



Tax & Legal Highlights

Romania

The conditions of issuance of the European Unique Identifier (EUID)

The Order of the Ministry of Justice regarding the approval of the EUID structure for the professionals registered with the Trade Registry and the standard model of the registration certificate is currently under public debates and is expected to be approved and enter into force starting with 7 July 2017.

In order to ensure that official information on companies is always readily available on a cross-border basis, the Directive 2012/17/EU (i.e., Directive 2012/17/EU amending Council Directive 89/666/EEC and Directives 2005/56/EC and 2009/101/EC of the European Parliament and of the Council regarding the interconnection of central, commercial and companies registers) regulates the establishment of an interconnection system for the information held with respect to legal entities registered with the commercial registries in the Member States.

In Romania, Directive 2012/17/EU is transposed through Law 152/2015 which amends and supplements a series of legal acts regarding Trade Registry registrations. Law 152/2015 establishes that the National Trade Registry Office and all the local Trade Registry offices will be part of an interconnection system available both at national and European level.

In order to facilitate the identification of professionals registered with the

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commercial registries of the Member States, all such professionals (natural and legal persons) will be assigned a European Unique Identifier (EUID).

The structure of such EUID is determined by the Order of the Ministry of Justice for the approval of the EUID structure for the professionals registered with the Trade Registry and the standard model of the registration certificate ("Order") and includes the following:

- country code, followed by the local Trade Registry ID and by the specific registration number.

Additionally, the Order provides the following:

- each natural or legal person shall have an EUID assigned in the integrated informatics system of the National Trade Registry upon the incorporation / registration with the relevant Trade Registry;
- the EUID will be mentioned in the registration certificates of each such professional.

Although the enactments previously mentioned provide that all professionals registered with the Trade Registry will be assigned the EUID, the Order does not impose any obligation to the professionals already registered with the Trade Registry to perform any formalities in order to be granted such EUID.

In this respect, the Order mentions only that such professionals may request the issuance of a new registration certificate from the Trade Registry, which should include also the new EUID.

The Order is currently under public debates and is expected to be approved and enter into force starting with 7 July 2017.

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Transfer Pricing: OECD releases new edition of transfer pricing guidelines

An updated version of the OECD Guidelines - Transfer Pricing Guidelines for Multinational Companies and Tax Administrations was published on 10 July 2017 by the Organization for Economic Cooperation and Development (OECD). The previous version of the guidelines was issued in 2010.

The Romanian Fiscal Code recommends complying with the OECD Transfer Pricing Guidelines.

The updated version of the OECD Guidelines includes a series of recommendations undertaken from the BEPS reports - Base Erosion and Profit Shifting. We reiterate the fact that Romania is an associated member of BEPS starting June 2017.

The main changes brought by the updated version of the OECD Guidelines are:

Actions 8-10 "Aligning Transfer Pricing Outcomes with Value Creation"	
<p>Chapter I, Section D ("The Arm's Length Principle")</p> <p><i>The provisions of this section are deleted in their entirety and replaced by new guidance.</i></p>	<p>Members of Multinational Enterprises will not be remunerated based only on the capital employed but rather on the control exercised in the process of decision making.</p>
<p>Chapter VI ("Special Considerations for Intangibles")</p> <p><i>The provisions of Chapter VI of the Transfer Pricing Guidelines and the annex to this Chapter are deleted in their entirety and replaced by new guidance and annex</i></p>	<p>The updated guidelines include information regarding the definition of the intangibles, principles of appropriate allocation of profits associated with the transfer and use of intangibles and transfer pricing rules or special measures for transfers of hard-to-value intangibles.</p> <p>Moreover, it must be assured that the profits associated to the transfer and use of intangibles are properly allocated, in correspondence with the process of present and future value creation.</p>
<p>Chapter VII ("Special Considerations for Intra-Group Service")</p> <p>The provisions of Chapter VII of the Transfer Pricing Guidelines are deleted in their entirety and replaced by new guidance.</p>	<p>The new provisions include guidance regarding low value-adding intra-group services and a simplified approach to such services.</p>
Action 13 "Transfer Pricing Documentation and Country-by-Country Reporting"	
<p>Chapter V („Documentation")</p> <p><i>The provisions of Chapter V of the Transfer Pricing Guidelines are deleted in their entirety and replaced by new guidance and annexes.</i></p>	<p>The transfer pricing documentation should comprise the following:</p> <ul style="list-style-type: none"> - A documentation which should include information regarding the Multinational Enterprises („Masterfile"); - A local documentation which should include information regarding intra-group transactions of the taxpayer („Local file"); - A documentation which should include information regarding the manner in which income, taxes are allocated and reporting of financial indicators („Country-by-Country Report").

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Significant changes are also made in Chapters II (“Methods”), IV (“Administrative Approaches to Avoiding and Resolving Transfer Pricing Disputes”) – revised guidance regarding safe harbors, VIII (“Cost Contribution Arrangements”) and IX (“Transfer Pricing Aspects of Business Restructurings”).

Some of the BEPS work streams have not been finalized in the 2017 transfer pricing guidelines, including the guidance on hard-to-value-intangibles and the attribution of profits to a permanent establishment.

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The stamp is no longer mandatory for documents submitted to the customs authorities

Stamping the declarations, applications, contracts or any other documents to be submitted to the customs authorities is not mandatory, states the General Customs Directorate on its own website, www.customs.ro.

Stamping the declarations, applications, contracts or any other documents or documents to be submitted to public institutions or authorities, issued, or concluded in relation to public institutions or authorities is not mandatory, both for natural persons and legal persons.

As of 30 July 2017, the act of requesting natural persons, private legal entities and entities without legal personality, to stamp declarations, applications, contracts or any other documents committed by the person within an institution or public authority, constitutes a disciplinary offense and entails disciplinary liability.

The measure is included in Government Emergency Ordinance no. 49/2017, which was published in the Official Gazette, Part I, no. 507 of 30 June 2017 and will apply from 30 July 2017.

Commission's Electronic Decision System, applicable from 2 October 2017

Information sharing related to applications and decisions between customs authorities in the European Union, as well as between economic operators and customs authorities in the European Union, will be carried out by using electronic data processing techniques, starting with 2 October 2017.

Starting 2 October 2017, the applications and authorizations listed in Annex A to Delegate Regulation (EU) No. 2446/2015 of the Commission will be managed in the European Commission's Central Customs Decision System ("DGTAXUD"), except:

- Decisions on mandatory information;
- Applications and authorizations for the status of authorized economic operator;
- Applications and decisions regarding repayment or remission of import or export duties;

Applications and authorizations for the use of the temporary admission procedure, final destination, inward processing or outward processing in situations where Article 163 (1) of Delegate Regulation (EU) 2015/2446 of the Commission applies;

What does this mean for the economic operators?

Using the above-mentioned electronic data processing system will ease the procedures for obtaining customs authorizations and will reduce the processing time of the customs applications.

In order to obtain the right of access to DGTAXUD's Central Customs Decision System, the interested economic operators must access the link "Decizii Vamale/Cerere acces sistem Decizii Vamale" link, which will be available on the General Customs Directorate's website, starting with 01.08.2017.

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