE 49
**Means of evidence**
(1) In order to determine the tax state of fact, the fiscal body manages means of evidence under the law and may resort to the following:
a) requesting of information of any kind from the taxpayer and from third parties;
b) requesting of expert's reports;
c) the use of writs;
d) carrying out of on-site investigations.
(2) The evidence administered shall be corroborated and assessed by taking into account their proving force as recognized by the law.

ARTICLE 50
**The right of the fiscal body to request the taxpayer’s presence at its registered office**
(1) The fiscal body may request the taxpayer’s presence at its registered office in order to provide information and clarifications necessary for the determination of his/her actual tax state of fact. The request shall be accompanied when necessary by a list of documents, drafted by the fiscal body, to be presented mandatory by the taxpayer.
(2) The request shall be in writing and shall include the below mandatory information:
a) the day, time and place of the taxpayer’s required presence;
b) the legal basis for such request;
c) the purpose of the request;
d) the documents that the taxpayer is requested to provide.

ARTICLE 51
**Communication of information among fiscal bodies**
If during a certain fiscal procedure, facts that may be relevant to other fiscal legal relations are ascertained, the fiscal bodies shall communicate to each other the information they possess.

SECTION 2
**Information and expert's reports**

ARTICLE 52
**Obligation to provide information**
(1) The taxpayer or other person empowered by this one shall have the obligation to provide the fiscal body with information as necessary for the determination of the tax state of fact. In the same purpose, the fiscal body shall have the right to request information also to other persons with whom the taxpayer had or have economic or legal relations. Information provided by other persons are to be taken into account only to the extent that they are also confirmed by other means of evidence.
(2) The application for information shall be presented in writing and it shall also specify the nature of the information requested to determine the tax state of fact, as well as a list of documents required to support the information provided.
(3) The declaration of persons having the obligation, according to par. (1) to provide information, is to be done either orally or in writing, as the case may be.
(4) In case the person compelled to provide information in writing is unable to write for reasons independent of his/her will, the fiscal body shall draw up a report in this regard.

ARTICLE 53

**Periodically providing of information**
(1) Taxpayers are to have the obligation to provide the fiscal bodies periodically with information regarding their activities.
(2) Providing of information set forth in par. (1) shall be made by filling in of a declaration on own liability.
(3) The nature of information to be provided, the periods when it shall be provided, as well as the model for statutory declarations shall be established by order of the President of the National Agency for Fiscal Administration.

ARTICLE 54
**Obligation of banks to provide information**
(1) Banks are required to communicate to fiscal bodies the list of individuals, legal persons or any other entities without legal personality that open or close accounts, such persons' legal status and domicile or registered office. The information shall be provided twice a month, concerning the accounts opened or closed during the period prior to the communication, to the Ministry of Public Finances.
(2) The Ministry of Public Finances together with the National Bank of Romania shall prepare the procedures regarding the transmission of information under paragraph (1).
(3) Upon the justified request of central and local public authorities, the Ministry of Public Finances is to transmit to such authorities information held, on the basis of par. (1), to the purpose of the achievement by those authorities of their responsibilities by law.
(4) The credit institutions have the obligation, upon request of tax bodies of the National Agency for Fiscal Administration, to notify all turnovers and/or balances of accounts open there, the identification data of people who have the right to sign, or if the debtor has rented or not safe deposit boxes. The request is made for each holder. As an exception to provisions of the article 11, the paragraph (2), the information thus obtained shall be used only in order to meet specific tasks of the National Agency for Fiscal Administration.

ARTICLE 55
**Expert's report**
(1) Whenever deemed necessary, the fiscal body has the right to resort to services of an expert in order to prepare an expert report. The fiscal body shall have the obligation to communicate the expert’s name to the taxpayer.
(2) The taxpayer may appoint an expert at his/her own expense.
(3) Experts are obliged to keep the fiscal secret concerning the data and information that they acquire.
(4) Expert reports shall be made in writing.
(5) Fees charged for the expert studies carried out under the provisions of this article shall be paid from the budgets of the tax authorities that requested the expert’s services, as the case may be.
(6) If the tax body considers that the expert appraisement that has been conducted is not conclusive, it may request either a complete appraisement or another appraisement.

SECTION 3
**Verification of writs and on-site investigations**

ARTICLE 56
**Producing writs**
(1) For the determination of the tax state of fact, taxpayers are to make available to the fiscal body registers, records, business documents, and any other writs. In the same

purpose, the fiscal body shall have the right to request writs also to other persons with whom the taxpayer had or have economic or legal relations.
(2) The tax authority may request that writs be made available at their office or at the fiscal domicile of the person obliged to present such writs.
(3) The fiscal body has the right to keep, for the purpose of protection against disposal or destruction, documents, acts, written documents, registers and financial-accounting documents or any material element that proves the assessment, record and payment of tax obligations by the taxpayer, for a period of maximum 30 days. In exceptional cases, with the approval of the fiscal body, the period of keeping such documents may be prolonged by maximum 90 days.
(4) The proof of documents retained under indent (3) is the document prepared by the tax body including all the elements needed to identify the respective proof or piece of evidence, as well as the written mention that it has been retained, according to the legal provisions, by the tax body. This document is prepared in two counterparts and signed by both the tax body and the taxpayer, of which one copy is provided to the taxpayer.
(5) If for the purpose of helping establish its tax standing the taxpayer provides the tax body with original deeds or documents, these will be returned to the taxpayer, with only certified true copies of the fiscally relevant deeds or documents being kept by the tax body. The certified true copies shall be provided by the taxpayer, by writing <<certified true>> and signing the document copies.

ARTICLE 57
**On-site investigation**
(1) The fiscal body may carry out an on-site investigation under the provisions of the law, and it shall make a report in this respect.
(2) Taxpayers shall have the obligation to allow the officers empowered by the fiscal body to carry out an on-site investigation and the experts employed in such actions to access on the lands, rooms and any other premises, to the extent that this is deemed necessary in order to ascertain tax related facts.
(3) Owners of such lands or premises are to be informed in due time about the investigation, except for cases provided in art. 97 par. (1) letter b). Individuals are to be informed of their right to refuse access to their domicile or residence.
(4) In case of denial of this access, the access to the domicile or residence of the individual shall take place with a warrant issued by the competent court, and in such cases the provisions in the presidential ordinance in the Civil Procedure Code apply.
(5) Upon request of the fiscal body, the police, military police and other public order forces shall have the obligation to provide support for the enforcement of the provisions in this article.

SECTION 4
**The right to deny access to evidence**

ARTICLE 58
**The right of relatives to refuse to supply information, produce writs and allow expert to carry out reports.**
(1) The wife/husband as well as relatives of the taxpayer up to the third degree inclusively shall have the right to refuse to supply information, produce writs and allow expert to carry out reports.
(2) Persons provided in par. (1) are to be advised about such right.

ARTICLE 59
**The right of other persons to refuse to supply information**
(1) Priests, lawyers, public notaries, tax advisors, court executors, auditors, chartered accountants, physicians and psychotherapists may refuse to supply information concerning the data they became aware of during their professional activity, except information concerning the fulfillment of tax obligations established by law to be their responsibility.
(2) Nurses as well as persons that participate in their professional activity are to be assimilated to persons under par. (1).
(3) Persons provided in par. (1), except for priests, may provide information, upon the consent of the person about whom the information was requested.
(4) As a derogation from the provisions of indent (1) - (3), with a view to clarify and establish the actual fiscal standing of the taxpayers, the tax bodies have the authority to request any information and documents that are fiscally relevant or necessary to identify the taxpayers or the assets subject to taxes and fees, as the case may be, and the public notaries, lawyers, enforcement officers, police officers, customs authorities, community public services responsible for issuing driving licenses and vehicle registration services, community public services responsible for issuing simple passports, and community public services for personal records, as well as any other entities that may hold information or documents on any goods subject to taxes and fees, as the case may be, or on persons having the capacity as taxpayers have the obligation to supply these free of charge.

SECTION 5
**Collaboration among public authorities**

ARTICLE 60
**The obligation of public authorities and institutions to supply information and to produce documents**
(1) Public authorities, public institutions and institutions of public interest, central and local, as well as decentralized departments of the central public authorities are to supply information and documents to fiscal bodies, upon their request.
(2) For the achievement of the purpose of this Code, the fiscal bodies may access online the database of the institution provided in par. (1), to obtain information established on the basis of a protocol.

ARTICLE 61
**Collaboration among public authorities, public institutions or institutions of public interest**
(1) Public authorities, public institutions or institutions of public interest are obliged to collaborate for the purpose of carrying out the provisions of this Code.
(2) Actions carried out by authorities in par. (1), in accordance with their competence by law are not to be deemed as collaboration.
(3) The tax authority requesting collaboration is responsible for the legality of such requests, and the authority to which the request was sent is responsible for the data provided.

ARTICLE 62
**Conditions and limits of collaboration**
(1) The collaboration between public authorities, public institutions and institutions of public interest shall be carried out within the limits of their respective competence by law.

(2) If the public authority, the public institution or the institution of public interest refuses the collaboration, the public authority that is higher than both bodies is to decide upon. If such authority does not exist, then the decision is to be made by the authority higher than that whose collaboration was requested.

ARTICLE 63
**Interstate collaboration among public authorities**
(1) Fiscal bodies shall collaborate with fiscal bodies authorities from other States based on international conventions.
(2) In the absence of a convention, fiscal bodies may grant or request the collaboration of another fiscal body from another State, based on reciprocity.

SECTION 6
**Weight of evidence**

ARTICLE 64
**Weight of evidence of justifying documents and accounting records**
The taxpayer's justifying documents and accounting records are to constitute evidence when assessing the taxation base. In case there are other supporting documents as well, such documents are to be taken into account for the determination of the taxation base.

ARTICLE 65
**Weight of evidence in proving the tax state of fact**
(1) The taxpayer has the obligation to prove the documents and facts that grounded his/her declarations and any application submitted to the fiscal body.
(2) The fiscal body has the obligation to justify the assessment decision based on evidence or on own findings.
(3) With a view to determine the purpose or the economic content of a transaction, according to art. 11 indent (1) of the Tax Code, upon request by a competent tax authority, the taxpayers have the obligation to produce, within the deadlines required by such tax authority, the transaction file for any transactions entered into with persons from states for which there is no legal instrument regulating the exchange of information.
(4) The content of such file shall be approved by order issued by the Head of the National Agency for Tax Administration.

ARTICLE 66
**Proving the titular of the ownership right for taxation purposes**
(1) If certain goods, income or other valuables that by law are included in the taxable base are found as being held by persons that continuously benefit of gains or by any regular benefits derived from them and such persons declare in writing that they are not owners of such goods, income or valuables in question without showing who is the titular of such ownership right, then the fiscal body shall resort to the temporary assessment of the adequate tax obligation on the burden of the such persons.
(2) Under the law, the tax obligation regarding the taxable base in par. (1) may be determined as being in charge of the titular of the ownership right. Similarly, such titular is to owe damages to the persons that made the payment for the settlement of the obligation assessed according to par. (1).

ARTICLE 67
**Assessment based on an estimation of the taxable base**

(1) The tax body shall determine the tax base and the attached tax liability through the reasonable estimation of the taxable base, by using any means or piece of evidence allowed by the law, whenever it is impossible to assess the accurate fiscal situation of a taxpayer.
(2) The tax base may be estimated in the following cases:
a) in the case specified in art. 83 indent (4);
b) when it is found by the tax auditors that the accounting and fiscal records, or the tax returns or documents and data supplied during a tax audit were inaccurate or incomplete, as well as when these are missing or not supplied to the tax auditors.
(3) Where the tax authorities have the right, according to the law, to estimate the tax base, they will identify the elements that are closest to the actual fiscal standing.
(4) With a view to estimate the tax base, the tax bodies may use the specific methods approved to this very purpose by the order issued by the Head of the National Agency for Tax Administration.
(5) The amount of tax liability resulted from the application of the current article is determined under the reserve of a subsequent verification, unless established during a tax audit.

ARTICLE 67[1]
**Desk audits**
(1) For an accurate determination of the taxpayers' fiscal situation, the tax authorities may proceed to a desk audit.
(2) The desk audit consists of a consistency check of the taxpayer's fiscal situation, based on the existing documents on the taxpayer's file and any other third party information and documents, or information and documents held by the tax authorities, as relevant in assessing the taxpayer's fiscal situation.
(3) Where the desk audit reveals any discrepancy with the tax liability declared by the taxpayers, the tax authority will notify the taxpayers on the issue. At the same time with the notification, the taxpayers are required to provide specific documents to help clarifying their fiscal situation.
(4) Where the documents required in accordance with indent (3) are not supplied by the taxpayers within 30 days from the notification or, if supplied, they are not sufficient to clarify the fiscal situation, the tax authorities will issue a decision assessing the additional tax liability or instruct on the necessary measures to be taken in order to ensure compliance with the legal provisions, as the case may be.
(5) The decision mentioned at indent (4) is issued under the reserve of a subsequent verification and may be challenged by the taxpayers under the current code.
(6) The procedure required for the application of the current article shall be approved in an order issued by the President of the National Agency for Tax Administration.

CHAPTER 4
**Deadlines**

ARTICLE 68
**Computation of deadlines**
Deadlines of any type as regards the exercise of rights and the satisfaction of obligations provided in the Fiscal Procedure Code as well as by other legal provisions applicable on the matter, unless the tax law provides different, shall be computed according to the provisions of the Civil Procedure Code.

ARTICLE 69
**Extension of deadlines**
Deadlines for the submission of fiscal declarations and deadlines established by a fiscal body by law may be extended under well-grounded circumstances, according to the competence as determined by an order of the Minister of Public Finances.

ARTICLE 70
**The deadline for settling taxpayers' applications.**
(1) Applications submitted by the taxpayer under this code shall be settled by the fiscal body in 45 days from the application registration date.
(2) In situations in which for the resolution of request there are necessary additional information relevant to the decision, this deadline shall be extended by the period between the date of application and the date of the receipt of the requested information.

ARTICLE 71
**Force Majeure event and fortuitous event**
(1) The deadlines provided by law to fulfill tax obligations, as appropriate, shall not begin to run or shall be suspended if the fulfillment of these obligations has been hindered by the occurrence of a Force Majeure event or a fortuitous event.
(2) Tax obligations shall be deemed to be fulfilled in time without charging late payment interests, penalties or increments, as the case may be, or without applying other sanctions provided by law, if they are fulfilled in term of 60 days since the date when the events referred to in par. (1) have ceased.

TITLE IV
**Fiscal registration and accounting and fiscal records**

ARTICLE 72
**Registration for tax purposes**
(1) Any person or entity that is party in a fiscal legal relationship must register for fiscal purposes and will be assigned a fiscal identification code. The fiscal identification code is:
a) for legal persons, as well as associations and other entity with no legal personality, except for those mentioned at b), the fiscal registration code assigned by the tax authorities;
b) for traders, legal persons and individuals, as well as for other entities registered with the trade register, according to the special law, the single registration code assigned under the respective special law;
c) for self-employed and individuals involved in liberal professions, except for those mentioned at b), the fiscal registration code assigned by the tax authorities;
d) for individuals, other than those mentioned at c), the personal numerical code assigned according to the special law;
e) for the individuals that do not have a personal numerical code assigned, the fiscal identification number assigned by the tax authorities.
(2) For the purpose of personal income tax administration, in the case of individuals holding the capacity as taxpayers according to title III of the Tax code on personal income tax, the fiscal identification code shall be the personal numerical code.
(3) For the persons or entities under indent (1) a), c) and e), the fiscal identification code may be assigned only by the tax body within the National Agency for Tax Administration, based on the declaration form submitted by such persons or entities seeking the registration for tax purposes.

(4) As an exception from the provisions laid down in art. 18 indent (1), for the taxpayers under indent (1) e), as well as for taxpayers that are non-resident legal persons, whose revenues are only revenues subject to withholding tax, and the tax withheld is final, the fiscal identification code may be assigned by the tax body, upon request by the taxpayer.
(5) The obligation to submit the declaration form for the registration for tax purposes applies to the persons under indent (1) d) and e) as well, in their capacity as employers.
(6) The individuals subject to income tax and having a personal numerical code assigned must register for tax purposes on the submission date of their first tax return.
(7) The declaration for tax registration purposes must be submitted within 30 days from:
a) the establishment date, for legal persons, associations and other entities having no legal personality;
b) the issuance date of the legal document allowing its operations, the operation starting date, the date of the first income or the date when the capacity of employer is gained, as the case may be, for individuals.
(8) For the purpose of managing the tax claims, the tax bodies within the National Agency for Tax Administration may register, either ex-officio or upon request by another authority responsible for managing tax claims, a subject of tax law having failed to register for tax purposes, as required by the law.
(9) In all the instances referred to in indents (4) and (8), the fiscal identification code is assigned based on a request submitted by the applicant, unless the fiscal registration is completed ex-officio.

ARTICLE 73
**Obligation to mark the fiscal identification code on documents**
Payers of taxes, fees, contributions and other amounts owed to the general consolidated budget are required to mark the own fiscal identification code on invoices, letters, offers, orders or any other documents issued by them.

ARTICLE 74
**Declaration of subsidiaries and secondary offices**
(1) Taxpayers are required to declare to the competent fiscal body in the subordination of the National Agency for Fiscal Administration the establishment of secondary offices within 30 days.
(2) Taxpayers that have the fiscal domicile in Romania are required to declare the establishment of subsidiaries and secondary offices abroad within 30 days as of the establishment date.
(3) For the purpose of the current article, a secondary office is a place where the taxpayer's operations are performed, in totality or in part, including: an office, store, shop, warehouse and other similar.
(4) A construction site, a construction, installation or aggregation project, as well as any associated supervisory activities may be regarded as a secondary office, provided that the duration of such site, project or activities exceeds six months.
(5) The taxpayers that register secondary offices for the purpose of paying salaries and revenues assimilated to salaries according to the Local Public Finance Law 273/2006, as amended, do not have the obligation to declare these secondary offices for the purpose of the current article.

ARTICLE 75
**Form and content of the fiscal registration declaration**

(1) The fiscal registration declaration shall be prepared by the completion of a tandard form made available for free by the fiscal body in the subordination of the National Agency for Fiscal Administration and shall be accompanied by proofing documents for the information included in such declaration.
(2) The fiscal registration declaration is to include: the taxpayer's identification data, categories of payment obligations due according to the Fiscal Code, data about the secondary offices, identification data of the empowered person, data regarding the taxpayer's legal status, as well as any information necessary for the administration of taxes, fees, contributions and other amounts due to the general consolidated budget.

ARTICLE 76
**Fiscal registration certificate**
(1) Based on the fiscal registration form submitted according to art. 72 indent (3) or the application form submitted in accordance with art. 72 indent (9), as the case may be, the fiscal registration certificate is issued by the tax authorities within 10 days from the submission date of the registration or application form. The fiscal identification code must be mentioned in the fiscal registration certificate.
(2) The issuance of fiscal registration certificates is not to be subject to stamp fees.
(3) Taxpayers that obtain incomes from trade activities or supplies of services to public are required to post the fiscal registration certificate in places where they carry out activity.
(4) In case of loss, theft or destruction of the fiscal registration certificate, the fiscal body shall issue a duplicate of it based on the taxpayers' application and on the proof of the publication regarding such loss, theft or destruction in the Official Gazette of Romania, Part III.

ARTICLE 77
**Subsequent modifications to fiscal registration**
(1) Subsequent modifications of data included in the fiscal registration declaration must be informed to the competent fiscal body in the subordination of the National Agency for Fiscal Administration within 30 days as of their occurrence, by the completion and the submission of the declaration of specifications.
(2) When conditions that led to the fiscal registration no longer exist, taxpayers are required to submit the fiscal registration certificate together with the declaration of specifications to the fiscal bodies, for cancellation purposes.
(3) Following any change that has occurred in respect of the data that has been initially declared and subsequently included in the fiscal registration certificate, the taxpayers have the obligation to submit, at the same time with the declaration of amendments, the fiscal registration certificate that will be cancelled allowing for a new fiscal registration certificate to be issued instead.
(4) The declaration of amendments shall be submitted together with all documents attesting the changes.

ARTICLE $77^{1}$
**Amendments to the fiscal registration of traders**
(1) Any changes occurred in the data that has been initially provided by traders or other entities that must register with the Trade Register according to the special law, shall be operated in accordance with the existing legal provisions on traders' registration.
(2) Any changes in the initially submitted fiscal vector data shall be communicated to the tax authority.

ARTICLE 78

**Taxpayers Register**

(1) The competent fiscal body in the subordination of the National Agency for Fiscal Administration shall organize the records of payers of taxes, fees, contributions and other amounts owed to the state budget, social insurance budget, the budget of the single fund of health social insurance, unemployment insurance budget in the taxpayers register, that includes:

a) the taxpayer's identification data;

b) categories of declaration tax obligations according to the law, hereinafter called fiscal vector; the categories of tax obligations part of the fiscal vector shall be determined by order of the Minister of Economy and Finance;

c) other information necessary for the administration of tax obligations.

(2) Data provided in par. (1) are to be completed based on the information communicated by taxpayers, by the Trade Register Office, by the department of population records, by other authorities and institutions and according to own findings of the fiscal body as well.

(3) Data in the taxpayers register may be modified ex officio whenever there is found that they do not correspond to the actual state of fact and such modifications shall be informed to taxpayers.

(4) ABROGATED

(5) ABROGATED

(6) ABROGATED.

ARTICLE $78^1$

**Register of Inactive/Reactivated Taxpayers**

(1) Taxpayers legal persons and any other entities having no legal personality shall declare inactive and will be subject to the provisions of art. 11 indents ($1^1$) and ($1^2$) of the Tax code if they find themselves in one of the below situations:

a) taxpayers do not comply with their filing obligations for six calendar months in a row;

b) taxpayers avoid tax audits by declaring details about the fiscal domicile that prevent its identification by tax auditors;

c) it is found by the tax bodies that the taxpayers do not operate at the fiscal domicile that had been declared, in accordance with the procedure established in order issued by the Head of the National Agency for Tax Administration.

(2) Taxpayers shall be declared inactive or reactivated by the tax body, in a decision issued according to their authority and in line with the procedure established by order of the Head of the National Agency for Tax Administration, that is communicated to the taxpayers.

(3) Inactive taxpayers may be reactivated if the below requirements are cumulatively met:

a) they comply with all their filing obligations stipulated by law;

b) they comply with all their payment obligations;

c) it is found by the tax authorities that the taxpayers conduct their business at their duly declared fiscal domicile.

(4) The requirement stipulated under indent (3) a) is considered to be met too when tax obligations are assessed in a decision issued by the tax bodies.

(5) As an exception from the provisions of indent (3), in the case of taxpayers facing a simplified insolvency procedure, or who became bankrupt, or against whom a dissolution decision has been passed or ruled, shall be reactivated by the tax authorities, upon a request that they can submit after they comply with their filing obligations.

(6) Whenever a taxpayer is found to have been declared inactive by mistake, the relevant tax body shall cancel its decision by which the respective taxpayer had been declared

inactive, and the cancellation shall be effective with respect to the past and to the future as well.
(7) The National Agency for Tax Administration shall keep track of the inactive/reactivated taxpayers by means of a Register of inactive/reactivated taxpayers, that must include:
a) the taxpayer's identification data;
b) the date when the taxpayer is declared inactive;
c) the date when the taxpayer is reactivated;
d) the name of the issuing tax body;
e) other observations.
(8) The Register of inactive/reactivated taxpayers is public domain and shall be posted on the website of the National Agency for Tax Administration.
(9) The taxpayers shall be registered in the Register mentioned at indent (8) by the issuing tax body, within maximum 3 days after the decision by which the taxpayers are declared inactive/reactivated is duly communicated by the relevant tax body.
(10) The decision by which the taxpayers are declared inactive/reactivated shall produce its effects with respect to third parties as of the entry date in the Register mentioned at indent (8).

ARTICLE 79
**Obligation to keep fiscal records**
(1) In order to determine the actual tax state of fact and the tax obligations owed, taxpayers are required to keep fiscal records according to the normative acts in force.
(2) For the purpose of establishing transfer prices, any taxpayer who enters a transaction with an affiliate has the obligation to prepare and submit the transfer pricing file, upon request and within the deadlines set by the tax authorities. The terms for requesting such file and the contents thereof shall be approved in an order issued by the Head of the National Agency for Tax Administration.
(3) Tax records include registers, statements, as well as any other documents that, according to the tax legislation, must be prepared by the taxpayers to allow the assessment of the actual fiscal standing and the assessment of the tax claims and liability of the taxpayers, such as the sales journal, the purchase journal, the tax records register and other similar.

ARTICLE 80
**Rules for keeping of the accounting and fiscal records**
(1) Accounting and fiscal records shall be kept at the taxpayer's fiscal domicile or the secondary offices, as the case may be, including on electronic support or may be entrusted to be kept to a company authorized by law to provide services for archiving.
(2) By way of derogation from provisions of par. (1), accounting and tax records of the current financial year shall be stored, as appropriate, at the tax domicile of taxpayers, at their secondary offices or, in the 1st-25th of the following month, at the headquarters of the natural or legal person authorized for processing them in order to draw up the fiscal declarations.
(3) Legal provisions on the accounting records keeping, archiving and language used for, are applicable to tax records as well.
(4) In case that accounting and fiscal records are kept by means of electronic management systems, besides data archived in electronic form, the taxpayers are also required to keep and explain the IT applications by the aid of which they have generated such records.
(5) Taxpayers are required to record the income realized and expenses incurred from the activities carried out, by preparing registers or any other documents as provided by law.

(6) For the activity carried out, taxpayers are required to use primary documents and accounting record documents as provided by law, purchased only from units determined through legal norms in force and to integrally complete the forms boxes according to operations recorded.
(7) The fiscal body may take into account any records maintained by taxpayers that are relevant for taxation purposes.

TITLE V
**Fiscal declaration**

ARTICLE 81
**Obligation to submit fiscal declarations**
(1) The fiscal declaration shall be submitted by the persons compelled to do so, according to the Fiscal Code, at the deadlines provided by such Fiscal Code.
($1^1$) Tax returns are the documents that are prepared with respect to:
a) taxes, fees and contributions payable by the taxpayers, where the payer has the responsibility to assess the amount of taxes and fees, according to the law;
b) the taxes collected by withholding procedure, where the payer has the responsibility to calculate, withhold and transfer taxes and fees;
c) taxable assets and revenues, as well as other elements composing the tax base, if they are required by law;
d) any information regarding the taxes, contributions, assets and revenues subject to taxation, if required by law.
(2) In case the Fiscal Code does not include any provision in this regard, the Ministry of Public Finances shall determine the deadline for the submission of the fiscal declarations.
(3) The obligation to submit the fiscal declaration is still valid in cases when:
a) the tax obligation was paid;
b) such tax obligation is exempt from payment, according to legal regulations;
c) abrogated;
d) for the tax obligation there are no due payment amounts in the reporting period, but there is a statement obligation, according to the law.
(4) In case of temporary inactivity or in case of the obligations to declare the incomes that according to the law are exempted from the payment of the income tax, the competent fiscal body can approve, upon taxpayer’s request, other terms or conditions to submit the fiscal declarations, according to the needs of the administration of tax obligations. The tax body shall decide on the terms and conditions according to the competences approved by order of the president of the National Agency for Fiscal Administration.

ARTICLE 82
**Form and content of fiscal declaration**
(1) The fiscal declaration shall be prepared by filling in a standard form that is made available for free by the fiscal body.
(2) The taxpayer shall compute the amount of the tax obligation in the fiscal declaration, if so provided by law.
(3) The taxpayer shall have the obligation to fill in the fiscal declaration by specifying the information required in the form according to his/her fiscal status, of a correct, complete manner and in good faith. The fiscal declaration is to be signed by the taxpayer or by his/her empowered person.
(4) The obligation of signing a fiscal declaration is considered to be fulfilled in the following situations:

a) in the case of transmission of fiscal declaration via electronic payment system. The date of submission of the fiscal declaration is considered to be the date of debiting of the payer's account under its basis;
b) in the case of transmission of fiscal declaration by electronic systems with remote transmission according to the art. 83 par. (1).
(5) The fiscal declaration shall be accompanied by the documentation as required by legal provisions.
(6) For certain tax obligation categories as provided by an order of the Minister of Public Finances, the fiscal body may send the declaration forms for taxes, fees, contributions and other amounts owed to the general consolidated budget, instructions for filling in, other useful information and self-addressed envelopes to taxpayers. In such case, the mailing cost is to be borne by the fiscal body.

