

Government of Romania

Ordinance no. 71/2001

of August 30, 2001

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Ordinance no. 71/2001 on the organization and exercise of the tax consultancy activity

Pursuant to the provisions of art. 107 para. (1) and (3) in the Constitution of Romania and those of art. 1 point II.1 in Law no. 324/2001 on entrusting the Government to issue ordinances,

The Government of Romania hereby adopts this ordinance.

CHAPTER I

Tax consultancy and tax advisor

Art. 1. – This ordinance represents the legal framework for the organization and exercise of the tax consultancy activity as independent activity, by the persons who acquired this status.

Art. 2. – The independent exercise of the status of tax advisor shall be carried out only on the basis of the judicial relationships between the tax advisor and the natural persons or legal entities he/she grants consultancy to and towards which he/she has no direct or indirect material interests, with the exception of the fees due for the work he/she provides in this capacity.

Art. 3. – (1) The tax consultancy activity consists of:

1. a) the provision of advisory activities in the tax and tax procedure fields which consist of the elaboration and supply of professional opinions, information and other theoretical or practical analysis papers;
2. b) services of elaboration of tax statements and of reporting for tax purposes or specialty assistance for the elaboration thereof;
3. c) certification of tax statements, under the law;

4. d) services of elaboration of mandatory tax records according to law, including the elaboration of transfer pricing related documents, requests for obtaining advance pricing agreements, individual tax rulings and entering into mutual agreement procedures to avoid double taxation;
5. e) services of assistance and representation before the tax bodies, including the award of specialty assistance throughout the performance of any tax administration procedures;
6. f) services of elaboration or assistance regarding the elaboration of the documentation for exercise of the means of appeal against the debentures and other fiscal administrative acts.
7. g) performance of judiciary tax surveys at the request of the judicial bodies or criminal prosecution bodies. In this case, art. 42 in Law no. 134/2010 on the Code of Civil Procedure, as republished, shall be correspondingly applied. Judicial tax surveys are carried out only by active tax advisors registered in the records of the Ministry of Justice – Related Judicial Professions Department;
8. h) repealed through point 2 in Law no. 197/2015 as of July 19, 2015.
9. i) assistance regarding the receivables of the general consolidated budget, under observance of the legal provisions in force;
10. j) tax assistance in cases pending before a jurisdictional authority.
11. k) the provision of other assistance services in the tax or tax procedure fields.

(2) The activities provided under para. (1) letter c) shall be exercised in accordance with the norms approved by the Higher Council of the Chamber of Tax advisors, based on the endorsement of the Ministry of Public Finance.

(3) For the exercise of the tax consultancy activity it is mandatory to have professional liability insurance.

CHAPTER II

Rules of awarding the status of tax advisor and assistant tax advisor

Art. 4. – (1) For the award of the status of tax advisor, the applicants, natural persons, must cumulatively fulfill the following requirements:

1. a) to be graduates of a higher education institution, graduated with a bachelor's degree or equivalent in economic or legal sciences;
2. b) to have at least 5 years of professional experience, out of which at least 3 years in one or several of the following activities:

b1) drafting, endorsement, approval or application of tax laws;

1. b) fiscal administration;

b3) drafting or application of accounting regulations;

b4) financial-accounting or legal activity;

b5) university teaching activity in the field of public finance, taxation, tax and budgetary policies, financial accounting, public institution finances, law;

b6) assistant tax advisor activity;

1. c) must have not been criminally convicted for crimes punished by the tax, tax and accounting, customs law, those which refer to financial discipline, as well as other crimes related to the exercise of the activities provided under letter b);
2. d) must have full legal competence;
3. e) must be medically fit to exercise their profession;
4. f) must pass the examination for award of the status of tax advisor.

(2) For the award of the status of assistant tax advisor, the applicants, natural persons, must cumulatively fulfill the following requirements:

1. a) must be graduates of a certified higher education institution with the duration established by law;
2. b) must have a professional experience of at least 2 years;
3. c) must have not been criminally convicted for crimes punished by the tax, tax and accounting, customs law, those which refer to financial discipline, as well as other crimes related to the exercise of the activities provided under para. (1) letter b);
4. d) must have full legal competence;
5. e) must be medically fit to exercise their profession;
6. f) must pass the examination for award of the status of assistant tax advisor.

