

# Hammond Bogaru & Associates

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## **Companies that are punished by a fine may have the act struck from their tax offense record after one year instead of five years.**

Previously, acts committed by individuals and legal persons, were noted in their tax offense record and erased after five years. Now it is proposed that that the act will be erased after varying periods of time, depending on the severity of the offence.

Currently, individuals and companies guilty of contraventions covered by fiscal, financial and customs laws may request to have it erased from their tax offense record one year after the decision becomes final. If the fine is not paid within one year, then the record will be erased when it is paid, but no later than five years after the final decision.

Crimes covered by fiscal, financial and customs laws can be erased from the tax offense record after five years. The Government wishes to change the rules applying to firms declared inactive. A firm that was declared inactive because it avoided a fiscal inspection by reporting a false address for its headquarters can have this offense erased three months after it is reactivated.

## **Approval of the creation of the Bucharest Metropolitan Transport Authority.**

The Authority will be financed by the state budget, through the ministry's budget, from its own revenue, from external funds and other sources. The plan previously announced is to set up an authority governing every type of public transport in the capital – subway, buses, minibuses, trams, trolleybuses and regional trains.

## **Romania's Chamber of Deputies adopted a bill requiring state-owned radio and television companies to have private management.**

The bill, which amends Law 41/1994 regulating the organization and functioning of the two state-owned broadcasters, requires five years of experience in television for managers of the public broadcasters and calls for a separation between the general manager and chairman of the board. The bill sets the powers of the general manager which are to be exercised by private management.

## **Consumer loans in Romania will have a maximum maturity of five years.**

The central bank plans to limit maturity on consumer loans to five years. The National Bank wants a clear distinction between real estate loans, which will include mortgage loans for the construction of a building its renovation/expansion as well as the purchase of a building. The same policy will be applied to loans refinancing real estate loans. Consumer loans with a mortgage will be considered regular consumer loans.

For consumer loans the client will need to file a guarantee worth 133% of the value to be borrowed. An exception will be amongst other for medical treatment and studies. For real

estate loans an advance of at least 15% of the building's value will be required. For a loan in foreign currency the amount can go up to 40%.

**Romania's state-owned railway company seeks to upgrade three bridges.**

The largest amount RON 37.84 million, net of VAT, will be assigned to upgrade a 128-meter bridge between Iernut and Ludus in Mures county. Another investment, of about RON 32.08 million, targets a bridge in Mogosoaia, Ilfov county, where the railway intersects with national road DN 1A. Works are scheduled to last 29 months. The third investment, of RON 30.81 million is for an upgrade on a 67-meter railway bridge between Brazi and Ploiesti Sud, in Prahova county. Works are set to last 19 months. All three upgrade projects will be funded by the European commission through the European Fund for Regional Development and from the state budget.

**Romanian public institutions will be able to contract consultancy services for projects that have already been awarded, through "accelerated" restricted tenders.**

The law currently says tenders may be accelerated only for "reasons of urgency". The period between the dispatch of the contract notice and offer submission may be reduced to 5 days from 37 days.

Restricted tenders may be used to contract consultancy services for a project already underway, or to obtain financing for local public investments. The change is needed to "prevent possible financial corrections from the European Commission," says the document. When deciding to accelerate a restricted tender, the contracting authority must take into account the project's complexity and amount of paperwork needed, so as not to be "a major obstacle" in receiving offers from a sufficient number of suppliers.

**Romanian government will appoint private managers at nine state-owned companies.**

The first nine companies which will be run by outside managers are Posta Romana, Tarom, Hidroelectrica, Oltchim (OLT.RO), CFR Marfa and Electrificare CFR, Societatea Nationala a Lignitului Oltenia, Romarm and Electrica Furnizare. CFR and CFR Calatori, Nuclearelectrica and Translectrica (TEL.RO) and Transgaz (TGN.RO) and Romgaz will have private managers starting with 2012.

