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EUROPEAN COMMISSION
TAXATION AND CUSTOMS UNION DIRECTORATE GENERAL

For the kind attention of Mr. Heinz ZOUREK – Director General

Ref.: Romanian authorities do not respect provisions of Art. 13 of the Directive 96/2003 and use invented rate with 6.5% higher than the legal one

Dear Mr. Zourek,

I would like to inform you that since 2007 until 2013 Romania enforced the provisions of Art. 13 of the Directive 96/2003, applying the exchange rate of the European Central Bank on the first day of October of the previous year.

„For Member States that have not adopted the euro, the value of the euro in national currencies to be applied to the value of the levels of taxation shall be fixed once a year. The rates to be applied shall be those obtaining on the first working day of October and published in the *Official Journal of the European Union* and shall have effect from 1 January of the following calendar year.”

In accordance with the provisions of the Art. 13 of the Directive 96/2003 and with the procedure used by Romania in the last six years, the value of the euro in Romanian currency to be applied to the value of the levels of taxation for 2014 should be 1 Euro = 4.4485 Lei – the first working day rate in October 2013 of the European Central Bank published in the Official Journal of the European Commission and applicable as of 1 January of the following calendar year!

The Romanian Government uses for 2014 a rate of 1 Euro = 4.738 RON, with 6.5% higher than the legal one.

This was possible due to the fact that in 2013, Romanian Government switched to a new and original method to set the value of the euro in Romanian currency to be applied to the value of the levels of taxation for 2014.

Romanian Government took the right to choose the higher rate between the rates of the last 2 years (in October 2012 ECB indicates 1 Euro= 4.5223 lei; in October 2013 ECB indicates 1 Euro = 4.4485 Lei), and therefore they use the rate from 2012 updated with the average annual consumer price index (CPI) of September 2013, which is 104.77%, announced by the National Statistics Institute until 2013 October 15!

Question 1: is the value of the Euro in Romanian currency applied to the value of the levels of taxation for 2014 (1 Euro=4.7380Lei) legal as far as it does not respect Art. 13 of the Directive 96/2003?

Question 2: in case the applied rate is not legal, which is the procedure to be followed by the consumers (Romanian companies and persons, as well as foreign companies and persons being EU residents or non-EU residents) to be reimbursed by Romanian Government the 6.5% difference paid extra? Are penalties applied for these amounts?

Yours sincerely,

Secretary General
Radu BINESCU



Attached 2 Annexes