ARTICLE 83
**Submission of fiscal declarations**
(1) The fiscal declaration shall be submitted to the registration office of the competent tax body, or by mail, through a registered letter. The fiscal declaration may be sent by electronic means or by remote transmission systems. In case of taxes, duties and contributions administered by the National Agency for Fiscal Administration, the procedure regarding sending the declarations by electronic means or by remote transmission systems shall be established by order of the president of the National Agency for Fiscal Administration.
(2) Fiscal declarations may be prepared by the fiscal body in form of minutes, provided that the taxpayer is unable to write for reasons beyond his/her will.
(3) The date of submission of fiscal declaration is the date of such fiscal declaration registration at the fiscal body or the date of its submission to the post office, as the case may be. In case the fiscal declaration is submitted by remote transmission electronic systems, the date of its submission is the date of its recording on the website of the fiscal body as result from the electronic message for confirming the receipt of the declaration.
($3^1$) The filing date for tax returns that are filed on e-România portal using remote transmission electronic means shall be the recording date, as contained in the confirmation message sent by the information trading system after validation of returns.
($3^2$) The provisions of indent ($3^1$) shall apply, *mutatis mutandis*, to social contribution returns, income tax returns and nominal records of the insured, as filed on paper and duly signed and stamped, with the competent tax authority or the accredited offices of the Public Finance Ministry.
(4) Failure to submit the fiscal declaration shall give the right to the fiscal body to proceed to the ex officio assessment of the taxes, duties, contributions and other amounts due to the general consolidated budget. The ex-officio assessment of tax obligations may not be performed before a 15 days period after the taxpayer’s notification as regards the failure to observe the legal deadline for the submission of the fiscal declaration. In case of taxpayers having the obligation to declare the taxable goods or incomes, the assessment ex-officio of the tax obligations shall be made by estimating their taxation base according to article 67. For the taxes, duties and contributions administered by the National Agency for Fiscal Administration, notification for the failure to submit the declarations and ex officio assessment shall not be done in case of inactive taxpayers, as long as they are in this situation.
($4^1$) Taxpayers may file the returns covering any tax obligations that may have been set in a decision by which the tax liability is assessed ex-officio, within 60 days after the decision is

communicated to the taxpayers. The respective decision shall be abolished by the relevant tax body on the tax return filing date. .
(5) The taxpayers' annual fiscal declarations in case of legal persons shall be certified by a tax advisor according to the law, except those taxpayers for which te audit carrying out is mandatory.[1]

ARTICLE 84
**Correction of tax returns**
(1) Tax returns may be corrected by a taxpayer, at his/her own initiative, within the statute of limitations stipulated for tax assessment.
(2) Whenever the taxpayer finds errors in the initially filed return, tax returns may be corrected by filing a rectifying tax return.
(3) For the value-added tax, the errors in the VAT returns may be corrected in line with the Tax Code provisions. Any material errors in the VAT returns shall be corrected according to a procedure approved in an order issued by the Head of the National Agency for Tax Administration.
(4) No tax return may be filed or corrected after the reserve regarding future checks is removed, unless the corrections are required due to a default/non-default on a legal requirement regarding the correction of the tax base and/or the attached tax amount.
(5) For the purpose of the current article, the errors are related to the amount of taxes, fees and contributions, taxable assets and revenues, as well as to other elements covered by the tax base.
(6) If a taxpayer files a return or a rectifying return for the taxes, fees and contributions, or any other revenues covered by a tax audit in progress, the respective returns shall be disregarded by the tax authority.

TITLE VI
**Assessment of taxes, fees, contributions and other amounts owed to the general consolidated budget**
CHAPTER 1
**General provisions**

ARTICLE 85
**Assessment of taxes, fees, contributions and other amounts owed to the general consolidated budget**
(1) Taxes, fees, contributions and other amounts owed to the general consolidated budget shall be assessed as follows:
a) by a fiscal declaration, under the conditions of art. 82 par. (2) and art. 86 par. (4);
b) by a decision issued by the fiscal body, for the rest of cases.
(2) Provisions in par. (1) are to apply also in cases that taxes, fees, contributions and other amounts owed to the general consolidated budget are exempted from payment, according to legal regulations, as well as in case of a value-added tax refund.

ARTICLE 86
**Tax assessment notice**
(1) The tax assessment notice is issued by the competent tax body. The competent tax body shall issue a tax assessment notice whenever the tax base is revised following an ex-ante assessment by the tax body or based on a tax audit.

[1] Is suspended until 1st january 2013

(2) For tax receivables administered by the Ministry of Public Finances through the National Agency for Fiscal Administration, other competences for the issuance of tax decisions as a result of the tax audit may be established as well, by an order of the Minister of Public Finances.
(3) The tax decision is to be issued, if necessary, also in case that no decision has not been issued regarding the taxation base as per art. 89.
(4) The fiscal declaration prepared according to art. 82 par. (2) is assimilated with a tax decision under the reserve of its subsequent verification, and has the legal effects of a payment notification starting with the date of its submission.
(5) In case the law does not provide for the obligation to re-compute the tax, the fiscal declaration shall be assimilated to a decision referring to the taxation base.
(6) The tax decision and the decision referring to ancillary tax obligations are also payment notifications as of the date of communication thereof, in case payment amounts are established.
(7) Before 1 July 2005, the amounts of taxes, fees, contributions and other amounts due to the general consolidated budget, included in tax decisions, in the tax administrative documents assimilated with tax decisions and in the fiscal declarations shall be rounded to 1,000 lei by reduction when the amount to be rounded is less than 500 lei and by increase when it is higher than 500 lei.[2]

ARTICLE 87
**Form and content of the tax decision**
The tax decision should meet the conditions provided in art. 43. The tax decision should contain, besides the elements provided in art. 43 par. (2), also the category of tax, fee, contribution or other amount due to the general consolidated budget, the taxation base as well as the due tax obligation amount, separately for each taxable period.

ARTICLE 88
**Tax administrative documents assimilated to tax decisions**
The following tax administrative documents shall be assimilated to tax decisions:
a) decisions regarding value-added tax refunds and decisions regarding refunds of taxes, fees, contributions and other amounts due to the general consolidated budget;
b) decisions referring to the taxation bases;
c) decisions as regards ancillary tax obligations to be paid;
d) abrogated;
e) decisions not to modify the taxation base.

ARTICLE 89
**Decisions referring to taxation bases**
(1) Taxation bases shall be determined separately, by a decision regarding taxation bases in the following cases:
a) when the taxable income is obtained by several persons. The decision is to include also the distribution of the taxable income per each person that participated in the realization of such income;
b) when the source of the taxable income is located within the jurisdiction of a fiscal body, different from the competent territorial one. In such case, the competence to determine the taxation base is to stay with the fiscal body within whose jurisdiction the income source is located.

[2] Amounts are expressed in ROL

(2) In case the taxable income is obtained by several persons, then such persons may appoint a jointly empowered person to carry out the relation with the fiscal body.

ARTICLE 90
**Determination of tax obligations under the reserve of further verification**
(1) The amount of fiscal obligations shall be determined under the reserve of further verifications.
(2) The tax decision under the reserve of further verification may be cancelled or amended upon the initiative of the fiscal body or upon the taxpayer's application, based on the findings of the competent fiscal body.
(3) The reserve of further verification shall be cancelled only after the end of the statute of limitation or as a result of the tax audit carried out within such limitation period.
(4) If a taxpayer corrects its tax returns under the terms of art. 84 indent (4), the reserve of subsequent checks shall be resumed.

CHAPTER 2
**Limitation of the right to assess tax obligations**

ARTICLE 91
**Object, deadline and beginning of the statute of limitation of the right to assess tax obligations**
(1) The fiscal body right to determine tax obligations is limited to five years, unless otherwise provided by law.
(2) The statute of limitation of the right provided in par. (1) is to begin as of 1st January of the year following the year when the tax receivable arose according to art. 23, unless otherwise provided by law.
(3) The right to assess tax obligations shall be limited to 10 years, provided that such obligations result from a criminal law violation committed as provided by criminal law.
(4) The deadline in par. (3) is to begin as of the date of committing the fact that is a criminal law violation and is to be sanctioned as such by a final court decision.

ARTICLE 92
**Interrupting or suspending the statute of limitations on tax assessment**
(1) The statute of limitations stipulated at art. 91 shall be stopped in the following situations:
a) In the cases and under the terms required by law for interrupting the status of limitations of the right to take action;
b) On the tax return filing date, after the legal filing deadline has expired;
c) On the date when the taxpayer corrects his/her tax return or resorts to any other act of voluntary compliance.
(2) The statutes of limitations stipulated in art. 91 shall be suspended in the following situations:
a) In the cases and under the terms required by law for interrupting the status of limitations of the right to take action;
b) Between the starting date of the tax audit and the tax assessment notice date after the tax audit;
c) For the time that a taxpayers avoids tax audits;
d) Between the date when a taxpayer is declared inactive and the date of his/her reactivation.
(3) The common law provisions on the statute of limitations apply mutatis mutandis.

ARTICLE 93

**Effect of the expiry of statute of limitation of the right to assess tax obligations**

If the fiscal body ascertains that the statute of limitation of the right to assess tax obligations expired, such fiscal body shall proceed to the cease of the procedure of issuing the tax receivable title.

TITLE VI

**Amicable procedure for avoiding/eliminating double taxation**

ARTICLE $93^1$

**Amicable procedure in the conventions on avoiding/eliminating double taxation**

(1) Based on provisions laid down in conventions or agreements for avoiding double taxation, a Romanian resident taxpayer may, if he/she considers that taxation in the counterpart state is not in line with the respective provisions, request the National Agency for Tax Administration to start the amicable procedure.

(2) The National Agency for Tax Administration shall conduct the amicable procedure also when requested by a competent authority in the state party to a convention or agreement on avoiding double taxation that has been signed by Romania.

(3) The provisions of indents (1) and (2) shall apply on top of the provisions laid down in the Convention for avoiding double taxation in respect of profits adjustment of associated enterprises (90/436/EEC), the revised Code of Conduct for the implementation of the Convention for avoiding double taxation in respect of the profits adjustment of associated enterprises (2009/C 322/01) as well as any other conventions or agreements aimed at avoiding double taxation that may be entered into by Romania.

ARTICLE $93^2$

**Procedure for avoiding double taxation between Romanian affiliates**

(1) For the purpose of the current article, by double taxation one should understand the situation where the two or more Romanian affiliates having entered into various transactions are taxed for the same taxable revenue/income.

(2) For transactions occurred among Romanian affiliates, the revenue or expenditure adjustment of one affiliate performed by the competent fiscal body responsible for the revenue administration in respect of the obligations of the respective affiliate shall apply to the tax body that is responsible for the revenue administration in the case of the other affiliate as well.

(3) The adjustment shall be decided by the competent tax body through an adjustment decision on which the taxation decision or the decision to keep the tax base unchanged is founded. The adjustment decision is communicated to the relevant taxpayer subject to adjustment, the Romanian affiliate in relation with the adjusted transaction and to the competent tax body responsible for the revenues administration in respect of the Romanian affiliate.

(4) The adjustment produces effects for the competent fiscal body responsible for the revenue administration in respect of the Romanian affiliate provided that the adjustment decision is final under the administrative and legal appeal system.

(5) In order to eliminate double taxation subsequent to a revenue or expenditure adjustment, the other affiliate may perform a correction, in accordance with the adjustment decision, of the tax return filed for the tax period of the relevant transaction. This requires a correction of the tax base in line with art. 84 indent (4).

TITLE VII
**Tax audit**
CHAPTER 1
**Scope of the tax audit**

ARTICLE 94
**Tax audit object and functions**
(1) The object of tax audits shall be the verification of the legality and the conformity of tax declarations, the accuracy and exactness of the taxpayers' compliance with obligations, the observance of the accounting and fiscal legislation provisions, as well as the verification or assessment, as the case may be, of the taxation bases and the determination of differences related the main and ancillary tax obligations.
(2) The tax audit shall have the following tasks:
a) to fiscally ascertain and investigate all documents and facts that result from the activity of the taxpayer that is subject to the audit or of other persons as regards the legality and conformity of fiscal declarations, the accuracy and exactness of the compliance with tax obligations, in order to discover new elements that are relevant for the application of fiscal provisions;
b) to analyze and assess fiscal data in order to compare fiscal declarations with the own information or information obtained from other sources;
c) to sanction the facts ascertained, according to law, and to enforce measures for the prevention and fight against deviations from the fiscal legislation.
(3) In order to comply with tasks under par. (2) the tax audit body is to carry out the following:
a) to examine documents in the taxpayer's fiscal file;
b) to verify the concordance between data in fiscal declarations and data in the taxpayer's accounting records;
c) to discuss findings and to request explanations in writing from the legal representatives of taxpayers or their empowered persons, as the case may be;
d) to request information from third parties;
e) to determine the correct taxation base, of differences due in plus or minus, as appropriate, compared to the tax receivable declared and/or assessed, as appropriate, at the time of commencement of the tax audit;
f) to assess differences related to the main and ancillary tax obligations;
g) to verify places where activities that generate taxable incomes are carried out;
h) to decide precautionary measures, under the law;
i) to carry out tax investigations, according to par. (2) letter a);
j) to apply sanctions, according to legal provisions;
k) to apply seals on assets, preparing a report in this regard.
(4) - Abrogated
(5) It is not the purpose of the tax audit to perform technical and scientific assessments or to run any other type of checks requested by the criminal prosecution bodies for the purpose of clarifying various facts or circumstances in respect of the cases under investigation by such bodies.

ARTICLE 95
**Persons subject to tax audit**

The tax audit shall be carried out in respect to all persons, irrespective of their organization form, having the obligation to assess, withhold and pay taxes, fees, contributions and other amounts due to the general consolidated budget, as provided by law.

ARTICLE 96
**Forms and extend of tax audit**
(1) Forms of the tax audit shall be as follows:
a) general tax audit, which is the activity of verification of all categories of a taxpayer's tax obligations for a determined period.
b) partial tax audit, which is the activity of verification of one or more than one tax obligations for a determined period.
(2) The tax audit can be extended over all relations that are relevant for taxation purposes, provided that such relations are of interest for the application of the fiscal law.

ARTICLE 97
**Tax audit procedures and methods**
(1) In carrying out its functions, the tax audit may apply the following audit procedures:
a) unannounced audit, which consists in the activity of verification of facts and documents mainly as a result to an information note regarding the existence of certain violations of fiscal legislation, without previously notifying the taxpayer;
b) crossed audit, which consists in the verification of documents and taxable operations of the taxpayer in correlation to those held by other persons; the crossed audit may also be an unannounced audit.
(2) At the end of the unannounced audit, a report shall be concluded.
(3) In carrying out its duties, tax audit can apply the following auditing methods:
a) audit by sampling, which lies in the activity of selective verification of documents and significant operations, which are reflected in the calculation of prominence and the payment of the tax liability due to the general consolidated budget;
b) electronic audit, which consists of checking accounts and their sources, processed electronically, using methods of analysis, evaluation and testing assisted by computer specialized tools.
(4) abrogated.

ARTICLE 98
**Period subject to tax audit**
(1) The tax audit shall be carried out within the statute of limitation for the right to assess tax obligations.
(2) For large taxpayers, the period subject to tax audit is to begin as of the end of the period which was previously audited, in compliance with par. (1).
(3) For the other categories of taxpayers, the tax audit is to be carried out upon the receivables arisen within the last three fiscal years for which there is an obligation to submit tax declarations. The tax audit can be extended over the statute of limitation of the right to assess tax obligations provided that at least one of the following circumstances is identified:
a) there are indications as regards diminishing taxes, fees, contributions and other amounts owed to the general consolidated budget;
b) no fiscal declarations have been submitted within the period of of limitation of the right to assess tax obligations;
c) obligations of payment of taxes, fees, contributions and other amounts due to the general consolidated budget have not been satisfied.

CHAPTER 2
**Carrying out of the tax audit**

ARTICLE 99
**Competence**
(1) The tax audit shall be carried out exclusively, directly and with no limitations throughout the National Agency for Fiscal Administration or, as the case may be, by specialist departments of authorities of local public administration, according to provisions of this title or by other authorities that are competent by law to administer taxes, fees, contributions and other amounts due to the general consolidated budget.
(2) The competence to exercise the tax audit of the National Agency for Fiscal Administration and of its subordinated units shall be established by an order of the President of the National Agency for Fiscal Administration. The tax audit bodies within the central organization of the National Agency for Fiscal Administration shall have competence in carrying out of the tax audit on the entire territory of the country.
(3) Competence regarding carrying out of tax audits may be delegated to a different fiscal body. Within the National Agency for Fiscal Administration the conditions under which this delegation may be performed are established by an order of the President of the National Agency for Fiscal Administration.

ARTICLE 100
**Taxpayers selection for tax audit purposes**
(1) The competent fiscal body shall be in charge with the selection of taxpayers to be subject to tax audits.
(2) The taxpayer cannot object as regards the selection procedure used.

ARTICLE 101
**Tax audit notification**
(1) Before any tax audit mission, the tax auditors have the obligation to inform taxpayers on the tax audit to be conducted, by sending a tax audit notification.
(2) After receiving the tax audit notification, any taxpayer may, only once and for justified reasons, request a postponement of the planned audit. Such postponement shall be approved or rejected through a decision issued by the relevant tax body. If the request is approved, the taxpayer shall be informed on the date of the rescheduled tax audit mission.
(3) The following shall be mentioned in a tax audit notification:
a) the legal grounds of the tax audit;
b) the starting date of the tax audit mission;
c) the tax obligations and the intervals that are to be covered by the tax audit;
d) the possibility to request for a postponement of the tax audit’s starting date.

ARTICLE 102
**Communication of the tax audit notification**
(1) The written tax audit notification is sent to the taxpayer as follows:
a) 30 days before the start of the tax audit mission to large taxpayers;
b) 15 days before the start of the tax audit mission to the other categories of taxpayers.
(2) Where the tax audit starting date mentioned in the notification occurs after the deadline stipulated at indent (1), the tax audit mission may not start before the date mentioned in the notification.
(3) The tax audit notification shall be communicated on the starting date of the tax audit, in the following cases:

a) a tax audit is conducted for a taxpayer subject to an insolvency procedure;
b) where, after an unplanned or cross audit, an immediate tax audit is required;
c) a tax audit needs to be extended to cover intervals, taxes and contributions other than those mentioned in the tax audit notification.
(4) The tax audit notification is not required:
a) for unplanned and cross audits;
b) for actions conducted upon request by various authorities, according to the law;
c) for tax audits that are repeated as a result of a decision issued following an appeal;
d) for solving a request submitted by the taxpayer.
(5) Any taxpayer may waive the tax audit notification right as provisioned at indent (1).
(6) The tax audit starting date is the date recorded in the audit single register. For taxpayers that do not keep or do not show an audit single register to the tax auditors, the tax audit starting date shall be mentioned in a finding report.
(7) If the tax audit mission fails to start within 15 days from the date communicated in the notification, the taxpayers shall be informed, in writing, on a new date scheduled for starting the tax audit mission.

ARTICLE 103
**Place and period of carrying out tax audit**
(1) A tax audit is to be generally carried out at the taxpayer's business premises. The taxpayer has to make available an adequate room and the logistics required for the performance of the audit.
(2) In the absence of an adequate work place for the performance of the audit, the audit activity can be carried out at the location of the fiscal body or in any location as mutually agreed upon with the taxpayer.
(3) Irrespective of the place where the tax audit is carried out, the fiscal body has the right to inspect the places where activity is carried out, in the presence of the taxpayer or of a person designated by him/her.
(4) As a rule, the tax audit is to take place during the taxpayer's working hours. The tax audit may also be carried out outside the taxpayer's working hours, with the taxpayer's written acceptance and with the approval of the head of the fiscal body.

ARTICLE 104
**Duration of carrying out of a tax audit**
(1) The duration of carrying out a tax audit shall be determined by the tax audit bodies or, as the case may be, by specialist departments of authorities of local public administration, depending on the objectives of the audit and it cannot exceed 3 months.
(2) In case of large taxpayers or taxpayers that have secondary offices, the audit duration cannot exceed 6 months.
(3) Periods in which the conduct of tax audit is suspended are not included in the computing of tax audit period, according to the provisions of par. (1) and (2).
(4) The competent head of tax audit may decide to suspend a tax audit whenever there are justified reasons in this respect.
(5) The terms and conditions of suspension of a tax audit shall be established by Order of the President of the National Agency for Fiscal Administration, respectively joint order of the Minister of Public Finances and of the Minister of Administration and Interior, in case of tax audits conducted by the fiscal bodies provided for in art. 35, to be published in the Official Gazette of Romania, Part I.

ARTICLE 105

**Rules as regards the tax audit**

(1) The tax audit shall have in view the examination of all facts and legal relations that are relevant for taxation purposes.

(2) The tax audit shall be carried out so as to have a minimum impact on the current activity of the taxpayers and to use efficiently the time scheduled for the audit.

(3) The tax audit is conducted only once for each tax, fee, contribution or other obligations to the general consolidated budget and for each interval subject to taxation.

(4) *** Abrogated

(5) The tax audit shall be carried out based on principles of independence, singleness, autonomy, hierarchical approach, territoriality and decentralization.

(6) The tax audit activity shall be organized and carried out based on certain annual, quarterly and monthly schedules, which shall be approved in accordance with an order of the president of the National Agency for Tax Administration, or by acts of authorities of local public administration, as the case may be.

(7) Upon the initiation of tax audits, the auditor is required to show his/her audit identity card as well as the duty order, signed by the head of the fiscal bodies, to the taxpayer. The beginning of the tax audit is to be recorded in the sole audit register.

(8) Upon the completion of tax audit, the taxpayer is obliged to prepare a written statement on own liability, to show that all documents and information required for the tax audit were made available. The statement is also to include the specification that all requested documents that were made available were returned to such taxpayer.

(9) The taxpayer is obliged to comply with the measures provided in the document prepared upon the tax audit, within the deadlines and conditions as determined by the tax audit bodies.

ARTICLE 105[1]

**Repeated verification rules**

(1) By way of derogation from the provisions laid down in art. 105 indent (3), the head of the tax audit mission may decide to repeat the verification in respect of a certain interval.

(2) By repeated verification one should understand the tax audit that is conducted based on additional data unknown to the tax auditors on the first audit date that is likely to influence the outcome of the verification.

(3) By additional data one should understand information, documents and other similar that may be revealed cross audits and unplanned audits, or communicated to the tax auditors by criminal prosecution bodies or other public authorities, or that may be made available to the tax auditors, that are expected to change the outcomes of a previous tax audit.

(4) Upon starting the repeated verification, the tax auditors have the obligation to communicate the related decision to the taxpayer, that may be challenged under the present code. The provisions related to the contents and the communication of the tax audit notification shall apply, mutatis mutandis, to the decision issued for a repeated verification.

ARTICLE 106

**The taxpayer's obligation to collaborate**

(1) The taxpayer has the obligation to collaborate in ascertaining the actual tax state of fact. He/she is to provide information, to make available all documents at the audit location, and to provide any other information as necessary for the clarification of actual facts that are relevant for taxation purposes.

(2) Upon the beginning of the tax audit, the taxpayer is to be informed that he/she may designate persons to provide information. Provided that the information provided by the

taxpayer or by the person appointed by him/her is insufficient, the tax auditor may contact other persons as well to obtain information.
(3) During the entire duration of carrying out the tax audit, taxpayers that are subject to such tax audit have the right to benefit from specialist or legal assistance.

ARTICLE 107
**Taxpayer's right to be informed**
(1) The taxpayer shall be informed during the tax audit on significant findings resulted from the tax audit.
(2) The tax authority shall present to the taxpayer the tax audit draft report, in which the findings and their tax consequences are included, in order to allow the taxpayer's opinion according to art. 9 indent (1), unless the tax bases remained unchanged after the tax audit the taxpayer has waived this right and notified the tax auditors on the issue.
(3) The date, the time and the place of presentation of conclusions shall be communicated to the taxpayer in due time.
(4) The taxpayer has the right to present his/her opinion in writing with respect to the tax audit findings, within 3 days after the tax audit closing date.
(5) The tax audit closing date is the date of the final discussion scheduled with the taxpayer or the notification date of the taxpayer's decision to waive this right.

ARTICLE 108
**Informing prosecution bodies**
(1) Fiscal bodies shall notify the criminal investigation bodies of findings during the tax audit, which might meet the constitutive elements of a criminal law violation, under the conditions provided by the Criminal Law.
(2) In cases provided in par. (1) fiscal bodies are required to prepare a minutes signed by the taxpayer that is subject to the audit, with or without explanations or objections from the taxpayer. In case the taxpayer that is subject to the audit refuses to sign such minutes, the tax audit body shall record such fact in the minutes. In all cases, the minutes is to be communicated to the taxpayer.

ARTICLE 109
**Tax audit report**
(1) The outcome of the tax audit is documented in a tax audit report, which shall include the factual and legal findings.
(2) The tax audit report is prepared after the completion of the tax audit mission and includes all the findings in respect of the intervals and the tax obligations that have been subject to audit. Where the taxpayer has exercised the right mentioned in art. 107 indent (4), the tax audit report must document the tax auditor's motivated point of view with respect to the taxpayer's opinion.
(3) The tax audit report is the foundation for issuing:
a) The tax assessment notice, for additionally assessed amounts in respect of the intervals that have been audited;
b) The decision for keeping the tax base unchanged, if no additional amounts are assessed.
(4) The decisions provisioned at indent (3) shall be communicated within 30 business days from the tax audit closing date.

CHAPTER III

**Special Provisions on audits conducted on individuals in respect of the personal income tax**

ARTICLE 109[1]
**Rules for auditing individuals**
(1) The tax authority has the right to run a prior desk audit of the overall personal situation of individuals with respect to the personal income tax regulated in Title III of the Tax Code under the terms of the current code that shall apply *mutatis mutandis*.
(1[1]) The competency of the National Agency for Tax Administration and its subordinated divisions to audit the personal tax situation of individual taxpayers is assigned in an order issued by the president of the National Agency for Tax Administration. The headquarters of the National Agency for Tax Administration has the authority to audit individuals, in accordance with the current chapter, on the whole territory of the Romanian State.
(2) By personal tax situation one should understand all the rights and obligations of patrimonial nature, treasury cash flows and other items based on which the actual tax standing of a taxpayer during the interval covered by the verification may be determined.
(3) The audit mentioned at indent (1) relies upon a comparison between the revenues declared by the taxpayers or revenue payers on one hand, and the taxpayer's personal tax situation, on the other hand.
(4) Where the tax auditors find that there is a significant gap between the revenues declared by the taxpayers or revenue payers on one hand, and their personal tax situation on the other hand, the desk audit mentioned at indent (1) shall be continued by the tax auditor communicating the audit notification and assessing the adjusted tax base by means of the indirect methods provisioned at indent (6). The gap shall be deemed significant if the difference between the estimated amount of revenues calculated based on the personal tax situation and the revenues declared by the taxpayers or revenue payers themselves is over 10%, but no less than 50,000 lei.
(5) Where tax auditors find that there is a significant gap according to indent (4), they shall require the taxpayer to produce, within maximum 60 days from the audit notification, under the sanction of losing this right, any supporting documents or other clarifications relevant for his/her tax situation. The deadline may be extended only once by 30 days, upon the taxpayer's reasoned request, with the approval of the tax body.
(6) The indirect methods used to calculated the adjusted tax base are:
a) The source and application of funds method. This method consists of comparing the expenditures with revenues declared for the interval subject to verification;
b) The treasury cash flow method. It consists of analyzing the bank accounts and the cash flows to determine the movements of cash and pair them with the sources of revenues and their use;
c) The net worth method. This method relies upon a calculation of the taxable income based on the increase in the net assets of a taxpayer during a fiscal year. The increase/decrease in the net assets is established by comparing the net assets at the beginning of the interval with the net assets at the end of it.
(7) The procedure involving the indirect methods as provisioned at indent (6) is approved by Government Decision.
(8) The obligation to preserve the fiscal secrecy stipulated at art. 11 shall apply to public servants involved in the procedure of verifying the personal tax situation of the taxpayers.

ARTICLE 109[2]
**Audit venue**

The audit is conducted at the premises of the tax authority or, if requested by the persons subject to verification, at the domicile of the taxpayer or the domicile/registered office of the person that assists the taxpayer in accordance with art. 106 indent (3) of the current code.

ARTICLE 109[3]
**Audit notification**
The audit notification mentioned in art. 109[1] indent (4) shall include:
a) the legal grounds for the audit;
b) the audit starting date;
c) the interval covered by the audit;
d) the possibility to request a postponement of the audit starting date. The postponement may be requested only once and for justified reasons;
e) requests for information and relevant documents for the audit.

ARTICLE 109[4]
**Audit Report and tax assessment notice**
The outcome of the verification shall be documented in a written report including the factual and legal findings. This report shall be the foundation of the tax assessment notice or a decision to stop the tax audit, as the case may be, unless the tax base is adjusted.