**Government approved the claw back system, which requires producers to pay a quarterly tax according to drug consumption.**

The new rules will take effect on October 1, 2011. The ordinance says authorized drug distributors or their legal representatives will pay a quarterly contribution computed as a percentage of the consumption of drugs covered by national social health insurance Fund and the Health Ministry's budget. The contribution will be applied to sales exceeding the quarterly average of amounts earmarked for drugs included in the national healthcare programs, and used in outpatient treatment.

The tax shall be charged depending on the market share of each distributor. The National Health Insurance House will inform every distributor of the percentage owed to the budget, according to 
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 formula.

The funds collected will be income for the budget of the national social health insurance Fund

and will be used to provide drugs through the national healthcare programs and finance medical services.

**Government will revise state-insured healthcare benefits to exclude coverage of costly non-essential health services.**

The benefit package will be revised and will exclude state coverage for non-essential health care. The new healthcare benefit package is to be implemented next year and the services exceeding the basic scope would be provided via supplementary insurance, including private insurance. The Government plans to approve the new healthcare legislation by end-March 2012.

**Romania has received a reasoned opinion from the European Commission, on failure to transpose EU rules on waste management into national legislation.**

The country was supposed to align its waste management laws to EU legislation in 2010. Romania now has two months to comply or it will be referred to the EU Court of Justice. EU member states had to bring into force the laws, regulations and administrative provisions necessary to comply with the waste framework directive, which introduces waste management principles such as the "polluter pays principle". Romania informed the Commission that it would comply by April 2011. When member states fail to transpose EU legislation into national law within the required deadline, the Commission may ask the Court for financial sanctions to be imposed at the first referral to court. Romanian Environment Minister Laszlo Borbely said the country will likely adopt a law on waste management within a month, in which case infringement procedures started by the EU would be halted.

**Romanian residents may not drive cars registered in other states for periods longer than 90 days, or for more than three months per year.**

The act's note explains that the number of foreign-registered cars being driven in Romania has risen significantly following European Union accession. This trend has become more noticeable in the last two years, when Romanians became aware of the possibility of cheaply registering vehicles to individuals or firms in Bulgaria. The users of vehicles registered in other states are tempted to break traffic laws and cause accidents and flee the scene, counting on the authorities' difficulty in identifying and punishing them.

**European Commission has opened infringement proceedings against Romania for failing to transpose directives, regarding electricity and natural gas markets.**

The Commission announced the first stages of the procedure, the reasoned opinion, but Romania has not yet received the opinion. The proceedings against 17 member states are for failure to transpose Directive 2009/73 on the internal natural gas market, and 16 states for failure to transpose Directive 2009/72 on the internal electricity market. The National Energy Regulation Authority has drafted the acts transposing the directives, and sent them to the Commission. The two acts will be submitted for the Government's approval after the Commission sends its position on their compatibility with EU law.

**International Monetary Fund to make disbursement of a new EUR480 million tranche.**

In March, Romania and the IMF signed a two-year precautionary loan agreement, successor to a EUR 20 billion bailout package received during 2009-2011. The new deal includes EUR1.4 billion financing from the European Union and a EUR400 loan from the World Bank. So far, the IMF approved total financing to Romania worth over EUR1 billion under the new arrangement, but the authorities in Bucharest have not drawn any funds.

**Romanian oil companies are suspected of having fixed pump prices on unleaded gas, according to the antitrust regulator.**

The Competition Council has sent a document to the EU which reveals possible price-fixing of unleaded gasoline. The President of the Council confirmed that the document was sent to the authorities in Brussels, but declined to make any comments on its content. Romanian authorities started an inquiry into the local fuel market in 2005, after repeated price increases by local retailers. The probe was resuscitated in 2009, when the team working the case was replaced.

