

Tax & Legal Weekly Alert

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Amendments to the legislation on cash registers

Law published on 17th of July for repealing par. (1), (2) and (4) of art. 40 of the Government Ordinance no. 27/2011 on road transport, as well as for amending and completing Government Emergency Ordinance no. 28/1999 on the obligations of economic operators to use fiscal electronic cash registers.

Furthermore, a legislative proposal was put forward in order to eliminate the contravention regarding the non-observance of the deadlines stipulated by the GEO 28/1999, to use electronic cash registers, from under the provisions of the Prevention Law no. 270/2017.

Approval of the Administrative Code – amending the legal regime of the public and private ownership held by the state and the administrative-territorial units

On July 5, 2019 the Emergency Government Ordinance no. 57/2019 (“**GEO 57/2019**”) regarding the Administrative Code was published in the Official Gazette. The legislative deed entered into force on the same day, with the exception of several provisions for which a subsequent date of entry into force was expressly indicated. Although the Administrative Code mainly contains provisions on the organization and operation of the public authorities, there are several important amendments set forth with respect to the legal regime of the private and public ownership held by the Romanian state or by the administrative-territorial units (“**UAT**”).



Amendments to the legislation on cash registers

Among the main changes that the Law no. 136/ 20 July 2019 puts forward, we list:

- Economic operators delivering goods or services through unattended vending machines that do not constructively incorporate the printing device are exempt from the obligation to issue receipts with fiscal electronic cash registers until 31st of December 2019.
- In the case of a malfunctioning of fiscal electronic cash registers, for the period up to the re-commissioning, the obligation to register operations carried out within a special register shall not apply to economic operators who use, in order to record revenue, fiscal electronic cash registers that are integrated in unattended vending machines.
- Economic operators using fiscal electronic cash registers that do not constructively incorporate the printing device are exempt from the obligation to display the detailed alert notice in the customers' attention.
- In the case of fiscal electronic cash registers which do not constructively incorporate the printing device, the fulfillment of the function of printing receipts, daily closing tax reports and other types of documents provided by the law is not mandatory.
- The obligation to archive and keep the daily closing tax report for a period of 5 years does not apply to economic operators who use fiscal electronic cash registers that do not constructively incorporate the printing device.
- An extension is granted for the exception regarding the contravention for the obligation to keep and archive the storage roll/ storage device of the electronic journal as well as sales made with fiscal electronic cash registers, which are integrated into unattended vending machines, where the special register is not used.

The law also introduces new provisions, as follows:

- In Article 3, two new paragraphs are introduced, specifying that for cash registers devices such as vending machines, constructive incorporation of the printing device and the customer display is not required. It also specified that the establishment of the configuration, technical and functional characteristics of the cash registers is made through the applicability of norms of the Emergency Ordinance 28/1999.
- A new letter is added to the list of cases for which the replacement of the fiscal memory of the installed fiscal electronic cash registers is not mandatory, that covers the change of address from the place of installation of the cash registers that do not constructively incorporate the printing device.

As of January 1st, 2020, economic operators delivering goods or services through card or cash-based cash registers are required to equip these vending machines with a simplified model of fiscal electronic cash register.

Moreover, it is also mentioned that within 60 days from the date of entrance into force of this law, the Government will accordingly amend and complete the Methodological Norms for the application of the Emergency Ordinance 28/1999.

Additionally, the Ministry of Public Finance proposes the introduction of a normative act, in order to eliminate the contravention regarding the non-observance of the deadlines stipulated by the law, to use electronic cash registers under the provisions of the Prevention Law no. 270/2017 from the users of the electronic fiscal cash registers, according to a draft proposal published on the institution's website.

This measure is considered necessary given that economic operators violating the obligation to provide the new devices do not have objective reasons for non-compliance, as distribution licenses for the cash registers covering all types of economic activities have been issued, and authorized distributors have stocks of new cash registers available. In addition, a large number of economic operators have purchased and installed fiscal electronic cash registers with electronic journals, and the perpetuation of this situation would lead to discrimination of the compliant economic operators.

Please note that this proposal is still a Draft Law and has not been enforced yet.

[For further questions regarding the aspects mentioned in this alert, please contact us.](#)



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Administrative Code Approval – amending the legal regime of the public and private ownership held by the state and the administrative-territorial units

The legal changes following the entry into force of the Administrative Code with respect to the legal regime of the public and private ownership of assets held by the state and the UAT are presented below:

Legislation containing relevant provisions with respect to the public/private ownership of assets has been repealed. We expressly mention the Emergency Government Ordinance no. 54/2006 regarding the legal regime of the concession agreements for public assets, the Public Administration Law no. 215/2001 and Law no. 213/1998 regarding public ownership of assets (except for provisions included in art. 6 therein). The legal regime for the concession of public assets, as regulated by the Administrative Code, sets forth a series of changes compared to the previous legal provisions.

Regulation of the procedure regarding the sale of assets held in private ownership by the State/UAT. Although the new regulation does not bring substantial changes regarding the principles of such a sale (e.g. a public tender must be organized, with the justification of the opportunity of such an action), additional conditions are established in this respect. For example, it is expressly provided that the minimum sale price shall be the highest value among:

- (i) the market price included in the valuation report prepared by authorized evaluators selected through public tender *and*
- (ii) the inventory value of the immovable assets.

The legal liability regarding the accuracy of the price included in the valuation report shall belong entirely to the evaluator. The approval of the sale of assets held in private ownership by UAT shall be performed through the decision of the local/county council approved with a qualified majority of two thirds of the local/county council members.

Exercising the ownership right held by the State/UAT. The Administrative Code creates a general legal framework for exercising the public and private

ownership right held by the State/UAT. Amongst the forms of exercising the ownership right, applicable for both public and private domains, the following are expressly listed: granting into administration, concession, leasing and granting into free use.

The legal provisions applicable for exercising the public ownership right shall be applicable correspondingly to the exercising of the private ownership right, namely with respect to the granting into administration, concession, leasing and the granting into free use of the assets in the private domain held by the State/UAT.

In this context, we highlight that the specific provisions included in Law no. 50/1991 on the authorization of construction works, regulating the possibility to grant in concession buildable lands (held by the State or the UAT), do not appear to be expressly repealed by the Administrative Code.

New legal provisions on grounding the cessation of public use. According to the Administrative Code (and in line with the previous regulation included in Law 213/1998), the transfer of an asset from the public domain to the private domain may be approved to the extent that the cessation of the public use or public interest has been thoroughly grounded. We highlight that the failure to observe such procedure shall be sanctioned with the absolute nullity. An enhanced attention needs to be granted to the instruments documenting the grounds for the cessation of public use/interest.

Acceptance of donations and legatees. Assets affected by tax arrears may be subject to donations to the State/UAT. The nature and/or value of donated assets shall be the essential elements in determining the competent authority to accept the donation.

New legal provisions regarding the inventorying of assets held in public or private ownership of the State/UAT. The legal provisions of the Administrative Code are extensively detailed with respect to the preparation of the inventory of assets held by the State/UAT, additional conditions being provided with respect to such provisions. It should be noted that the failure to observe such conditions may entail the nullity of the decision for the approval of the inventory.

The Administrative Code regulates a series of matters which are assigned expressly by the Constitution for approval through organic law. These matters include: the legal regime of the property, the statute of public officials or the organization of the local public administration. Nevertheless, the Administrative Code has been approved through an emergency ordinance. Therefore, we do not exclude a subsequent constitutional control on the Administrative Code following its entry into force. Additionally, amendments may be proposed through the legislative process for approval by the Parliament.

For further questions regarding the aspects mentioned in this alert, please contact us.



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