

ORDINANCE No. 113 of 30 June 1999

**amending and supplementing several regulations based on Government Ordinance No.
61/1998
(GO113/1999)**

ISSUED BY: THE GOVERNMENT OF ROMANIA

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By virtue of Article 114 (4) from the Romanian Constitution and of point (3) of the single Article of Government Ordinance No. 61/1998 amending and supplementing Law No. 189/1998 on the local public finance (approved and amended by Law No. 86/1999),

The Government of Romania has issued the following Ordinance:

Article 1

Government Ordinance No. 11/1996 on the execution of budget claimable debts published in the Romanian Official Journal, Part I, No. 23 of 31 January 1996, as approved and amended by Law No. 108/1996 subsequently amended and supplemented, shall be amended as follows:

1. Article 1*) shall have the following content:

“Article 1

Any debts consisting of taxes, charges, contributions, fines and any other amounts representing public financial sources under the law shall be construed as budget claimable debts to be executed with the observance of the provisions of this Ordinance.”

*) Article 1 has been amended by Government Ordinance no. 53/1997, published in the Romanian Official Journal, Part I, No. 224 of 30 August 1997, as approved and amended by Law No. 258/1998, published in the Romanian Official Journal, Part I, No. 516, of 30 December 1998.

2. Article 6¹*) shall read as follows:

“Article 6¹

The payment of the budget claimable debt shall be made in ROL.”

*) Article 6¹ has been introduced through Government Ordinance No. 53/1997.

3. Article 10*) shall read as follows:

“However, the Ministry of Finance or, as appropriate, the local public administration authorities and their bodies responsible with the settlement of claims may, on the request of the taxpayer and having regard to the grounds invoked by such, decide upon the suspension

of the obligation to pay such dues to the state or local budget, respectively, until the settlement of the first recourse to legal proceedings.”

*) Article 10 has been amended through Government Ordinance No. 53/1997.

4. Article 4 (2) shall read as follows:

“For the taxpayers holding a bank account, the date of payment shall be the date at which the banks debit the account based on the specific instruments for settling the account, confirmed by their stamp and authorised signature, on condition that the appropriate budget account is credited.

5. Article 12 (1) shall read as follows:

“Where the budget debt has not been paid by the debtor, the outstanding amount shall be payable under the law by:

- (a) the heir who has accepted the succession of the deceased debtor;
- (b) the person taking over in whole or in part the rights and obligations of the legal person subject to restructuring;
- (c) the partners or shareholders of the debtor trading company, as provided by Law No. 31/1990 on trading companies, republished and amended.”

6. Article 13*) shall read as follows:

“Article 13

Failure to meet the terms of payment for any claimable debt to the state budget shall generate penalties for any overdue amounts, which shall be calculated for each day of delay, beginning on the day following the date set for the payment of the debt until the full payment of such outstanding amount has been made, as provided in Article 2.

For any debt to the state budget that has not been paid until the due date by natural persons, representing real estate taxes, land taxes and taxes on means of transport, penalties shall be calculated for any month of delay or for each fraction of a month.

Where the competent authorities have determined any differences in the amounts owed to the state budget, the penalties for the delay shall be calculated from the due date when such a difference has been found to the date when the debt has actually been paid and the provisions of paragraphs (1) and (2) shall apply correspondingly.

Where a debt to the budget has been paid by compensation, the penalties for the delay in the payment of such obligation shall be calculated until the date when the compensation operation has been possible, as provided by law.

The rate of the penalties shall be set by a Government decision, pursuant to the proposals made by the Ministry of Finance and it shall be correlated with the average interest rate that is the standard practice on the inter-bank market, to which no more than 20 percent may be added.

For the debt to the budget referred to in paragraph (2) the penalties for the delay shall be determined according to the provisions of the previous paragraph, correlated with the official rate of discount.

The penalties for the delay shall be calculated in ROL both for debts in ROL and for debts in foreign currency.

For the debts owed in foreign currency the calculation for the delay shall be made by applying the penalty rate to the debt owed in foreign currency transformed in ROL at the exchange rate established by the National Bank of Romania on the date when the amount is due.”

*) Article 13 has been amended through Government Ordinance No.53/1997, Law No. 258/1998 and Government Ordinance No. 22/1999.

7. Article 7 (4) shall read as follows:

“In the case of a mortgage notice, a copy of the written minute as drawn up by the enforcing authority as well as an authenticated copy of the decision of the court or of the decision of the competent body shall be transmitted to the enforcing authority in whose jurisdiction the property lies and which is empowered under the law to request the entry of the mortgage notice in the records of real estate publicity.