(3) After passing the examination for award of the status of assistant tax advisor and being registered in the Register of Tax Advisors and Tax Consultancy Companies, in the section of “Assistant tax advisors”, the persons who acquired this capacity may operate only under the guidance of an active tax advisor.

(4) The duties that can be performed by an assistant tax advisor with regard to the activities provided under art. 3 shall be established through the Regulation of Organization and Operation of the Chamber of Tax Advisors.

(5) After performing a three year internship, the assistant tax advisor may register for the examination to be awarded the status of tax advisor, within 2 years as of the completion of the internship, if the requirements provided under para. (1) letters c) – e) are fulfilled.

(6) During the term of the internship provided under para. (5), assistant tax advisors must follow a yearly professional training course organized by the Chamber of Tax Advisors.

Art. 5. – When submitting the documents that certify the fulfillment of the requirements provided under art. 4 letters a) – d), the applicant shall pay the exam registration fee in the account of the Chamber of Tax Advisors. The amount of the fee shall be established through decision of the Superior Council of the Chamber of Tax Advisors.

Art. 6. – The exam for award of the status of tax advisor shall be organized by the Chamber of Tax Advisors, on the basis of a regulation approved by the Superior Council of the Chamber of Tax Advisors.

Art. 7. Repealed through point 5 in Emergency Ordinance no. 53/2007 as of June 27, 2007.

Art. 8. – (1) The person who passed the tax advisor or assistant tax advisor exam shall be required to register in the corresponding section of the Register of Tax Advisors and Tax Advisory Companies within at most 90 days as of the date of communication of the exam results.

(1) The person who passed the examination of tax advisor or assistant tax advisor is required to register himself/herself in the Register of tax advisors and tax consultancy companies, in the corresponding section, within at most 12 months as of the date of communication of the exam result.

(2) The requirements for registration in the Register of tax advisors and tax consultancy companies shall be established through the Regulation of Organization and Operation of the Chamber of Tax Advisors.

(3) After the lapse of the term provided under para. (1), but not later than 24 months as of the date of communication of the exam result, the person who did not register in the Register of tax

advisors and tax consultancy companies may be registered in the Register of tax advisors and tax consultancy companies both in the section of “active persons” and in the section of “inactive persons” only after following a training internship in the field of the tax legislation organized by the Chamber of Tax Advisors.

(4) The person who did not register in the Register of tax advisors and tax consultancy companies within 24 months as of the date of communication of the exam result loses the right to register in the Register of tax advisors and tax consultancy companies in the corresponding section.

(5) The provisions of para. (2) – (4) shall be properly applicable to assistant tax advisors.

(6) The tax consultancy activity can be carried out only by the persons registered in the Register of tax advisors and tax consultancy companies in the sections of “active persons”.

(7) The professional card shall be issued and endorsed in accordance with the provisions of the Regulation of Organization and Operation of the Chamber of Tax Advisors, both for tax advisors and for assistant tax advisors.

Art. 9. – (1) Tax advisors may operate as independent natural persons or they may associate in companies whose object of activity is tax consultancy. The company must have at least one shareholder and director who have the status of tax advisor.

(2) Companies must be authorized by the Chamber of Tax Advisors in order to carry out the tax consultancy activity.

(3) Repealed through point 1 in Emergency Ordinance no. 12/2013 as of March 8, 2013.

CHAPTER III

Organization and duties of the Chamber of Tax Advisors

Art. 10. – (1) The Chamber of Tax Advisors, hereinafter referred to as the Chamber, is a professional organization of public utility, a non-profit legal entity. The seat of the Chamber of Tax Advisors is in Bucharest, 61 Alexandru Constantinescu Street, district 1. The seat can be relocated under the law through a decision of the Superior Council of the Chamber.

(2) The Chamber shall be organized and shall operate on the basis of its own regulation of organization and operation, approved through decision of the Superior Council of the Chamber.

(3) The Chamber may create territorial units, in accordance with its own regulation of organization and operation.

