

NEW OBLIGATION: ENLISTING TO THE REGISTER OF INTRA-COMMUNITY OPERATORS

Taxpayers who carry out intra-Community transactions are under the obligation of enlisting in the newly-established Register of Intra-Community Operators (RICO). Set up by the Government Emergency Ordinance 54/2010 on certain measures for preventing tax evasion¹, this procedure is briefly described in the following.

Who must enlist?

Individuals who are subject to taxation and legal entities that are not subject to taxation, who intend to carry out intra-Community transactions, are under the obligation to enlist in the Register of Intra-Community Operators in order to perform intra-Community operations.

By which date must they enlist in the RICO?

The new provision imposes enlistment in the RICO prior to the performance of the first intra-Community transaction (acquisition or delivery).

The rule will be effective as of August 1, 2010.

Consequences of the failure to enlist

The VAT registration code issued by the Romanian tax authorities shall only be considered valid for intra-Community operations after the legal entity's enlistment in the Register of Intra-Community Operators. In other words, failure to enlist in the RICO shall entail the impossibility to use the VAT code in intra-Community transactions and, implicitly, the taxation regime specific to taxpayers who are not registered for VAT purposes shall apply.

¹ Published in the Official Gazette no. 421 of June 23, 2010

Enlistment procedure

The detailed enlistment procedure shall be regulated by means of a separate order of the ANAF President, which most likely is to be published in the Official Gazette over the next week.

Even though Government Emergency Ordinance 54/2010 does not stipulate the complete procedure for the enlistment of the intra-Community operators, it does, however, mention the fact that the necessary documentation shall include the drawing up and filing of an application with the competent fiscal body, accompanied by the criminal record issued by the competent Romanian authority, for the shareholders, save for the joint stock companies, and for the directors. Other supporting documents to accompany the enlistment application shall be set forth in the order to be subsequently published.

Timing

In consideration of the fact that after August 1, 2010, individuals who are subject to taxation and legal entities that are not subject to taxation, who wish to carry out intra-Community operations, must be enlisted in the Register of intra-Community operators, and given the high number of applications to be filed in this respect, we recommend that the action of preparing the necessary documents and submitting the file prior to the aforementioned due date should be timely commenced, so that as of August 1, 2010 one should obtain the decision communicated in view of the enlistment in the register. Any delay in the proceedings may lead to a temporary suspension of the current intra-Community activities, up to the moment of registration.

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