TITLE VII[13]
**Administrative cooperation in the fiscal sector**

CHAPTER I
**General provisions**

ARTICLE 109[5]
**Purpose**
(1) The current title regulates the norms and procedures of the Romanian cooperation with other Member States aimed at an information exchange that is predictably relevant with respect to the management and application of the MS rules when it comes to the taxes and fees stipulated in art. 109[6].
(2) The current title includes provisions on the information exchange via electronic means as provided in indent (1), as well as the norms and procedures under which Romania cooperates with the European Commission in respect of coordination and evaluation topics.
(3) The current title shall not affect the application in Romania of the norms on mutual assistance on criminal matters and shall be without prejudice to the fulfillment of each and all obligations of Romania under other legal instruments, including bilateral and multilateral agreements on the extended administrative cooperation.

ARTICLE 109[6]
**Scope**
(1) The current title shall apply to all types of tax and fee levied by or on behalf of the government, the territorial and administrative divisions or the sub-divisions of municipalities.
(2) Without prejudice to indent (1), the current title shall not apply:
a) to the value added tax, customs duties and excise duties, as regulated by the European Union, with respect to the Member States administrative cooperation;

[3] Apply from 1st january 2013

b) the mandatory social security contributions to the government or the social security institutions of public law.
(3) The taxes and fees provisioned in indent (1) shall not be construed as including:
a) the fees payable for certificates and other documents issued by the public authorities;
b) the contributions established in contracts, such as amounts established for public utilities.
(4) The current title shall apply to taxes and fees of indent (1), levied on the territories where the EU Treaties apply under the provisions of art. 52 of the Treaty regarding the European Union.

ARTICLE 109[7]
**Definitions**
For the purpose of the current title, the below terms and expressions shall have the following meanings:
a) Competent Authority of a Member State – an authority that has been appointed as such by the respective Member State. Where acting for the purpose of the current title, a central liaise office, a liaise department or an authorized officer is considered to be a delegated competent authority, in accordance with art. 109[8];
b) central liaise office – an office delegated as the main office responsible for the administrative cooperation contracts implemented with other Member States;
c) liaise department – any office, other than the central liaise office, that has been invested with the authority for the direct exchange of information for the purpose of the current title;
d) authorized officer – any officer that has been empowered to perform a direct exchange of information for the purpose of the current title;
e) contracting authority – the central liaise office, a liaise department or any authorized officer of a Member State that submits a support application on behalf of the competent authority;
f) requested authority – the central liaise office, a liaise department or any authorized officer of a Member State that receives a request for support on behalf of the competent authority;
g) administrative investigation all the audits, verifications and other actions conducted by the Member States exercising their attributions aimed at ensuring the implementation of a correct tax legislation;
h) information exchange by request – a transfer of information based on a request submitted by an requesting MS to a requested MS, in a specific situation;
i) automatic exchange – the systematic transfer of pre-defined information, at pre-defined regular intervals, to another Member State, for which no prior request is required. For the purpose of art. 109[12], the available information include tax files data of the transferor, that may be accessed in accordance with the collection and processing procedures in force in the transferor Member State;
j) spontaneous exchange – a non-systematic transfer of information to another Member State, that may occur at any time and for which no prior request is required;
k) person – any natural or legal person, or association of persons having the capacity acknowledged by law to conclude legal documents, but does not have the statute of a legal person, or any other entity irrespective of its nature, form or legal personality, that holds or manages assets which, together with the revenues generated by such assets, are subject to the taxes and fees covered by the purpose of the current title;
l) electronic means – the use of electronic equipment for data processing, including through digital compression, and storing, via a wire transmission of a radio broadcast, optical technologies or other electromagnetic media;

m) CCN network – a shared platform founded on the common communication network (CCN) that has been developed by the European Union with the purpose of allowing all transmissions via electronic means among competent authorities in the customs and tax sectors.

ARTICLE 109[8]

**Romanian Competent Authority**

(1) The National Agency for Tax Administration is the Romanian competent authority for the application of the provisions laid down in the current title, as well as for the contracts with the European Commission.

(2) The central liaise office shall be appointed by order of the public finance minister, on a suggestion made by the National Agency for Tax Administration. The Romanian competent authority is responsible for informing the European Commission and the other Member States on the appointment of the central liaise office.

(3) Through the order mentioned at indent (2), the central liaise office may be appointed as office responsible with the contact established with the European Commission. The Romanian competent authority is responsible for informing the European Commission on this issue.

(4) The Romanian competent authority may invest other liaise departments with powers according to the national legislation of policy. The central liaise office is responsible for updating the liaise department list and make it available to the central liaise offices in other interested Member States and to the European Commission.

(5) The Romanian competent authority may appoint authorized officers. The central liaise office is responsible for updating the authorized officers list and make it available to the central liaise offices in other interested Member States and to the European Commission.

(6) In all circumstances, the officers involved in the administrative cooperation for the purpose of the current title shall be considered authorized officers to this purpose, in line with the requirements of the competent authorities.

(7) If a liaise department or an authorized officer appointed according to indent (4) or (5) sends or receives a request or an answer to a request for cooperation, the respective department o officer have the obligation to inform the central liaise office in Romania, in line with the procedures of the respective liaise office.

(8) Should a liaise department or an authorized officer appointed according to indent (4) or (5), receive a request for cooperation requiring actions that exceeds its area of authority according to the national legislation or policy, the respective liaise department or authorized officer must immediately convey this request to the central liaise office in Romania and inform the requested authority. In this case, the period stipulated at art. 109[11] starts on the following day of the dispatch of such request for cooperation to the central liaise office.

CHAPTER II

**Exchange of information**

SECTION 1

**Exchange of information upon request**

ARTICLE 109[9]

**Procedure with respect to the exchange of information upon request**

Upon request by an requesting authority of a Member State, the Romanian requested authority shall communicate any information provisioned in art. 109[5] indent (1) that it may hold or obtain as a result of administrative investigations.

ARTICLE 109[10]

**Administrative investigations**

(1) The Romanian requested authority shall make sure that all necessary administrative investigations are conducted to obtain the information stipulated at art. 109[9].

(2) The request mentioned at art. 109[9] may contain the motivated request of a specific administrative investigation. Should the Romanian requested authority decide that no administrative investigation is needed, it shall immediately communicate the reasons for such decision to the requesting authority of the other Member State.

(3) In order to obtain the requested information or conduct the required administrative investigation, the Romanian requested authority shall follow the same procedures that would be applied if it acted at its own initiative or upon request by other Romanian authorities.

(4) If the requesting authority of a Member State requires this specifically, the Romanian requested authority shall send the original documents, unless this is against the legal provisions in force in Romania.

ARTICLE 109[11]

**Deadlines applied to the exchange of information upon request**

(1) The Romanian authority receiving the request shall provide the information stipulated at art. 109[9] as soon as possible, but within maximum 6 months from the date of request. If the requested information is already available to the Romanian authority receiving the request, this information will be sent within two months from the date of request.

(2) In certain special cases, the requesting authority of a Member State and the requested authority in Romania, may agree on different deadlines than those stipulated at indent (1).

(3) The requested Romanian authority shall confirm, if possible via electronic means, the receipt of a request to the requesting authority, without delay but no later than 7 business days from the receipt of the respective request.

(4) Within one month from the receipt of a request, the Romanian authority having received the request shall notify the requesting authority of the other Member State on any deficiencies in the respective request, as well as on the need for additional information. In such case, the deadlines stipulated at indent (1) shall be calculated as of the following day of the receipt by the Romanian authority of the respective additional information.

(5) If the Romanian authority receiving the request is not able to respond within the required deadline, it shall notify the requesting authority without delay, but no later than 3 months from the receipt of the request, the reasons for exceeding the deadlines and the estimated date when an answer could be provided.

(6) If the Romanian authority receiving the request does not hold the requested information and is not able to provide an answer of refuses to respond to a request for information for the reasons mentioned at art. 109[21], it shall notify the requesting authority on its reasons, without delay but no later than one month from the receipt of the request for information.

SECTION 2

**Mandatory automatic exchange of information**

ARTICLE 109[12]

**Scope and terms of the mandatory automatic exchange of information**

(1) The Romanian competent authority communicates to the competent authority of other Member States, through an automatic exchange of information, the information related to the taxation periods that start after January 1, 2014, and is available to the residents of the

respective Member State, as well as the information related to the following specific revenue and capital categories, as they are construed based on the Romanian domestic legislation:
a) revenues from work;
b) remunerations to administrators and other assimilated persons;
c) life insurance products that are not covered by other specific legal instruments of the European Union, with respect to the exchange of information or other similar measures;
d) pensions;
e) ownership of movable assets and revenues from movable assets.
(2) Before January 1, 2014, the Romanian competent authority informs the European Commission on the specific categories of revenue and capital mentioned at indent (1) on which it holds information, as well as with respect to any subsequent changes that may have occurred.
(3) The Romanian competent authority may notify the competent authorities of other Member States that it does not want to receive information related to the categories of revenue and capital mentioned at indent (1) or that it does not want to receive information with respect to the revenue or capital below a specific threshold, and Romania will inform the European Commission on this issue. If Romania fails to inform the European Commission on any of the categories on which it holds information, Romania could be considered as a state that does not want to receive information for the purpose of indent (1).
(4) Before July 1, 2016, the Romanian competent authority shall make available to the European Commission, on an early basis, the statistics regarding the volume of the automatic exchange of information and, to the extent possible, information on the administrative costs and benefits or other relevant costs and benefits from the exchange of information that has occurred and on any potential changes in the case of both the tax administration and any third parties.
(5) The exchange of information shall occur at least once a year, within six months from the closure of the Romanian fiscal year when the information became available.
(6) Where Romania agrees with other Member States, in either bilateral or multilateral agreements on an automatic exchange of information with respect to other categories of revenue and capital, Romania must inform the European Commission on the respective agreements that will be made available to all the other Member States.

SECTION 3
**The spontaneous exchange of information**

ARTICLE $109^{13}$ [4]
**Scope and terms of the spontaneous exchange of information**
(1) the Romanian competent authority communicates to the competent authorities of other Member States interested in the information mentioned at art. $109^{5}$ indent (1), in any of the below circumstances:
a) the Romanian competent authority holds proof allowing it to make the assumption that one Member State may run fiscal losses;
b) a taxable person may be granted a tax reduction or a tax exemption in Romania, that could lead to an increase of tax or a tax liability in another Member State;

[4] Apply from 1st January 2015

c) the business operations of a Romanian taxable person with a taxable person from another Member State are conducted through one or more countries, so that it generates a reduced tax liability either in Romania or in the other Member State, or both;
d) the Romanian competent authority holds proof allowing it to make the assumption that a reduction of profits may result from a number of artificial transfers of profits inside a group of businesses;
e) the information communicated to one Member State by the competent authority of another Member State conveys data that may be important for assessing the tax amount payable in the latter state.
(2) The Romanian competent authority may communicate to the competent authorities in other Member States, through a spontaneous exchange of information, any data that it may hold and could be useful to such Member States.

ARTICLE $109^{14}$
**Deadlines for the spontaneous exchange of information**
(1) The Romanian competent authority to which the information mentioned at art. $109^{13}$ indent (1) is made available, shall communicate the respective information to the competent authorities of any other interested Member State, as soon as possible, but no later than one month from the receipt of such information.
(2) The Romanian competent authority receiving the information for the purpose of art. $109^{13}$ shall confirm the receipt to the competent authority that communicated the information, if possible via electronic means, without delay but no later than 7 business days from the receipt.

CHAPTER III
**Other forms of administrative cooperation**

SECTION 1
**Presence in the administrative offices and participation to administrative investigations**

ARTICLE $109^{15}$
**Scope and terms**
(1) Following an agreement between the requesting authority of a Member State and the requested authority in Romania, and in accordance with the terms established by the latter, the duly empowered officers by the requesting authority may, for the purpose of the exchange of information mentioned at art. $109^{5}$ indent (1), be present in the offices of the Romanian administrative authorities and/or participate to the administrative investigations conducted on the territory of Romania. When the requested information is contained in documents than can be accessed by the officers of the requested Romanian authority, the officers of the requesting authority shall receive copies of these documents.
(2) To the extent allowed by the Romanian legislation, the agreement mentioned at indent (1) may state that, whenever the officers of the requesting authority of a Member State are present during the administrative investigations, they may interview persons and may examine various registers. Any refusal by a person subject to an investigation to observe the control measures taken by the officers of the requesting authority shall be regarded by the Romanian requested authority as a refusal intended against its own officers.
(3) The officers empowered by the requesting Member State that are present on the Romanian territory according to indent (1) must be able to produce at any time a written power of attorney indicating their identity and official capacity.

SECTION 2
**Administrative cooperation through concurrent checks**

ARTICLE 109[16]
**Concurrent checks**
(1) If Romania agrees with one or more other Member States on conducting concurrent checks on their own territory of one or more persons in which there is a shared or complementary interest, with the purpose of exchanging the respective information, the provisions of indents (2) to (4) shall apply.
(2) The Romanian competent authority shall independently identify the persons intended to be subject to concurrent checks. It shall notify the concerned competent authorities of the other Member States any cases in respect of which it suggests concurrent checks indicating the reasons for selecting these cases, as well as the interval when these checks must be carried out.
(3) The Romanian competent authority shall decide whether or not it wishes to participate to the concurrent checks and confirms to the competent authority having requested the checks its agreement or its reasoned refusal.
(4) The Romanian competent authority shall appoint a representative responsible for supervising and coordinating the checks.

SECTION 3
**Administrative notices**

ARTICLE 109[17]
**Notification requests**
(1) Following a request by the competent authority of a Member State, the Romanian competent authority shall communicate to the addressee, in line with art. 44, all acts and decisions issued by the administrative authorities of the requesting Member State and that may refer to the application, on its territory, of the legislation regarding the taxes and fees regulated by the current title.
(2) The notification requests indicate the purpose of the act or decision that must be notified, as well as the name and address of the addressee, along with any other information likely to help identifying the respective addressee.
(3) The Romanian competent authority receiving the request shall immediately inform the requesting authority on its answer to the respective request and particularly it shall communicate the notification date of the respective act or decision to the addressee.
(4) The requesting authority in Romania shall prepare a notification request for the purpose of the current article only when it is not able to make the notification according to the norms regulating the notification of the concerned instruments in Romania, or when such notification would lead to considerable difficulties. The Romanian competent authority may communicate any document, through registered mail or via remote transfer electronic means, directly to a person located on the territory of another Member State.

SECTION 4
**Outcome of using the information**

ARTICLE 109[18]
**Terms and conditions**

(1) Where the Romanian competent authority provides information for the purpose of art. $109^{9}$ or art. $109^{13}$, it may request from the competent authority that receives the information to provide a feedback on the received information. When required to provide such feedback, a Romanian recipient authority shall send to the competent authority having provided the respective information the outcome of using this information, without prejudice to any fiscal secrecy or data protection regulations applicable in Romania, as shortly as possible, but no later than 3 months from the time when such outcome is known.
(2) The Romanian competent authority communicates to other Member States the outcome from using the information subject to the automatic exchange of information, in line with the mutually agreed practical measures.

SECTION 5
**The know-how and best practice exchange**

ARTICLE $109^{19}$
**Scope and terms**
(1) In a joint effort with the European Commission and the other Member States, the Romanian competent authority shall examine and evaluate the administrative cooperation provisioned in the current title and share expertise with the purpose of improving this cooperation and, if necessary, drafting regulations in the respective sectors.
(2) Together with the European Commission and the other Member States, the Romanian competent authority may prepare directions with respect to any aspect that is considered necessary for the purpose of the know-how and best practice exchange.

CHAPTER IV
**Terms applicable to the administrative cooperation**

ARTICLE $109^{20}$
**Submission of information and documents**
(1) The information communicated to Romania by other Member States, that may be in any form according to the current title, is subject to professional secrecy requirement and enjoys the protection provided to this type of information under the Romanian legislation. This type of information may be used to manage and apply the Romanian legislation with respect to taxes and fees stipulated at art. $109^{6}$. In addition, this information may be used to evaluate and apply other taxes and fees stipulated at art. $178^{2}$ or to evaluate and apply the mandatory contributions to the social security system. Moreover, it may be used in respect of legal and administrative procedures that may involve penalties for violations of the tax laws, without prejudice to the norms and general provisions that regulate the rights of the lawbreaker, suspected person, convicted or offender, as well as those of the witnesses in such procedures.
(2) The information and documents received by Romania under the current title may be used for other purposes than provisioned at indent (1), with the approval of the providing competent authority of the concerned Member State, according to the current title, and only to the extent allowed by the Romanian legislation. Such approval shall be granted by Romania provided that the information can be used for similar purposes in Romania.
(3) If the Romanian competent authority considers that the information received from the competent authority of another Member State may be useful, for the purposes mentioned at indent (1), to a competent authority of a third Member State, it may communicate this information to the latter in full observance of the norms and procedures stipulated by the current title. The Romanian competent authority shall inform the competent authority of the

Member State of origin on its intention to forward the respective information to a third state. If Romania is a Member State of origin, it may oppose the action of forwarding the information within 10 business days after it has received the notification from the Member States intending to forward the respective information.
(4) The permission to use the information provided for the purposes of indent (3) according to the provisions of (2), may be granted exclusively by the competent Romanian authority.
(5) Information, reports, statements and any other documents, as well as certified true copies or excerpts thereof obtained by the requested authority of another Member State and communicated to the requesting competent authority in Romania, for the purpose of the current title, may be used as evidence by the competent Romanian bodies, as can be the information, reports, statements and any other similar documents provided by a Romanian authority.

ARTICLE $109^{21}$
**Limitations**
(1) The Romanian requested authority shall provide to the requesting authority of another Member State the information mentioned at art. $109^{9}$, provided that the requesting authority have exhausted all usual sources of information that could be used under this kind of circumstances to get hold of the necessary information, without taking the risk of jeopardizing its purpose. The Romanian requesting authority requests the information mentioned at art. $109^{9}$ to the requested authority in another Member state only if it had exhausted all other usual sources of information that it could use under this kind of circumstances to get hold of the requested information, without taking the risk of jeopardizing its purpose.
(2) The current title does not force Romania to conduct investigations or communicate information, where such investigations or the receipt of the respective information for its own purposes would be contrary to the Romanian legislation.
(3) The Romanian competent authority may refuse to provide information, if a requesting authority of the other Member State does not have the capacity, for legal reasons, to provide similar information.
(4) Information may be denied where it may lead to the disclosure of a commercial, industrial or professional secret, or of a commercial process or any information the disclosure of which would be contrary to the public order.
(5) The requested Romanian authority shall communicate to the requesting authority of another Member State the reasons of its refusal to respond to the request of information.

ARTICLE $109^{22}$
**Obligations**
(1) When a Member State requests information based on the provisions of the current title, Romania shall use its collection mechanism to obtain the requested information, even where this information is not necessary for its own tax purposes. This obligation shall not prejudice the provisions of art. $109^{21}$ indent (2) to (4), which under no circumstances may be construed in the sense of allowing Romania to refuse giving out information for the simple reason that this information is of no national interest.
(2) The provisions of art. $109^{21}$ indent (2) and (4) may under no circumstances be construed as allowing the requested Romanian authority to refuse disclosing information for the simple reason that this information is owned by a bank or other financial institution, a designated person or a person acting in capacity as agent or administrator, or because the respective information relates to the participation to a certain person’s capital.

(3) Without prejudice to indent (2), Romania may refuse to disclose the requested information if such information relates any taxation period before January 2011, and the communication of such information could have been refused based on art. 124[35] indent (1) of the Fiscal Code if requested before March 11, 2011.

ARTICLE 109[23]
**Enlargement of extended cooperation with a third country**

When Romania provides to a third country an extended assistance that the one provisioned in the current title, it may not refuse this kind of cooperation with none of the other Member States that wish to initiate such a mutual extended cooperation with Romania.

ARTICLE 109[24]
**Standard forms and electronic formats**
(1) The requests for information and administrative investigations submitted according to art. 109[9] and the attached answers, receipt confirmations, the requests for additional general information and the statements of incapacity or denial formulated for the purpose of art. 109[11] shall be sent, to the extent possible, by using a type of form adopted by the European Commission in line with the procedure provisioned in art. 26 indent (2) of the Council Directive 2011/16/EU of February 15, 2011 on the administrative cooperation in the tax sector and the abolition of Directive 77/799/EEC. These forms may be accompanied by reports, statements or any other documents, as well as certified copies or excerpts thereof.
(2) The form provisioned at indent (1) includes at least the following information that must be provided by the requesting authority:
a) the identity of the person subject to examination or investigation;
b) the targeted tax purpose.
(3) To the extent that this information is known and in agreement with the international developments, the Romanian requesting authority may provide the name and address of any person who is believed to hold the requested information, as well as any other element that may help collecting the information by the requested authority of another Member State.
(4) The spontaneous information and the confirmation thereof, as provisioned in art. 109[13] and art. 109[14], respectively, the requests for administrative notifications provisioned at art. 109[17] and the feedback on the use of information as provisioned in art. 109[18] shall be provided by using the specific form adopted by the European Commission, according to the procedure stipulated at art. 26 indent (2) of Directive 2011/16/EU.
(5) The automatic exchange of information stipulated at art. 109^12 shall be conducted using an standardized electronic format that facilitates this type of information exchange and based on the existing electronic format of art. 124[8] of the Tax Code, that must be used for all types of automatic exchanges of information, adopted by the European Commission according to the procedure provisioned at art. 26 indent (2) of Directive 2011/16/EU.

ARTICLE 109[25]
**Practical measures**
(1) The information communicated for the purpose of the current title shall be provided, to the extent possible, via electronic means, by using the network CCN.
(2) Where the European Commission performs an adjustment of the CCN network, Romania has the obligation to make any necessary adjustments of its own systems to allow this type of information exchange through the CCN network. Romania waives any claims

with respect to the reimbursement of the expenditures incurred for the implementation of the current title, with the exception of the fees paid to experts, as the case may be.
(3) The requests for cooperation, including the notification requests, as well as the attached documents may be in any language mutually agreed by the requested and the requesting authority. The respective requests must be provided together with a translation in the official language or in one of the official language of the requested authority's Member State only under special circumstances, and when the request for translation is motivated by the requested authority.

ARTICLE 109[26]
**Special requirements**
The Romanian competent authority shall take or cause to take all the necessary measures in order to:
a) ensure an efficient internal coordination of the organization measures stipulated in art. 109[8];
b) ensure a direct cooperation with the authorities of other Member States, as provisioned in art. 109[8];
c) ensure a proper operation of the administrative cooperation system stipulated by the current title.

CHAPTER V
**Relationship with the European Commission**

ARTICLE 109[27]
**Evaluation**
(1) The Romanian competent authority in a joint effort with the Member States and the European Commission shall examine and evaluate the operation of the administrative cooperation system mentioned by Directive 2011/16/EU, which is translated into the current title.
(2) The Romanian competent authority shall send to the European Commission any pertinent information needed to evaluate the efficacy of the administrative cooperation stipulated by the current title with respect to the fight against fraud and tax evasion.
(3) The Romanian competent authority shall send to the European Commission on an yearly basis an evaluation regarding the efficacy of the mandatory automatic exchange of information stipulated at art. 109[12], as well as any practical results obtained in this respect. The form and the conditions for submitting the annual evaluations must be adopted by the European Commission according to the procedure in art. 26 indent (2) of Directive 2011/16/EU.
(4) The information communicated to the European Commission by the Romanian competent authority for the purpose of indents (2) and (3), as well as any report or document that is prepared by the European Commission based on this information may be disclosed to other Member States. Such information communicated to Romania is subject to the professional secrecy requirement and enjoys the protection granted to similar information according to the Romanian legislation. The reports and documents prepared by the European Union may be used by Romania only for the purpose of making analyses, not for becoming public domain or being made available to other persons or organizations without the explicit approval of the European Commission.

CHAPTER VI
**Relationship with third countries**

ARTICLE 109[28]
**Information exchange with third countries**
(1) If the Romanian competent authority receives information from a third country which is not predictably relevant for the administration and the application of the law in Romania with respect to the taxes and fees stipulated at art. 109[6], the Romanian competent authority may, to the extent allowed by an agreement concluded with the respective third country, communicate this information to the competent authorities of the Member States to which this information may be useful as well as to any other requesting authority of any other Member State.
(2) The Romanian competent authority may communicate to a third country, in line with the internal regulations on the personal data sharing with third countries, any information collected based on the provisions of the current title, provided that all the below requirements be met:
a) the competent authority of the Member State of origin of the respective information approved the disclosure of this information;
b) there is a commitment by the concerned third country for cooperation with a view to collect the evidence attesting the irregular or illegal nature of any transactions suspected to be non-compliant with or in breach of, the tax legislation.

CHAPTER VII
**General and Final Provisions**

ARTICLE 109[29]
**Data Protection**
Any information exchange for the of the current title shall be conducted in observance of Law 677/2001 on the protection of individuals with regard to processing personal data and the free movement of such data, as amended.

TITLE VIII
**Collection of tax receivables**
CHAPTER 1
**General provisions**

ARTICLE 110
**Collection of tax receivables**
(1) For purposes of this title, the collection consists in carrying out actions in view of the settlement of tax receivables.
(2) The collection of tax receivables shall be carried out based on a receivable title or based on an execution title, as the case may be.
(3) The claim title is the document by which the individual tax receivables are established; this document is issued by the competent bodies or the persons entitled to do so, according to the law. Such claim titles include:
a) the tax assessment notice;
b) the tax return;
c) the accessory tax obligations notice;
d) the custom declaration;
e) the decision by which the individual customs obligations, taxes, fees and other duties payable to the customs authority, according to the law, including accessories, are established;

f) the record of findings and penalties for contraventions, prepared by the bodies enabled by law, with respect to civil fines;
g) the decision regarding the joint and several liability issued in accordance with art. 28;
h) the prosecutor's ordinance, the conclusion or the enactment terms of the court ruling, or an extract of a certificate drawn up based on the above, in the case of tax claims established, according to the law, by the prosecutors or courts.

ARTICLE $110^1$
**Tax claim records**
(1) For the purpose of performing the activities aimed at collecting tax receivables, the tax bodies subordinated to the National Agency for Tax Administration shall keep a record of the tax claims and the settlement thereof in respect of individual taxpayers.
(2) The taxpayers can access the tax claim records based on a procedure approved in an order issued by the president of the National Agency for Tax Administration.

ARTICLE 111
**Payment deadlines**
(1) Tax receivables shall become outstanding upon the expiry of the deadlines provided in the Fiscal Code or in other regulating laws.
(2) For the differences of main and ancillary tax obligations as determined by law, the payment deadline shall be determined depending on the communication date, as follows:
a) if the communication date is between the 1st and the 15th day of the month, the payment deadline shall be on or before the 5thday of the following month;
b) if the communication date is between the 16th and the 31st of the month, the payment deadline shall be on or before the 20th of the following month;
(3) For fiscal obligations with scheduled or deferred payment, as well as for ancillaries thereof, the deadline shall be established by the document by which such payment incentive is granted.
(4) For tax receivables that are administered by the Ministry of Public Finances for the payment of which no deadlines are provided, such deadlines shall be established by an order of the Minister of Public Finances.
($4^1$) For the tax receivables assessed on the basis of the fiscal declarations to which are applied the provisions of art. 114 par. (2^1) and which have the payment deadline other than 25 of the month, this deadline shall be replaced by the day of 25 of the month provided in the normative act regulating them.
(5) For fiscal receivables to the local budgets that have no payment deadlines provided, such deadlines shall be established by a joint order of the Minister of Administration and Interior and Minister of Public Finances.
(6) Social contributions administered by the Ministry of Public Finances, after their computation and withholding according to the relevant legal provisions, shall be transferred on or before the 25th day of the month following the month for which the wages are paid.
(7) – (9) Abrogated

ARTICLE 112
**Fiscal attestation certificate**
(1) The fiscal attestation certificate shall be issued by the competent tax body, upon taxpayers' request. The certificate is issued also ex officio or upon request of other public authorities, in the cases and the conditions provided in the legal regulations in force. The provisions of the article 11 shall be applied accordingly.

(2) The fiscal attestation certificate is issued based on the data included in the register of taxpayers of the competent tax body and included due tax receivables, existing in the balance in the last day of the previous month of submitting the application, named reference month, and unpaid until the day of its issue.
(3) In case fiscal attestation certificates are issued in the first 5 working days of the month, they shall include due tax receivables, existing in the balance at the end of the month before the reference month and unpaid until the day of their issue.
(4) The fiscal attestation certificate is issued in 5 working days since submitting the application and can be used by an interested person for a period up to 30 days since the date of issue. In the case of individuals, the period when it can be used is up to 90 days since the date of issue. During the use period, the certificate can be presented by the taxpayer, in original or in authenticated copy, to anybody requiring it.
($4^1$) The issuing tax body may indicate in the tax clearance certificate the uncontested, liquid and enforceable amounts that the requesting taxpayers have to collect from contracting authorities defined according to the Government Emergency Ordinance 34/2006 on the award of public goods, works and services contracts as amended by Law 337/2006. The indication is made based on a document issued by the contracting authority certifying that the respective amounts are uncontested, liquid and enforceable.
(5) In the fiscal attestation certificate any other remarks regarding the tax situation of the taxpayer, provided in the order of the minister of public finances shall be included
(6) Any person holding shares in a company may apply for the issuance of a company tax clearance certificate..