8. Article 24*) shall read as follows:

“Article 24

For those budget debts managed by the Ministry of Finance and for those managed by public bodies, consisting of revenues established by law, which are resources for the state budget, the specialised bodies of the county and Bucharest municipality General Directorates of public finance and state financial control and their subordinate units, the units subordinated to the General Customs Directorate, only for customs duties, as well as other bodies or persons appointed by order of the Minister of Finance shall be authorised to apply the measures and to enforce the decision as provided by this Government Ordinance.

The specialised bodies that are competent to manage the budget of the state treasury, as the legal provisions in the field define them, shall enforce the debts to the state treasury.

The specialised departments of the local councils, of general Council of the Bucharest Municipality and of the County Councils, as appropriate, shall be empowered to apply the safeguarding measures and to carry out the procedure of enforcement with a view to collecting the debts owed to communal, town, municipal and county budgets, as the case may be.

The specialised bodies and departments mentioned in paragraphs (1), (2) and (3) shall be referred to hereinafter as enforcing bodies.

The budget debts that are collected, managed, entered into the accounts and used by public institutions and come from extra/budgetary revenues as well as those resulting from legal

contracts shall be enforced by the public institutions' own enforcing officers as provided by this Government Ordinance.

For the budget debts referred to in paragraphs (3) and (5) the bodies authorised to carry out the enforcement procedure shall also apply the safeguarding measures.

Where the public institutions have transmitted for enforcement by the bodies referred to in paragraph (1) the debts representing extra/budgetary revenues, the amounts collected shall become revenues to the state budget.

The staff of the enforcing bodies authorized to carry out the enforcement measures shall fulfil a function involving the exercise of state authority.”

*) Article 24 has been amended through Government Ordinance No. 53/1997.

9. Article 25 (4) shall read as follows:

“Where the outstanding amount of the budget debt has been determined by the competent bodies of the Ministry of Finance or the specialised departments of the local public administration authorities, for each specific debt the enforcing body shall draw up a distinct document called writ of execution which shall contain the letterhead of the issuing body, name and surname or company name of the debtor, the address or registered office address as well as any other identification data; the amount and nature of the owed sums; the legal justification of the power of the writ of execution; issuing date of the writ of execution and the signature of the enforcing body.”

10. Article 27 *) paragraph 2 shall read as follows:

“Where it has been determined that there is the apparent risk that the property and income of the debtor may be alienated, substituted or abstracted, the coordinating enforcing body and the specialised departments of the local councils, the General Council of the Bucharest Municipality and of the county councils, as appropriate, may proceed to make the property and income unavailable and to enforce the decision irrespective of the location of the property.”

* Article 27 has been amended through Government Ordinance No. 53/1997.

11. Article 29 (1) shall read as follows:

“The enforcing bodies shall take all the necessary steps in order to identify the address or head office address of the debtor as well as his claimable property or incomes. Where a writ of execution has been transmitted by another body, the enforcing body shall confirm the receipt of such writ within 30 calendar days.”

12. In Article 31, the following sentence shall be inserted before paragraph (1):

“Within 15 days the banks shall communicate the names of the holders and the numbers of the accounts opened by legal persons to the fiscal body in whose jurisdiction such holders and legal persons have been registered.”

13. Article 37*) shall read as follows:

“Article 37

The expenses for the enforcement of the budget debts shall be borne by the budget of the Ministry of Finance, Ministry of Labour and Social Protection, local public administration authorities or public institutions, as the case may be.

*) Article 37 has been amended through Government Ordinance No. 53/1997.

14. Article 48 (1) shall read as follows:

The goods placed under restraint may be left in the custody of the debtor, creditor or other persons appointed by the enforcing body or they may be removed and kept by the enforcing body. Where the movable property has been left in the custody of the debtor or any other person appointed by the enforcing body and it is found that there is a risk that such movables may be substituted or damaged the enforcing body may place the movables under a seal.”

15. Article 49 (2) shall be abrogated.

16. Article 54 (3) shall read as follows:

“Subject to the approval of the enforcing body, the debtor may proceed to sell the property placed under restraint, informing the enforcing body in writing on the proposals he has received, indicating the name and address of the prospective buyer as well as the term within which the latter has agreed to confirm the proposed price.”

17. Article 56 (1) shall read as follows:

“Having adjudicated the movables, the adjudicator shall pay the full price either promptly or within 3 days in cash or by money order. Conversely, the sale by auction shall be resumed within 5 days and the expenses for the sale shall be borne by the adjudicator with the provisions of Article 38 being applicable.

