

EMERGENCY ORDINANCE No. 28 of 25 March 1999
on the obligation of the economic operators to use electronic fiscal cash registers
(GEO28/1999)

ISSUED BY: THE ROMANIAN GOVERNMENT
PUBLISHED IN: THE ROMANIAN OFFICIAL JOURNAL No. 131 of 31 March 1999

By virtue of Article 114 (4) from the Romanian Constitution,

The Romanian Government has issued the following Emergency Ordinance:

Article 1

- 1) The economic operators who deliver goods or services directly to the population, for which invoicing is not compulsory, must use electronic fiscal cash registers.
- 2) The economic operators mentioned in paragraph 1, hereinafter referred to as users, must issue fiscal receipts with electronic fiscal cash registers and hand them over to the clients.
- 3) If the economic operators perform both retail and wholesale, they must issue fiscal receipts for the goods sold by retail and fiscal invoices for the goods sold by wholesale.
- 4) In the event of the electronic fiscal cash registers going out of order, the users must notify, upon finding the fault, the authorised distributor who has delivered the equipment or their legal territorial representatives. An authorised distributor, within the meaning of this ordinance, is any economic operator who is a producer, importer or trade firm, authorised under the conditions specified in Article 5.
- 5) Until the electronic fiscal cash registers become functional again, the economic operators users must record all the operations carried out in a specially devised register, and issue fiscal invoices for the operations.

Article 2

- 1) The following are not subject to the provisions of Article 1 (1):
 - a) The economic operators who achieve a total annual income of up to 100 million lei;
 - b) The street commerce and services, carried out in public areas or at the client's domicile, on the basis of a licence, as well as the sale carried out by means of commercial slot machines;
 - c) The public catering services carried out on means of transport;
 - d) Selling bread and bakery products in shops or specialised sectors;
 - e) Selling newspapers and magazines through specialised distributors;
 - f) The public transport based on tickets or monthly fares, and the underground;
 - g) The activities whereby cashing is made on fixed vouchers – entrance tickets to shows, museums, exhibitions, fairs and market places, zoos and botanical gardens, libraries, car parks for automobiles, and others.
- 2) If an economic operator carries out both activities mentioned in paragraph 1) letters b)-g) and activities for which using electronic fiscal cash registers is compulsory, without setting up distinct accounting records for the latter, the obligation of using the electronic cash registers is extended over the whole activity.

Article 3

- 1) In the sense of the provisions of Article 1 (1), electronic fiscal cash registers are: cash registers, as well as other systems that include devices functioning as cash registers, which integrate a built-in fiscal module, by means of which the fiscal memory, the double printing device and the client display are controlled.
- 2) The electronic fiscal cash registers must perform at least the following essential functions:
 - a) data storing through progressive accumulation;
 - b) printing and issuing of: fiscal receipts, log rolls, daily closure fiscal reports, periodical fiscal reports;
 - c) recording in the fiscal memory the fiscal synthesis data originating from the daily closure reports and of any modifications of parameters that affect the interpretation of the data stored and events that affect the continuity in recording the data;
 - d) automatically blocking the device when the fiscal memory, the double printing device or the client display are inactive;
 - e) ensuring the continuity of functioning and of recording the data, the coherence of the data structure and of the documents issued, as well as ensuring the recovery procedures from errors generated by unauthorised operations or system errors.
- 3) The fiscal memory is a device in the fiscal module that can be inscribed once only, which must allow progressive data accumulation without the possibility of erasing or modifying them, as well as their conservation over a minimum of 10 years.
- 4) The following data will be stored in the fiscal memory: the name, address, fiscal code of the issuer, the type and series of the equipment, and the data specified in paragraph 2) letter c).
- 5) The electronic fiscal cash registers will be sealed by means of a fiscal seal applied by the persons authorised for this purpose by the Ministry of Finance.

Article 4

- 1) The fiscal receipt is the document issued by the electronic fiscal cash register, which must contain at least: the name, address, fiscal code of the economic operator issuer; the logotype and series of the equipment; the order number; the date and time of issuing; the name of the goods delivered or of services performed; the amounts; the unit prices; the value; the value-added tax percentages; the total value; the amount of the value-added tax, as well as other taxes that are not included in the tax base of the value-added tax.
- 2) The log roll is the document that is printed concomitantly with the fiscal receipt, contains all the data on the latter and is stored in the archive of the economic operators for 2 years after the financial operation during which it has been made out.
- 3) The daily closure report is the document that contains: the name, address, fiscal code of the issuer; the type and series of the equipment; the order number progressively numbered; the date and time of issuing; the number of receipts issued that day; the total value of the operations carried out, including the value-added tax, and its breakdown into percentages of value-added tax, specifying the level of the percentage, as well as the value of the taxes that are not included in the tax base of the value-added tax.
- 4) The special register mentioned in Article 1 (5) and the daily closure report are the documents that the fiscal authorities take into account when verifying the income that underlies the determination of the taxes and duties due to the state budget. These documents shall be archived and stored for 10 years.
- 5) The economic operators who use electronic fiscal cash registers, when the fiscal memory is full or when it must be replaced as a result of a defect, must hand over the fiscal memory to the directorates of public finance and state financial audit of the county or of Bucharest, as

appropriate, to be stored and archived. The fiscal memories are stored and archived for 10 years.