ARTICLE 113
**The tax clearance certificate issued by the public local administration authorities**
(1) The tax clearance certificate is issued by the competent tax body of the public local administration, at the taxpayer's request.
(2) The tax clearance certificate is issued based on the data in the taxpayer's file held by the competent tax body and includes and enforceable tax claims, existing on the first day of the month following the request.
(3) The tax clearance certificate is issued within maximum two business days from the request date and can be used by the taxpayer for the whole month of issuance. The tax clearance certificate issued between the 25$^{th}$ and the last day of the month shall be valid for the entire month following the issuance. During the validity interval, the certificate may be produced by the taxpayer, in original or certified copy, to any requesting authority.
(4) For the purpose of transferring the ownership right over buildings, plots of land and transport means, taxpayers must present a tax clearance certificate attesting the settlement of all the tax obligations to the local public administration of jurisdiction in the area where the asset to be traded is registered for tax purposes, according to indent (2), including the amounts representing fines showing up in the records of the tax bodies. For the asset to be traded, the payable tax amount is reassessed to reflect the period of the year where the tax is applicable to the transferor, according to the Fiscal Code.
(5) The deeds drawn up for transferring buildings, plots of land and transport means, respectively, which are non-compliant with the provisions of indent (4), are null and void.
(6) The provisions of indents (4) and (5) shall not apply to enforcement, insolvency and liquidation procedures.

CHAPTER 2
**Settlement of tax receivables through payment, off-set and refund**

ARTICLE 114

**Provisions concerning payment performing**

(1) Payments to fiscal bodies shall be performed through banks, treasuries and other institutions that are authorized to carry out payment operations.

(2) *** Abrogated

($2^1$) Debtors shall pay the taxes, fees, contributions and other amounts due to the general consolidated budget provided by order of the President of the National Agency for Fiscal Administration in a sole account, by using a payment order in benefit of the State Treasury for the tax obligations due to the State budget and a payment order in benefit of the State Treasury for the other payment obligations.

($2^2$) The amounts collected in the sole account shall be distributed by the competent fiscal body, separately for each budget or fund, as the case may be, proportionally with the due obligations.

($2^3$) If the amount paid does not cover all tax obligations to a budget or fund, the allocation within a fund or budget shall be done as follows:

a) for all withheld taxes and fees;

b) for all the other main tax obligations;

c) for accessory tax obligations attached to the obligations listed under a) and b).

($2^4$) The methodology for the distribution of the amounts paid into the sole account and for the settlement of the tax obligations shall be approved by order of the President of the National Agency for Fiscal Administration.

($2^5$) Payment of the tax obligations other than those provided in par. (21), shall be made by the debtors distinctly on each type of tax, contribution and other amount due to the general consolidated budget.

($2^6$) In case the payment shall be made by a person other than the debtor, the provisions of art. 1093 from the Civil Code shall be applied accordingly.

($2^7$) By way of derogation from the provisions of indent ($2^2$), if the debtor enters into an installment agreement according to the regulations in force, or is subject to the Law 85/2006 on the insolvency procedure, as amended, the allocation of the amounts paid to the single account is done by the competent fiscal body, in the order of precedence provided in art. 115 indent (1) or (3), as the case may be, irrespective of the type of claim.

(3) In case of settlement through the payment of tax obligations, the moment of payment shall be as follows:

a) for cash payments, the date recorded on the payment document issued by the bodies or persons authorized by the fiscal body;

b) for payments performed through a postal order, the post office date, as mentioned on such postal order;

c) for payments performed by bank disbursement, the date when banks debit the account of the payer based on specific disbursement instruments, as confirmed by the electronic payment message communicated by the banking institution initiating the operation, according to the regulations in force, except the case provided in art. 121, the date being possible to be proved with the account statement of the taxpayer;

$c^1$) in case of the payments made by bank cards, the date of the transaction performing is as confirmed by the related authorized procedure; the procedure and the categories of taxes, fees, contributions and other amounts due to the general consolidated budget which may be paid by bank cards shall be approved by order of the President of the National Agency for Fiscal Administration;

d) for tax obligations that are settled by cancellation of mobile tax stamps, the date of registration at the competent body of the document or the act for which the stamps due by law were submitted and cancelled.

(4) For tax receivables administered by the National Agency for Fiscal Administration and subordinated units, the fiscal body, at the debtor's request, shall perform the correction of errors in the payment documents he made and shall consider valid the payment from its performance, in the amount and from the debtor's account entered in the payment document, provided debiting this one account and crediting a budgetary account.
(5) Provisions of par. (4) shall be also applied accordingly by the other public authorities that according to the law, administer tax receivables.
(6) The request may be filed within 5 years, under the sanction of losing the right. The deadline starts to run from the January 1 of the year following the payment.
(7) The procedure for correcting the errors shall be approved by Order of the Minister of Public Finances.
(8) – (16) Abrogated.

ARTICLE 115
**Sequence of debts settlement**
(1) If a taxpayer owes several types of taxes, fees, contributions and other amounts that are tax receivables as provided in art. 21 par. (2) letter a), and the amount paid is not sufficient to settle all debts, then debts of such type of main tax receivables as the taxpayer decides or as distributed according to the provisions of art. 114 by the fiscal body, as the case may be, shall be settled rightfully in the following order:
a) the amounts due for the installment of the current month from the tax obligation payment schedule for which a scheduled payment has been approved, plus the interest or the delay increment, as the case may be, due in the current month of the payment schedule or the deferred payment, together with the interest or the delay increment, as the case may be, due for the period of deferment, in case the payment deadline for such sums is within the current month, as well as the current tax obligations of which payment depends on the maintaining of the validity of the payment facility granted;
b) all principal tax obligations, according to their age, and subsequently all accessory tax obligations, according to their age. In the case of claims settled by payment, the provisions of art. 175 indent ($4^1$) shall apply;
c) the amounts due from the following installments from the tax obligation payment schedule for which scheduling was approved, up to the concurrence of the scheduled payment amount or up to the amount paid, as appropriate, as well as the amount of deferred payment, together with the interest or delay increment due for the deferment period, as the case may be;
d) tax obligations with future payment deadlines, upon the debtor's request.
(2) The seniority of tax obligations shall be established as follows:
a) depending on the payment deadline, for the main tax obligations;
b) depending on the date of communication, for the differences related to the main tax obligations set by the competent bodies, and for the related ancillary tax obligations;
c) according to the submission date of the fiscal declarations rectified to the fiscal body for the differences in the main tax obligations set by the taxpayer.
(3) For debtors under the scope of the Law no. 85/2006 regarding the insolvency procedure, with subsequent amendments and completions, the order to extinguish is the following:
a) tax obligations with payments deadlines after the date of opening the insolvency procedure, in order of seniority, except those provided in the reorganization plan confirmed;
b) the amounts due in the account of installments in the payment programmes of tax obligations, included in the legal reorganization schedule confirmed, as well as ancillary

obligations due during the reorganization period, if in the schedule their calculation and payment were foreseen;
c) tax obligations due and unpaid having their payment deadlines before the date of initiating the insolvency procedure, in order of their seniority, up to their complete extinction, in the case of the taxpayers in bankruptcy;
d) other tax obligations beside those provided in letters a) - c).
(4) The competent tax body shall notify the debtor on the way the extinction of the debts provided in the paragraph (1), is done, at least 5 before the last payment deadline of tax obligations.
(5) Abrogated.

ARTICLE 116
**Offset**
(1) By offsetting, receivables of State or of the administrative-territorial units or their sub-divisions shall be settled, representing taxes, duties, contributions and other amounts due to general consolidated budget against the debtor's receivables representing amounts to be reimbursed, refunded or to be paid from the budget, up to the lower amount, when both parties mutually acquire the capacity of creditor, as well as of debtor, provided those receivables are administered by the same public authority.
(2) Debtor's tax receivables shall be settled with receivables due to the same budget; the receivables due to other budgets are to be settled out of the difference left, proportionally, respecting the conditions foreseen in the paragraph (1).
(3) Tax receivables from customs legal reports are settled with debtor's tax receivables representing amounts of same nature to be refunded. The possible differences left are settled with other tax obligations of the debtor, in the order foreseen at the paragraph (2).
(4) Unless otherwise provided by law, the offset is operational according to the law at the date when the receivables exist in the same time, being in the same time certain, liquid and eligible.
(5) In the sense of this article, the receivables are eligible:
a) at the date of maturity, according to article 11;
b) at the term provided by the law for depositing the negative amount of the VAT return, with option of refund, within the limit of the amount approved at refund by the decision issued by the tax body according to the law;
c) on the refund application date, in observance of the amount approved for this purpose in a decision issued by the tax bodies, according to the law, for VAT or excise duties refunds, as the case may be, requested in accordance with the Tax Code.;
d) at the date of the notification of the decision, for main tax receivables, as well as for tax receivables set up by competent bodies by a decision;
e) at the date of depositing the amending tax declarations at the tax body, for the differences of main tax obligations set up by the taxpayer;
f) at the date of the notification of the act of individualization of the amount, for the obligations to be paid from the budget;
g) at the date of reception, under the conditions of the law, by the tax body of the executory titles issued by other institutions, for the enforcement.
h) on the refund application date, in observance of the amount approved for this purpose in a decision issued by the tax bodies, for the amounts to be refunded according to art. 117.
($5^1$) Tax receivables resulted from the transfer notified according to art. 30 shall be offset against the transferor's obligations on the transfer notification date. .
(6) The offset is established by the competent tax body, at debtor's request or ex officio. The provisions of the article 115 regarding the offset of debts are applicable accordingly.

(7) The competent tax body notifies the debtor the decision regarding the offset, within 7 days since the date of the operation.

ARTICLE 117
**Refunds**
(1) The following amounts shall be refunded to the debtor upon his/her request:
a) amounts paid in the absence of a receivable title;
b)amounts paid in excess to the tax obligation;
c) amounts paid due to a computation error;
d) amounts paid due to the erroneous implementation of legal provisions;
e) amounts to be refunded from the State budget;
f) amounts established by a decision of legal bodies or other bodies that are competent by law;
g) amounts remaining after the distribution as provided in art. 170;
h) amounts resulting from the sale of seized goods, or from withheld amounts due to seizure, as the case may be, based on a final and irrevocable court decision for the enforcement of the cancellation of forced execution.
(2) By way of derogation from provisions of par. (1), amounts to be refunded that are tax differences resulted from the annual adjustment of the income tax that is owed by individuals are to be refunded by competent fiscal bodies ex officio, within not more than 60 days after the tax decision communication date.
($2^1$) By way of exception from the provisions of indent (1), any amounts collected under a garnishment procedure on top of the tax receivables subject to such garnishment procedure, shall be refunded ex-officio, by the tax bodies, within maximum 5 business days from the collection date.
(3) Differences in income tax to be refunded that are less than 5 lei shall remain in the tax records to be offset with future debts, and shall be returned when the cumulated amount exceeds the specified limit.
(4) By exception to par. (3), differences of less than 5 lei may be returned in cash only at the taxpayer's request.
(5) In case of refund of foreign currency amounts confiscated, such operation shall be performed by law in ROL at the reference exchange rate for EUR as communicated by the National Bank of Romania for the date when the court decision enforcing the refund remains final and irrevocable.
(6) In case of outstanding tax obligations of the debtor, the amounts mentioned at indents (1), (2) and ($2^1$) shall be refunded only after the offset according to the current code.
(7) If the amount to be reimbursed or refunded is less than the debtor's outstanding tax obligations, then the offset shall be performed down to the lowest amount to be reimbursed or refunded
(8) If the amount to be reimbursed or refunded exceeds the debtor's outstanding tax obligations, then the offset shall be performed down to the lowest amount of outstanding tax obligations, and the difference resulting thereof shall be refunded to the debtor.
(9) The procedures of reimbursement and refund of amounts from the budget, including the method to grant interests as provided in art. 124, are to be approved by an order of the Minister of Public Finances.

ARTICLE 118
**Obligation of banks that are subject to special monitoring or administration regime**

Banks that are under special monitoring or special administration regime and make payments as ordered within the limit of the daily collection shall prioritize the daily settlement of amounts from tax obligations as included in the payment orders issued by debtors and/or tax receivables included in the collection orders issued by the enforcing bodies.

## CHAPTER III
## Late payment interests, penalties or increments

ARTICLE 119
**General provisions on late payment interests and penalties**
(1) Failure to pay tax obligations upon the deadline results in the debtor's obligation to pay related late payment interests and penalties after the payment deadline.
(2) No late payment interests and penalties shall be due for amounts payable as fines of any kind, ancillary tax obligations established by law, expenses with the forced execution, legal expenses, seized amounts as well for amounts representing the equivalent in lei of the goods and amounts seized that were not found on-site.
(3) Late payment interests and penalties shall be revenues to the budget to which the main receivable belongs.
(4) Late payment interests and penalties shall be determined by decisions made under conditions approved by Order of the President of the National Agency for Fiscal Administration, except for the situation provided for in art. 142 par. (6).

ARTICLE 120
**Interests**
(1) Interests shall be computed per each day of delay, beginning with the day immediately following to the payment deadline and until the date of settlement of the due amount, inclusively.
(2) For additional differences related to tax receivables generated by the correction of the fiscal declarations or by the modification of a tax decision, the related interests shall become due beginning with the day immediately following to the payment deadline for the tax receivable for which the difference has been established and until the date of settlement thereof, inclusively.
(3) In the event that the differences resulting from the correction of fiscal declarations or modification of a tax decision are negative in relation to the amounts initially established, related interests shall be due as from the day immediately following the payment deadline until its settlement date inclusively.
(4) By exception from provisions of par. (1), interests are to be payable as follows:
a) for taxes, fees and contributions that are settled by forced execution, until the date of the preparation of the minutes of distribution, inclusively. In case of payment of the price in installments, interests shall be computed until the date of preparation of the anticipatory payment distribution minute. For the remainder of the payment, interests shall be owed by the buyer;
b) for taxes, fees, contributions and other amounts due to the general consolidated budget by the debtor declared insolvent who does not have pursuable revenues and assets until the date of switching to a separate record, according to art. 176.
(5) The method of computing of interests related to the amounts representing possible differences between the profit tax paid on January 25 of the year following the taxation one and the profit tax due according to the fiscal declaration made on the basis of the annual

financial statements shall be regulated by methodological norms approved by Order of the President of the National Agency for Fiscal Administration.
(6) For the tax obligations not paid on the payment deadline, representing the income tax, interests shall be due as follows:
a) for the fiscal year of taxation, interests for anticipatory payments assessed by the fiscal body through tax decisions for anticipatory payments shall be computed until the date of debit payment or until December 31, as the case may be;
b) interests for the amounts unpaid during the taxation year, according to point a), shall be computed as from January 1 of the following year until their settlement, inclusively;
c) if the income tax set by annual tax decision is lower than the one established through tax decisions for anticipatory payments, the interests shall be recalculated, with effect from January 1 of the year following the taxation one, related to the unpaid balance in relation to annual tax set by the annual tax decision, following to undertake accordingly adjustment of the interests.
(7) The level of interest for delay is of 0,04 % for each day of delay and may be amended by annual budgetary laws.[5]

ARTICLE 120[1]
**Late payment penalties**
(1) The delayed payment of the tax obligations shall be sanctioned by a late payment penalty due to failure to pay the main tax obligations upon the deadline.
(2) The penalty level shall be determined as follows:
a) if the settlement takes place in the first 30 days following the payment deadline, no late payment penalties for the main settled tax obligations are to be owed or computed.
b) if the settlement takes places in the following 60 days, the late payment penalty level shall be of 5 % of the main settled tax obligations..
c) after the expiration of the payment deadline provided under point b), the late payment penalty level shall be of 15% of the remainder main unsettled tax obligations.
(3) The late payment penalty is not to remove the obligation to pay the interests.

ARTICLE 121
**Late payment interests and penalties in case of payments made by bank disbursement**
(1) Failure of banks to settle amounts payable to the general consolidated budget within 3 working days as of the date when the payer account is debited is not to exonerate the payer from the obligation to pay such amounts and is to trigger in charge of this one late payment penalties and interests equal to those provided in art.120 and 120[1], after the term of 3 days.
(2) For the recovery of amounts payable to the budget that are not settled by bank units, as well as for the recovery of the related late payment interests and penalties as provided in par. (1), the payer may act against such bank unit."

ARTICLE 122
**Late payment interests and penalties in case of offset**
In case of tax receivables settled by offset, interests and delay penalties or delay increases, according to the case, are calculated up to the date foreseen at the article 116, paragraph (4).

ARTICLE 122[1]

[5] This provision is applied starting with 1st October 2010.

**Interest and penalties on late payments in respect of the insolvency procedure**
In the case of taxpayers against whom an insolvency procedure has been established, for the tax receivables born either prior or after such procedure has been opened, interest and penalties on late payments are due in accordance with the law operating this procedure.

ARTICLE 122[2]
**Late payment interests and penalties in case of the taxpayers for which a winding-up order was pronounced**
(1) For the tax receivables generated priory or subsequently to the date of registration of the winding-up order of the taxpayer at the Trade Register, beginning with this date no late payment interests and penalties shall be computed and due.
(2) In case of dissolution by a final judgment of the document on which the winding-up registration was based, late payment interests and penalties shall be computed between the date of the registration of the winding-up documents at the Trade Register and the date when the winding-up order was pronounced as final."

ARTICLE 123
**Interests in case of payment facilities**
Interests for the tax obligations subject to the payment facilities shall be due for the period for which payment facilities have been granted for the outstanding tax obligations, excepting the ones provided under article 119, paragraph (2).

ARTICLE 124
**Interest for amounts to be reimbursed or refunded from the budget**
1) For the amounts that are to be reimbursed or refunded from the budget, the taxpayers are entitled to interest as of the next day after the deadline stipulated at art. 117 indents (2) and ($2^1$), or art. 70, as the case may be, has expired, until the date of the payment using any of the payment methods provisioned by law. Interest is paid upon request by the taxpayers.
(2) The level of interest shall be the one laid down under article 120, paragraph (7) and shall be borne from the same budget from which amounts requested by payers are reimbursed or refunded, as the case may be.

ARTICLE 124[1]
**Late payment increments in case of tax receivables due to the local budgets**
(1) By way of derogation from the provisions of article 119 paragraph (1) and article $120^1$, failure to pay tax obligations owed to the local budgets upon the deadline results in the debtor's obligation to pay related late payment increments after the payment deadline.
(2) The delay increment level shall be of 2 % of the total amount of the main tax obligations not paid until deadline, computed for each month or split month, beginning with the day immediately following to the payment deadline until the date of settlement of the due amount, inclusively.
(3) The provisions of articles 119-124 are to be applied as appropriate.
(4) For the amounts to be refunded from the local budget, the interest shall be the one provided in paragraph (2).

CHAPTER 4
**Payment facilities**

ARTICLE 125

**Tax obligation payment facilities**
(1) At taxpayers' duly justified request, the competent fiscal body may grant payment facilities for unpaid tax obligations, both before the initiation of forced execution, and in its course, in compliance with the law.
(2) At debtors' duly justified request, natural or legal persons, local budgetary creditors by the local public administration authorities administering these budgets, may grant, for unpaid budgetary obligations under their administration, the following payment facilities:
a) scheduling of the payment of taxes, fees, rents, royalties, contributions and other amounts due to the local budget;
b) postponement in the payment of taxes, fees, rents, contributions and other amounts due to the local budget;
c) scheduling of the payment of delay penalties of any kind, except those due for the payment scheduling period;
d) deferment and/or exemptions or deferment and/or reduction of delay penalties, except those due for the deferment period;
e) exemptions or reductions of taxes and local fees, according to the law.
(3) The procedure for granting payment facilities for local budgetary receivables shall be established by special acts.
(4) For granting payment facilities, the local budgetary creditors shall require guarantee fees from debtors.
(5) For obligations to the local budget, due and unpaid after 1 July 2003 by individuals, the guarantee is:
a) an amount equal with two average installments from the payment schedule, representing scheduled local budgetary obligations and computed delay penalties, in case of scheduled payment;
b) an amount resulting from the relation between the equivalent value of the deferred debits and the computed delay penalties and the number of months approved for the payment deferment, in case of deferred payments.
(6) For obligations to the local budget, due and unpaid after 1 July 2003 by legal persons, the guarantee is 100% from the total budgetary receivable for which the payment facility was granted.

CHAPTER 5
**Constitution of guarantees**

ARTICLE 126
**Constitution of guarantees**
The fiscal body shall request the constitution of a guarantee for the following:
a) the suspension of the forced execution according to art. 148 par. (7);
b) the removal/cancellation of precautionary measures;
c) taking over of the payment obligation by another person by a payment commitment in compliance with art. 25 par. (2) letter d);
d) in other cases provided by law.

ARTICLE 127
**Types of guarantees**
By law, guarantees for performing the measures provided in art. 126 may be constituted by:
a) depositing amounts of money at a State Treasury unit;
b) a bank guarantee letter;
c) a mortgage on real estate that is located in Romania;

d) a pledge on movable goods;
e) a surety.

ARTICLE 128
**Use of guarantees**
(1) The competent tax bodies shall satisfy themselves from the deposited guarantees in case of failure of the purpose for which the guarantees had been established.
(2) In the case of guarantees stipulated at art. 127 a) and b), the tax bodies shall instruct the credit institution or the state treasury unit, as the case may be, to transfer the amounts in the corresponding budget revenues accounts.
(3) The use of the guarantees stipulated at art. 127 c) to e) follows the ways and procedures required by the provisions in art. 159 indent (2) to (7) and art. 160 to 171, that shall apply accordingly.

CHAPTER 6
**Precautionary measures**

ARTICLE 129
**Precautionary seizure and withholding**
(1) The precautionary measures provided in this chapter shall be complied with through the administrative procedure, by the competent fiscal bodies.
(2) Precautionary measures shall be prescribed in the form of precautionary withholding and seizure on movable and/or immovable property of the debtor and his revenues when there is a risk that he may avoid, or hide or dissipate his patrimony, jeopardizing or making the collection considerably more difficult.
(3) These measures may be taken before the issuance of the debt security, including in the case of conduct of audits or deciding of the joint liability.
Precautionary measures arranged both by the competent fiscal bodies and the courts or other competent bodies, unless eliminated according to the law, shall remain valid during the forced execution without fulfilling other formalities. As the receivable becomes individual and reaches its due date, in the case of nonpayment the precautionary measures shall become enforceable measures.
(4) Precautionary measures are to be ordered by a decision issued by the competent fiscal body. The decision is to include the fiscal body’s specification to the debtor that such precautionary measures are to be cancelled further to providing a guarantee equal to the receivable assessed or estimated, as the case may be.
(5) The decision establishing the precautionary measures must be justified and signed by the competent fiscal body.
(6) The precautionary measures ordered in compliance with par. (2), as well as measures decided by law courts or by other competent bodies are to be applied in compliance with provisions regarding the forced execution, which are to apply adequately.
(7) Perishable and/or degradable goods seized in a precautionary manner can be capitalize:
a) By the debtor in agreement with the execution body, the amounts obtained are consigned to the execution body;
b) By sale under emergency regime, under the conditions of the article 159, the paragraph (4).
(8) In the case of precautionary withholding over property, a copy of the report prepared by the enforcing body shall be notified for registration to the Land Book Office.

(9) The registration is to turn the sequester opposable to all those that acquire any right over such real estate after the registration. The ordering documents which might occur further to the registration in compliance with par. (8) are to become fully null.
(10) If the value of the debtor's assets does not fully cover the tax receivable of the general consolidated budget, the precautionary measures can be also established over the assets held by the debtor in joint ownership with others, for the interests he owns.
(11) The person concerned may appeal the documents by which precautionary measures are ordered and carried out in compliance with provisions of art. 172.

ARTICLE 130
**Lifting the precautionary measures**
The precautionary measures enforced according to art. 129 are to be cancelled by a grounded decision of tax creditors when reasons for which such precautionary measures were ordered have ceased or upon the establishment of the guarantee provided in art. 127, as the case may be.

CHAPTER 7
**Limitation of the right to require forced execution and of the right to ask for offset or refund**

ARTICLE 131
**Beginning of the limitation period**
(1) The right to request forced execution of tax receivables shall be prescribed within 5 years from January 1 of the year following that in which this right emerged.
(2) Statutes of limitation under par. (1) are also to apply to tax receivables resulting from fines due to civil law violations.

ARTICLE 132
**Suspension of limitation period**
The statute of limitation provided in art. 131 shall be suspended:
a) in the cases and under the conditions laid down by law for suspending of the limitation period for the right of legal action;
b) where and when the suspension of execution is required by law or was ordered by the court or other competent body, according to the law;
c) during the validity of the payment facility granted under the law;
d) while the debtor evades his income and assets from the forced execution;
e) in other cases provided by law.

ARTICLE 133
**Interruption of the limitation period**
The statute of limitation provided in art. 131 shall be interrupted:
a) in the cases and under the conditions laid down by law for interrupting the limitation period for the right of action;
b) on debtor's performance, before or during the compulsory execution, of a voluntary action of payment of the obligation under the enforceable title or of debt recognition in any other way;
c) on the performance, during the forced execution, of a forced execution action;
d) in other cases provided by law.

ARTICLE 134

**Effects of expiration of the limitation period**

(1) If the enforcing body finds the expiration of the limitation period of the right to require enforcement of tax receivables, it will proceed to terminate the performance actions and to deduct them from the analytical records kept on taxpayers.

(2) The amounts paid by the debtor in the account of tax receivables after the end of the limitation period shall not be refunded.

ARTICLE 135

**Prescription of the right to request offset or refund**

Taxpayers' right to request offset or tax receivables refund shall be prescribed within 5 years from January 1 of the year following the one in which the right to offset or refund was issued.

CHAPTER 8

**Tax receivable settlement through forced execution**

SECTION 1

**General provisions**

ARTICLE 136

**Forced execution enforcing bodies**

(1) In case the debtor does not pay willingly the tax obligations due, the competent tax bodies, for their settlement, proceeds to enforcement actions, according to this code, except the case when there is a request of refund/reimbursement to be solved, and the quantum of the amount requested is equal or bigger than the tax receivable due by the debtor

(2) Fiscal bodies administering the tax receivables are entitled to take precautionary measures and to carry out the procedure of forced execution.

(3) The budgetary receivables that are received, managed, booked and used by public institutions, derived from own revenues and those resulting from legal contractual relationships and the receivables that are received, managed, booked and used by the Export-Import Bank of Romania EXIMBANK - S.A. coming from funds allocated from the state budget, shall be executed through their own bodies, which are entitled to take precautionary measures and to carry out the procedure of forced execution, according to the provisions of this Code.

(4) Bodies provided in par (2) and (3) are to be hereinafter called forced execution bodies.

($4^1$) The enforcement bodies stipulated at indent (4) shall have authority with respect to the enforcement of the claims mentioned in art. 141 indent ($1^2$).

(5) The body which is authorized for carrying out the procedure of forced execution is the body under whose territorial jurisdiction the pursuable assets are, and the entire forced execution is coordinated by the enforcing body under whose territorial jurisdiction the debtor or the competent enforcing body appointed under art. 33, as the case may be, has its fiscal domicile. When the forced execution is carried out by withholding, the application of the forced execution measure should be done by the coordinating enforcing body.

$5^1$) The enforcement body having jurisdiction over the debtor’s tax domicile or the competent enforcement body appointed in accordance with art. 33 indent (3), as the case may be, shall be responsible for coordinating the enforcement procedure after the joint and several liability with the debtor facing an insolvency procedure has been established in line with the provisions of art. 27, or in the case mentioned in art. 25 indent (2) e).