18. Article 56 (3) shall read as follows:

“Both the buyer and the debtor shall be handed a document by the enforcing body stating the name of the issuing body, date of sale, name and surname or company name of the buyer and debtor, address or address of the registered office, indication of the goods purchased, the price paid and the value added tax paid, as appropriate.”

19. Article 57 (2) shall read as follows:

“Where the movable property has not been disposed of in any of the ways provided by the laws in force, the procedure of enforcement of the goods shall cease; if appropriate, the movable property shall be returned to the debtor and the debt shall be recovered in any of the ways provided by this Ordinance.”

20. Article 62 shall read as follows:

“Article 62

Within 30 days of the entry of the notice in the records of real estate publicity, the creditors of the debtor, other than the holders of the rights referred to in Article 61, shall inform the enforcing body in writing of the titles they may have for the real estate mentioned in the notice.”

21. Article 66 (4) shall be repealed.

22. Article 67 shall read as follows:

“Article 67

The enforcing body shall draw up a written report of the auction indicating the final result, the manner in which the auction was held as well as the elements referred to in Article 56 (3).

The written report of the auction shall be signed by the enforcing body and the buyer or his authorised representative and shall be handed to the buyer after the full payment of the price.

The written report of the auction shall be the title of ownership for the real estate based on which it may be entered in the records of real estate publicity with the competent authorities in whose jurisdiction the real estate is located.”

23. Article 67 shall be followed by Article 67¹ reading as follows:

“Article 67¹

Under the terms and conditions set or agreed upon by the enforcing body and, where appropriate, with the agreement of the creditor who participates in the enforcement for the collection of a debt other than a budget debt, the buyers may pay the price in as many as 12 monthly instalments, with a minimum down payment of 50% of the assessed or adjudicated price, as the case may be, and with the payment of an interest set at the official discount rate.

Where the real estate has been sold directly or by auction, the buyer shall be handed the written report after he has effected the down payment as set or agreed upon under the terms and conditions laid down in the paragraph hereinbefore and he may not alienate the real estate unless he has paid the full price, Article 67 (1) and (3) being applicable.

The written report recording the sale with the payment by instalments shall be transmitted to the coordinating enforcing body and the creditor. A copy of the same written report shall be also transmitted to the competent bodies in order to enter in the real estate public records the interdiction of sale until the full payment of the price.

Should the buyer who has been approved to pay by instalments fail to provide the rest of the money under the terms and conditions set and agreed, he may be subject to enforcement, with the written report recording the sale with the payment by instalments being construed as a writ of execution.”

24. Article 68 shall be followed by Article 68¹:

“Article 68¹

Throughout the period of enforced execution of the real estate of the debtor who is a legal person, including the period when the auction procedure can be resumed, at the proposal of the debtor and subject to the agreement of the Ministry of Finance, the budget debt may be settled by passing into the ownership of the state the real estate that is subject to enforced execution. To this purpose, the enforcing body shall transmit a copy of the execution file with proposals made by

the debtor and the body to the relevant department of the Ministry of Finance; the latter shall analyse and determine whether such measure is opportune and it shall require, as appropriate, the enforcing body to conclude the written report for the passing of the real estate into state ownership and the settlement of the budget debt for which the enforcing action has been initiated.”

25. Article 70*) shall read as follows:

“Article 70

The amount obtained through the enforced execution shall be the amount of money cashed through restraint as well as the amount minus the value added tax, as the case may be, obtained from the turning to account of the debtor’s property in the ways provided by the law.

The amount of money resulting from the enforced execution shall be released to the creditor through any payment method provided by the law to the full satisfaction of his claims.

Where the amount representing both the budget debt and the execution expenses has been less than the amount resulting from the enforced execution, the difference shall be compensated as laid down in Article 87 or it shall be released to the debtor at his request.”

*) Article 70 has been amended through Government Ordinance No. 53/1997.

26. Article 71*) (1) (d) shall read as follows:

“(d) the budget debts resulting from taxes, levies, contributions and other amounts as established under the law due to the state budget, state social security budget, local budgets and special funds budgets;”

*) Article 71 has been amended through Government Ordinance No. 53/1997.