Article 5

- 1) With a view to authorising the models of the electronic fiscal cash registers, the licensed distributors and the accredited service units, the Board for the authorisation of the distribution and use of electronic fiscal cash registers is set up.
- 2) The sale or use of electronic fiscal cash registers on the Romanian territory is only allowed if the respective equipment has been authorized by the board referred to in paragraph 1) and in the conditions stipulated by this authorisation.
- 3) The distributor must provide the electronic fiscal cash registers with a booklet with numbered pages, which contains the past record of the equipment, referred to as interventions log. The users of the electronic fiscal cash registers shall keep the interventions log in best conditions, and, together with the accredited service units, shall be accountable for its updating with information regarding the user and the service interventions.
- 4) The entry to the authorisation procedure is only open to the economic operators who sell electronic fiscal cash registers that meet the requirements specified in article 3, ensure service for the guarantee period, post guarantee and spare parts.
- 5) The distributors must ensure through the accredited service system, within maximum 72 hours from the notification of the defect by the economic operator, the repair of the electronic fiscal cash register or its replacement.

Article 6

- 1) The obligation of the economic operators referred to in Article 1 to use electronic fiscal cash registers comes into effect as follows:
 - a) within 6 months from the date of publishing this emergency ordinance in the Romanian Official Journal, for the taxpayers who achieved a total income of over 500 million lei in 1998;
 - b) within 12 months from the date of publishing this emergency ordinance in the Romanian Official Journal, for the taxpayers who achieved a total income between 100 and 500 million lei in 1998.
- 2) The economic operators registered at the National Office of the Commercial Register after 1 January 1999 must use electronic fiscal cash registers from the first day of the month following the one when they exceeded the ceiling specified in Article 2 (1) a), but no sooner than 6 months from the date of publishing this Emergency Ordinance in the Romanian Official Journal.

Article 7

The economic operators who will have purchased electronic fiscal cash registers before this ordinance comes into effect, for use or distribution, must obtain, within 6 months from this date, the authorisation from the Board for the authorisation of the distribution and use of electronic fiscal cash registers.

Article 8

The clients shall request, take and keep the fiscal receipts with themselves until leaving the products- or services-delivering unit, to produce in the event of a check-up.

Article 9

The following deeds are contraventions, unless according to criminal law they are considered criminal offences:

- a) the economic operators equipping, selling or using electronic fiscal cash registers without the authorisation of the Board for the authorisation of the distribution and use of electronic fiscal cash registers, or without respecting the conditions stipulated in the authorisation;
- b) delivery of goods or performing services without issuing the fiscal receipt, with the exception of the situation referred to in Article 1 (5);
- c) failure of the operator of the electronic fiscal cash register to hand over the fiscal receipt to the client;
- d) the clients' failure to respect the obligation of requesting, taking and keeping the fiscal receipts and of producing them at the request of the control bodies;
- e) the users' failure to respect the obligation to notify the authorised distributor or its legal territorial representatives upon finding a defect with the electronic fiscal cash register;
- f) the distributors' failure to respect the obligations to repair the electronic fiscal cash registers or to replace them within the interval stipulated by this emergency ordinance;
- g) failure to respect the obligation to keep and archive the log roll, the daily closure report and the special register specified in Article 1 (5);
- h) failure to respect the obligation to keep, fill in and update the interventions log specified in Article 5 (3);
- i) failure to respect the obligation to hand over the fiscal memory to be stored, according to the provisions of Article 4 (5);
- j) issuing the fiscal receipt for a value lower than the real one, as well as failing to respect the provisions of Article 1 (5).

Article 10

- 1) The fines for the contraventions specified in Article 9 are applicable to legal persons, with the exception of those specified in c) and d), as follows:
 - a) The deeds specified in a), b), e), f) and j) are sanctioned with a fine between 5 and 10 million lei;
 - b) The deeds specified in g) and h) are sanctioned with a fine between 1 and 25 million lei;
 - c) The deed specified in i) is sanctioned with a fine between 50 and 100 million lei.
- 2) The fines for the contraventions specified in Article 9 c) and d) are applicable to natural persons, as follows:
 - a) The deed specified in c) is sanctioned with a fine between 1 and 5 million lei;
 - b) The deed specified in d) is sanctioned with a fine between 100,000 and 500,000 lei.

Article 11

- 1) The ascertaining of the contraventions, as well as the application of sanctions are carried out by the specialised authorities within the Ministry of Finance, the Ministry of the Interior or and their territorial units.

- 2) Contestations of the control documents made up by the authorities specified in paragraph 1) and the resolutions of the contestations are made in accordance with the procedures stipulated in the legislation in effect.
- 3) The provisions of this emergency ordinance complement those of Law No. 32/1968 on establishing and punishment of contraventions, except for Articles 25-27.

Article 12

If the deed specified in Article 9 f) is repeated, along with the application of the contravention fine, the control authorities shall also permanently withdraw the authorisation of the distributor to distribute and sell electronic fiscal cash registers.

Article 13

If the economic operators specified in Article 1 fail to respect the obligation to become equipped and to use electronic fiscal cash registers within the time intervals specified in Article 6 their activity is suspended until the causes generating this are removed.

Article 14

Within 60 days from the date of publishing this emergency ordinance in the Romanian Official Journal the Ministry of Finance will elaborate Methodological Norms for application, which will contain provisions on the structure and competences of the Board for the authorisation of the distribution and use of electronic fiscal cash register, as well as the procedure of suspending the activity or of permanent withdrawal of the authorisation issued for the distributor for the distribution and sale of the equipment, which shall be approved through a Government decision.

PRIME-MINISTER
RADU VASILE

Countersign:
Minister of Finance
Decebal Traian Remeş

Minister of the Interior
Constantin Dudu-Ionescu

Minister of Industry and Commerce
Radu Berceanu