Art. 11. – The Chamber has the following main duties:

1. a) it coordinates the tax consultancy activity;
- a¹) it organizes the examination for award of the status of tax advisor.
 1. b) it defends the professional interests of all members;
 2. c) it offers support and assistance to the members of the Chamber in professional issues;
 3. d) it elaborates norms regarding the tax consultancy activity;
 4. e) keeps the Register of tax advisors and tax consultancy companies;
 5. f) it organizes professional improvement courses for tax advisors;
 6. g) it acts as mediator between the members of the Chamber in cases of differences and upon request;
 7. h) it acts as mediator between the members of the Chamber and the clients in cases of differences and upon request;
 8. i) it establishes disciplinary measures;
 9. j) it collaborates with the professional associations of profile from the country and from abroad;
 10. k) it edits the specialty publications;
 11. l) other duties established by law or by its own regulation.
 12. m) it elaborates and approves the Code of Ethical and Professional Conduct in the field of tax consultancy;
 13. n) it elaborates and approves the Norms of professional training and improvement of tax advisors.

Art. 12. – the Chamber's management bodies are: The National Conference, the Superior Council of the Chamber and the Permanent Office of the Superior Council.

Art. 13. – the Chamber covers its expenditures from own revenues, which are made up of:

1. a) the registration fee for the examination for award of the status of tax advisor and assistant tax advisor;
2. b) the contributions of the Chamber's members;
3. c) collections from selling own publications;

4. d) donations and sponsorship;
5. e) various services provisions, including professional training courses;
6. f) penalties applied in accordance with this ordinance.

Art. 14. Repealed through point 13 in Emergency Ordinance no. 53/2007 .

Art. 15. – the Chamber’s members are:

1. a) the persons who were issued the professional card and who registered in the Register of tax advisors and tax consultancy companies;
2. b) the companies that obtained the operating permit issued by the Chamber and registered in the Register of tax advisors and tax consultancy companies.

Art. 16. Repealed through point 9 in Law no. 198/2002 as of April 29, 2002.

CHAPTER IV

Compatibility. Withdrawal of the advisor status and of the operating permit

Art. 17. – Tax advisors and tax consultancy companies may perform, apart from the tax consultancy activity, activities of:

1. accounting survey and financial audit. Natural persons and legal entities who are also tax advisors may perform the activities of accounting survey and financial audit only after they acquire, under the law, the status of accounting expert or financial auditor, as applicable, and they register as members in the organizations which coordinate the liberal professions in question;
2. training and improvement in the tax field, as well as any other activities provided in the Classification of economic activities in the national economy, under the law.”

Art. 18. Repealed through point 15 in Emergency Ordinance no. 53/2007 as of June 27, 2007.

Art. 19. – The professional card of tax advisor, respectively the operating permit, shall be withdrawn to the tax advisors in the following situations:

1. In the case of natural persons:
2. a) when the status of tax advisor was acquired through the perpetration of a crime;
3. b) when the tax advisor breaches the provisions in the Code of Ethical and Professional Conduct in the field of tax consultancy;

4. c) when the contribution was not paid on time, and the delay exceeds 12 months.
5. In the case of legal entities, if:
6. the company was dissolved;
7. after the date of registration with the Chamber it is ascertained that they no longer fulfill the legal operation requirements in accordance with this ordinance and the Regulation of Organization and Operation of the Chamber;
8. when the contribution was not paid on time, and the delay exceeds 12 months.
9. when the operating permit was awarded as a result of the perpetration of a crime.

Art. 20. – (1) Shall be forbidden the practice of the profession and the use of the title of tax advisor or of the name of tax consultancy company in any of the following situations:

1. a) the professional card of tax advisor or of assistant tax advisor has been withdrawn;
2. b) the permit of tax consultancy companies was withdrawn;
3. c) the disciplinary sanction consisting of the suspension of the right to operate as a member was applied;
4. d) the status of Member of the Chamber was withdrawn without the application of the disciplinary procedure;
5. e) in other cases provided by law.

(2) In case of withdrawal of the professional card of tax advisor or assistant tax advisor or if the status of member of the Chamber was withdrawn, the card and seal shall be null by operation of law.

(3) The persons found in the situation provided by para. (2) shall be required to hand in the card and seal.

(4) The enforcement of any of the measures provided by para. (1) or art. 25 para. (1) triggers the amendment at once of the corresponding section from the Register of tax advisors and tax consultancy companies.

(5) A complaint can be filed against the measures taken in accordance with para. (1), in accordance with the provisions of Administrative law no. 554/2004, as subsequently amended and supplemented.