27. Article 78 (3) shall be repealed.

28. Article 82*) shall read as follows:

“Article 82

At the duly substantiated request of the debtors the Ministry of Finance, Ministry of Labour and Social Security, other authorities of the central public administration as well as local public administration authorities may grant:

- (a) the delay and rescheduling of the payment of taxes, duties and other obligations to the state budget;
- (b) the exemption and reduction of taxes and duties as set under the law;
- (c) the delay, rescheduling, exemption or reduction of penalties for delays in payment.

The rescheduling of payment may begin by granting a period of grace of up to 6 months.

For debts representing budget revenues of the local public administration, such bodies may only grant the payment incentives with the full observance of the terms and conditions of this Government Ordinance.

In the case of budget debts for which tax benefits have been granted beginning on the date when the approval was communicated, the enforced execution shall not be initiated or continued, as appropriate.

The Order of the Minister of Finance shall establish the procedures, competence to grant tax benefits with regard to the budget debts administered by the Ministry of Finance as well as the membership of the commissions analysing and determining the granting of tax benefits. In the case of other authorities of the central and specialised public administration these, with the favourable opinion of the Ministry of Finance, shall set the procedure.

For the authorities of the local public administration the procedure and competence to grant tax benefits shall be established by a Government Decision drawn up by the Ministry of Finance with the favourable opinion of the Department for Local Public Administration.

The tax benefits may be granted both before the initiation of and during the enforced execution. In order to grant tax benefits, the enforcing body may request the debtor to secure appropriate guarantees as provided by the law.”

*) Article 82 has been amended through Government Ordinance No. 53/1997.

29. Article 83 shall read as follows:

“Article 83

Throughout the period of delay or rescheduling penalties shall be owed. The amount of the penalties shall be established by Government Decision on the proposal of the Ministry of Finance, correlated with the official discount rate.”

30. Article 84 shall read as follows:

Failure to observe the terms and conditions in which the tax benefits have been granted shall result in the cancellation of such benefits and the enforced execution for the full unpaid amount and the obligation to pay the penalties for the delays as laid down in Article 13, calculated from the date when the terms and conditions have not been observed.”

31. Article 85 shall be repealed.

32. Article 92 shall be added two paragraphs with the following content:

“The budget debts towards the debtors of the trading company which is being under judicial restructuring and bankruptcy may be transferred to legal persons at a nominal value, based on an agreement concluded with the enforcing body.

Where the payment of the due amounts based on the agreement referred to in the paragraph hereinbefore, the legal person shall pay an interest rate set at the official discount rate, warranting the payment of the debt with a bank guarantee.”

33. Article 95 shall read as follows:

“Article 95

In cases of natural disasters, state of emergency and in other special unforeseen circumstances, at the proposal of the Ministry of Finance, the Government may approve the cancellation of certain categories of budget debts.”

34. Article 96 shall read as follows:

“Article 96

Where the collection expenses may be higher than the budget debt subject to enforced execution the head of the enforcing body may approve the cancellation of such debts.”

35. Article 100 (c) shall read as follows:

“c) throughout the period of observance of the delay or rescheduling of the payment of the debt granted as a result of payment benefits, provided by the law, Government Decision or approved by the competent authorities;”

36. Article 100 (d) shall be abrogated.

37. Article 102 shall read as follows:

“Article 102

The enforcing body is entitled to request the competent court of law to initiate the procedure of judicial restructuring and bankruptcy as provided by the law for those budget debts owed by traders, natural and legal persons.”

38. Article 103*) shall read as follows:

“Article 103

The requests of the bodies referred to in Article 24 (1) with regard to the initiation of judicial restructuring and bankruptcy procedures shall be handed to the court of law only with the approval of the county and Bucharest municipality general directions for public finance and financial supervision and they shall be exempt of any legal guarantee.”

*) Article 103 has been amended through Government Ordinance No. 53/1997.

39. Article 105 shall read as follows:

“Article 105

The Ministry of Finance and its territorial bodies, the central public administration bodies, the local public administration authorities and the public institutions shall be tax-exempted for the requests, actions and any other measures taken with a view to collecting the budget debts.”

40. Article 108*) shall read as follows:

“Article 108

Any budget debt, other than those for whom the enforced execution is performed by the bodies of the Ministry of Finance referred to in Article 24, shall be executed by the authorised representatives of the Ministry of Labour and Social Protection, bodies of the central public administration or local public administration authorities as well as representatives of public institutions, as appropriate.”

*) Article 108 has been amended through Government Ordinance No. 53/1997.

41. Article 110¹*) shall read as follows:

“Article 110¹

The amounts recovered as expenses for the enforced execution shall be used by the county and Bucharest municipality General Directorates of public finance and state financial control, by county and Bucharest municipality labour and social protection directorates, by authorities of the local public administration and by public institutions, as appropriate, for the procurement of fixed assets and inventory goods that are necessary for the proper operation of the enforcing bodies.