**Romania's Fiscal Code is considered unstable.**

Bulgaria's Fiscal Code is considered stable by virtually every business in the region. The vast majority (92%) of companies present in Romania believe the current tax system does not allow them to build long-term business strategies, while the exact opposite is true in Bulgaria. Some 67% of Slovakian firms believe the local tax system allows long-term plans and sustained business development, a similar figure to that reported by respondents in the Czech Republic – 63%. Tax rates are considered acceptable by every respondent in Bulgaria, by half the businesses in the Czech Republic and Slovakia, and by only 25% of the companies in Romania. Social contributions are regarded as the main problem faced by employers in the wake of the changes to the Fiscal Code; every respondent expressed concern about the ambiguous manner in which the rates of contribution are to be set. Although the study indicates that the local tax system and frequent legislative changes are a worry for companies operating in Romania, their representatives have the least knowledge about the Fiscal Code. 75% do not know its provisions or recent amendments. In Slovakia, 57% of companies have superficial knowledge on the changes to fiscal legislation, while the situation is balanced in Bulgaria and the Czech Republic. In Romania, frequent changes of accounting and tax rules are a real problem to companies and, they discourage long-term planning. There are ways to overcome these obstacles, like capping, simplifying and consolidating social contribution (capping the tax base would lead to lower tax rates and, implicitly, higher voluntary conformation and collection). Furthermore, extending the rules on VAT to every taxpayer category can encourage investors.

**Romania's Government has signed seven exploration agreements with foreign investors on blocks that Petrom and Romgaz have given up.**

Two investors are Irish companies, Blackstairs Energy and Moesia Oil and Gas, described as "specialized in improving the extraction rate of old deposits." The decisions were announced as attracting investments and creating jobs. Additional agreements to be signed with Romgaz entail minimum mandatory investments in research of at least \$520 million in five years, while the seven agreements with the new investors will attract \$5 million in two years. After this

period, the investors can choose to leave or continue exploration for another three years, with investments of \$20 million.

**The Government has five major projects it wants to implement through public-private partnership.**

The arrangement could be used to build the highway segments Sibiu-Pitesti and Comarnic-Brasov, as well as Targu Mures-Iasi-Ungheni and Ploiesti-Albita-Suceava. Public-private partnerships might be used to build regional hospitals or modernize farming infrastructure.

**Romanian fiscal authority will write off debt penalties if paid by the end of the year.**

ANAF had until October 15 to send notification letters to individuals and companies that have debts to the state budget to inform them about the new measure. The state will halve interest on late payment for debts paid by end-2011. Contributors that pay off debts by mid-2012 will have penalties reduced by 50% and late payment interest by 25%.

**Electricity and gas traders to report their transactions to the Agency.**

The new norms are to improve transparency and aid the setting of fair prices for energy, said EU commissioner Gunther Oettinger. Energy traders will report to ACER either directly or through third parties. The new regulations will be applied starting 2012, and they are aimed at preventing insider trading and market manipulation.

**Gamblers who use online gambling may be sentenced to up to two years in prison.**

There are 450,000 gaming fans in Romania who place bets online, but it is quite difficult to prove who uses unauthorized sites. The law has created a loophole regarding online gambling. It does not clearly state who will monitor online games in Romania. It could be a state authority or a private company.

The Romanian law allows all types of online gambling, but no local company is authorized to organize such games, as there are no regulations on how to apply the law. The Romanian gambling market is currently estimated at about EUR 500 million. Gaming fans may place online bets with Romanian companies. Romanian law neither allows, nor bans trans-border online games, but used to forbid Romania-registered companies from organizing online games. The new rules allow gambling to be organized in Romania by phone or through the Internet.

**The committee for the Tarnita-Lapustesti power plant, will include 10 members.**

The committee will create the project company. The Tarnita hydropower plant is set for completion in 2019, following an investment estimated at more than EUR1 billion. The plant will be constructed by a mixed company, where state-owned hydropower producer Hidroelectrica will hold a 51% stake. Investors will be sought between June 2011 and January 2012, and the project company will be created in February 2012. A Hidroelectrica official recently said talks were held with 150 potential investors interested in the project. The shortlist includes 10 companies.

**Investor in Posta Romana must contribute to increasing the company's share capital.**

The company is currently owned by the Communication Ministry, with a 75% stake, while investment fund Fondul Proprietatea holds the remaining 25%. Following the share capital increase the state might reduce its stake to about 51% and will continue to be major shareholder. Fondul Proprietatea's stake might fall to 15% unless the fund participates in increasing the company's share capital. The investor will be allowed to appoint a team that will manage the company for at least ten years.

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