(6) All the documents elaborated after the professional card of tax advisor or assistant tax advisor or the authorization of tax consultancy companies is withdrawn shall be null by operation of law. Nullity can be also found ex officio.

CHAPTER V

The Register of tax advisors and tax consultancy companies

Art. 21. – (1) The members of the Chamber shall be registered in the Register of tax advisors and tax consultancy companies as active or inactive members. Through the care of the Permanent Office of the Superior Council of the Chamber, the corresponding sections in the Register of tax advisors and tax consultancy companies shall be brought to the knowledge of the public by publication on the website of the Chamber and shall be permanently updated with the amendments that occur. Through the care of the Permanent Office of the Superior Council of the Chamber, the Register of tax advisors and tax consultancy companies and the amendments that occur shall be communicated ex officio to the Ministry of Justice, the Central Office for Technical Judiciary Surveys of the Ministry of Justice, the National Agency for Fiscal Administration, as well as, upon request, to any other entitled institutions. The communication conditions shall be established through a protocol.

(2) The Register of tax advisors and tax consultancy companies will mention the following data regarding the Chamber members:

1. a) for natural persons:

- first and last name;
- professional card number;
- locality of domicile;
- other personal identification data;

1. b) for the tax consultancy companies:

- name and registered office;
- first and last name, professional card number and locality of domicile of the natural persons who perform the tax consultancy in the name of the tax consultancy company;

(3) The Chamber members shall be required to announce any amendment of the data registered in the Register of tax advisors and tax consultancy companies within 30 days.

(4) Tax advisors will submit a statement on one's own responsibility to be registered in the section of "inactive persons" of the Register of tax advisors and tax consultancy companies.

CHAPTER V¹

Exercising the profession in Romania by the tax advisors who obtained their professional qualification in one of the Member States of the European Union, of the European Economic Area or of the Swiss Confederation

Art. 21¹. – (1) The provisions of this chapter shall apply to tax advisors who obtained their professional qualification in one of the Member States of the European Union, the European Economic Area or the Swiss Confederation, who exercise their profession in Romania in one of the following forms:

1. a) independent or joint tax advisory activity;
2. b) dependent activity, as employees in Romania;
3. c) activity of provision of tax advisory services, under the conditions provided by art. 21⁹

(2) The provisions of para. (1) also apply to the citizens of the Member States of the European Union, the European Economic Area or the Swiss Confederation, when they hold a qualification title obtained in the territory of a third country, if they have a 3 year professional experience in the field of tax consultancy on the territory of the Member State where they obtained the recognition of their professional qualifications and want to operate as tax advisor in Romania in the form provided by para. (1) letter a).

(3) The applicants shall inform the Chamber on the legal form of exercise of their profession. Once their qualification titles are recognized, they register in the Register of Tax Advisors and Tax Consultancy Companies in the corresponding section.

Art. 21². – (1) For the purposes of this chapter, the terms and expressions below shall be defined as follows:

1. a) tax advisor – any person coming from a Member State of the European Union or of the European Economic Area, who is authorized to exercise his/her professional activity as tax advisor in a Member State;

2. b) Member State of origin – the Member State of the European Union or of the European Economic Area where the tax advisor obtained the right to operate as tax advisor before practicing his/her profession in Romania;
3. c) group – any entity with or without legal personality, organized in accordance with the legislation of a Member State, where the tax advisors carry out their tax consultancy activity together, under a common name.

(2) Tax advisors who operate in Romania under the professional title from their State of origin may carry out professional activities in accordance with art. 3, under observance of the legislation from Romania.

Art. 21³. – For the citizens of the Member States of the European Union, of the European Economic Area or the Swiss Confederation who want to carry out tax consultancy activity in Romania in the form provided under art. 21¹ para. (1) letter a), the Chamber shall recognize the qualification titles submitted by the citizens in question, based on the application thereof and of the supporting documents.

Art. 21⁴. – If the citizens of the Member States of the European Union, of the European Economic Area or the Swiss Confederation who want to carry out tax consultancy activity in Romania do not submit the documents provided by art. 21³ or the documents they submit are not conclusive, the Chamber may request to the competent authorities of the Member State of origin of the person in question a confirmation of the fact that the person in question is authorized to carry out the professional activity of tax advisor in that Member State.

