



In this issue:

New amendments brought to the RO e-Invoice system

On June 21, 2024, was published in the Romanian Official Gazette the Emergency Ordinance no. 69/2024 which provides for certain changes in the field of electronic invoicing.

The implementation of the pre-filled RO e-VAT return

On June 21, 2024, was published in the Romanian Official Gazette the Emergency Ordinance no. 70/2024 regarding the measures for the implementation and use of the pre-filled RO e-VAT return.

I. Amendments to the RO e-Invoice system

On June 21, 2024, in the Romanian Official Gazette no. 582, Part I, the Emergency Ordinance no. 69/2024 for the amendment and completion of certain normative acts in the field of management and implementation of the national system on electronic invoicing **RO e-Invoice** and electronic fiscal cash registers, as well as for other fiscal measures ("Ordinance"), was published.

The main amendments brought to the RO e-Invoice system are the following:

Application of RO e-Invoice in case of B2C transactions

Starting with January 1, 2025, the RO e-Invoice system is extended to B2C transactions as well.

Thus, taxpayers established in Romania (regardless of whether they are registered for VAT purposes or not) will have to follow the rules regarding the RO e-Invoice system for the transactions with the place of supply in Romania, carried out in B2C relationship.

Simplified invoices issued according to art. 319 (12) of Law no. 227/2015 regarding the Fiscal Code are exempt from this rule.

Between July 1, 2024 – December 31, 2024, electronic invoicing requirements will be optional for B2C transactions.

Application of RO e-Invoice in case of legal enforcements

Starting with July 1, 2024, electronic invoicing rules will become mandatory at the level of enforcement bodies that issue invoices in the name and on behalf of suppliers established in Romania (regardless of whether they are registered for VAT purposes or not), for supplies of goods performed within the enforcement procedures or valuation of seized assets in criminal proceedings. In this regard, *the "RO e-Invoice Register for legal enforcements"* will be in place.

"RO e-Invoice optional" system

The use of the RO e-Invoice system is not mandatory for the following taxpayers:

- Taxpayers which perform supplies of goods or services according to art. 294, para. 1), letter j)-n) of the Fiscal Code, for the related invoices;
- associations and foundations established on the basis of Government Ordinance no. 26/2000, for invoices issued between July 1, 2024 and June 30, 2025;
- individual farmers who apply the Special Regime for Farmers provided by art. 315¹ of the Fiscal Code, for invoices issued between July 1, 2024 and June 30, 2025.

The taxable persons mentioned above, for whom the use of the RO e-Invoice system is not mandatory, can opt for its use.

A very important clarification brought by the Ordinance refers to the fact that if taxpayers not established in Romania, but holding a Romanian VAT registration number, choose to use the RO e-Invoice system, then the obligation to report invoices will no longer be applicable, the taxpayers having to comply with all the rules regarding the transmission of invoices in electronic format.

If opted to use the RO e-Invoice system, the taxpayers mentioned above will be registered in the *"Optional RO e-Invoice Register"* starting with the 1st of the month following the one in which they opted for the registration in the system.

"RO e-Invoice mandatory" system

Associations and foundations that carry out economic activity, **as well as individual farmers** who apply the Special Regime for Farmers, have the obligation to apply for registration in *the "RO e-Invoice mandatory" register* by July 1, 2025 (if they have not applied for registration in the *"RO e-Invoice optional" register* by that date).

If the ones mentioned above will start carrying out economic activity after June 30, 2025, then they will have the obligation to apply for registration in the *"RO e-Invoice mandatory" register* before starting to carry out economic activities and will be registered within 3 working days from the date of the request.

The "RO e-Invoice mandatory" register will be available starting with July 1, 2025.

Taxpayers established in Romania who will supply goods or services to associations and foundations or to individual farmers (such as those mentioned above) will not have the obligation to transmit the invoices through the RO e-Invoice system unless the beneficiaries will be registered in the RO e-Invoice optional or RO e-Invoice mandatory registers.

Other amendments with respect to the application of the "RO e-Invoice" system

➤ *Application of fines*

Regarding the application of fines for non-compliance with the legal deadline for transmitting the invoices through the RO e-Invoice system, a very important clarification is provided in the sense that the fine will be applied to one or more invoices whose deadline for transmission occurs during a calendar month.

➤ *Non-taxable transactions from a VAT perspective*

Invoices issued for transactions that are not within the scope of VAT or for amounts that are not included in the VAT taxable base, for which there is no obligation to issue an invoice (according to the Fiscal Code), do not have to be transmitted via the RO e-Invoice system.

➤ *Self-supplies*

Self-invoices issued for self-supplies are deemed as invoices issued in B2B relationship which need to be transmitted by the taxpayers via the RO e-Invoice system.

➤ *Non-transmission of the e-invoice via the system*

Beneficiaries which do not receive the e-invoices via the RO e-Invoice system within the legal term, for the supplies of goods/services paid at the time of supply, can notify the tax authority in this regard.

II. Implementation of the pre-filled RO e-VAT return

On June 21, 2024, in the Romanian Official Gazette no. 582, Part I, the Emergency Ordinance no. 70/2024 regarding the measures for the implementation and use of the pre-filled RO e-VAT return and the valuation of data and information through the implementation of a specific governance system and other fiscal measures ("Emergency Ordinance"), has been published.

The Emergency Ordinance implements the pre-filled RO e-VAT return, which will be based on information already provided by taxpayers through other IT systems such as: RO e-Invoice, RO e-Transport, RO e-Seal, RO e-SAF-T, RO e-Electronic Cash Registers, the integrated customs information system as well as other IT systems of the Ministry of Finance.

The pre-filled RO e-VAT return is implemented starting with August 1, 2024, for transactions carried out starting with July 1, 2024 by taxpayers registered for VAT purposes in Romania.

The pre-filled RO e-VAT return will be sent by the tax authorities via the Private Virtual Space ("PVS") to each taxable person registered for VAT purposes, until the 20th day of each month following the end of the fiscal reporting period.

After receiving the pre-filled RO e-VAT return, taxpayers check the information received in accordance with the transactions carried out and the tax status.

If, after the submission of the VAT return by the taxpayers, the tax authorities identify significant differences between the information declared therein and the information pre-filled in the RO e-VAT, the tax authorities will notify the taxpayers regarding the differences, via the PVS, by the 5th day of the month following the legal deadline for submitting the VAT return. In this regard, the tax authorities provide the taxpayers with a notification via the PVS – "Taxable transactions differences RO e-VAT".

Significant differences are defined to be the values that exceed the materiality threshold that meets the cumulative conditions of at least 20% in percentage and an absolute value of at least RON 1,000 between the information entered in the VAT return and the pre-filled RO e-VAT return.

Subsequently, the taxpayers have the obligation, within 10 days from the date of receipt of the notification *"Taxable transactions differences RO e-VAT"*, to also provide back via the PVS the *"Explanatory note regarding the differences in RO e-VAT"*.

Failure to submit the Explanatory Note within the above term constitutes a minor offense at the level of the taxpayers and is sanctioned with a fine ranging between RON 2,000 to RON 10,000.

Also, the non-provision or partial provision of information through the Explanatory Note represents an indicator of tax risk which is the basis for the selection of taxable persons to be subject to tax audits or anti-fraud checks by the authorities.

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