($5^2$) The coordination of the enforcement procedure where the joint and several liability of the management has been ruled, in accordance with the provisions laid down in chapter IV

of Law 85/2006, as amended, shall rely upon the enforcement body having jurisdiction over area of the insolvent debtor's current/former tax domicile, or upon the competent enforcement body appointed in accordance with art. 33 indent (3), as the case may be.
($5^3$) The coordinating enforcement body in the case mentioned at art. 164 indent (2) is the tax body having jurisdiction over the area of the tax domicile or the business operation premises of the debtor whose assets had been subject to an award decision.
(6) In case, according to the law, the liability of the management members has been established according to the provisions of chapter IV from Law no 85/2006 on insolvency procedure, and for the tax receivables have been applied, by derogation from the provisions of art. 142 from the Law no. 85/2006, the forced execution, this shall be carried out by the forced execution enforcing body under the conditions of the present Code.
(7) Whenever a danger of alienation, substitution or refusal from forced execution of debtor's pursuable revenues and assets becomes obvious, the enforcing body within whose territorial jurisdiction the tax domicile of the debtor is located may proceed to freezing and forced execution of such assets, irrespective of their location.
(8) The co-coordinating forced execution body is to notify the other bodies in compliance with par. (5), in writing, by communicating the executory title in a certified copy, as well as the status of the debtor, the account where the amounts collected will be transferred, and any other information that might be necessary for the identification of the debtor and of the traceable goods or incomes.
(9) If the forced execution procedure was initiated for the same revenues or assets of the debtor, both for the realization of enforceable titles regarding tax receivables and for titles which are executed under the conditions provided by other legal provisions, the forced execution shall be carried out, according to the provisions of this Code, by the enforcing bodies as provided by such Code.
(10) Whenever the debtor's tax domicile is ascertained as being within the territorial jurisdiction of a different enforcing body, the executory title together with the enforcement file shall be sent to such enforcing body and if necessary, the body that sent the executory title shall be notified.

ARTICLE $136^1$
**Special rules on the enforced collection of receivables to the local budgets of administrative and territorial divisions, or administrative and territorial sub-divisions of municipalities, as the case may be**
(1) Public local administration authorities have the obligation to work together and implement the procedure in respect of the enforced collection of tax receivables to the local budgets of administrative and territorial divisions, or administrative and territorial sub-divisions of municipalities, as the case may be.
(2) If the debtor has unpaid taxes, fees or other revenues to the local budget and he/she does not own any traceable assets on the territory managed by the respective territorial and administrative division or municipality sub-division, the tax body having jurisdiction over the territory where the traceable assets are located shall have the authority for conducting the enforcement procedure.
(3) The tax body under the public local administration authority that has authority to manage the tax claims provisioned at indent (2), for the purpose of this article the requesting authority, shall request in writing from the tax body under the local public authority that has jurisdiction in the area where the movable or immovable assets are located, for the purpose of this article the requested authority, to implement the enforcement procedure.
(4) The request shall indicate the following:
a) the debtor's identification details;

b) the amount of the claim to be recovered;
c) the amount of accessory tax claims assessed, according to the law, before the date of request;
d) the account for transferring the collectable amounts;
e) any other date necessary to identify the traceable assets, if any.
(5) The request shall be accompanied by a copy of the writ of execution.
(6) The requested authority shall confirm in writing the receipt of the request, within 10 days from the actual receipt.
(7) The requested authority may refuse to implement the enforcement procedure in the following instances:
a) the writ of execution is not valid;
b) the request does not contain all the data required at indent (4).
(8) The amounts resulted from the enforcement procedure shall be transferred to the requesting authority. The provisions of art. 168 shall apply mutatis mutandis.

ARTICLE 137
**Forced execution in case of debtors with joint liability**
(1) In case of debtors with joint liability, the coordinating enforcing body is the body within whose territorial jurisdiction the debtor has the tax domicile or related to which there are indications that the debtor holds most of his/her pursuable revenues or assets.
($1^1$) The coordination of the forced execution in case the joint liability was decided under art. 27 and 28, shall be carried out by the forced execution body on whose territorial jurisdiction has the fiscal domicile the debtor in insolvency status or the competent forced execution body appointed according to art. 33, as the case may be.
(2) The co-coordinating forced execution body is to record the entire debit in its records and is to take forced execution actions, by communicating the entire debt amount to each forced execution enforcing bodies within whose territorial jurisdictions the other co-debtors fiscal domiciles are located, being applied the provisions of art. 136.
(3) The notified enforcing bodies that were informed of the debt, after recording such debt in an individual record, shall take forced execution actions and communicate to the coordinating enforcing body the amounts made in the debtor's account within 10 days of such realization.
(4) If the coordinating forced execution body that keeps the records of the entire debt ascertains that such debt amount was realized following to forced execution actions that were carried out by itself and by the other bodies informed according to par. (3), such co-coordinating forced execution body is obliged to request in writing to the other bodies to immediately cease the forced execution procedure.

ARTICLE 138
**Tax executors**
(1) Forced execution is to be carried out by the competent forced execution body through tax executors Such tax executors should hold a job identity card that they should show during the performance of such activity.
(2) The tax executor shall be empowered as regards the debtor and third parties through the tax executor's identity card and the mandate issued by the forced execution enforcing body.
(3) In carrying out their duties for the application of forced execution procedures, tax executors may act as follows:
a) enter any business premises of the debtor that is a legal person, or other premises where his assets are stored, for the purpose of identification of assets or valuables that may

be subject to forced execution, as well as analyze the debtor's accounting records for the purpose of identification of third parties that owe or keep revenues or assets of the debtor;
b) enter all rooms where there are assets or valuables of the debtor that is a natural person, and investigate all places where such debtor stores his goods;
c) request and check any document or material element that can become an evidence in determining the assets that are under the debtor's ownership.
(4) The tax executor may enter all rooms that are within the domicile or residence of a natural person with his/her consent and in case of refusal, the enforcing body shall request the authorization by the competent court in accordance with provisions of the Civil Procedure Code.
(5) The tax executor access to the debtor's residence, business premises or any other room, either an individual or a legal person, may take place between 6.00 a.m. and 8.00 p.m. on any working day. The forced execution procedure started may continue during the same day or during the following days. In cases that are thoroughly grounded by the danger of alienation of certain goods, the access to the debtor's rooms may also take place at hours different from those mentioned before, as well as during non-working days, based on an authorization according to par. (4).
(6) In the absence of the debtor or if such debtor refuses the access to any of the premises according to par. (3), the tax executor may enter such premises, in the presence of a representative of the police or the military police body or of any other public order agent and of an adult witnesses, and provisions of par. (4) and (5).

ARTICLE 139
**Forced execution against the general consolidated budget revenues**
Taxes, fees, contributions and any other revenues to the general consolidated budget may not be pursued by any creditor for any category of receivables through a forced execution procedure.

ARTICLE 140
**Forced execution against an association without legal personality**
For purposes of the forced execution of tax receivables that are payable by an association without legal personality, both movable and immovable assets of the association, as well as the personal belongings of the members thereof can be subject to forced execution, even if there is an executory title issued on the name of such association.

ARTICLE 141
**Executory title and conditions for the initiation of forced execution**
(1) The forced execution of tax receivables shall be performed based on an executory title issued according to the provisions of this Code by the competent enforcing body within whose territorial jurisdiction the debtor has his domicile or based on a written document that is an executory title in compliance with the law.
($1^1$) The writ of execution that is issued, under the law, by the enforcement body mentioned at indent (1) shall cover all the tax receivables unpaid at deadline, including taxes, fees, contributions and other revenues to the general government plus accessories, established according to the law. Unless the law stipulates that a document is a writ of execution, no writ of execution may be issued if there is no underlying claim title in which the main or accessory tax claims are assessed, according to the law.
($1^2$) The enforcement collection of budget receivables generated by contractual relations shall be implemented based on a court ruling or other document that is a writ of execution, according to the law.

(2) The debt security shall become an executory title as of the due date of the tax receivable by the expiry of the payment deadline as provided by law or as determined by the competent body or in any other way as provided by law.
(3) Changing of the debt security shall entail the change of executory title accordingly.
(4) The executory title issued according to par. (1) by the competent forced execution body is to include, besides the elements provided in art. 43 par. (2), the following: the fiscal identification code; the fiscal domicile and any other identification data; the amount and the nature of the amounts due and unpaid; the legal grounds of the enforceable power of such title.
(5) For the debtors that are jointly liable to pay tax receivables, a single executory title shall be prepared.
(6) Executory titles issued by other competent bodies as regards tax receivables are to be transmitted no later than 30 days as of the issuance thereof, for forced execution purposes, under the law, to bodies as provided in art. 136.
(7) The failure to send out the records of findings and penalties for within 90 days after issuance by the competent bodies shall lead to their cancellation by decision of the head of the issuing body. The head of the body having issued the writ of execution has the obligation to issue a decision under which the amount of penalty shall be recovered from the staff responsible for the delay. The latter decision shall be communicated by the issuing body to the person responsible, who has the obligation to pay the amount of contravention within 15 days from the notification date. When this deadlines expires, the decision shall become a writ of execution. The amount of the contravention as per the recovery decision shall become revenue to the state budget or the local budget that would have normally be the recipient of the penalty, according to the law. The 90-day deadline shall be extended by the number of days spent for the appeal procedure against the records for findings and penalties for contraventions.
(8) In case that the executory titles issued by bodies, other than those provided in art. 33 par. (1) do not include one of the following: the debtor’s name and first name or company name, the personal identification number, the single registration code, the domicile or the location, the amount due, legal grounds, the signature of the issuing body and the proof of its communication, the forced execution body is to immediately return the executory titles to the issuing bodies.
(9) If the executory title was sent for execution by another body, such enforcing body shall confirm its receipt within 30 days.
(10) Public institutions that are financed either fully or partially from the state budget but do not have established their own enforcement bodies, shall forward the writs of enforcement in respect of the revenues to the general consolidated budget, for implementation to the tax bodies subordinated to the National Agency for Tax Administration. The collected amounts shall be revenues to the state budget.
(11) Public institutions that are financed either fully or partially from the local budget but do not have established their own enforcement bodies, shall forward the writs of enforcement in respect of the revenues to the local budget, for implementation to the tax bodies of the territorial and administrative divisions or the administrative and territorial sub-divisions of the municipalities, as the case may be. The collected amounts become revenues to the local budget.
(12) abrogated.

ARTICLE 142
**Rules regarding forced execution**

(1) Forced execution may concern all revenues and assets under the ownership of the debtor that are pursuable according to the law, and the sale thereof shall be performed only to the extent required for the realization of tax receivables and of execution expenses. Forced execution of the goods property of the debtor traceable according to the law, shall be made as rule in the limit of 150% of the value of the tax receivables including the forced execution expenses.
($1^1$) The traceable goods property of the debtor presented by the debtor and/or identified by the forced execution body shall be subject of the seizure and valuation in the following sequence:
a) movable and immovable goods not used directly in the activity representing the main income source;
b) goods that are not directly designated to the development of the activity representing the main income source;
c) movable and immovable goods being temporary held by other persons on the basis of the leasing, rental, concession contracts;
d) group of goods under provisions of art. 158;
e) machines, machineries, raw materials and materials and other movable goods as well as immovable goods serving the activity representing the main income source;
f) finished products.
($1^2$) The fiscal body may undertake the seizure on the goods from the following category out of those provided in par. ($1^1$) whenever the valuation is not possible.
(2) Goods that are subject to a special circulation regime can be traced only by observing the conditions provided by law.
(3) During the forced execution procedure, use may be made successively or simultaneously of forced execution methods as provided by this Code.
(4) The forced execution of tax receivables shall not be subject to limitation.
(5) The forced execution shall be performed until the settlement of the tax receivables mentioned in the enforceable title, including of the interests, late payment penalty or late payment increments, as the case may be, or of the other amounts due or granted by law through the title, as well as of the forced execution related expenses.
(6) If the enforceable title specifies late payment interests, penalties or increments, as the case may be, or other amounts without having determined the amount thereof, they shall be computed by the enforcing body and recorded in a report that shall become an enforceable title, and which shall be further communicated to the debtor."
(7) A real guarantee as well as other real burdens over goods shall have a priority degree regarding third parties, the state inclusively, which shall be determined as of the moment when they were made public by any of the methods provided by law.

ARTICLE 143
**Obligation to inform**
In order to initiate the forced execution, the competent forced execution body may use the means of evidence as provided in art. 49, to assess the debtor's fortune and income. Upon the fiscal body's request, the debtor is obliged to provide in writing the information requested, on own responsibility.

ARTICLE 144
**Specification of the nature of debit**
All forced execution documents should include an indication on the executory title and the nature and the amount of the debt that is subject to the forced execution.

ARTICLE 145
**Summons**
(1) The forced execution is to commence by the communication of the summons. Unless the debt is paid within 15 days as of the summons communication, forced execution measures shall be carried on. The summons is to be accompanied by a copy of the executory title.
(2) The summons is to include, besides elements provided in art. 43 par. (2), the following: the number of the execution file; the amount for which the forced execution procedure is initiated; the deadline within which the person summoned is to pay the amount specified in the executory title, as well as the indication as regards the consequences of the failure to observe such summon.

ARTICLE 146
**Third party rights and obligations**
The third party may not oppose to the seizure of a good of the debtor by invoking a pledge, a mortgage right or a privilege. The third party is to participate in the distribution of amounts that resulted from the sale of such goods, in compliance with law.

ARTICLE 147
**Valuation of goods that are subject to forced execution**
(1) Prior to the sale, such goods are to be subject to valuation. The valuation shall be performed by the forced execution enforcing body through its own valuators or through independent valuators. Independent valuators are appointed under art. 55. Both the forced execution enforcing bodies' valuators and independent valuators shall fulfill their duties, as resulting from this Code, from the act that ordered the expert report and from the act of their appointment.
(2) The enforcing body shall update the valuation price by taking into account the inflation rate.
(3) Whenever considered necessary, the enforcing body shall proceed to a new valuation.
(4) The enforcement body may proceed to a new evaluation in situations such as: the free market movement prices of goods are found to have changed; the value of goods has changed as a result of deterioration or improvements. The provisions of indent (1) shall apply *mutatis mutandis*.

ARTICLE 148
**Suspension, interruption or cancellation of the forced execution**
(1) The forced execution may be suspended, interrupted or cancelled in the cases provided by this Code.
(2) The forced execution procedure shall be suspended as follows:
a) if the suspension was decided by court or by a creditor, in compliance with the law;
b) upon the date of communication as regards the approval of payment facilities;
c) in the case provided in art. 156;
d) for a period of no more than 6 months, in exceptional cases, and only once for the same debtor, by Government Decision;
e) in other cases provided by law.
($2^1$) The enforcement is suspended also in the case when, after the enforcement started, a request for refund/reimbursement is lodged, and the quantum of the amount requested is equal or bigger than the tax receivable for which the enforcement started. In this case, the enforcement is suspended at the date of lodging the request.

($2^2$) While the enforcement procedure is being suspended, any prior acts as well as any other enforcement measures, including the freezing of assets, revenues or funds in bank accounts, shall remain valid.
($2^3$) The effect of the enforcement suspension through bank garnishment shall be the unfreezing of any future amounts from daily collections in the domestic and foreign currency accounts, starting with the date and time of the notification to the credit institutions with respect to the suspension of the enforcement procedure through garnishment.
(3) The forced execution shall be interrupted in cases expressly provided by law. The forced execution shall not be interrupted during the period in which a taxpayer is declared as being insolvent.
(4) The forced execution procedure shall be cancelled if:
a) the tax obligations provided in the executory title were fully settled, including ancillary payment obligations, as well as forced execution expenses and any other amounts in the debtor's charge, in compliance with the law;
b) the executory title was cancelled;
c) in other cases provided by law.
5) The enforcement measures implemented under the terms of the current code shall be lifted by decision issued in maximum two days after the enforcement termination date, by the enforcement body. The failure to observe this deadline shall attract the liability in accordance with art. 227 indent (2).
($5^1$) In the extent the tax receivables recorded in the executory title are settled by payment, by transfer of a real estate of equivalent value in the state property, by seizure or by any other method provided by the present Code, the seizures applied on the relevant goods in value less or equal with the amount of the tax receivables settled in the above mentioned manner shall be cancelled following a decision prepared by the forced execution body in maximum two days from the debt settlement date.
($5^2$) The enforcement body shall lift the bank garnishment for the amounts in excess of the receivables indicated in the letter by which the garnishment has been established, when, according to the data released by the banks, the amounts that had been frozen to the benefit of the enforcement body can cover the amount of tax claims indicated in the letter by which the garnishment has been established and all the requirements are met for the claims to be collected.
($5^3$) Bank garnishments shall be lifted including when the enforcement body finds that the garnishment had lost its purpose.
(6) When the withholdings ordered by the enforcing bodies generate the debtor's impossibility to continue economic activities, with serious social consequences, the tax creditor may order, upon the request of the debtor and taking into account the reasons mentioned by the debtor, that the forced execution by withholding may be temporarily suspended in part or in all. The suspension may be ordered for maximum 6 months, counting from the date the tax body communicates the suspension to the bank or some other third party withheld.
(7) At the same time with the application for suspension provided in par. (6) the debtor is to indicate all goods that are free of burdens for seizure purposes or other guarantees as provided by law, totalizing an value equivalent with the amount for which the forced execution has been initiated.
(8) Provisions in par. (7) shall not apply when the value of the assets already seized by the tax creditor covers the value of the receivable subject to forced execution by withholding.

SECTION 2
**Forced execution by withholding**

ARTICLE 149

**Forced execution of amounts that debtors are entitled to**

(1) Any pursuable amount of revenues and cash availability denominated in lei or in foreign currency, securities or other intangible goods that are held and/or due in any form to the debtor by third persons or which such persons shall owe and/or hold in the future, based on existing legal relations shall be subject to forced execution by withholding.

(2) The amounts of non-disbursable credits or funding received from international institutions or organizations to develop programs or projects shall not be subject to forced execution by withholding, if the forced execution procedure was initiated against their beneficiary.

(3) In case of traceable amounts of revenues and cash availabilities in foreign currency, banks are authorized to perform the conversion of the foreign currency amounts into lei, without the consent of the account holder, at the exchange rate posted by such banks for that day.

(4) Amounts consisting of cash income of the debtor that is a natural person obtained as an employee, or pensions of any type, as well as aids or allowances with special destination shall be subject to pursuit only in compliance with the provisions of the Civil Procedure Code.

(5) The seizure of debtor's income, individuals or legal persons, is initiated by the execution body, by a paper that shall be notified to the third party seized, the provisions of the article 44 on the notification of the fiscal administrative act shall be applied accordingly. In the same time, the debtor shall be also notified on the initiation of the seizure.

(6) The withholding shall not be subject to validation.

(7) The withholding that was previously initiated as a precautionary measure shall enter into force through the communication of the certified copy of the executory title to the third party withheld and the debtor's notification in this respect.

(8) The withholding shall be considered commenced when the third party that is withheld confirms the receipt of the setting up notice. In this regard, the third party that is withheld should record both the date and time of receipt of the withholding setting up notice.

(9) After the withholding commencement, the third party that is withheld shall have the obligation:

a) to pay the withheld amounts in the account indicated by the enforcing body immediately or after the date on which the receivable becomes due;

b) to freeze the intangible goods withheld, informing the enforcing body in thisrespect.

(10) Provided that the amounts due to the debtor are seized by several creditors, the third party that is subject to withholding is to notify the creditors in writing about this and is to proceed to the distribution of such amounts in accordance with the sequence of priority provided in art. 170.

(11) For the purpose of settling the tax claims, the debtors having the capacity as bank account principals may be subject to bank account garnishments, with the provisions of indent (5) applying mutatis mutandis. In this situation, simultaneously with the summons and the writ of execution sent to the debtor in accordance with art. 44, the bank holding the debtor's account shall receive the letter by which the garnishment is established. The debtor himself will be notified about this measure as well.

(12) To the extent necessary, for the purpose of paying the amount due on the bank notification date, according to indent (11), the existing amounts and any future amounts from daily collections in the domestic and foreign currency accounts shall be frozen in observance of the amount necessary to collect the obligations that are subject to enforced collection, as resulting from the letter by which the garnishment is established. From the

moment of freezing, meaning from the date and time of the receipt of the letter by which the garnishment of available cash has been established, the banks shall not settle any received payment orders, in other words the debtors' bank accounts shall not be debited anymore, and shall not accept to make any other payments from their accounts until the tax claims indicated in the letter by which the garnishment is established have been paid in full, with the exception of:
a) the funds needed to pay wages, including the withheld taxes and contributions if, according to the statutory declaration by the debtor or the debtor's agent, the debtor has no other available funds;
b) the funds necessary to pay the excise duties by the authorized warehouse owners. In this case, the debtor shall produce to the bank, in addition to the payment order, a certified true copy of the warehouse license;
c) the funds needed to pay the excise duties, by the buyers of energy products, on behalf of authorized warehouse owners;
d) the funds needed to pay the taxes, fees and contributions necessary to keep the installment arrangements alive. In this case, the debtor must produce to the bank, in addition to the payment order, the certified true copy of the document representing the approval of the installment agreement.
($12^1$) As long as the garnishment shall be in force, the banks will accept to make payments from the debtors' accounts aimed at the settlement of the amounts stipulated at indent (12), as well as at the settlement of the tax obligations to the budgets managed by the tax body that has established the garnishment. .
(13) The violation of the provisions of paragraphs (9), (10), (12) and (15) shall entail the nullity of all payments
(14) Where the enforcement is suspended or terminated, according to the law, the enforcement body shall immediately notify, in writing, the banks or the third party subject to garnishment, as the case may be, for the temporary, total or partial suspension of the account freezing. Should it fail to do so, the bank will have the obligation to proceed according to the provisions of indent (12).
(15) If the executory titles cannot be settled within the same day, the banks shall follow the execution thereof from the daily collections into the debtor's account.
(16) Provisions in par. (10) are to apply correspondingly.

ARTICLE 150
**Forced execution of the third party that is subject to seizure**
(1) If the third party that is subject to seizure notifies the enforcing body that he/she does not owe any amount of money to the debtor under prosecution and if he/she invokes other non-conformities in connection to the withholding commencement, the court within whose territorial jurisdiction the domicile or location of the third party that is subject to seizure is located, upon the request of the enforcing body or of other party concerned and based on the evidence administered, shall pronounce the maintenance or the cancellation of such withholding.
(2) The trial shall be carried out as a matter of emergency and priority.
(3) Based on the decision to maintain the withholding, which constitutes an enforceable title, the enforcing body may commence the compulsory execution of the third party that is subject to seizure in compliance with this Code.

SECTION 3
**Forced execution of movable goods**

ARTICLE 151

**Forced execution of movable goods**

(1) Any of the debtor's movable goods shall be subject to forced execution, unless otherwise provided by law.

(2) In the case of the debtor that is a natural person, the following cannot be subject to forced execution as they are necessary to the life and work of the debtor and his/her family:

a) movable goods of any kind that serve for the continuation of studies and professional training as well as those that are strictly necessary to carry out a profession or other occupation on a continuous basis, including those that are necessary for the performance of agricultural activities such as tools, seeds, fertilizers, forage and production and working animals;

b) goods that are strictly necessary for the personal or household use of the debtor and his/her family, as well as religious cult objects, unless there are several such objects of the same kind;

c) food that is necessary to the debtor and his/her family for 2 months and if the debtor deals exclusively with agriculture, food that is strictly necessary until the new crop;

d) the fuel that is necessary for the debtor and his/her family for heating and for preparing food, calculated for three winter months;

e) objects that are necessary to handicapped persons or intended for the care of ill persons;

f) goods declared non-pursuable by other legal provisions.

(3) The goods of the debtor that is a natural person, required for the performance of trade activities shall not be exempted from forced execution.

(4) Movable goods are to be subject to forced execution by the such movable goods seizure and sale of such movable goods, even if they are held by a third party. The seizure is to be initiated through a minutes.

(5) For movable goods that were previously seized as a precautionary measure, a new seizure shall not be required.

(6) Upon the commencement of the forced execution, the tax executor is obliged to check if the goods provided in par. (5) are to be found at the place of application of the seizure and if such goods were not replaced or degraded and is to seize other goods of the debtor in case that goods found upon the audit are not sufficient for the settlement of such receivable.

(7) Goods shall not be seized if their sale could cover only the forced execution expenses.

(8) Through the seizure initiated over movable goods, the tax creditor acquires a pledge right that allows him/her the same rights in relation with other creditors and the pledge right according to the common law.

(9) As of the preparation of the minutes, the seized goods are to become unavailable. During the forced execution, the debtor can make use of such goods only with the approval of the competent body, according to law. Failure to observe this prohibition is to result in legal liability on the guilty party.

(10) The ordering documents which might occur further to the freezing in compliance with par. (9) are to become fully null.

(11) In case no precautionary measures were taken for the entire realization of tax receivables and when upon the initiation of the forced execution is found that there is an obvious danger of alienation, replacement or purloin of the debtor's pursuable assets, the seizure shall be applied together with the communication of the summons.

ARTICLE 152

**Seizure Report**

(1) The seizure report shall include:

a) the name of the enforcing bodies, the specification of the place, date and time of seizure;
b) the name and surname of the tax executor that carries out the seizure, his/her job identity card and delegation registration number;
c) the registration number of the forced execution file, the registration date and number of the summons, as well as the executory title based on which the forced execution procedure is carried out;
d) the legal grounds based on which the forced execution is performed;
e) amounts due for the forced execution of which the sequester is carried out, including amounts of late payment interests, penalties or increments, as the case may be, and the specification of their rate and the normative act based on which the payment obligation was determined.
f) the name, surname and domicile of the debtor that is a natural person or, in his/her absence, of the adult that lives with the debtor, the debtor's name, surname and location, the name, surname and domicile of other adults that were present on the application of the seizure, as well as other identification elements of such persons;
g) description of the movable goods seized and indication of the estimated value of each good, according to the appraisal of the tax executor, for identification and individualization of such goods, and the specification of the tear and wear status and possible particular signs of each good and if any measures were taken in respect of keeping them unchanged, such as applying seals, taking under custody or removal from their location or their administration or preservation, as the case may be;
h) the specification that the valuation shall be done prior to the initiation of the sale procedure if the tax executor could not appraise the good because of lack of the required specialist knowledge;
i) the specification made by the debtor regarding the existence or the lack of existence of a right to pledge, mortgage or privilege, as the case may be, incorporated in favor of another person for the goods seized;
j) the name, surname and address of the person to whom the goods were left and their storage place, as the case may be;
k) possible objections by the persons present at the seizure;
l) the specification that, unless within 15 days as of the conclusion of the seizure report the debtor pays the tax obligations, the sale of the goods seized shall be initiated;
m) the signature of the tax executor that applied the seizure and of all persons that witnessed the sequestration. If any of such persons cannot or will not sign, the tax executor is to mention such circumstance.
(2) A copy of the seizure report shall be handed over to the debtor against signature or shall be sent to his/her domicile/location, and, if necessary, to the custodian who shall sign, with the specification of receipt of the goods under care.
(3) For sale purposes, the enforcing bodies must check whether the goods seized are on the place mentioned in the seizure report and if they were replaced or degraded.
(4) When the seized goods found upon the audit are not sufficient for the realization of the tax receivable, the enforcing body shall make the necessary investigations for the identification and tracing of other assets pertaining to the debtor.
(5) If it is ascertained that the goods are not in the place mentioned in the minutes of seizure or that they were replaced or degraded, the tax executor is to conclude an ascertaining minutes. For goods found upon the investigations carried out according to par. (4) a minutes of seizure is to be concluded.
(6) If goods under pledge are also seized for the guarantee of receivables to other creditors, the enforcing body shall send them as well a copy of the seizure report.

(7) If goods under pledge are also seized for the guarantee of receivables to other creditors, the forced execution body is to send a copy of the minutes of seizure to them. The same minutes of seizure is to serve to declare as seized other goods that might be identified, if applicable.
(8) Goods recorded in the prior seizure report shall also be deemed as seized within the new forced execution procedure.
(9) In case the tax officer ascertains that in relation to the goods seized deeds, which can be considered criminal law violations were committed, he/she should record this in the seizure report and immediately notify the competent criminal prosecution bodies.

ARTICLE 153
**Custodian**
(1) Movable goods seized may be left under the custody of the debtor, of the creditor or of another person appointed by the forced execution body or by the tax executor, as the case may be, or are to be removed and stored by such tax executor. Whenever goods are left in the custody of the debtor or of another person appointed according to law and whenever the danger of replacement or degradation is ascertained, the tax executor may apply the seal to the goods.
(2) In case the goods seized consist of amounts of money in lei or foreign currency, securities, precious metal objects, precious stones, art objects, valuable collections, such goods shall be removed and handed over to specialized units until the following working day.
(3) The recipient of the goods under custody shall sign the seizure report.
(4) In case the custodian is not the same person as the debtor or the creditor, the enforcing body shall establish remuneration in this respect, according to the activity performed.

ARTICLE 153[1]
**Replacement of seized assets**
If requested by the debtor, the tax body may replace the seizure on a movable asset with the seizure on other movable or immovable asset, provided that the replacement is free from any charge. The provisions of art. 142 indent (1) shall apply accordingly.

