

APRIL 2005

NUMBER IV

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FISCAL CODE**Amendments to the Fiscal Code**

Several amendments with respect to the Fiscal Code have been enacted during the past month.

Chronologically, the first one is Law no. 96/2005 on the approval of Government Emergency Ordinance No. 123/2004 on the amendment and completion of the Fiscal Code, published in the Official Gazette No. 325 of April 18, 2005.

Mention should be made that under the Government Emergency Ordinance No. 123/2004 the stamp duties to be paid for the authentication of the *inter-vivos* deeds of transfer of ownership rights and of other real-estate related rights over lands free of any constructions have been reduced by half.

According to Law No. 96/2005, the reduced stamp duties are applicable only to the transfer of real-estate located outside the locality border.

The second amendment, bearing a significant practical importance, is brought by the Government Emergency Ordinance No. 30/2005, published in the Official Gazette No. 367/2005, according to which the enforcement of certain taxes and duties introduced by the Government Emergency Ordinance No. 24/2005 on the amendment of the Fiscal Code is postponed until June 1st, 2005.

Pursuant to the Government Emergency Ordinance No. 30/2005, the enforcement of the following taxes and duties shall start as from June 1, 2005: (i) the 10% tax on the income obtained by Romanian residents from the sale of privately owned real estate; (ii) the 10% tax on gains from currency transactions and any other similar transactions carried out by Romanian residents.

At the same time, the amendment of certain taxes has been postponed until June 1, 2005, as follows: (i) increase from 1% to 10% of the tax on income from interest applied to Romanian residents; (ii) increase from 1% to 10% of tax on gains obtained by Romanian residents from sale of shares in case the shares have been hold for less than 365 days prior to the sale and (iii) increase from 5% to 10% of the tax on incomes obtained by non-residents from interests on deposit accounts, deposit certificates and other saving instruments issued by banks and other credit institutions authorized and located in Romania.

**FOREIGN EXCHANGE
REGIME****The New Regulation on Foreign Exchange**

In accordance with the calendar for the liberalization of capital transactions agreed with the European Union, the National Bank of Romania („NBR”) issued the Regulation no. 4/2005 on foreign exchange regime (published in the Official Gazette no 297).

Came into force on April 11, 2005, the enactment repeals the former regulation, by

setting up a simplified regime applicable to foreign exchange transactions performed by residents and non-residents on the Romanian territory.

The main amendments in this respect regard the elimination of the requirement that deposit accounts opened by non-residents in domestic currency be subject to authorization, as well as the freedom granted to residents with respect to performing any operation which is not subject to goods and services trade in either domestic or foreign currency.

With a view to enforce the Regulation no. 4/2005, NBR issued a series of norms concerning: (i) the operation of the interbank forex market; (ii) the performance of exchange transactions; (iii) the authorization of foreign exchange transactions; (iv) the physical import and export of cash payment instruments and (v) the protective measures that may be taken following liberalization of operations in deposit accounts in domestic currency.

The foreign exchange regime applicable to residents

Pursuant to Regulation no. 4/2005, current and capital foreign exchange transactions may be freely performed between residents and non-residents, in both foreign and domestic currency, save for specific cases provided by the afore-mentioned NBR norms.

As regards foreign exchange transactions performed between residents, the new enactment provides that all operations that

are not subject to goods and services trade may be freely performed in either domestic or foreign currency, upon the parties' consent.

According to the new Regulation, residents may acquire, hold and use any foreign and domestic currency denominated financial assets. Furthermore, they may perform freely and without restrictions current and capital transactions.

The NBR Norm no. 5/2005 concerning the authorization of foreign exchange transactions maintains the requirement pursuant to which current and deposit accounts in foreign currency opened by residents abroad should be authorized by the NBR.

The foreign exchange regime applicable to non-residents

According to the new enactment, non-residents may freely open and operate bank accounts in both foreign and domestic currency, without the prior approval of NBR. Furthermore, non-residents may repatriate and transfer abroad financial assets held in Romania.

As per art. 4 of the Regulation no. 4/2005, non-residents may acquire, hold and use any foreign and domestic currency denominated financial assets. Moreover, they may perform freely and without restrictions current and capital transactions.

Protective measures

Throughout the above-mentioned enactments, NBR has reserved the

possibility to intervene on the interbank forex market by means of several protective measures, in case extremely significant cash-flows over short periods of time apply strong pressure on the market and cause severe disturbances in the execution of the monetary policy and of the exchange rate, by generating significant variations of the domestic liquidity.

According to the NBR Norm no. 7/2005 concerning protective measures that may be taken following liberalization of operations in deposit accounts in domestic currency, a possible course of action might be as follows: maintaining certain amounts in foreign currency in an account opened with NBR, over fixed periods of time, or setting higher compulsory minimum reserves rates for deposits opened by residents and non-

residents in domestic currency, as a result of capital inflows.

Other possible measures in this respect might be: the setting by NBR of a commission on interbank forex market transactions related to capital inflows/outflows performed by residents/non-residents with a view to deposit/attract certain amounts denominated in domestic currency into/from deposits opened in Romania, or imposing restrictions over deposits in domestic currency opened by residents and non-residents following capital inflows/outflows.

In any case, such measures taken by NBR shall be notified to the European Commission and shall not exceed 6 months.