The list comprising the goods referred to in the paragraph hereinbefore shall be approved by the Ministry of Finance, Ministry of Labour and Social Protection, the authorities of the local public administration as well as by the public institutions as the case may be and the procurement shall be made with the observance of the legal provisions for the procurement of goods and services by public institutions.”

*) Article 110¹ has been introduced through Government Ordinance No. 53/1997.

42. Article 111 (2) (a) shall read as follows:

- (a) other bodies, with a view to performing the obligations resulting from the application of a law;”

Article 2

The Government Ordinance no. 68/1997 on the procedure for the drawing up and entering the statements of tax returns, republished in the Romanian Official Journal, Part I, No. 121 of 24 March 1999, shall be amended as follows:

1. Article 1 shall read as follows:

“Article 1

Any taxpayers, both Romanian and foreign natural and legal persons, who have fiscal obligations to the state and local budgets under the law shall draw up and present declarations or statements referred to hereinafter as statements of tax returns.

(2) The statements of tax returns are documents wherein the taxpayer shall declare:

- (a) taxes and duties owed where under the law the taxpayer has the obligation to self-assess and calculate his own taxes and duties;

- (b) taxable property and income, as appropriate, where under the law the tax shall be determined by the tax authorities or, as the case may be, by specialised departments of the local public administration authorities;
- (c) tax collected at source where the taxpayer has the obligation to calculate, hold and pay the taxes.

(3) The statement of tax returns shall be drawn up by filling in a form provided freely to the taxpayers by the Ministry of Finance or by the specialised departments of the local public administration authorities, as appropriate.

(4) The statement of tax returns shall be drawn up and submitted, as provided by the regulations in force and by this Ordinance, to the unit subordinated to the Ministry of Finance, referred to hereinafter as competent tax authority or, as appropriate, to the specialised departments of the local public administration authority under whose jurisdiction the taxpayer is established or has the registered office or where he has been entered in the fiscal records.”

2. Article 5 shall read as follows:

“Article 5

- (1) The taxpayer shall submit a statement of tax returns even if during the previous fiscal year he has been in one of the following situations:
 - (a) dissolution, liquidation or restructuring as provided by the law;
 - (b) restructuring by division, fusion by absorption or fusion by merger, as provided by the law;
 - (c) suspension of activity, as well as the suspension of the activities subject to taxation;
 - (d) suspension of the obligation to calculate, hold and pay the taxes;
 - (e) changes introduced in the taxation basis in the case of the representatives of foreign companies with activity on the territory of Romania;
 - (f) changes introduced in the taxation basis for local taxes.
- (2) The statement of tax returns shall be submitted within 15 days of the occurrence of one of the situations referred to in (a) and (b) of paragraph (1).
- (3) The statement of tax returns shall be submitted no later than the 25 of the month following the month in which the taxpayer has been in one of the situations referred to in paragraph (1). (c), (d) and (e).
- (4) The statement of tax returns shall be submitted within 30 days of the date of such modification as that referred to in (f) has occurred.”

3. Article 17 shall read as follows:

“Article 17

The analysis of the situations referred to in Articles 13 and 14 and the determination and application of penalties and fines shall be performed by the competent tax authorities or by the specialised departments of the local public administration authorities, as appropriate, recorded in findings reports.”

Article 3

The Government Ordinance No. 70/1997 on tax supervision published in the Romanian Official Journal, Part I, No. 227 of 30 August 1997, as approved and amended by Law No. 64/1999 shall be amended as follows:

1. Article 4 shall read as follows:

“Article 4

For the purpose of this Ordinance, tax shall be construed to mean any amounts due under the law to the state budget and local budgets and any amounts that may constitute revenues of a fiscal nature, whose administration falls within the responsibility of Ministry of Finance or, as appropriate, to the local public administration authorities.”

2. Article 5 shall read as follows:

“Article 5

The Ministry of Finance and its territorial units shall exercise the tax supervision, through the tax apparatus and financial supervision bodies authorised under the law, referred to hereinafter as tax supervision bodies and by the specialised departments of the local public administration authorities.

The officers of the tax supervision bodies and the officers of the specialised departments of the local public administration authorities shall perform a duty involving the exercise of state authority.

The organisation, territorial competence and duties of the tax apparatus shall be approved by the Minister of Finance.”