SECTION 4
**Forced execution of real estate**

ARTICLE 154
**Forced execution of real estate**
(1) Real estate under the ownership of the debtor shall be subject to the forced execution procedure. If the debtor owns property in joint ownership with others, the forced execution shall cover only the assets assigned to the debtor following the legal partition, and the balancing payment.
(2) Real estate forced execution is also to fully apply to the annexes of the immovable good as provided in the Civil Code. Annexes may be traced only together with the real estate to which belong.
(3) In case of the debtor that is a natural person, the minimum area inhabited by the debtor and his/her family as determined in compliance with legal norms in force cannot be subject to forced execution.
(4) Provisions in par. (3) are not to apply in cases when the forced execution is performed for the settlement of tax receivables that result from committing criminal law violations.

(5) The tax enforcement officer implementing the seizure must draw up a seizure report, with the provisions of art. 151 indent (9), (10) and (11), art. 152 indent (1) and (2) and art. $153^1$ being applicable.
(6) The seizure applied to the immovable goods in conformity with par. (5) is to be considered a legal mortgage.
(7) The right to mortgage allows the tax creditor in his/her relation with other creditors the same rights as the mortgage right in respect of the provisions of common law.
(8) For real estate seized, the enforcing body that initiated the seizure shall immediately request the Land Book Register to perform the mortgage record by enclosing a copy of the seizure report.
(9) Within 10 days, the Land Book Register shall inform the enforcing bodies, upon their request, of the other real rights and burdens that have an impact on the prosecuted building and their holders, who shall be notified by the enforcing body and called upon the deadlines determined for the sale of the real estate and distribution of the price.
(10) The debtor's creditors, other than the holders of the rights under par. (9), are obliged to inform the forced execution body in writing about the titles they hold on such real estate within 30 days as of the registration of the minutes of seizure of such real estate in the real estate advertising records.

ARTICLE 155
**Appointment of a seizure administrator**
(1) Upon the initiation of the seizure and during the entire forced execution procedure, the enforcing body may appoint a seizure administrator if such measure is required for the administration of the prosecuted real estate, of rent and of other income obtained from its administration, including for the defense against litigation regarding such real estate.
(2) The seizure administrator may be the creditor, the debtor or any other natural or legal person.
(3) The seizure administrator is to record the income collected according to par. (1) at the competent units and to file the receipt to the forced execution body.
(4) When a person, other than the creditor or debtor is appointed as a seizure administrator, the enforcing body shall determine his/her remuneration, depending on the activity carried out.

ARTICLE 156
**Suspension of forced execution of real estate**
(1) After the receipt of the seizure report, within 15 days of the notification, the debtor may request the enforcing body to approve that the full payment of tax receivables be made from the income of the traced real estate or from other income for not more than 6 months.
(2) The forced execution procedure initiated for the real estate shall be suspended as of the approval of the debtor's application.
(3) For well-grounded reasons, the enforcing body may reiterate the real estate seizure before the expiration of the 6-month deadline.
(4) If the debtor is a legal person and received the approval of suspension according to par. (2) later avoids the forced execution or self-caused insolvency, there are to be applied correspondingly the provisions of art. 27.

SECTION 5
**Forced execution of other goods**

ARTICLE 157

**Forced execution of fruit that were not picked and of rooted crops**
(1) Forced execution of the fruits that were not picked and of rooted crops belonging to the debtor shall be performed according to the provisions of this Code on the real estate.
(2) Provisions of this Code regarding movable goods shall be applied to the forced execution of fruits that were not picked and of rooted crops.
(3) The enforcing body shall decide, as the case may be, the sale of the fruit that were not picked and of rooted crops or after cropping.

ARTICLE 158
**Forced execution of a group of goods**
(1) Movable goods and/or real estate under the debtor's ownership can be sold individually or/and as a whole if the enforcing body deems that in this way such goods may be sold under more profitable conditions.
(2) The enforcing body may change its option at any stage of the forced execution, with the resumption of proceedings.
(3) For the forced execution of goods in par. (1) the forced execution body is to proceed to the seizure of such goods, according to this Code.
(4) Provisions of Section 3 regarding the forced execution of movable goods and of Section 4 regarding the forced execution of real estate as well as the provisions of art. 165 regarding installment payment are to apply correspondingly.

SECTION 6
**Sale of goods**

ARTICLE 159
**Sale of goods subject to seizure**
(1) If the tax receivable is not settled within 15 days as of the conclusion of the seizure report, the seized goods shall be sold without further formalities, except the cases when, in compliance with the law, the cancellation of the seizure, the suspension or postponement of forced execution was decided.
(2) For the performance of the forced execution under more profitable conditions taking into account the legitimate and immediate interest of the creditor and the rights and obligations of the prosecuted debtor, the enforcing body shall proceed to the sale of the seized goods in any of the ways as provided by legal provisions in force and which compared to the actual data of the cause proves to be the most effective.
(3) For purposes of par. (2) the competent forced execution body is to proceed to the sale of the seized goods as follows:
a) by agreement between parties;
b) by consignment sale of movable goods;
c) by direct sale;
d) by an auction sale;
e) by other means allowed by law, including the sale of goods through auction houses, estate agencies or brokerage companies, as the case may be.
(4) If perishables or goods subject to degradation were seized, they can be sold under emergency regime. The assessment and the capitalization of these goods shall be done by the fiscal bodies, at market price. The procedure of assessment and capitalization is approved by order of the minister of public finances, at the request of the president of the National Agency for Fiscal Administration .

(5) If due to an appeal or an agreement between parties, the date, the place or the time of the direct sale or auction was changed by the forced execution body, other advertising and announcements are to be published according to art. 162.
(6) The sale of seized goods shall be performed only by natural or legal persons that do not have any unpaid tax obligations.
(7) For purposes of par. (6), the category of unpaid tax obligations is not to include tax obligations for which cuts, deferrals or rescheduling were allowed by law.

ARTICLE 160
**Sale of goods by agreement between parties**
(1) The sale of goods by an agreement between parties is to be performed by the debtor himself, with the endorsement of the forced execution body, so as to ensure an adequate recovery of the tax receivable. The debtor is obliged to submit in writing to the forced execution body the proposals made and the coverage of tax receivables indicating the name and address of the possible buyer and the deadline within which such buyer is to pay the price proposed.
(2) The price proposed by the buyer and accepted by the enforcing body cannot be less than the valuation price.
(3) Based on the analysis of proposals in par. (1), the forced execution body is to notify the approval by specifying the deadline and the budgetary account where the price of the good is to be transferred by the buyer.
(4) The jam under art. 151 par. (9) and (10) is to be removed after is credited the budgetary account mentioned under par. (3).

ARTICLE 161
**Sale of goods by direct sale**
(1) The sale of goods by direct sale can be performed in the following cases:
a) for goods stipulated under art. 159 par. (4);
b) before the beginning of the sale by auction, if the tax receivable is fully recovered;
c) after the auction completion, if the good(s) was not sold and a person offers at least the valuation price;
(2) The direct sale shall be conducted by concluding a report which shall become a title deed.
(3) If the execution body receives more than one request under the terms in par. (1) the good is be sold to the person that offers the highest price compared to the valuation price.
4) The direct sale of assets shall be conducted even where there is one single buyer.

ARTICLE 162
**Sale of goods by auction**
(1) For the sale of seized goods by auction, the enforcing body shall advertise the auction at least 10 days prior to the date established for the auction.
(2) Sale publicity will be made by posting the announcement of the sale at the main offices of the enforcing body, the city hall under which territorial jurisdiction the seized assets are, at the main office and the domicile of the debtor, at the sale place, if other than the place where the seized assets are, on the building put up for sale, when selling buildings is involved, as well as by publishing the announcement in a national newspaper of wide circulation, in a local newspaper, on the website or in the Official Gazette of Romania, Part IV, if appropriate, or through other means provided for by the law.

(3) The debtor, custodian, seizure administrator as well as the holder of the real rights and encumbrances over the asset pursued shall all be informed about the date, time and place of the auction.
(4) The announcement regarding the sale shall also include the following elements:
a) designation of the issuing fiscal body;
b) the date when it was issued;
c) name and signature of authorized persons of the fiscal body, in compliance with the law, and the stamp of the issuing fiscal body;
d) the registration number of the forced enforcement file;
e) the goods offered for sale and their brief description;
f) the valuation price or the auction beginning price for the sale by auction, for each good intended for sale;
g) the specification, if necessary, of the real rights and privileges that lien the goods;
h) the date, time and place of the sale;
i) the invitation for all persons that claim a right over such goods, to notify the enforcing body on this priory to the date established for sale;
j) the invitation for all persons that are interested in the purchase of such goods to be present on deadline at the place as determined for this purpose and to submit tender offers on or before such deadline;
k) the specification that the bidders shall have the obligation to submit in case of sale by auction until the deadline provided in par. (7), a participation fee or a bank letter of guarantee representing 10% of the price for the auction beginning;
l) the specification that all persons that are interested in the purchase of the goods should produce evidence issued by the fiscal bodies that they do not have unpaid tax obligations;
m) the date of the sale announcement publishing.
(5) The auction shall be held at the location where seized goods are kept or at the location decided by the enforcing body, as the case may be.
(6) The debtor is obliged to allow the auction on its premises, if adequate to this purpose.
(7) In order to attend the auction, bidders shall submit the following documents at least one day before the auction:
a) the purchase offer;
b) the proof of payment of the auction participation fee or of the guarantee establishment as a letter of bank guarantee, according to par. (11) or (12);
c) the proxy of the person that represents the bidder;
d) for the Romanian legal persons, a copy of the sole registration certificate issued by the Trade Register Office;
e) for foreign legal persons, the registration certificate translated into Romanian;
f) for Romanian individuals, the copy of the identity card;
g) for foreign individuals, a copy of the passport;
h) the proof issued by the fiscal bodies that bidders have no unpaid tax liabilities to such bodies.
($7^1$) The purchase bids may be either submitted in person or mailed. It is not allowed to submit a bid over the phone, by telegraph, telex of fax.
($7^2$) Bidder may participate in the auction sale through their agents, who will be required to produce a special power of attorney to prove their capacity. The debtor will not be allowed to participate to the auction in person or through a go-between.
($7^3$) Where the participation fee is paid through bank settlement or by post-office order, the tax enforcement officer shall check, on the auction day, if the state treasury general current account indicated by the tax bodies has been credited with the respective amount.

(8) The beginning price of the auction is the valuation price for the first auction, diminished by 25% for the second auction and by 50% for the third auction.
(9) The auction is to begin from the highest price in the written purchase bids, if higher than the price provided in par. (8), otherwise, the auction is to begin from the latter price.
(10) The auction is to be won by the bidder with the highest price, for a price not less than the beginning price. In case of a single bidder, the auction committee can declare him/her as the winning bidder, provided that the price offered is at least equal to the beginning price.
(11) The auction fee is to amount to 10% of the beginning price and is to be paid in lei to the territorial unit of the State Treasury. Within 5 days after drawing up the auction report, the enforcing body shall refund the auction participation fee to the bidders that submitted purchase offers and were not declared wining bidders; as concerns the wining bidder, the fee shall account for the price. The participation fee shall not be refunded to the bidders failing to show up for the auction, to the winning bidder refusing to sign the award report or the winning bidder failing to pay the price. The participation fee not refunded shall become revenue to the state budget, except the case the forced execution is organized by the fiscal bodies provided in art. 35, when the participation fee shall become revenue to the local budgets.
(12) To participate in the auction, bidders may also establish guarantees, in compliance with the law, in the form of bank letter of guarantee.
(13) The bank letter of guarantee established under par. (12), shall be executed by the enforcing body in case the bidder is declared winner and/or in cases provided in par. (11), third thesis.

ARTICLE 163
**Auction committee**
(1) Sale of seized goods by auction shall be organized by a committee led by a chairman.
(2) The auction committee consists of three persons appointed by the head body of the budgetary creditor.
(3) The auction committee shall verify and analyze the documents of participation and shall post the list of bidders that submitted the complete participation documentation at the auction location, at least one hour before the beginning of such auction.
(4) Bidders shall be identified according to their sequence number on the list of participation and further on, the chairman of the committee shall announce the auction subject as well as the manner that the auction shall be carried out.
(5) Upon the determined deadlines for auction, the tax executor is first to read the sale ad and then the written offers that were received until the date provided in art. 162 par. (7).
(6) In case there were no bidders at the first auction or at least the beginning price was not obtained according to art. 162 par. (8), the forced execution body is to determine a new deadline, within no later than 30 days, for the second auction.
(7) In case the beginning price was not obtained during the second auction either, or there were no bidders, the enforcing body shall determine another deadline, no later than 30 days, to carry out the third auction.
(8) Upon the third auction, the prosecuting creditors or interveners cannot adjudicate the goods offered for sale at a price less than 50% of the valuation price.
(9) For each auction deadline, the auction for sale is to be advertised according to art. 162.
(10) The auction of each good shall be followed by the preparation of the report regarding the performance and the result of such auction.
(11) The minutes in par. (10) are also to include, beside the elements provided in art. 43 par. (2), the following: the buyer’s name and surname or the company name, as well as

his/her fiscal domicile; the registration number of the forced execution file; the specification of the sold goods, the sale price of the good and the related value-added tax, if applicable; all participants in the auction and the amount offered by each participant, as well as the specification of cases when the sale was not carried out, as the case may be.

ARTICLE 164
**Award**
(1) After the award of the asset, the winning bidder shall pay the price, diminished by the amount of the auction fee, in lei, in cash at a State Treasury unit or by bank transfer, no later than 5 days after the award date.
(2) If the wining bidder fails to pay the price, the auction shall resume within 10 days of the award date. In such case, the wining bidder must pay the costs related to the new auction and the price difference, in case the price of the new auction is lower. The winning bidder may pay the price offered initially and produce the proof of this payment until the deadline provided in art. 162 par. (7),
in this case following to have the obligation to pay further only the expenses caused by the organization of a new auction.
(3) With the amounts due to the possible difference of price, collected based on par. (2), the tax receivables recorded in the executory title, on which basis began the forced execution, shall be settled.
(4) In case the good was not sold in the following auction, the former wining bidder shall pay all the costs related to the pursuing thereof.
($4^1$) The amount representing the price difference and/or expenses provided in paragraphs (1) and (4) is set up by the execution body, by minutes that are the executory title according to this code. The appeal of the minutes is done according to the procedure provided in title IX
(5) The deadline in par. (1) is also to apply to the sale according to the agreement between parties or by direct sale.

ARTICLE 165
**Installment payment**
(1) As regards the sale of real estate by auction, buyers can apply for the installment payment, in no more than 12 monthly installments, with an anticipatory payment of at least 50% of the sale price of the real estate and with an interest or delay increment, as appropriate, payable as provided by this Code. The forced execution body is to determine the terms and conditions of such installment payment.
(2) The buyer may not alienate the real estate before the full payment of the price and of the interest and delay increment determined.
(3) For failure to pay the advance payment amount as provided in par. (1), provisions of art. 164 are to apply correspondingly.
(4) The amount of interest or delay increment, as the case may be, may not settle the tax receivables for which the forced execution was initiated and shall represent revenue to the budget corresponding to the main receivable.”

ARTICLE 166
**Award Report**
(1) In the case of sale of real estate, the forced execution body is to prepare the good adjudication report, within not more than 5 days after full payment of the price or of the advance as provided in art. 165 par. (1), if the good was sold with the payment in installments. Such report shall be deemed a title deed and the transfer of ownership shall

become operational as of its conclusion. For installment sale, a copy of the minutes of adjudication of the real estate is to be sent to the Land Book Office, so that to record the prohibition from disposal and alien of such good until the full payment of the price and interest or delay increment, as the case may be, established for the real estate transferred, based on which the record in the Land Book is operated.
(2) The adjudication report prepared according to par. (1) is also to include, beside elements under art. 43 par. (2), the following specifications:
a) the registration number of the enforcement file;
b) the number and date of the auction report;
c) the name and domicile or, as the case may be, the buyer's name and location;
d) the tax identification code of the debtor and buyer;
e) the final price of the good and the related value added tax, if applicable;
f) the manner of payment of the price difference for installment sale;
g) the good identification data;
h) the specification that this document is a title deed and can be recorded in the Land Book;
i) the specification that for the creditor the adjudication report is the document based on which the executory title is issued against the buyer that fails to pay the price difference, if the sale was made in installments;
j) the signature of the buyer or of his/her legal representative, as the case may be.
(3) If the buyer whose payment in installment was approved fails to pay the remaining price under the terms and conditions provided, then he/she can be subject to compulsory execution in respect of the amount due, based on the executory title that was issued by the competent enforcing body based on the adjudication report.
(4) In case of the sale of movable goods, within 5 days after the payment of the price, the tax executor shall prepare an adjudication report that shall be deemed a title deed.
(5) The adjudication report prepared according to par. (4) is also to include, beside elements under art. 43 par. (2), elements provided in par. (2) of this article, except for letter f), h) and i), the specification that such document is an ownership act. A copy of the minutes of adjudication is to be sent to the coordinating forced execution body and to the buyer.
(6) Where the capitalization of assets is conducted by direct sale or auction, a buyer shall be transferred the purchased asset by the tax enforcement officer based on a delivery protocol.

ARTICLE 167
**Resumption of sale procedure**
(1) If the goods subject to forced execution could not be sold as provided in art. 159, such goods may be returned to the debtor by maintaining the blocking measure until the expiry of the statute of limitation. The forced execution body may resume the sale procedure at any time within this deadline and may appoint, maintain or change the seizure administrator or the custodian, as the case may be.
(2) In the case of seized goods that could not be sold in the third auction, on the occasion of resumption of proceedings under the limitation period, if the enforcing body considers that there should be a new evaluation, the beginning price of the auction can not be less than 50% of the valuation price of goods.
(3) If debtors whose goods were supposed to be returned according to par. (1) relocated their stated fiscal domicile and cannot be identified further to the investigations, the fiscal body is to proceed to their notification according to the procedure of communication by advertising in compliance with art. 44 par. (3), that the good in question is maintained available to the owner until the expiry of the statute of limitation, after which the good is to

be sold according to legal provisions regarding the sale of the goods entered in the state private ownership, unless otherwise provided by law.
(4) Actions in par (3) are to be recorded in minutes prepared by the fiscal body.
(5) In case of real estate, based on the minutes provided in par. (4) the competent court acting upon ascertaining the state private ownership right over such good is to be notified under the law.

CHAPTER 9
**Expenses**

ARTICLE 168
**Forced execution expenses**
(1) The expenses related to the forced execution shall be borne by the debtor.
($1^1$) The amounts representing fees paid to the Electronic Security Interests Archive for registering the receivables stated in the claim titles issued by the tax authorities shall be regarded as enforcement costs.
(2) The expenses related to the forced execution shall be determined by the enforcing body through a report that shall represent an executory title according to this Code, based on documents related to the expenses incurred.
(3) The expenses related to forced execution of tax receivables shall be paid by enforcing bodies from their budgets.
(4) The expenses related to forced execution, which were not based on documents that certify that such expenses were incurred for forced execution purposes, shall not be borne by the debtor.
(5) The amounts recovered in the account of forced execution expenses shall become revenue to the budget from which they were paid, except for the amounts representing expenses for the forced execution of tax receivables administered by the Ministry of Public Finances that are revenues to the State budget, unless otherwise provided by the law.

CHAPTER 10
**Release and distribution of amounts obtained by forced execution**

ARTICLE 169
**Amounts obtained by forced execution**
(1) The amount that was obtained during the forced execution procedure shall include all the amounts collected after the notification of summons in any of the ways provided by this Code.
(2) The tax claims stated in the writ of execution shall be offset against the amounts collected in accordance with indent (1), first the main claims, in the order of age, then the accessory claims, in the order of age. The provisions in art. 115 indent (2) regarding the order of precedence depending on the age shall apply mutatis mutandis.
($2^1$) By way of derogation from the provisions of indent (2), for the amounts that are paid or offset, the settlement of the claim occurs according to the provisions laid down in art. 114 and 115.
(3) Provided that the amount representing both tax receivable and forced execution expense is less than the amount obtained from forced execution, the difference is to be offset according to art. 116, or is to be refunded upon the debtor’s request, as the case may be.
(4) The debtor shall be immediately notified on the amounts to be refunded.

ARTICLE 170

**Distribution sequence**

(1) In case the forced execution procedure was initiated by several creditors or when until the release or distribution of the amount resulting from forced execution other creditors also submitted their titles, the bodies provided in art.136 are to resort to the distribution of such amount according to the priority sequence, unless otherwise provided by law, as follows:

a) receivables representing expenses of any kind made for the prosecution and preservation of the goods whose price is distributed;

b) receivables representing salaries and other assimilated duties, pensions, amounts for the unemployed, according to the law, aids for the support and care of children, for maternity care, for temporary work incapacity, for the prevention of illness, for the health recovery or improvement, death benefits granted within the state social security system, as well as receivables representing the obligation to repair damages caused by death, damage of body integrity or of health;

c) receivables that result from support obligations, child benefits or payment liabilities of other regular amounts intended to ensure the means of subsistence;

d) tax receivables from taxes, fees, contributions and other amounts provided according to law that are due to the State budget, the State Treasury budget, the state social security budget, local budgets and special funds budgets;

e) receivables that result from loans granted by the state;

f) receivables representing compensations for the repair of damages brought to public ownership through illegal deeds;

g) receivables that result from bank loans, from supply of products, supply of services or performance of works, as well as from rent;

h) receivables representing fines to the State budget or the local budgets;

i) other receivables.

(2) For the payment of receivables that have the same priority, unless otherwise provided by law, the amount from execution shall be distributed among creditors proportionally to their receivable.

ARTICLE 171

**Rules regarding release and distribution**

(1) Tax creditors that have a privilege by law and that comply with the condition of advertising or owning a movable good are to have priority, in conditions provided in art. 142 par. (7), in the distribution of the amount resulting from the sale compared to other creditors that hold real guarantees over such good.

(2) Ancillaries of the main receivable as mentioned in the enforceable title shall observe the priority sequence of the main receivable.

(3) If there are creditors who have pledge, mortgage or other real rights on the good sold about which the forced execution body found out according to the provisions of art. 152 par. (6) and art. 154 par. (9), upon the distribution of the amount obtained from the sale, their receivables shall be paid before the receivables provided in art. 170 par. (1) letter b). In this case, the forced execution body shall have the obligation to notify ex officio the creditors in whose favor such burdens were preserved in order to allow them to participate in the price distribution.

(4) Creditors who did not participate in the forced execution procedure may submit their titles in order to participate to the distribution of amounts obtained from the forced execution only until the date of preparation by the enforcing body of the report concerning the release or the distribution of such amounts.

(5) The release or the distribution of the amount resulting from the forced execution shall be performed only after the expiry of 15 days after the submission of the amount, when the enforcing body proceeds, as the case may be, to the release or distribution of such amount, by notifying the parties and creditors that submitted their titles.
(6) The release or distribution of the amount resulted from forced execution shall be immediately recorded by the tax executor in minutes that shall be signed by all the entitled parties.
(7) The person that is dissatisfied with the release or distribution of the amount resulted from forced execution may request the tax executor to record such objections in the report.
(8) After the preparation of the minutes in par. (6) no creditor is to be entitled anymore to request to participate in the distribution of amounts resulted from the forced execution.

CHAPTER 11
**Appeal to forced execution**

ARTICLE 172
**Appeal to forced execution**
(1) Persons interested may appeal against any act of forced execution that is performed by the violation of provisions of this Code by the enforcing bodies as well as if such bodies refuse to carry out a forced execution act in compliance with the law.
(2) Provisions concerning the temporary suspension of the forced execution by presidential ordinance provided in art. 403 par. (4) from the Civil Procedure Code are not applicable.
(3) The appeal may also be directed against the executory title based on which the forced execution was initiated, in case that such title is not a decision made by a court or other legal jurisdictional authority and if for such appeal there is no other procedure stipulated by law.
(4) The appeal shall be registered at the competent court and shall be solved under the emergency procedure.

ARTICLE 173
**Appeal deadline**
(1) The appeal may be submitted within 15 days under the sanction of nullity as of the date when:
a) the applicant was informed of the execution or the execution act he is contesting, from the communication of the summons or from other notifications received or, in the lack thereof, upon the performance of forced execution proceedings or in any other way;
b) the applicant was informed according to letter a) of the refusal of the enforcing body to carry out the forced execution procedures;
c) the party interested was informed according to letter a) of the release or distribution of the amounts he is contesting.
(2) The appeal whereby a third party claims to have an ownership right or other real right over the good traced may be entered no later than 15 days after performing of the forced execution.
(3) Failure to submit the appeal within the deadline provided in par. (2) is not to impede the third party from realizing his/her right based on a separate application, according to the common law.

ARTICLE 174
**Judging of the appeal**

(1) Upon carrying out an appeal, the court shall also summon the enforcing body within whose territorial jurisdiction the traced goods are located or in case of execution by withholding, the third party withheld is located or domiciled.
(2) Upon the request of the interested party, the court may decide upon the execution appeal with regard to the distribution of the goods held by the debtor under joint ownership with other persons.
(3) If the court accepts the execution appeal, as the case may be, it may decide the cancellation of the execution action appealed or its correction, cancellation or end of the forced execution itself, cancellation or clarification of the enforceable title or the performance of the forced execution action whose performance was refused.
(4) In case of cancellation of the appealed forced execution act or in case of completion of the forced execution itself and cancellation of the executory title, the court may decide by the same decision to return to the rightful person the lawful amount from the sale of goods or from withholdings by seizure.
(5) In case of repeal of the appeal, upon the request of the forced execution body the applicant may be obliged to pay indemnities for damages caused due to the delay in execution, and when the appeal was submitted in bad faith, the applicant is to also be obliged to pay a fine between 50 lei and 1,000 lei.

CHAPTER 12
**Settlement of tax receivables by other means**

ARTICLE 175
**Payment by transfer in public ownership of a real estate**
(1) Tax receivables administered by the Ministry of Public Finances through the National Agency for Fiscal Administration, except those withheld at source and their related ancillaries, as well as the tax receivables related to local budgets may be anytime settled, upon the request of the debtor and with the consent of the tax creditor, by transfer of the real estate, including that under seizure, of the debtor in the public property of the State or of the relevant territorial-administrative unit.
($1^1$) For the tax claims settlement by datio in solutum, the settlement date shall be the date of the decision mentioned at indent (3).
(2) For the purpose mentioned at indent (1), the tax body shall submit the request, together with its own suggestions, to the commission appointed by order of the public finance minister or an administrative act issued under the law by the public local administration authorities, as the case may be. The documents that must be submitted with the request shall be established under the same circumstances.
(3) The Committee provided in par. (2) shall analyze the request only when there is a request for taking over of the assets concerned for administration, in compliance with the law, and shall decided the solution to this request by decision. When the request is admitted, the committee shall order to the competent fiscal body to draw up a report on the transfer in public ownership of the immovable asset concerned and on the settlement of the tax receivables. The committee may repeal the request when the immovable assets concerned are of no public use or interest.
(4) The report on the transfer in public ownership of the immovable assets concerned shall be deemed a property title deed.
($4^1$) In case the transfer of property upon the real estates in the State ownership at the established price is taxable according to the law plus the valueadded tax, this one shall be the first settled.

(5) The movable assets transferred under public ownership according to indent (1) shall be placed under administration, according to the law. Before the document instructing the placement under administration becomes effective, the respective building shall be in the custody of the institution that requested that the asset be placed under its administration. The institution having the custody over the asset has the obligation to count the respective asset in the inventory, according to the law.
(6) At the date of preparation of the report for ownership transfer concerning the real estate in public ownership of the state, its blocking measure shall cease, together with the capacity of seizure administrator of the persons designated under the law, if any.
(7) The administration costs, if any, incurred in the period between the conclusion of the report on transfer of the real estate in case in public ownership of the state and the take-over for administration, by Government Decision, shall be borne by the requesting public institution. If the Government agrees on entrusting the real estate for administration to an institution other than the requesting one, the administration costs shall be borne by the public institution to which the asset is entrusted for administration.
(8) If the immovable assets transferred under public ownership as provided by this Code have been claimed and returned to third parties, in compliance with the law, the debtor shall pay the amounts settled by this method. Tax receivables shall arise back when the immovable assets are returned to the third party concerned.
(9) In case during the statute of limitation of the tax receivables, the committee provided in par. (3) found out about certain aspects related to the relevant immovable assets, not known on the date of the approval of the debtor's request, it may decide based on the statute of fact the integral or partial revoking of the decision by which certain tax receivables have been settled by transfer of the immovable assets in public ownership, the provisions of par. (8) following to be adequately applied.
(10) In cases provided in paragraphs (8) and (9), no late payment interests, penalties or increments, as case may be, shall be imposed for the period between the date of the transfer under public ownership and the date when tax receivables emerge again, respectively, the date of revoking of the decision by which the tax receivables payment has been approved by such method.

