

## Legal Update FISCAL LAW

**Order No. 2856/2017 on the establishment of the criteria for tax risk assessment in case of registration and cancellation of registration for value added tax purposes, on approval of the Procedure on tax risk assessment for taxable entities applying for registration for value added tax purposes under Article 316 para. (1) items a) and c) and para. (12) item e) of Law No. 227/2015 on Fiscal Code, on approval, at request, of the Procedure for registration for value added tax purposes under Article 316 para. (12) item e) of Law No. 227/2015 on Fiscal Code, and on approval of the Procedure for annulment, ex officio, of the registration for value added tax purposes for taxable persons with high tax risk, as per Article 316 para. (11) item h) of Law No. 227/2015 on the Fiscal Code (the "Order")**

**Official Gazette No. 780 of October 3rd, 2017**

**Date of entering into force: October 1st, 2017**

Bucharest Office

Tel: +40 (21) 312 10 08  
Fax: +40 (21) 312 10 09  
office@pachiu.com

PR & Marketing  
Department:  
PR@pachiu.com

www.pachiu.com

The Order approves the Procedure on tax risk assessment for taxable entities, companies having their place of business in Romania, established under Company Law No. 31/1990, republished, as subsequently amended and supplemented, subject to registration with the Register of Commerce, which apply for registration for value added tax purposes, and taxable entities whose registration for value added tax purposes has been cancelled based on the procedure for the assessment of the intent and capacity to carry out economic activities subject to VAT, which apply for registration for value added tax purposes after entering into force of this Order.



The provisions of the Order shall not apply to Romanian subsidiaries of taxable entities with their place of business outside Romania, subject to the obligation of registration for VAT purposes in Romania.

Any taxable entities which apply for registration for VAT purposes shall submit to the competent tax authorities the amended declaration or the application for registration for VAT purposes, according to the model form approved by order of the President of the National Agency for Fiscal Administration.

The competent department of the fiscal authority shall initiate the assessment of the entities which apply for registration for VAT purposes based on the procedure for the assessment of the intent and capacity to carry out economic activities subject to VAT, which apply for registration for value added tax purposes, on the basis of approximately 20 criteria, as set out in the Annexes 5 and 6 to the Order. Each criterion set out therein corresponds to a negative rating. The final rating under which the tax risk degree is to be assessed shall be calculated by summing up the ratings corresponding to each risk criterion, to which is added 100 points. The taxable entity shall bear a high tax risk if the rating is below 51 points.

Before taking the decision to reject the application for registration, the competent department shall grant the taxpayer the right to be heard.

The decision with regard to the approval /rejection of the registration for VAT purposes shall be served to the taxable entity. The decision with regard to the rejection of the application for registration for VAT purposes may be challenged by a complaint filed with the issuing tax authority within 45 days as of service.

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