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New regulations applicable to entities opting for a financial year different than the calendar year, published in the Official Gazette

On October 20, 2021 it was published in the Official Gazette no. 999/20.10.2021 *Order no. 1240/04.10.2021 of the Minister of Finance on provisions applicable to persons who opt for a financial year different than the calendar year.*

New accounting regulations applicable to economic operators published in the Official Gazette

On October 22, 2021 it was published in the Official Gazette no. 1.012/2021 *II. Order of the Minister of Finance for amending and supplementing the accounting regulations applicable to economic operators.*

New regulations applicable to persons opting for a financial year different than the calendar year, published in the Official Gazette

- According to this Order, legal entities without patrimonial purpose, which have opted for a financial year different from the calendar year, according to the regulations of the accounting law republished with subsequent amendments and completions, are obliged to notify the territorial unit of the Ministry of Finance about the chosen financial year at least 30 days before the beginning of the financial year. When preparing the annual financial statements, these entities will comply with the provisions of the Accounting Regulations for legal entities without patrimonial purpose, approved by the Order of the Minister of Public Finance no. 3.103/2017, with subsequent amendments;
- Entities that have opted for a financial year different from the calendar year, have the obligation to prepare and submit annual accounting reports as of December 31 to the territorial units of the Ministry of Finance within 150 days from the end of the calendar year. The annual accounting reports shall be prepared separately from the annual financial statements concluded on the date chosen by the reporting entities.
- The Order presents as a novelty the completion and modification of the Order of the Minister of Public Finance no. 4160/2015. For the purposes of the foregoing, the conditions for the preparation of the financial statements are set out if it is decided to return to the financial year corresponding to the calendar year. Where, under the conditions presented in Article 27 (27), the following shall apply: (7) of Law no. No 82/1991, republished, as amended and supplemented, the entity changes its chosen date for the preparation of annual financial statements so that the reporting financial year becomes the calendar year again, the balance sheet balances reported starting with the next completed financial year refer to 1 January and 31 December respectively, and the turnovers of the income and expenditure accounts correspond to the current financial year and the financial year preceding the reporting year. For example, in the case of an entity that applies the Accounting Regulations approved by the Order of the Minister of Public Finance no. 1.802/2014, with subsequent amendments, and which returns to the calendar year starting with January 1, 2021, for comparability of information, they are reported as follows:
 - the balance sheet that is part of the annual financial statements concluded on 31 December 2021 contains balances on the following dates: 1 January 2021 and 31 December 2021;
 - the profit and loss account that is a component part of the annual financial statements concluded on December 31, 2021 contains two columns with turnovers corresponding to the periods 1 January 2020 - 31 December 2020 and 1 January 2021 - 31 December 2021.
- The reporting details are applied whenever the entity returns to the calendar year, and this information must be presented in the explanatory notes accompanying the respective annual financial statements.
- Legal entities and other entities that apply the accounting regulations approved by the Order of the Minister of Public Finance no. 1.802/2014, with subsequent amendments and completions returning to the calendar year, do not have the obligation to audit the annual financial statements prepared for the financial year in which they return to the calendar year, even if this obligation existed for the last annual financial statements prepared for a financial year different from the calendar year. From the second reporting calendar year, the provisions related to the general audit requirements of the accounting regulations will apply.
- In the Annex of Order 1240 from 04.10.2021 is presented the structure of the annual accounting reports that must be prepared by legal entities without patrimonial purpose that have opted for a financial year different from the calendar year.

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a) Amendments to the order of the Minister of Public Finance 1802/2014 as follows:

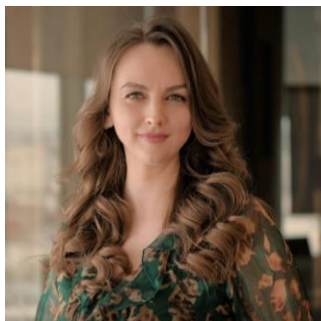
- The first article of this Order amends and completes the Order of the Minister of Public Finance 1802/2014. According to the regulations of this Order, line (6) is inserted in paragraph 339 of Order 1802/2014 on the benefits granted to employees by the reporting company or the parent company, which expressly states that in the event that the intra-group transaction involves repayment commitments by which the reporting entity pays for equity instruments granted to employees, it accounts for the granting of equity instruments, separately from the repayment commitment within the group.
- New provisions are made by introducing line 2 in paragraph 427 from Order 1802/2014 which specifies that the date on which the first financial statements are drawn up by foreign entities which have the place of exercise of effective management in Romania and whose financial year corresponds to the calendar year is 31 December 2021.
- In OMF No 1239/2021 is stipulated that the exemption of a subsidiary from the obligation to submit non-financial information pursuant to Article 8 of Regulation EU 2020/852 of the European Parliament applies when that subsidiary is included in the consolidated annual financial statements drawn up by a parent company according to the applicable accounting regulations. Under the new regulations, an entity that is a parent company and also a subsidiary is exempt from the obligation to submit non-financial information if that entity and its subsidiaries are included in the consolidated management report or in the separate report of another entity, prepared in accordance with the provisions contained in the accounting regulations.
- The information to be reported by companies in the non-financial statement has been supplemented with the ones set out in Article 8 of Regulation (EU) 2020/852 of the European Parliament and Council from 18 June 2020 on the establishment of a framework to facilitate sustainable investments and amending Regulation (EU) 2019/2088.

b) Amendments to international financial reporting standards, approved by the Order of the Minister of Public Finance no. 2.844/2016, as follows:

- Additions shall be made to paragraph 46, as follows: "A parent company which is also a subsidiary undertaking shall be exempted from the obligation laid down in paragraph 44 if that parent company and its subsidiaries are included in the consolidated management report or in the separate report of another entity drawn up in accordance with the provisions of Section 4.3 "Consolidated management report" and this Chapter. The exemption will apply if that subsidiary is included in the consolidated annual financial statements drawn up by a parent in accordance with these rules.
- After point 48 - 1, a new point 48 - 2 is inserted, as follows: – "The entities referred to at point 39 para. (1) and point 44 para. (1) also include in the non-financial statement the information provided for in Article 8 of Regulation (EU) 2020/852 of the European Parliament and Council from 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2.088, published in the Official Journal of the European Union, L series, No 1. 198 from 22.06.2020."
- The provisions of this Order shall be applied starting with the financial statements for the financial year 2021, except for the provisions of Article I, points 3 and 5 and of Article II, point 2, which shall apply as follows:
 - from 1 January 2022, with regard to the environmental objectives referred to in Article 9, letter (a) and (b) of Regulation (EU) 2020/852 of the European Parliament and Council from 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2.088, published in the Official Journal of the European Union, series L, no. 198 from 22.06.2020; and

- from 1 January 2023, in respect of the environmental objectives referred to in Article 9 letters (c) to (f) of Regulation (EU) 2020/852 of the European Parliament and Council from 18 June 2020.

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