ARTICLE 175[1] Abrogated

ARTICLE 176
**Insolvency**
(1) For the purpose of this Code, the debtor whose revenues or pursuable assets are smaller in value than his outstanding tax obligations or who has no pursuable revenues or assets shall be deemed as insolvent.
(2) For tax receivables of debtors that are declared insolvent, that do not own pursuable revenues or assets, the head of the forced execution enforcing body shall decide to write out such receivable from current records and its entry in a separate record.
(3) In case of debtors provided in par. (2), by way of derogation from provisions of art. 148 par. (3), the forced execution is to be interrupted. The fiscal bodies should investigate the state of such taxpayers at least once a year and such investigations shall not be deemed forced execution deeds.
(4) When the debtors are found having acquired pursuable revenues or assets, the enforcing bodies shall take the necessary measures to switch back the debtors from the separate records to the current records and to perform their forced execution.
(5) If at the end of prescription period the acquiring of pursuable revenues or assets is not ascertained, the forced execution bodies shall write off the tax receivables from the analytic

account on taxpayer according to art. 134. This write off shall be made also during the prescription period for the debtors, individuals, dead or missing persons, not having successors who accepted the succession.
(6) Tax receivables due by debtors, legal persons, removed from the registers where they were registered according to the law shall be deducted from the analytical records kept on taxpayers, irrespective of whether liability has or has not been assigned to other persons for the payment of tax obligations, under the law.

ARTICLE 177
**Opening of insolvency proceedings**
(1) In order to retrieve tax receivables from debtors in an insolvency state, the National Agency for Fiscal Administration and the bodies under its authority as well as the specialized bodies of the local public administration authority shall declare to liquidators the tax receivables existing in the records kept on the taxpayers as of the declaration day.
(2) Provisions in par. (1) shall be applied for the recovery of the tax receivables from the debtors being in liquidation procedure according to the law.
(3) Tax bodies' applications concerning the initiation of insolvency proceedings shall be submitted to the law courts and shall be exempt from the submission of any bail.
(4) In case the fiscal body subordinated to the National Agency for Fiscal Administration holds at least 50% of the total amount of the receivables, the National Agency for Fiscal Administration may decide the appointment of a legal administrator/liquidator establishing also this one remuneration. The confirmation of this legal administrator/liquidator appointed by the National Agency for Fiscal Administration by the syndical judge shall be made during the first session according to art. 11 par. (1) letter d) from Law no 85/2006, as further amended.
(5) In cases when fiscal body holds at least 50% of the total amount of the receivables, this one is entitled to check the activity of the legal administrator/liquidator and to request to him producing the documents referring to the activity developed and the fees cashed.

ARTICLE 178
**Cancellation of tax receivables**
(1) Where the enforcement costs, excluding the expenses with the post-office, are higher than the tax receivables subject to enforcement, the head of the enforcement body may approve the cancellation of the debts in question. The expenses incurred for sending out the summons and the garnishment decision shall be borne by the tax authority.
(2) Outstanding receivables below 40 lei, which are unpaid at December 31, shall be cancelled. This ceiling applies to the total outstanding amount of tax receivables of a debtor.
(3) ) In case of tax receivables that are owed to local budgets, the amount provided in par. (2) is the maximum limit up to which deliberative authorities may determine by a decision the threshold of tax receivables that may be cancelled.

CHAPTER XII[1]
**The mutual assistance in matters related to the recovery of claims in respect of taxes, fees, entitlements and other measures**

SECTION 1
**General Provisions**

ARTICLE 178[1]

**Purpose**
The current chapter introduces the rules for assistance to be provided for the recovery on the Romanian territory of tax claims established in another EU Member State, as well as the assistance for the recovery in another EU Member State of claims established in Romania.

ARTICLE 178[2]
**Scope**
(1) The current chapter shall apply to the below tax claims:
a) all fees, taxes and rights, irrespective of their nature, that are levied by a Member State or on its behalf, or by the territorial and administrative divisions of a state, including its local governments, or on their behalf, or on behalf of the European Union;
b) reimbursements, interventions and other measures that are part of the full or partial financing system of the European Fund for Guarantees in Agriculture (EFGA) and the European Agricultural Fund for Rural Development (EAFRD), including the amounts collected in respect of the above;
c) levies and other rights stipulated under the common market arrangements in the sugar sector.
(2) The current chapter shall apply as well for:
a) administrative penalties, fines, taxes and surtaxes levied in respect of the claims that can be the purpose of a mutual assistance request in accordance with indent (1), as established by the administrative authorities in charge of levying the respective taxes, fees, or rights or conducting administrative investigations in their respect or which are confirmed by the administrative or judiciary bodies upon request by the above-mentioned administrative authorities;
b) the fees for certificates and other similar documents issued in respect of the administrative procedures related to taxes, fees and rights;
c) interest, increases for late payments, penalties for late payments, and costs incurred in respect of the tax receivables that can be the purpose of a mutual assistance request according to indent (1) or according to a) or b) of the current indent, as the case may be.
(3) The current chapter shall not apply to:
a) mandatory contributions to the social security system that must be paid either to the Member State or to a sub-division thereof, or to the social security institutions of public law;
b) fees that are not mentioned at indent (2);
c) the rights of contractual nature, such as amounts set for public utilities;
d) criminal penalties required by a criminal procedure or other criminal penalties not covered by the provisions of indent (2) a).

ARTICLE 178[3]
**Definitions**
In the current chapter, the below terms and expressions shall bear the following meaning:
a) requesting authority – a central liaise office, a liaise office or department of a Member State that sends out request for assistance in respect of a claim mentioned in art. 178^2;
b) requested authority – a central liaise office, a liaise office or department of a Member State that receives a request for assistance;
c) person – any natural or legal person, or any association of persons whose capacity to enter into legal acts is acknowledged by law, without having a legal personality, or any other entity, irrespective of the nature of form thereof, and whether it has a legal personality or not, which owns or manages assets that, together with the revenues generated by such assets, are subject to fees, taxes or rights representing the purpose of the current chapter;

d) electronic means – the use of electronic equipment for the purpose of data processing and storing, including digital compression, and the use of wire transmission, radio broadcast or optic technologies or other electromagnetic means;
e) RCC network- a shared platform built on the shared communication network (RCC) developed by the European Union for all the electronic transmissions among the competent authorities in the customs and tax sectors.

ARTICLE $178^4$
**Romanian Competent Authority**
(1) For the purpose of applying the provisions of the current article, the Romanian competent authorities are:
a) the National Agency for Tax Administration, for the receivables mentioned at art. $178^2$ indent (1) a) and b), except for those mentioned at b);
b) the National Customs Authority, for the receivables mentioned at art. $178^2$ indent (1) a) and b) payable in respect of customs operations;
c) the Agency for Payments and Interventions in Agriculture, for the receivables mentioned at art. $178^2$ indent (1) c).
(2) The authorities mentioned at indent (1) have the power to assist with the recovery of claims stipulated at art. $178^2$ indent (2) as well, that are attached to the main claims for which they provide assistance in view of recovery.
(3) The central liaise office responsible for establishing contacts with other Member States in the field of mutual assistance, which is the purpose of the current chapter, as well as for contacts with the European Commission, shall be appointed by order of the public finance minister, based on a request by the president of the National Agency for Tax Administration.
(4) The Romanian competent authorities may appoint liaise offices responsible for contacts with other Member States in the field of mutual assistance, with respect to one or more types of specific categories of tax, fees and rights stipulated at art. $178^2$.
(5) Should a liaise office receive a request for mutual assistance requiring measures exceeding the authority of the respective liaise office, it shall immediately forward the request to the competent office, if known, or to the central liaise office, and shall inform the requesting authority accordingly.
(6) The Romanian competent authorities will inform the Commission with respect to its central liaise office and any other designated liaise offices.
(7) All communications are sent by the central liaise office or on its behalf, as the case may be, with the consent of the central liaise office, with due care to the efficiency of communication.

SECTION 2
**Exchange of information**

ARTICLE 178^5
**Supply of information**
(1) Upon request by the requesting authority, the requested authority shall supply any information considered relevant to the requesting authority, with a view to recovering the claims mentioned at art. $178^2$. For the purpose of providing this information, the requested authority shall conduct or cause to conduct any administrative investigations necessary to obtain this information.
(2) The requested authority does not have the obligation to supply information:

a) that it would not obtain in the attempt of recovering similar claims born in the requested Member State;
b) that would involve the disclosure of a commercial, industrial or professional secret;
c) the disclosure of which would be a prejudice to the security of the requested Member State or an act contrary to the public order of the respective state.
(3) The requested authority may not refuse to provide information for the simple reason that this information is held by a bank, or other financial institution, or a person appointed or acting as agent or administrator, or because the respective information is related to participations to other persons' capital.
(4) The requested authority shall inform the requesting authority with regard to the reasons for rejecting a request for information.

ARTICLE 178[6]
**Exchange of information without prior request**
When a reimbursement/refund of taxes, fees or rights, other than the value added tax, is to be made to a person having the domicile in another Member State, the Member State making the reimbursement/refund may inform the Member State of domicile on the reimbursement/refund that is to be made.

ARTICLE 178[7]
**Presence in the administrative offices and participation to administrative investigations**
(1) By agreement between the requesting authority and the requested authority, and in line with the procedures established by the requested authority, the authorized officers by the requesting authority may, as a measure to promote mutual assistance according to this chapter:
a) be present in the offices where the government's administrative authorities of the requested Member State run their business;
b) be present in the administrative investigations conducted on the territory of the requested Member State;
c) accompany the competent officers of the requested Member State during the implementation of the legal procedures in the respective Member State.
(2) The agreement mentioned at indent (1) b) may stipulate the right of the officers of the requesting Member State to interview people and examine registers, if allowed by the legislation in force of the respective Member State.
(3) The officers authorized by the requesting authority that make use of the possibilities provided by indent (1) and (2) shall be at any time capable of producing a written document indicating their identity and official capacity.

SECTION 3
**Document Notification Assistance**

ARTICLE 178[8]
**The notification of various claim-related documents**
(1) Based on a request submitted by the requesting authority, the requested authority shall notify the person supposed to receive the documents, hereinafter the recipient, all acts and rulings, including , the legal rulings, issued by the requesting Member State in respect of a claim or the recovery of it.
(2) The request for notification mentioned at indent (1) shall be submitted together with a standardized form that includes at least the following pieces of information:

a) the name, address and other useful details for identifying the recipient;
b) the purpose and deadline of the notification;
c) a description of the attached documents, the type of claim and the amount covered by the request;
d) the name, address and other contact details of the office in charge of the attached documents and, where different, the office that can provide additional details on the notified documents or on the ways to challenge the respective payment liability.
(3) The requesting authority may submit a request for notification based on the current chapter only if it cannot make the notification in line with the document notification rules in the requesting Member State, or when such notification would generate disproportionate difficulties.
(4) The requested authority shall immediately inform the requesting authority on any action initiated following the request for notification, in particular on the document notification date.

ARTICLE 178[9]
**Notification methods**

(1) The requested authority shall make sue that the notification procedure in the requested Member State is implemented in accordance with the legal requirements and the national administrative practices in force in the requested Member State.
(2) The provisions of indent (1) shall not prejudice any other way of notification used by a competent authority of the requesting Member State in accordance with the regulations in force in the respective Member State.
(3) A competent authority established on the territory of the requesting Member State may directly notify a person from another Member State with respect to a document by registered mail or electronic mail.

SECTION 4
**Safety or recovery measures**

ARTICLE 178^10
Recovery Request
(1) Following a request by the requesting authority, the requested authority shall recover the receivables of a claim title under which the enforcement can be implemented in the requesting Member State.
(2) As soon as the requesting authority becomes aware of any relevant information with respect to the underlying case of a recovery request, it shall submit it to the requested authority.

ARTICLE 178[11]
**Pre-requirements to Recovery Requests**

(1) The requesting authority may not formulate a recovery request if and to the extent that the claim and/or claim title that allows the enforcement in the requesting Member State have been challenged in the respective Member State, except for the situations where the provisions of art. 178[14] indent (6) apply.
(2) Prior to the requesting authority formulating a recovery request, the proper recovery procedures available in the requesting Member State shall apply, with the following exceptions:

a) where there are obviously no assets subject to recovery in the requesting Member State, or such procedures are not expected to lead to the full recovery of the claim and the requesting authority holds specific information indicating that the targeted person does not have any assets on the territory of the requested Member State;
b) where, if applied in the requesting Member State, such procedures would generate disproportionate difficulties.

ARTICLE 178[12]
**Writ of execution and other accompanying documents**
(1) Any request must be accompanied by an uniform title that allows the enforcement in the requested Member State. This uniform title that allows the enforcement in the requested Member State shall reflect the main contents of the original title allowing the enforcement and shall be the single foundation of any safety and recovery measures implemented in the requested Member State. It may not be the purpose of any act of acknowledgment, top up or replacement in the respective Member State.
(2) The uniform title that allows the enforcement shall include at the minimum the following pieces of information:
a) relevant details for the identification of the original title that allows the enforcement, a description of the claim, including the nature thereof, the period covered by the claim, any other data that may be relevant to the enforcement process and the claim amount as well as its various components, such as the main claim and the accessory tax claims;
b) the name, address and other useful information for identifying the debtor;
c) the name, address and other contact details with respect to the office responsible for assessing the claims and, if different, the office that may provide additional information related to the claim or ways to challenge it.
(3) A claim recovery request may be accompanied by other documents in respect of the claim issued by the requesting Member State.

ARTICLE 178**13**
**Recovery of claims**
(1) For the purpose of recovering the claim in the requested Member State, any claim in respect of which a recovery request has been submitted shall be treated as a claim of the requested Member State, unless otherwise provided by the current chapter. The requested authority shall make use of its prerogatives and the legal procedures in the requested Member State that apply to the claims in respect of the same taxes, fees or entitlements or, in absence thereof, in respect of similar taxes, fees and entitlements, unless otherwise provided by the current chapter.
(2) Should the requested authority consider that there are no identical or similar taxes, fees and entitlements collected on its territory, it should use its prerogatives and the legal procedures in the requested Member State that apply to the claims resulted from the personal income tax, unless otherwise provided by the current chapter.
(3) The requested Member State is not required to give the claims of other Member States the preferential treatment of similar claims in the respective Member State, except for when otherwise agreed by the targeted Member States or unless there are contrary provisions in the requested Member State. A Member State giving a preferential treatment to the claims of another Member State may not refuse the same treatment to the same claims or similar claims of other Member States, under the same circumstances.
(4) The requested Member State shall recover a claim in its domestic currency.
(5) The requested authority shall use the necessary diligence to inform the requesting authority on any actions taken in respect of its recovery request.

(6) As of the receipt date of the recovery request, the requested authority shall charge interest for late payments, in line with the legislation in force in the requested Member State. The provisions of art. 120 apply to Romania.
(7) The requested authority may, when allowed by the legislation if force in the requested Member State, allow the debtor a payment deadline or agree to installment arrangements in respect of the respective claims and charge interest accordingly. The requested authority shall inform the requesting authority after such decision is issued.
(8) Without prejudice to art. 178[20] indent (1), the requested authority shall transfer to the requesting authority the amounts recovered in respect of the claim, plus interest according to indent (6) and (7).

ARTICLE 178[14]
**Litigations**
(1) The competent authority of the requesting Member State has jurisdiction over the litigations related to the claims, the original title allowing the enforcement in the requesting Member State or the uniform title allowing the enforcement in the requested Member State and litigations related to the validity of a notification by a competent authority of the requesting Member State. Should a claim, original title allowing the enforcement in the requesting Member State or the uniform title allowing the enforcement in the requested Member State be challenged, during the recovery procedure, by an interested party, requested authority will inform the respective interested party that such a procedure must be filed by the latter with the competent authority of the requesting Member State, in line with the legislation in force in the respective state.
(2) Litigations related to the enforcement measures implemented in the requested Member State or related to the validity of a notification by a competent authority of the requested Member State shall be brought before the body having the authority to solve the litigation in the respective Member State, in accordance with the legislation in force in this state.
(3) When one of the actions mentioned at indent (1) has been brought before the competent bodies of the requesting Member State, the requesting authority shall inform the requested authority with regard to the respective actions, providing details on the elements in the claim that have not been challenged.
(4) The requested authority shall, immediately after receiving the information mentioned at indent (3), from either the requesting authority or the interest party, suspend the enforcement procedure for the part of the claim that is being challenged, pending a decision by the competent body in the field, unless the requesting authority has formulated a request for the opposite, according to indent (6).
(5) The requested authority may, without prejudice to art. 178[16] and following a request by the requesting authority or if judged as necessary by the requested authority, resort to safety measures for the purpose of ensuring the recovery, to the extent allowed by the legal regulations in force in the requested Member State.
(6) The requesting authority may, subject to legal requirements and administrative practices in force in the Member State of its registered office, ask the requested authority to recover a challenged claim or the challenged part of it, to the extent allowed by the legal requirements and administrative practices in force in the requested Member State. Any such request shall be motivated. If the subsequent outcome of the complaint is in favor of the debtor, the requesting authority has the obligation to reimburse any recovered amount and compensations, in line with the regulations in force in the requested Member State.
(7) If the competent authorities of the requesting Member State or the requested Member State have initiated an amicable procedure the result of which may affect the claim for which the assistance had been requested, the recovery measures shall be suspended or

frozen pending closure of the respective procedure, except for the emergency situations due caused by fraud or insolvency. Where the recovery measures are suspended or frozen, the provisions of indent (5) shall apply.

ARTICLE 178[15]

**Revision or withdrawal of the assistance request for recovery**

(1) The requesting authority shall immediately inform the requested authority about any subsequent modification brought to its request for recovery or about the withdrawal of its request, by giving the reasons for the respective modification or withdrawal.

(2) If the modification of the request is the result of a decision taken by the competent body mentioned at art. 178[14] indent (1), the requesting authority shall communicate the respective decision together with a revised uniform title allowing the enforcement in the requested Member State. The requested authority shall continue to implement the recovery measures based on the revised title. Any safety or recovery measures that had been already taken based on the initial uniform title allowing the enforcement in the requested Member State may continue based on the revised title, except when the request is modified because of the lack of validity of the initial title allowing the enforcement in the requesting Member State or of the initial uniform title allowing the enforcement in the requested Member State. The provisions of art. 178[12] and 178[14] shall apply mutatis mutandis.

ARTICLE 178[16]

**Request for safety measures**

(1) Following a request by the requesting authority, the requested authority shall take the necessary safety measures, if allowed by its national legislation and in compliance with its administrative practices, for the purpose of ensuring the recovery if the claim or title allowing the enforcement in the requesting Member State has been challenged at the time when the request is formulated or if the claim that is not yet subject to a claim title allowing the enforcement in the requesting Member State, to the extent the national legislation and administrative practices of the requesting Member State allow the implementation of safety measures in a similar situation. The document prepared to allow the implementation of safety measures in the requesting Member State and in respect of the claim for which the mutual assistance is requested, if any, shall accompany the request for safety measures in the requested Member State. This document shall not be the purpose of any act of acknowledgment, top up or replacement in the requested Member State.

(2) The request for safety measures may be accompanied by other documents related to the claim, issued in the requesting Member State.

ARTICLE 178[17]

**Regulations applicable to the requests for safety measures**

For the purpose of implementing the provisions of art. 178[16], the provisions of art. 178[10] indent (2), art. 178[13] indent (1) to (5), art. 178[14] and 178[15] shall apply, mutatis mutandis.

ARTICLE 178[18]

**Restrictions with respect to the requested authority's obligations**

(1) The requested authority is not required to provide assistance according to art. 178[10] to art. 178[16] if the recovery of the claim is likely to generate, due to the situation of the debtor, serious difficulties of economic or social nature in the requested Member State, to the extent that the legal regulations and administrative practices in force in the respective Member State allow such an exception with respect to the national claims.

(2) The requested authority is not required to provide the assistance mentioned at art. $178^{5}$ and at art. $178^{7}$ to $178^{16}$ if the original request for assistance, in line with art. $178^{5}$, $178^{7}$, $178^{8}$, $178^{10}$ or $178^{16}$, is submitted for claims older than 5 years, with the deadline starting on the day when the claim falls due in the requesting Member State and lasting until the time of the original request for assistance. Where the claim or original title allowing the enforcement in the requesting Member State are challenged, the 5-year deadline starts to run at the time when the it is established, in the requesting Member State, that the challenge against the claim or title allowing the enforcement is not possible anymore. If the competent authorities in the requesting Member State agree on a deferral of the payment or an installment agreement, the 5-year deadline shall begin at the time when the full payment deadline expires. However, in these instances, the requested authority is not required to provide assistance with regard to the claims that are older then 10 years, being calculated from the moment when the claim falls due in the requesting Member State.
(3) Another Member State is not required to provide assistance if the total amount of claims regulated by the current chapter for which the assistance is required is below 1,500 Euros.
(4) The requested authority shall inform the requesting authority with respect to the reasons for rejection of a specific request for assistance.

ARTICLE $178^{19}$
**Provisions regarding the statute of limitations**
(1) The statutes of limitations are regulated exclusively by the legislation in force in the requesting Member State.
(2) With regard to the suspension, interruption or extension of the period covered by the statute of limitations, all actions taken following a request for assistance, for the purpose of recovering the claims by the requested authority or on its behalf, whose effect is the suspension, interruption or extension of the period covered by the statute of limitations, in accordance with the legislation in force in the requested Member State, shall be regarded as having the same effect in the requesting Member State, provided that the proper effect be stipulated in the regulations in force of the requesting Member State.
(3) If the suspension, interruption or extension of the period covered by the statute of limitations is not possible based on the regulations in force in the requested Member State, all the actions taken, following a request for assistance, for the purpose of recovering the claims by the requested authority or on its behalf, whose effect would have been the suspension, interruption or extension of the period covered by the statute of limitations according to the legislation in force in the requesting Member State, shall be regarded as if they were taken in the requesting Member State, in respect of the respective effect.
(4) The provisions of indents (2) and (3) shall not prejudice the right of the competent authorities of the requesting Member State to take measures for the purpose of suspending, interrupting or extending the period covered by the statute of limitations, in accordance with the regulations in force in the respective Member State.
(5) The requesting authority and the requested authority shall inform each other with regard to any action suspending, interrupting or extending the period covered by the statute of limitations in respect of the claim for which the safety or recovery measures have been requested as well as any actions that are likely to have this effect.

ARTICLE $178^{20}$
**Costs**
(1) In addition to the amounts mentioned at art. 178^13 indent (8), the requested authority seeks to recover from the debtor the expenses incurred for the recovery that will be retained, according to the legal requirements in force in the requested Member State.

(2) The Member States shall give up reimbursements of expenses incurred for the mutual assistance provided according to the provisions in the current chapter.
(3) However, in the case of recoveries that put serious problems, involving very high expenses or relating to the organized crime, the requesting authority and the requested authority may agree on specific reimbursement arrangements for the respective situations.
(4) Notwithstanding the provisions of indents (2) and (3), the requesting Member State shall remain liable to the requested Member State for all the expenses and losses incurred as a result of the actions admitted as unjustified, in respect of the merits of the claim, or the effectiveness of the title issued by the requesting authority allowing the enforcement and/or the implementation of safety measures.

SECTION a 5-a
**General Provisions applicable to all types of request for assistance**

ARTICLE 178[21]
**Standardized forms and communication means**

(1) The request for information for the purpose of art. 178[5] indent (1), the requests for notification for the purpose of art. 178[8] indent (1), the requests for recovery for the purpose of art. 178[10] indent (1) or the requests for safety measures for the purpose of art. 178[16] indent (1) shall be sent via electronic means, by using the relevant standardized form, except for the cases where this is not possible for technical reasons. To the extent possible, these forms should be used for any subsequent communications regarding the respective requests.
(2) The uniform title allowing the enforcement in the requested Member State, the document allowing the implementation of safety measures in the requesting Member State and the other documents stipulated at art. 178[12] and 178[16] shall be sent via electronic means as well, except for the situations where this is not possible for technical reasons.
(3) If necessary, any reports, returns and any documents or certified true copies of certificates or excerpts thereof may be submitted along with the standardized form, via electronic means, except for the situations where this is not possible for technical reasons.
(4) Standardized forms and electronic communications may be used in the information exchanges for the purpose of art. 178[6] as well.
(5) The provisions of indent (1) to (4) shall not apply to the information and documents obtained as a result of the officers' presence in the administrative offices of another Member State or from the participation to the administrative investigations conducted by another Member State, for the purpose of art. 178[7].
(6) Where standardized forms or electronic means are not uses for communication, this will not affect the validity of the information or measures taken to respond to the request for assistance.

ARTICLE 178[22]
**Language**
(1) The requests for assistance, the standardized forms used for notifications and the uniform titles allowing the enforcement in the requested Member State shall be submitted in the official language or in one of the official languages of the requested Member State, or together with the translated version in one of the respective languages. The fact that certain parts are written in another language than the official language (or one of the official languages) or the requested Member State shall not affect the validity of the requests or

procedures, to the extent that the language of the respective parts is agreed between the interested parties.
(2) The documents requested for notification in accordance with art. 178[8] may be submitted to the requested authority in an official language of the requesting Member State.
(3) Where a request is submitted together with other documents than those mentioned at indents (1) and (2), the requested authority may, if necessary, ask the requesting authority to submit a translated version of these documents in the official language (or one of the official languages) of the requested Member State, or in any other language as agreed by the interested Member States.

ARTICLE 178[23]
**Information and document disclosure**
(1) The information that is communicated in any format, for the purpose of the current chapter, is regulated by the fiscal secrecy obligation and benefits of the protection granted to similar information based on the national legislation of the Member State that receives the information. Such information may be used for the purpose of applying safety or enforcement measures in respect of claims covered by the current chapter. In addition, such information may be used for the purpose of assessing and collecting the mandatory contributions to the social security system.
(2) The accredited persons by the European Commission's Security Accreditation Authority may have access to this information to the extent necessary to maintain and develop the RCC network.
(3) The Member State providing the information allows the use thereof in the Member State that receives the information for other purposes than those provisioned at indent (1) if, based on the legislation of the Member State providing the information, this information may be used for similar purposes.
(4) If the requesting authority or the requested authority considers that the information received for the purpose of the current chapter may be useful, for the purposes provisioned at indent (1), to a third Member State, this authority can provide the respective information to this third state, provided that this is compliant with the norms and procedures established in the current chapter. The authority in question shall inform the Member State of origin on its intention to forward the information to a third Member State. The Member State of origin may oppose to this, within 10 business days from the notification received from the Member State wishing to forward the information.
(5) The permission to use, for the purpose of indent (3), any information provided based on indent (4) may be granted only by the Member State where the information originates.
(6) The information communicated in any format for the purpose of the current chapter may be invoked or used as evidence by all the authorities of the Member State receiving the information, like any similar information received in the respective state.

SECTION 6
**Final Provisions**

ARTICLE 178[24]
**Other assistance agreements**
(1) The current chapter shall not prejudice any obligation to provide extended assistance, which may arise from bilateral or multilateral agreements or covenants, including notifications or judicial or extrajudicial acts.

(2) Where Romania enters such bilateral or multilateral agreements or covenants in respect of aspects covered by the current chapter, which do not refer to individual cases, it must immediately inform the Commission on the issue.
(3) Where extended mutual assistance is provided by Romania under a bilateral or multilateral agreement or covenant, Romania may use the electronic communication network and the standardized forms adopted for the implementation of the current chapter.

ARTICLE 178[25]
**Implementation rules**
The implementation rules for the provisions in art. 178[4] indent (3) and(4), art. 178[5] indent (1), art. 178[8], art. 178[10], art. 178[12] indent (1) and (2), art. 178[13] indent (5) - (8), art. 178[15], art. 178[16] indent (1) and art. 178[21] indent (1) - (4) are approved by the Commission.

ARTICLE 178[26]
**Reporting**
(1) Romania, through its central liaise office, shall inform the Commission on an annual basis, until March 31, about the following:
a) The number of requests for information, communication and recovery or requests for safety measures that have been sent annually to each requested Member State and received from each requesting Member State;
b) The amount of claims in respect of which assistance for recovery is requested as well as the amounts recovered.
(2) Romania may, through its central liaise office, provide as well any other information that may be useful to evaluate the mutual assistance provided for the purpose of the current chapter.