3. Article 6 shall read as follows:

“Article 6

In performing their duties, the competent tax authorities or, as appropriate, the specialised departments of the local public administration authorities shall be entitled:

- (a) to examine any records, documents, books or accounting records of the taxpayers that may be relevant in determining the taxes due and the observance of the tax obligations of such taxpayers;
- (b) to require the taxpayers to provide such information or justification related to the statements of tax returns or the documents subject to control. Where a written answer has been required the taxpayers shall furnish the relevant information within 10 days from the receipt of such notification;
- (c) to require the presence of the taxpayers or their authorized representatives at the head office of the tax supervision body or, as appropriate, at the head offices of the specialised departments of the local public administration authorities. The request shall be transmitted to the taxpayer at least 15 days before the date set for such meeting;
- (d) to determine such facts regarding the nature of the activity producing taxable incomes or to identify taxable property or sources;
- (e) to receive copies from any written documents, documents or accounting records;

- (f) to retain for a period that may not exceed 30 calendar days, with the purpose of protecting from alienation or destruction, in return for a written receipt and signed by the competent tax authority, such documents or evidence that may help determine the tax owed by the taxpayers. Under exceptional circumstances, with the consent of the management of the county or Bucharest municipality general directions for public finance and financial supervision, as appropriate, or the approval of the specialised departments of the local public administration authorities, the period of retention may be extended to 90 days;
- (g) to have access, in the presence of the taxpayer or his authorised representative or in the presence of other persons designated by the taxpayer, to the premises or the place where he carries out his activity or to any places where there is taxable property or where income producing activities are carried out. The access shall be permitted only during the normal working hours of the taxpayer and outside such hours, only with the written approval of the tax supervising body or, as appropriate, of the management of the specialised departments of the local public administration authorities and the consent of the taxpayer.”

4. Article 8 shall read as follows:

“Article 8

With a view to determining the taxes due and the observance of the tax obligations by the taxpayers, the tax supervision bodies or, as appropriate, the specialised departments of the local public administration authorities are entitled to require information from:

- natural or legal persons who hold or administer property or amounts of money of the taxpayers or who have business relations with them;
- bodies of the local or central public administration, public institutions or institutions of public interest;
- public or private institutions recording under any form the conclusion of contracts, transfer of property by any means of communication, the population or property records, exploitation of property and other similar organisations.

Any persons, bodies or institutions referred to in paragraph (1) shall furnish any information and documents, records and data to the tax supervision bodies or, as appropriate, the specialised departments of the local public administration authorities within the term specified in the request.

Any acts, documents and data obtained, in the manner provided in this Article, by the tax supervision bodies or, as appropriate, by the specialised departments of the local public administration authorities, shall form the tax file of the taxpayer and they shall be used in determining and recalculating the amount of taxes due.”

5. Article 9 shall read as follows:

“Article 9

In duly substantiated cases, the tax supervision bodies or, as appropriate, the specialised departments of the local public administration authorities may, according to their territorial competence, request the persons to submit documents deemed as necessary to determine whether that such persons may or may not be considered taxpayers.”

6. Article 10 shall read as follows:

“Article 10

The tax supervision bodies or, as appropriate, the specialised departments of the local public administration authorities shall exert the fiscal control in such a way as to hinder as little as possible the performance of the current activities of the taxpayers.

Throughout the performance of the fiscal control the tax supervision bodies or, as appropriate, the specialised departments of the local public administration authorities shall act in a professional manner, showing fairness and objectivity in the relations with the taxpayers who are subject to the control and with the other persons with whom they may come into contact in performing their duties.”

7. Article 11 shall read as follows:

“Article 11

Based on the findings of the control activity, the tax supervision bodies or, as appropriate, the specialised departments of the local public administration authorities shall be entitled:

- (a) to determine the tax difference that is due by the taxpayer and to calculate penalties for the delay in payment of the tax within the legal terms;
- (b) to determine the contraventions and the fines and penalties to be applied as provided by the tax laws;
- (c) to determine the measures that may be necessary for the correct fulfilment of the tax obligations by the taxpayers.”

8. Article 11¹ shall read follows:

“Article 11¹

Before any fiscal control action may take place at his head office, domicile or residence, the taxpayer shall be entitled:

- (a) to be informed of the action that is to be carried out, by the transmission of a notice;
- (b) to be informed with regard to his rights and obligations resulting from this Ordinance.

The notice shall contain:

- the legal grounds for transmitting such notice and for performing such fiscal control;
- the period scheduled for the fiscal control action;
- the tax and the taxable period that shall be subject to control.

