

Tax Flash July 2024

1. New procedure relating to the RO e-Transport System and the postponement of fines for certain companies

- I. Joint Order of the National Agency for Fiscal Administration and the Romanian Customs Authority no. 1,337/1,268/2024, approving the procedure for the use and operation of the RO e-Transport national system for monitoring goods, was published in the Romanian Official Gazette no. 597 on 27 June 2024. It replaces, as of 27 June 2024, the previous procedure for the use and operation of the RO e-Transport System.

Several new aspects have been introduced, as follows:

- The categories of road vehicles subject to monitoring under the RO e-Transport System are established regardless of the nature of the transported goods (high fiscal risk or not). Where the previous procedure targeted only high fiscal risk goods, the new regulation states: "The categories of road vehicles subject to monitoring under the RO e-Transport System are those with a maximum permissible technical mass of at least 2.5 tonnes, loaded with goods with a total gross mass of more than 500 kg, or a total value of more than 10,000 lei, relating to at least one batch of the goods being transported."
 - Clarifications are provided regarding multimodal transport. If goods that require reporting under the RO e-Transport System are transported nationally by various different categories of transport (water, rail, air, road, etc.), only the road transport component will be declared under the RO e-Transport System.
 - The procedure contains information about the option to confirm declared transports in the RO e-Transport System. The user will be able to select from one of the following options: "Confirmed", "Partially Confirmed" or "Rejected". Additional information relating to the transport can be provided in the "Confirmation Notes" field.
 - The procedure sets out the requirements that the transport operator and the driver of the vehicle must meet with respect to transports subject to declaration under the RO e-Transport System. These cover aspects relating to the real-time monitoring of road transports and the corresponding obligations of both the transport operator and the road transport vehicle driver.
 - In terms of determining the value of undeclared goods due for confiscation, the new procedure provides clarifications with respect to situations in which there exists a clear undervaluation (a difference of 50%) of goods that must be declared under the RO e-Transport System. In these cases, the value is determined by consulting information already available to the authorities in the RO e-Transport System or the customs system.
 - Clarifications are provided regarding the transport of high fiscal risk goods sold in the cash and carry system. The procedure states that there are no reporting obligations under the RO e-Transport System for the transport of high fiscal risk goods purchased from cash and carry stores and representing products that the customer selects from the shelf, pays for at the cash register and transports in their own name.
- II. Through Emergency Government Ordinance no. 87/2024, as published in the Official Gazette no. 608 on 28 June 2024, the imposition of fines for failing to report international road transport of goods through the RO e-Transport System by companies holding, at the date of the transport, the status of authorised economic operators according to Article 38 of Regulation (EU) 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, has been postponed until 1 January 2025.



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This does not apply to the transport of goods with high fiscal risk.

Sources: Joint Order of the President of the National Agency for Fiscal Administration and the President of the Romanian Customs Authority no. 1,337/1,268/2024 approving the Procedure for the use and operation of the RO e-Transport national system for monitoring goods and Emergency Government Ordinance no. 87 of 28 June 2024 amending various legislative acts in the field of e-Transport, e-VAT and e-Invoice, and regulating certain fiscal-budgetary measures.

2. The pre-completed RO e-VAT return

The tax authorities have published an emergency ordinance introducing measures for the implementation and use of the pre-completed RO e-VAT return. The main provisions of the ordinance pertaining to the RO e-VAT system are summarised below:

- The pre-completed RO e-VAT return will come into use on 1 August 2024 and will be applicable for operations carried out as of 1 July 2024.
- The pre-completed VAT return will be sent to taxpayers by the tax authorities by electronic means by the 5th day of the month following the submission deadline for the VAT return.
- In the event that the system is not operational, the deadline for submitting the pre-completed VAT return may be extended.
- After receiving the pre-completed VAT return, taxpayers have the obligation to verify the data and information contained therein and to compare this with the taxable transactions declared in the VAT return for the period in question.
- The tax authorities will compare the VAT return submitted by the taxable person with the one pre-completed using the RO e-TVA system. The comparison is made based on the "VAT" or "Value" column of the VAT return, as applicable.
- Where the tax authorities identify significant discrepancies between the pre-completed amounts and the amounts declared by the taxpayer in the VAT return, a notification of compliance shall be sent to the taxpayer by the 5th day of the month following the legal deadline for submission of the VAT return.
- The compliance notification will not be taken into consideration when determining the tax risk until 1 January 2025.
- After receiving the compliance notification, taxpayers are required to submit within 20 days an explanatory note justifying any discrepancies identified. This obligation takes effect on 1 January 2025.
- Significant discrepancies are considered those values that cumulatively exceed 20% in percentage terms and an absolute value of RON 5,000, resulting from the comparison of values entered into the rows of the pre-completed VAT return and the VAT return.
- The tax authorities may also issue notifications of compliance in cases where discrepancies that fall below the above-mentioned material threshold are identified on the basis of the risk analysis performed.
- Failure to comply with the submission deadline for the explanatory note is considered a contravention and is punishable with fines ranging between RON 1,000 and RON 10,000, depending on the category of taxpayer. These fines become applicable as of 1 January 2025.
- Failure to provide the required information or a partial provision of information for the purpose of clarifying the discrepancies identified represents an indicator of tax risk related to VAT compliance.
- Moreover, taxpayers are considered to present a risk of wrongful VAT refund in any of the following situations:

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- they do not submit a response to the notification of compliance, or
- there are significant discrepancies and no complete and/or conclusive information and data have been submitted to justify them.
- Following implementation of the pre-completed VAT return, the deadline for submitting the recapitulative statement may suffer changes. According to the amendments introduced by the authorities, the deadline for submission of Form 390 will be established by Order of the President of National Agency of Fiscal Administration.
- By way of exception, the deadline for submitting the recapitulative statement for June is 25 July 2024.

Source: Emergency Ordinance no. 87/2024 on the amendment of various normative acts in the field of e-Transport, e-VAT and e-Invoicing, as well as the regulation of various fiscal-budgetary measures, as published on 28 June 2024

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