CHAPTER XIII International aspects
*ART. 179* *Abrogated*
*ART. 180* *Abrogated*
*ART. 181* *Abrogated*
*ART. 182* *Abrogated*
*ART. 183* *Abrogated*
*ART. 184* *Abrogated*
*ART. 185* *Abrogated*
*ART. 186* *Abrogated*
*ART. 187* *Abrogated*
*ART. 188* *Abrogated*
*ART. 189* *Abrogated*
*ART. 190* *Abrogated*
*ART. 191* *Abrogated*
*ART. 192* *Abrogated*
*ART. 193* *Abrogated*
*ART. 194* *Abrogated*
*ART. 195* *Abrogated*
*ART. 196* *Abrogated*
*ART. 197* *Abrogated*

*ART. 198* *Abrogated*
*ART. 199* *Abrogated*
*ART. 200* *Abrogated*
*ART. 201* *Abrogated*
*ART. 202* *Abrogated*
*ART. 203* *Abrogated*
*ART. 204* *Abrogated*

TITLE IX
**Solution of appeals against tax administrative documents**
CHAPTER 1
**Right to appeal**

ARTICLE 205
**Possibility to contest**
(1) Against the receivable title, as well as against other administrative acts appeal may be made, according to law. The appeal is an administrative manner to contest and does not remove the right to act of the person that deems to have been harmed in his/her rights, under the law.
(2) Only the person that deems to have been harmed in his/her rights by a tax administrative document or by its absence has the right to submit an appeal.
(3) The taxation base and the tax, the fee or the contribution as assessed by the tax decision are always to be appealed at the same time.
(4) Also the tax decisions under par. (3) by which no taxes, fees, contribution or other amounts owed to the general consolidated budget are assessed may be contested.
(5) In case of decisions regarding the taxation base, regulated by art. 89 par. (1), the appeal may be submitted by any person that participates in the realization of income.
(6) Taxation bases ascertained separately in a decision as regards the taxation base may be contested only by the appeal against such decision.

ARTICLE 206
**Form and content of appeal**
(1) The appeal shall be submitted in writing and shall include as follows:
a) the applicant’s identification data;
b) the subject of the appeal;
c) grounds de facto and de jure;
d) grounding evidence;
e) the signature of the applicant or his/her representative and the stamp, in case of legal persons. The evidence of the by proxy capacity of an applicant, either a legal person or an individual, is to be produced according to law.
(2) Subject to appeal shall be only amounts and measures that were assessed and specified by the fiscal body in the tax decision or the contested tax administrative document, except the appeal against the unjustified refuse to issue the tax administrative document.
(3) The appeal shall be submitted to the fiscal body or the customs body whose tax administrative document is contested and shall not be subject to stamp fees.

ARTICLE 207

**Deadline for submitting an appeal**
(1) The appeal shall be submitted within 30 days as of the communication of the tax administrative act, under the sanction of nullity.
(2) In case the competence for solution does not stay with the body that issued the appealed tax administrative document, the appeal shall be submitted by such body within 5 days after the registration to the competent solution body.
(3) In case the appeal is submitted to a fiscal body that is not competent, such appeal shall be submitted within 5 days of receipt to the fiscal body that issued the appealed tax administrative document.
(4) If the fiscal administrative document does not include the elements required at art. 43 indent (2) i), the appeal may be filed within 3 months from the notification of the respective fiscal administrative document, with the tax authority that issued the document in question.

ARTICLE 208
**Withdrawal of an appeal**
(1) The appeal may be withdrawn by the applicant until its solution. The competent fiscal body is to communicate the applicant the decision that confirms the waiver to such appeal.
(2) Withdrawal of appeals does not trigger the loss of the right to submit a new appeal within the deadline generally allowed for appeals.

CHAPTER 2
**Competence for solving appeals. Solution decision**

ARTICLE 209
**Competent body**
(1) The appeals formulated against the assessment decisions, the fiscal administrative documents assimilated to assessment decisions, the decisions issued to regulate situations issued in accordance with the customs legislation, the measure to reduce the fiscal loss established by instruction of measures, as well as against the reverification decision shall be settled by:
a) the organization specialized in settling the appeals within the county public finance general directorates or the Bucharest Municipality Public Finance General Directorate, as the case may be, in the fiscal area of residence of the persons who lodged the appeals, for the appeals having as purpose taxes, fees, contributions, customs debt, accessories thereof, the measure to reduce the fiscal loss, in amount of under 3 million lei, as well as for appeals filed against the reverification decisions, except for those issued by the central bodies having tax audit attributions;
b) the organization specialized in settling the appeals within the county public finance general directorate or the Bucharest Municipality Public Finance General Directorate, as the case may be, which has the authority according to art. 36 indent (3) to manage the non-resident taxpayers that don not have a permanent office on the Romanian territory, for the appeals filed by these taxpayers, having as purpose taxes, fees, customs debts, accessories, the measure to reduce the fiscal loss, in amount of under 3 million lei, as well as for appeals filed against the reverification decisions, except for those issued by the central bodies having tax audit attributions;
c) the General Directorate for Complaint Settlement under the National Agency for Fiscal Administration, for the appeal having as purpose taxes, fees, customs debts, accessories, the measure to reduce the fiscal loss, in amount of 3 million lei or more, for the appeals filed by the large taxpayers, as well as the appeals formulated against the documents listed in

this article, issued by the central bodies with tax audit attributions, irrespective of the amount. .
(2) Appeals submitted against other tax administrative documents shall be solved by the issuing fiscal bodies.
(3) Appeals submitted by those that deem to have been harmed by the unjustified refusal to issue the tax administrative document shall be solved by the higher hierarchical body of the fiscal body competent to issue such document.
($3^1$) The authority to settle complaints stipulated at indent (1) may be delegated to another settlement body mentioned at indent (1), under the circumstances established in an order of the Head of the National Agency for Tax Administration. The person filing the appeal and the persons introduced in the settlement procedure shall be informed on the change in competency.
(4) Appeals submitted against tax administrative documents issued by authorities of local public administration as well as by public authorities which, according to the law, administer tax receivables, shall be solved by such authorities.
(5) Amounts provided in par. (1) are to be updated by a Government Decision.

ARTICLE 210
**Solution decision or provision**
(1) For the solution of appeals, the competent body shall decide upon by a decision or a provision, as the case may be.
(2) The decision or the provision issued for the solution of appeals shall be final with respect to administrative appeal methods.

ARTICLE 211
**Form and content of the decision to solve an appeal**
(1) The decision to solve appeals is to be issued in writing and is to comprise as follows: the preamble, the reasons and the framework.
(2) The preamble is to include: the name of the body that is in charge with the solution, the name and the surname of the applicant, his/her fiscal domicile, the registration number of the appeal at the competent solution authority, the subject of such cause and the summary of the parties arguments when the competent solution body is not the issuing body of the appealed document.
(3) The reasons shall include the grounds de jure and de facto that led to the conviction of the solution body that is competent for the issuance of the decision.
(4) The framework shall include the solution decided, the appeal solution method, and the term within which it can be exerted by the competent court.
(5) The decision shall be signed by the head of the General Directorate, the general manager of the competent body established at central level, the head of the issuing fiscal body of the appealed administrative act or his/her substitutes, as the case may be.

CHAPTER 3
**Procedural provisions**

ARTICLE 212
**Involvement of other persons in the solution procedure**
(1) The competent solution body may involve ex officio or upon request, for the solution of appeals, as the case may be, other persons whose legal tax interest is harmed further to the issuance of the decision to solve the appeal. Prior to involving other persons, the appellant shall be heard according to art. 9.

(2) The persons that participate in the obtaining of the income, according to art. 205 par. (5) and did not submit an appeal are to be involved ex officio.
(3) The person involved in the appeal procedure is to be informed of all requests and declarations of the other parties. This person is to have the rights and duties of the parties as a result of the fiscal legal relation that is subject to the appeal and is entitled to submit his/her own applications.
(4) The provisions of the Civil Procedure Code regarding the forced and voluntary intervention shall be applicable.

ARTICLE 213
**Solution of the appeal**
(1) In the solution of appeal, the competent body is to check the grounds de facto and de jure underlying the issuance of the fiscal administrative document. The appeal shall be analyzed as compared to the parties' arguments, the legal provisions invoked and documents existing in the file of such cause. The appeal is to be solved within the limits of the notification.
(2) The solution body that is competent for the clarification of the cause may request the point of view of the specialist departments within the ministry or within other institutions and bodies.
(3) The solution of appeal shall not lead to a more difficult case for the applicant by his/her own appeal manner.
(4) The applicant, the interveners or their empowered persons may submit new evidence for the support of the cause. In such case, the fiscal body that issued the appealed fiscal administrative document or the body that carried out the audit activity, as the case may be, is to be given the possibility to pronounce upon such aspects.
(5) The competent solution body shall decide first on the exceptions of procedure and then on the content thereof, and when they are ascertained grounded, the thorough analysis of the cause is no longer to be carried out.

ARTICLE 214
**Suspension of procedure of solution of appeal by administrative means**
(1) The competent solution body may suspend through a well-grounded decision the solution of the cause whenever:
a) the body that carried out the audit activity notified the competent body regarding the existence of indications on committing a criminal law violation whose determination may have a decisive impact on the solution which is about to be passed under an administration procedure;
b) the solution of the cause depends in whole or in part on the existence or the non existence of a right that is subject to a separate trial.
(2) The competent solution body may suspend the procedure upon request if there are grounded reasons. Upon the approval of suspension, the competent solution body shall determine the deadline until when the procedure is suspended as well. The suspension may only be requested once.
(3) The administrative procedure is to be resumed on the cessation of the reason that triggered the suspension or, as the case may be, upon the expiry of the deadline determined by the competent solution body according to par. (2), irrespective if the reason that led to the suspension ceased or not.
(4) The final decision of the criminal court solving a civil action is opposable to the fiscal bodies competent for solving the appeal, concerning the amounts for which the State became civil party.

ARTICLE 215
**Suspension of execution of a tax administrative document**
(1) Submitting the appeal as administrative way of challenge in court shall not suspend the execution of the tax administrative document.
(2) The provisions of this article shall not prejudice the taxpayer right to require the suspension of the execution of the tax administration document, under Administrative Dispute Law no 554/2004, as further amended. The competent court may suspend the execution, if bail of up to 20% of the amount disputed is submitted, and in the case of applications whose object is not evaluated in money, a bail of up to lei 2,000.
(3) In case of suspension of the enforcement of a fiscal administrative document ruled by a Court based on the provisions laid down in Law 554/2004, as amended, all the effects of the fiscal administrative document shall be suspended until the suspension is terminated.

CHAPTER 4
**Solutions regarding the appeal**

ARTICLE 216
**Solutions regarding the appeal**
(1) By decision, the appeal may be admitted or repealed as a whole or in part.
(2) In case the appeal is admitted, a decision shall be made on the total or the partial cancellation of the appealed document.
(3) By decision, the appealed tax administrative document may be totally or partially cancelled, and in this case a new tax administrative document shall be concluded by considering the reasons of the solution decision.
($3^1$) The dismantling ruling is enforced within 30 days from the notification of the decision, and the newly issued fiscal administrative document shall refer to the same interval and have the same purpose as the one for which the dismantling solution has been ruled.
(4) By decision, a solution to a cause may be suspended in compliance with provisions of art. 214.

ARTICLE 217
**Repeal of appeal for failure to comply with procedural conditions**
(1) In case the competent solution body notices a failure to comply with a procedural condition, the appeal shall be repealed without resorting to the analysis of the content of such case.
(2) The appeal may not be repealed if it bears an inaccurate name.

ARTICLE 218
**Communication of decision and appeal proceedings**
(1) The decision regarding the solution of appeal is to be communicated to the applicant, persons involved in compliance with art. 44 and fiscal body issuer of the appealed fiscal administrative document.
(2) The decisions delivered to solve the appeals may be challenged by the appellant or by the persons involved in case according to art. 212, before the competent administrative dispute court, under the provisions of the law.
(3) When a dismantling ruling is appealed against in a competent Court according to indent (2) the new fiscal administrative document resulted from the dismantling ruling issued in the complaint settlement procedure shall be concluded after the court ruling has remained final.

TITLE X
**Sanctions**

ARTICLE 219
**Civil law violations**
(1) The following actions constitute civil law violations:
a) failure to submit statements regarding the tax registration or specifications within the legal deadlines;
b) non-compliance with the deadline of filing obligations stipulated by law, with respect to goods and taxable income or with respect to taxes, fees, contributions and other amounts, as the case may be, as well as any other information related to taxes, fees, contributions, goods and taxable revenues, that have to be declared under the law;
$b^1$) Abrogated
$b^2$) Abrogated
$b^3$) Abrogated
c) failure to observe the obligations provided in art. 56 and art. 57 par. (2);
d) failure to observe the obligation provided in art. 105 par. (8);
e) failure to enforce the measures established according to art. 79 par. (2), art. 80 par. (4) and art. 105 par. (9);
f) failure to fulfill the obligations stipulated in art. 53;
g) failure to observe the obligation to record the fiscal identification code on documents, in compliance with art. 73;
h) failure to observe the obligations to fill in and keep tax files by the payers of wages and other assimilated incomes;
i) failure to observe obligations as regards the transmission to the competent fiscal body or, as the case may be, to third parties of forms and documents
provided by the tax law, other than fiscal declarations and statements for tax or specifications registration;
j) banks' failure to observe the obligation to provide information and to refund provided in this Code;
k) failure of the third party to observe the obligations generated in its charge by this Code;
l) failure to observe the notification obligation provided in art. 154 par. (9);
m) refusal of the debtor subject of forced execution to hand over the goods to the enforcing body for seizure purposes or to make such goods available for identification and valuation purposes;
n) refusal to submit to the financial-fiscal body the material assets subject to taxes, fees, contributions due to the general consolidated budget, to be established the real nature of the fiscal declaration;
o) failure of the payers of tax obligations to withhold at source, according to the law, the amounts representing taxes and contributions;
p) failure of the payers of tax obligations to collect and pay in full the amounts representing taxes and contributions with withholding at source, if not committed in such conditions that, according to the law, be considered as crimes;
r) refusal to fulfill the obligation provided in art. 52 par. (1).
(2) Civil law violations as provided in par. (1) ) is to be sanctioned as follows:
a) by a fine between lei 6,000 and lei 8,000, for individuals, and fine between lei 25,000 and lei 27,000, for legal persons, in case of committing the deeds provided in par. (1) letter c);
b) by a fine between lei 1,000 and lei 1,500, for individuals, and fine between lei 5,000 and lei 7,000, for legal persons, in case of committing the deeds provided in par. (1) letter d);

c) by a fine between lei 2,000 and lei 3,500, for individuals, and fine between lei 12,000 and lei 14,000, for legal persons, in case of committing the deeds provided in par. (1) letter e) and f);
d) by a fine between lei 500 and lei 1,000, for individuals, and fine between lei 1,000 and lei 5,000, for legal persons, in case of committing the deeds provided in par. (1) letters a), b), g) - m);
$d^1$) abrogated
$d^2$) abrogated
e) by a fine between lei 1,000 and lei 1,500, for individuals, and fine between lei 4,000 and lei 6,000, for legal persons, in case of committing the deeds provided in par. (1) letter n) - r), if tax obligations evaded from payment are up to lei 50,000 inclusively;
f) by a fine between lei 4,000 and lei 6,000, for individuals, and fine between lei 12,000 and lei 14,000, for legal persons, in case of committing the deeds provided in par. (1) letter n) - r), if tax obligations evaded from payment are between lei 50,000 and lei 100,000 inclusively;
g) by a fine between lei 6,000 and lei 8,000, for individuals, and fine between lei 25,000 and lei 27,000, for legal persons, in case of committing the deeds provided in par. (1) letter n) - r), if tax obligations evaded from payment are over lei 100,000;
h) abrogated.
(3) In the case of individuals, non-compliance with the income tax return filing deadlines shall be deemed as a contravention and shall be fined 50 lei to 500 lei.
(4) In case of associations and other entities without legal personality, the civil law violations provided in par. (1) shall be sanctioned with the fine provided for individuals.
(5) The failure to submit fiscal declarations for the obligations due to local budgets is to be sanctioned according to the Law no 571/2003 on the Fiscal Code, as subsequently amended and completed.
(6) The amounts collected under the conditions of this title shall be revenues to the state budget or local budgets, as the case may be.

ARTICLE $219^1$
**Contraventions in respect of summary returns**
(1) The following shall be considered contraventions:
a) The failure to file the summary declarations regulated under Title IV of the Tax Code within the deadlines stipulated by law;
b) The fact of filing incorrect or incomplete summary declarations.
(2) The contraventions mentioned at indent (1) shall be fined as follows:
a) 1,000 lei to 5,000 lei for the contravention mentioned at indent (1) a);
b) 500 lei to 1,500 lei for the contravention mentioned at indent (1) b).
(3) The following shall not be fined:
a) The persons who correct their summary returns within the filing deadline for the next summary return, if the action mentioned at indent (1) b) was not detected by the tax bodies before the act of correction;
b) The persons who correct their returns after the legal filing deadline has expired, following an error that is not their fault.
(4) In the case of the fine applied for the purpose of indent (2), the offender shall be given the opportunity to pay 50 percent of the minimum fine within 48 hours, mentioned as such in the record of findings and penalties for contraventions.

ARTICLE $219^2$

**Contraventions and sanctions to the regime «Register of intra-community operators»**

(1) Intra-community operations done by persons who have the obligation to register in the Register of intra-community operators and are not registered in this register, according to the law, is contravention.

(2) The contravention for the fact provided in the paragraph (1) is sanctioned with a fine from 1.000 lei to 5.000 lei.

ARTICLE 220 abrogated

ARTICLE 221

**Ascertainment of civil law violations and application of sanctions**

(1) The ascertainment of civil law violations and application of sanctions shall be made by the competent fiscal bodies.

(2) The contravention sanctions provided in articles 219 - 220 shall be applied, as the case may be, to individuals and legal persons. In case of associations and other entities without legal personality, the sanctions shall be applied to their representatives.

(3) Ascertainment and sanctioning of the facts representing civil law violations according to art. 220 shall be performed by the specialized personnel within the Ministry Public Finances and its territorial units, except for the sanction of suspension of the authorization of fiscal warehouse decided by the competent tax authority, upon the proposal of the tax audit body.

(4) Civil law violations provided in art. 219 par. (1) letter b) are to apply for facts ascertained after the date of entry into force of this code.

(5) In the case of the application of fine according to art. 219 and 220, the taxpayer has the possibility to pay a half of the minimum fine as provided by this code within 48 hours and the ascertaining agent is to mention such possibility in the ascertainment and sanction minutes of such civil law violation.

ARTICLE 222

**Update of fines amounts**

The limits of the fines for civil law violations as provided in this Code may be updated annually, depending on the inflation rate, by a Government Decision, upon the proposals of the Ministry of Public Finances.

ARTICLE 223

**Applicable provisions**

The provisions of this Title shall be completed by legal provisions regarding the legal regime of civil law violations.

TITLE XI

**Final and transitional provisions**

ARTICLE 224

**Provisions regarding the customs regime**

Failure to pay within the deadline taxes, fees or other amounts payable, under the law, in customs shall trigger the prohibition to carry out other customs operations until the integral settlement thereof.

ARTICLE 225 abrogated

ARTICLE 226 abrogated

ARTICLE 227
**Provisions regarding public officers within the fiscal bodies**
(1) In carrying out their job duties, public officers within the fiscal bodies are invested with the power of public authority and benefit of protection according to the law.
(2) The state and the administrative-territorial units are liable from a patrimonial point of view for prejudices caused to the taxpayer by public officers within the fiscal bodies while carrying out their job duties.
(3) abrogated
(4) abrogated
(5) abrogated
(6) abrogated
(7) abrogated
(8) abrogated
(9) abrogated
(10) abrogated
(11) abrogated

ARTICLE 228
**Normative acts for application**
(1) For the application of this code, the Government shall adopt methodological norms for application, within 30 days as of the date of the publication of the law for the approval of this code in the Official Gazette of Romania, Part I.
(2) Forms required and instructions for use thereof to administer the tax receivables are to be approved by an order of the President of the National Agency for Fiscal Administration.
($2^1$) In order to apply the Fiscal Procedure Code, the president of the National Agency for Fiscal Administration can issue orders.
($2^2$) The rules for the management of tax claims of the administrative and territorial divisions or of the administrative and territorial subdivisions of municipalities, as the case may be, may be issued by order of the minister of administration and interior and minister of the public finances.
(3) Forms necessary and instructions for use of thereof to administer the local taxes and fees shall be approved by a joint order of the Minister of Administrative and Interior and the Minister of Public Finances.
(4) Forms necessary and instructions for using thereof as regards the realization of receivables of the general consolidated budget that are administered by other bodies shall be approved by an order of the competent minister or the head of such public institution, as the case may be.
(5) abrogated.

ARTICLE 229
**Fiscal bodies exemption from payment of fees**
Fiscal bodies shall be exempt from fees, tariffs, commissions or bails for applications, actions or any other actions they must take for the administration of tax receivables, except for those regarding the communication of the fiscal administrative documents.

ARTICLE 230
**Registration of receivables in Electronic Archive of Real Movable Guarantees**

For tax receivables administered by the Ministry of Public Finances, such ministry is authorized, as an operator that through its territorial units, that act as its empowered agents, to record the receivables included in the executory titles in the Electronic Archive of Real Movable Guarantees.

ARTICLE 231
**Provisions regarding deadlines**
Current deadlines upon the date of entry into force of this Code shall be calculated according to legal norms that are effective upon such deadlines initiation date.

ARTICLE 232
**Seizures**
(1) Seizures according to law are to be carried out by bodies that ordered such seizure. Seizures ordered by prosecutors or by law courts shall be carried out by the Ministry of Public Finances, the Ministry of Administrative and Interior or, as the case may be, by other public authorities empowered by law, by their competent bodies, as established by a joint order of heads of the institutions in question, and the sale of the seized assets shall be made by competent bodies of the Ministry of Public Finances, according to the law.
(2) If the seizure ordered by prosecutors or law courts concerns amounts in foreign currency, the amounts shall be converted into RON at the exchange rate communicated by the National Bank of Romania, valid when the measure of the seizure remains permanent.
(3) The amounts seized and those derived from the sale of seized goods, except for expenses incurred by the performance and the sales thereof shall become revenue to the State budget or the local budget, as the case may be, according to law.

ARTICLE 233
**Ascertainment of facts that may constitute offences**

Ascertainment of facts that may constitute offences according to article $296^1$ of the Law no 571/2003 with subsequent amendments and completions is the competence of the tax bodies within the National Agency for Fiscal Administration. The minutes prepared are mean of proof under article 214 in the criminal procedure Code.

ARTICLE $233^1$
**Cooperation with bodies of criminal investigation**
(1) In case there are data or sound indexes regarding the preparation or the realization of offences that aim for the goods provided in article 135, the paragraph (4) of the Law no. 571/2003, with subsequent amendments and completions, that enter in the area of application of the excise, the criminal investigation bodies can undertake founding, investigation and proof preservation activities.'
(2) In the case provided in paragraph (1) the criminal investigation bodies require immediately to the control bodies within the National Agency for Fiscal Administration, to run tax audits, according to the targets set up.
(3) Upon request of criminal investigation bodies, when there is the danger for means of proof to disappear or for a situation de facto to change and it is necessary to clarify immediately facts and circumstances of the cause, the staff assigned within the National Agency for Fiscal Administration runs tax audits.
(4) In the cases soundly grounded, after the criminal investigation initiation, with the approval of the prosecutor, the National Agency for Fiscal Administration can be asked to run tax audits, according to the targets set up.

(5) The result of the audits provided in the paragraphs (2)-(4) is registered in the minutes that are means of proof. The minutes are not debenture in the sense of article 110.

ARTICLE 234
**Procedural provisions regarding registration in the case of activities with excisable products**
(1) The registration provided in art. $244^1$ par. (1) from the Law no 571/2003 on Fiscal Code, as subsequently amended and completed, shall be made by submitting to the competent fiscal body of an application for registration.
(2) Based on the application for registration the competent fiscal body shall issue a certificate entitling the holder to distribute and sell in wholesale system, alcoholic beverages and tobacco products.
(3) The competent fiscal body shall issue the attestation only if all conditions of art. $244^1$ par. (1) from the Law no 571/2003, as amended and completed, are met.
(4) The fiscal body issuer shall revoke the attestation any time it ascertains thefailure to observe one of the conditions provided in art. $244^1$ par. (1) from the Law no 571/2003, as amended and completed.
(5) By derogation from the legal provisions on the use of fiscal warehouses, upon the request of the fiscal warehouse keeper authorized for the production and bottling of beer, the committee responsible for authorizing the fiscal warehouses may approve, by decision, the use of bottling equipment for beer also for bottling soft drinks and still water. The other provisions on the fiscal warehouses keeping shall be applied accordingly.
(6) By decision, the committee may set the conditions for use of the installations.

ARTICLE 235
**Transitional provisions regarding fiscal registration**
(1) Persons provided in art. 72 par. (4), that are already registered, are required to submit the fiscal registration statement within 30 days as of the entry into force of this Code.
(2) Tax identification codes and tax registration certificates assigned prior to the entry into force of this Code shall remain valid.
(3) Persons registered in the Register of taxpayers upon the entry into force of this Code whose fiscal domicile differ from their registered location, in case of legal persons, or domicile in case of individuals, as the case may be, are obliged to submit the fiscal registration declaration within 90 days as of the date of entry into force of this Code. Otherwise, the last domiciled or location as declared is to be considered as the valid fiscal domicile.

ARTICLE 236
**Transitional provisions as regards solution of applications for value-added tax refund**
Applications for the value added tax refund, which were submitted according to the value-added tax law but were not solved until the entry into force of this Code, shall be solved in compliance with regulations based on which they were submitted.

ARTICLE 237
**Transitional provisions regarding tax audit**
Tax audits commenced before the entry into force of this Code are to continue according to existing procedures upon the date of initiation thereof. In these cases, the measures decided in the minutes of control are assimilated with an administrative fiscal document.

ARTICLE 238

**Transitional provisions regarding solution of appeals**

(1) Appeals submitted prior to the date of entry into force of this Code shall be solved according to the existing administrative-jurisdictional procedure upon the submission of such appeal.

(2) In case of appeals with the judgment in progress, filled in against audit documents by which the same period and the same type of tax obligation were verified before and for which from the instrumentation of the criminal cases by competent bodies no prejudice resulted, previously determined obligations shall be maintained.

ARTICLE 239

**Transitional provisions regarding forced execution**

The forced executions already commenced upon the entry into force of this Code shall continue according to its provisions, the acts previously performed remaining valid.

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**Entry into force**

This Code shall enter into force as of 1st January 2004. Provisions of Title X "Sanctions" shall enter into force as of 10th January 2004.

ARTICLE 241

**Temporal conflict of normative acts**

Regulations issued on the basis of the emergency ordinances and ordinances provided in art. 242 are to remain applicable until the date of the approval of normative acts for the implementation of this Code, as provided in art. 228, to the extent that such regulations do not contradict the provisions of this Code.

ARTICLE 242

**Abrogated provisions**

On the entry into force of this Code, the following normative acts shall be abrogated:

a) Government Ordinance no 82/1998 on the fiscal registration of taxpayers, republished in the Official Gazette of Romania, Part I, no 712 of 01.10.02, as amended and completed;

b) Government Ordinance no 68/1997 on the procedure to prepare and submit fiscal declarations, republished in the Official Gazette of Romania, Part I, no 121 of 24.03.1999, as amended and completed;

c) Government Ordinance no 61/2002 concerning collection of budgetary receivables, republished in the Official Gazette of Romania, Part I, no 582 of 14.08.2003, as amended and completed;

d) Government Ordinance no 70/1997 on Fiscal Code, published in the Official Gazette of Romania, Part I, no 227 of 30th August 1997, approved with amendments and completions by Law no 64/1999, as amended and completed;

e) Government Emergency Ordinance no. 13/2001 concerning the solution of appeals submitted against measures taken by the audit or tax documents prepared by bodies of the Ministry of Public Finance, published in the Official Gazette of Romania, Part I, no 62 of 6th February 2001, approved with amendments and completions by Law no 506/2001, as amended and completed;

f) Government Ordinance no 39/2003 on the procedures for administration of receivables to local budgets, published in the Official Gazette of Romania, Part I, no 66 of 2nd February 2003, approved with amendments and completions by Law no 358/2003;

g) par. 5 in chapter I of the annex to the Law no 117/1999 concerning extrajudicial stamp fees, published in the Official Gazette of Romania, Part I, no 321 of 06.07.1999, as amended and completed;
h) art. 3 from the Law no. 87/1994 concerning the fight against the tax evasion, republished in the Official Gazette of Romania, Part I, no 545 of 29th July 2003;
i) art. IV par. (1) - (5) from the Government Ordinance no 29/2004 for the regulation of certain financial measures, approved with modifications and completions through the Law no 116/2004, published in the Official Gazette of Romania, Part I, no 90 on 31st January 2004;
j) art. 246 from the Law no. 571/2003 on the Fiscal Code published in the Official Gazette of Romania, Part I, no 927 of 23rd December 2003;
k) art. 61 par. (3) from the Law no 141/1997 on the Customs Code of Romania, published in the Official Gazette of Romania, Part I, no 180 on 1st August 1997, as subsequently amended and completed.
l) chapter III "Civil law violations and related sanctions" from Law no 87/1994 concerning the tax evasion control, republished in the Official Gazette of Romania, Part I, no 545 of 29th July 2003, as subsequently amended.