The notice shall be transmitted to the taxpayer at least 15 days before the date set for the fiscal control action.

If the tax supervision bodies which, according the law, may perform unannounced controls and if the fiscal control action is carried out with a view to settling a request submitted by the taxpayer, the transmission of the notice of checking shall not be mandatory.

The taxpayer shall confirm that his rights and obligations have been brought to his attention by signing the notice of checking.

Where they have duly substantiated grounds, the taxpayers may request the delay of the date for the initiation of the fiscal control by 30 working days and the request shall be made in writing to the management of the tax supervision body or, as appropriate, to the specialised departments of the local public administration authorities, within 5 days of the receipt and signature of the notice.

No further request for the delay of the fiscal control action may be allowed.”

9. Article 13 shall read as follows:

“Article 13

The taxpayers shall make available to the tax supervision bodies or, as appropriate, to the specialised departments of the local public administration authorities, any technical and operative accounting documents and any other type of documents legally used to serve as a basis for the correct calculation, in the legal amount, of the taxes due.

The documents which, in proven bad faith, have not been made available during the fiscal control performed at the premises, head office or residence of the taxpayer or at the premises of the tax supervision body, shall not be taken into consideration subsequently, when possible claims or complaints or objections are filed against the findings of the control.”

10. Article 14 shall read as follows:

“Article 14

The taxpayers who under the law administer and keep their own accounting shall keep any accounting records as well as any supporting evidence based on which the accounting entries have been made, at the head office declared when the registration with the tax authority has been made, until the right of the competent tax authority or, as appropriate, of the specialised departments of the local public administration authorities to determine any difference in taxes has been prescribed.

The accounting records and supporting documents shall be kept and filed in such a way so as to allow the proper performance of the fiscal control.

11. Article 16 shall read as follows:

“Article 16

The taxpayers or, as appropriate, their authorised representatives shall cooperate for the proper performance of the fiscal control, by observing the rights of the tax supervising bodies or, as appropriate, of the specialised departments of the local public administration authorities and they shall offer all the necessary support in exercising such rights.”

12. Article 17 shall read as follows:

“Article 17

The fiscal control shall be carried out at the registered office, domicile or residence of the taxpayer or on the premises of the tax supervision body or, as appropriate, at the head offices of the specialised departments of the local public administration authorities.

The fiscal control may be carried out in any other place agreed by the taxpayer with the latter having the obligation to make sure to present any documents as may be necessary in the proper performance of the control action.”

13. Article 18 shall read as follows:

“Article 18

The period dedicated to the performance of the fiscal control provided in Article 17 shall be determined by the tax supervision bodies based on the objectives of the control and it may not exceed 3 months.”

14. Article 19 shall read as follows:

“Article 19

The fiscal control at the head office, domicile or residence of the taxpayer or on the premises of the tax supervision body or, as appropriate, on the premises of the specialised departments of the local public administration authorities shall be carried out once for each type of tax and for each period subject to taxation.

By exception to the provisions laid down in paragraph (1) the head of the competent tax authority or, as appropriate, of the specialised departments of the local public administration authorities may decide to recheck a certain period when additional information has been collected since the date of the conclusion of the fiscal control until the prescription term provided by this Ordinance, information not previously known to the tax supervising body or, as appropriate, to the specialised departments of the local public administration authorities on the date when the fiscal control was carried out, which may influence or modify the conclusions of the control.”

15. Article 21 shall read as follows:

“Article 21

The right of the tax supervising bodies or, as appropriate, of the specialised departments of the local public administration authorities to determine differences in taxes and penalties for delays in payment and to detect contraventions and impose fines and penalties for acts that fall within the competence of the tax supervising bodies or, as appropriate, the specialised departments of the local public administration authorities, for a taxable period shall be prescribed as follows:

- (a) within 5 years of the expiration date for the presentation of the statement of tax return for the respective period;
- (b) within 5 years of the latest date for the payment of the tax, where the law does not provide the obligation to submit the statement;
- (c) within 5 years of the date of the notification of the taxpayer of the tax determined by the tax supervision bodies or, as appropriate, by the specialised departments of the local public administration authorities as provided by the law.”

16. Article 22 shall read as follows:

“Article 22

The prescription terms laid down in Article 21 shall be interrupted:

- (a) in the cases and under the circumstances provided by the law for the interruption of the prescription term of the right to act;
- (b) on the date of submission by the taxpayer of the statement of tax returns after the legal term has expired;
- (c) on the date at which the taxpayer has performed a voluntary act to acknowledge the tax due, including full or partial payment of such tax;
- (d) on the date at which the taxpayer has been notified of tax differences determined by the tax supervision body or, as appropriate, the specialised departments of the local public administration authorities as a result of a fiscal control.”

