

# Indirect Taxnewsflash

## New legislation on VAT and customs

### Services

- General training
- Industry focused training
- Client customized training
- Revision of the implementation of the new rules regarding VAT and customs duties
- Advisory services on specific issues

### Changes to the Fiscal Code

*Government Emergency Ordinance no. 200/2008 (hereinafter "the GEO") published in Official Gazette no. 815 (4 December 2008), introduces changes to the Romanian Fiscal Code.*

#### *The 5% reduced VAT rate*

*A reduced value added tax (VAT) rate of 5%, introduced by the GEO is to be applied to the taxable amount for supply of real estate properties as part of the social policy, including the land on which they are built.*

As from 15 December 2008, a reduced value added tax (VAT) rate of 5% will be introduced for the sale of residential real estate which:

- is designed for retirement homes for the elderly or pensioners, children's homes, as well as for centers for children with special needs;

- has a usable surface area of up to 120 square meters (and land on which it is constructed does not have a surface area exceeding 250

square meters), and a value of less than RON 380,000. The reduced VAT rate of 5% may be applied only once for each individual or family, meaning that an individual or couple may not benefit from a 5% VAT rate if they have previously purchased a residence which was subject to this 5% VAT rate.

- is supplied to city halls to be used for social housing purposes.

#### *The single authorization for simplified customs procedures*

The GEO introduces measures designed to support the application of the new Community Customs Code and will enter into force as from 1 January 2009.

In order to be able to deduct the VAT on import operations carried out in Romania, holders of Single Authorizations for Simplified Customs Procedures issued by the customs authorities of another EU Member State, have the obligation to file an import declaration for VAT and excise duty purposes to the Romanian customs authorities.

According to the GEO, such importers (i.e. title holders of Single Authorizations for Simplified

Customs Procedures issued by the customs authorities of another Member State) are obliged to pay VAT to the Romanian customs authorities before filing the import declaration. The excise duty for imported products under such conditions becomes due at the moment when the import declaration for VAT and excise duty is filed.

Importers that transfer excisable products under a suspensive regime after the products have been released for free circulation through a simplified customs procedure, have to be authorized by the appropriate authorities in their State of residence for operations with excisable products under a suspensive regime and must have an excise code issued by the authorizing Member State.

When the transfer is done between a customs office of entry in Romania and a fiscal warehouse in Romania (i.e. a registered or an unregistered Romanian operator), the excisable products have to be accompanied by three copies of the AAD (Administrative Accompanying Document).

For the transfer between a customs office of entry into EU territory, situated in a Member State applying the simplified customs procedure, and a fiscal warehouse, (i.e. a registered or an unregistered Romanian operator), the excisable products (subject to a transit procedure beginning at the frontier) have to be accompanied by three copies of the SAD (Simplified Administrative Document).

The provisions related to the transfer of excisable products are also applicable to importers registered in Romania as holders of a Single Authorization for Simplified Customs Procedures issued by the Romanian Customs Authority when the products are released for consumption in another Member State which applies the simplified customs procedure.

### **Change to TIR: requirement to submit electronic customs declaration**

According to recent changes made to EU legislation (Commission Regulation no 1192/2008) with respect to the concept of "electronic customs clearance" of TIR operations, as from 1 January 2009 the confirmations, and subsequently the discharge, of such transit procedures will be processed by means of electronic messages using the New Computerized Transit System (NCTS).

Consequently, there is an obligation to send the information contained in the paper TIR carnet in electronic format to the entry/exit customs office. Note that the paper TIR carnet remains the document which should accompany the transport of the goods.

For more details regarding this new procedure the Romanian Customs authorities have published on their website ([www.customs.ro](http://www.customs.ro)) a draft order regarding the use of the NCTS.

### **New Norms for the completion of the Intrastat Declaration**

*The Romanian Institute of Statistics (INS) has issued Order 684/2008, setting out the norms for filling in the Intrastat declaration in 2009.*

Even though new thresholds for submitting the Intrastat declaration had been expected, the new Order does not provide any information about this, but only corrects some discrepancies between the current norms for completing the declarations, EU Regulations (EC) No 1982/2004 and (EC) No 638/2004 on Community statistics relating to the trading of goods between Member States and the Manuals for completing the Intrastat declaration available on the INS website.

Thus, it is now clearly stated in Order 684/2008 that Heligoland (DE) is not a territory for which the taxpayer is required to submit Intrastat information.

On the other hand, even though the Commission Regulation (EC) No 1982/2004 states that taxes and duties should be excluded from the value of the goods reported for Intrastat purposes, the Romanian legislation applicable in 2008 states that only the VAT should be excluded from the value of the goods (the Manuals available on the INS website and the norms applicable for 2007 provide that any duties are excluded).

Remember that a company is required to submit the Intrastat

declaration if it exceeds the thresholds (i.e. if it has intra-community arrivals exceeding RON 300,000 or intra-community deliveries exceeding RON 900,000) and that failing to do so may trigger fines of between RON 7,500 and RON 15,000. These fines also apply if the taxpayer fails to submit a blank Intrastat declaration (i.e. for a period when intra-community operations have not been performed). If it wishes, a company may appoint a third party to complete and submit Intrastat declarations on its behalf.

## About us

Our team consists of more than 100 Romanian and international consultants, with command of local and international legislation, organized to be able to react at short notice to requests for tax assistance covering a wide range of issues.

## Contact details

**Patrick Leonard**  
Partner Taxation Services  
patrickleonard@kpmg.com

**Niculae Done**  
Partner Taxation Services  
ndone@kpmg.com

**Valentin Țic**  
Partner Taxation Services  
vtic@kpmg.com

**Ramona Jurubiță**  
Senior Manager Taxation Services  
rjurubita@kpmg.com

**KPMG Romania S.R.L.**  
Victoria Business Park,  
DN1 Bucuresti Ploiesti  
nr. 69-71 Sector 1,  
Bucuresti 013685,  
Romania  
P.O. Box 18 – 191

Tel: +40 741 800 800  
Fax: +40 741 800 700

E-mail: [kpmgro@kpmg.ro](mailto:kpmgro@kpmg.ro)  
Internet: [www.kpmg.ro](http://www.kpmg.ro)

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