17. Article 23 shall read as follows:

“Article 23

The prescription terms referred to in Article 21 shall be suspended:

- (a) in the cases and under the circumstances provided by the law for the interruption of the prescription term of the right to act;
- (b) throughout the period in which the taxpayer avoids in bad faith to be subject to the fiscal control;
- (c) throughout the period in which the taxpayer, following the order of the tax authority or, as appropriate, the specialised departments of the local public administration authorities, makes up the deficiencies or removes the causes that prevent the performance of the fiscal control.”

18. Article 26 shall read as follows:

“Article 26

The following shall be contraventions, unless they have been committed under such conditions that according to the criminal law they constitute an offence:

- (a) the failure of the taxpayer or his authorised representative to produce the documentary evidence or the information required by the tax supervision bodies or, as appropriate, the specialised departments of the local public administration authorities;
- (b) the failure of the taxpayer or his authorised representatives to report at the head office of the tax supervision body or, as appropriate, the specialised departments of the local public administration authorities on the date, time and place set and duly notified in writing by the tax authority;
- (c) the failure of the taxpayer to permit the tax supervision body or, as appropriate, the specialised departments of the local public administration authorities to have access to his business office or to any places where there may be taxable property or where income producing activities may be carried out, with a view to performing the fiscal control;

- (d) failure of the persons, bodies or institutions referred to in Article 8, to submit documents, records and data as requested by the tax supervision body or the specialised departments of the local public administration authorities;
- (e) failure to keep the accounting records and relevant documents at the registered office or failure to keep such documents in appropriate conditions for the proper performance of the fiscal control.

The contraventions laid down in paragraph (1) shall be punishable as follows:

1. those referred to in (a) and (b) with a fine from 500,000 to 2,000,000 ROL;
2. those referred to in (c) and (d) with a fine from 2,000,000 to 10,000,000 ROL;
3. those referred to in (e) with a fine of 1,000,000 to 10,000,000 ROL.

The contraventions and penalties shall be determined and imposed by the competent tax authorities or, as appropriate, the specialised departments of the local public administration authorities.

The provisions of this article shall be supplemented with the provisions of Law No. 32/1968 on establishing and penalizing contraventions except for Articles 25 and 26.”

Article 4

Government Ordinance No. 85/1997 on the taxation of incomes obtained by natural persons, published in the Romanian Official Journal, Part I, No. 378 of 29 December 1997, approved and amended by Law 246/1998, with its subsequent amendments, shall be amended as follows:

1. Article 34 shall read as follows:

“Article 34

The establishing, ascertaining, control and cashing of taxes with the full observance of the provisions laid down in this Government Ordinance shall be made by the specialised bodies of the Ministry of Finance.”

2. Article 35 (2) shall be repealed.
3. Article 41 (3) shall be repealed.

Article 5

Within 30 days of the coming into force of this Government Ordinance, the Ministry of Finance, with the opinion of the Department for Local Public Administration, shall propose the Government a draft of the decision for the approval procedures and the competence to grant tax benefits by the local public administration authorities.

Article 6

Government Ordinance No. 11/1996 on the execution of the budget debts, published in the Romanian Official Journal, Part I, No. 23 of 31 January 1996, approved and amended by Law No. 108/1997 with its subsequent amendments and supplements, Government Ordinance No.

68/1997 on the procedure for the drawing up and entering the statements of tax returns, republished in the Romanian Official Journal, Part I, No. 121 of 24 March 1999, approved and amended through Law No. 73/1998, with its subsequent amendments and supplements, Government Ordinance no. 70/1997 on the fiscal control, published in the Romanian Official Journal, Part I, No. 227 of 30 August 1997, approved and amended by Law No. 64/1999 and Government Emergency Ordinance No. 85/1997 on the taxation of incomes obtained by natural persons, published in the Romanian Official Journal, Part I, No. 378 of 29 December 1997, approved and amended by Law No. 246/1998, with the amendments supplements brought by this Government Ordinance, shall be republished in the Romanian Official Journal, Part I and the texts shall be given a new paragraph numbering.

PRIME MINISTER
RADU VASILE

Countersigns:
Minister of Finance,
Decebal Traian Remeş

Secretary of State,
Head of the Department for the Local Public Administration,
Vlad Roşca