Art. 21⁵. – The Chamber may ask the applicant to opt for following an internship of adaptation not exceeding 3 years or to take a skills test, in the following cases:

1. a) if the training of the applicant relates to theoretical and practical fields which are substantially different than those requested in Romania to obtain the status of tax advisor;
2. b) if the activities provided by art. 3 para. (1) are not included in the same profession in the Member State of origin or of provenance of the applicant and if the difference corresponds to specific training requested in Romania and covers fields which differ substantially from those covered by the qualification title held by the applicant.

Art. 21⁶. – The provisions of this chapter shall be supplemented with the provisions of Law no. 200/2004 on the recognition of degrees and professional qualifications for the professions regulated in Romania, as subsequently amended.

Art. 21⁷. Repealed through point 7 in Emergency Ordinance no. 12/2013 as of 3/8/2013.

Art. 21⁸. Repealed through point 8 in Emergency Ordinance no. 12/2013 as of 3/8/2013.

Art. 21⁹ – (1) In accordance with this chapter, tax advisors coming from the Member States of the European Union and of the European Economic Area may carry out activities of tax advisor in Romania under the form of services provision.

(2) The activity of provision of tax advisory services provided by art. 21¹ para. (1) letter c) shall be exercised in Romania through the occasional assurance of tax advisory services for private individuals or legal entities before tax bodies or jurisdictional authorities, as required by the member state of origin for tax advisors. In this case it is not necessary for tax advisors to register in the Register of Tax Advisors and Tax Advisory Companies.

(2¹) The tax advisory activity exercised occasionally in Romania, as provided by para. (2) is that activity which is not provided continuously and systematically in Romania.

(3) For the exercise of the tax consultancy activity under the form of services provision, the tax advisor must observe the conditions and rules of professional conduct of the Member State of origin, as well as the Romanian legislation regarding the profession, especially with regard to incompatibilities and professional secrecy.

(4) The tax advisor who provides services in Romania is required to prove to the Romanian authorities the status of tax advisor acquired in a Member State of the European Union or of the European Economic Area.

Art. 21¹⁰. – The provisions of this chapter shall be applied in a similar manner to tax advisors from the states adhering to the OECD Code of liberalization of capital movements and to the OECD Code of liberalization of current invisible operations

CHAPTER VI

Role, duties and rights of the Ministry of Public Finance as public authority

Art. 22. Repealed through point 20 in Emergency Ordinance no. 53/2007 as of June 27, 2007.

Art. 23. – the Ministry of Public Finance shall permanently seek that the statutes and the other regulations issued by the Chamber do not contravene to legal regulations and that the decisions taken by the management bodies of the Chamber are in accordance with the statute and the other regulations.

Art. 24. – The Ministry of Public Finance will take the measures necessary for the Chamber to observe the provisions of this ordinance.

Art. 24¹. – (1) At the request of the Chamber, the Ministry of Public Finance will promote for adoption the draft legislative acts for supplementation and/or amendment of this ordinance.

(2) At the Chamber's request, the minister of public finance may appoint through order specialists of the Ministry of Public Finance to be part of the commissions or committees established within the Chamber.

(3) The specialists provided by para. (2) can be paid in accordance with the decision of the Superior Council of the Chamber.

Art. 24². – (1) The Ministry of Finance may request to the Chamber of Tax Advisors to give its opinion on the draft legislative acts in the field of taxation, which it initiates and intends to promote.

(2) The opinion communicated by the Chamber of Tax Advisors is of an advisory nature for the Ministry of Finance and the Chamber's failure to communicate an opinion shall not affect the promotion of the legislative act.

(3) At the request of the Ministry of Finance or at its own initiative, the Chamber of Tax Advisors shall elaborate and communicate to the ministry adequately substantiated analyses, studies or projects related to the tax legislation or to the practical implementation thereof.

(4) The Chamber of Tax Advisors shall collaborate with the Ministry of Finance and with the National Agency for Fiscal Administration, for the purpose of improving taxpayer compliance, through the implementation of activities referring to the correct and unitary application of tax legislation.

(5) The procedure of application of the provisions under para. (4) shall be established by means of a protocol concluded between the Ministry of Finance, the National Agency for Fiscal Administration and the Chamber of Tax Advisors."

CHAPTER VII

Sanctions

Art. 25. – (1) If the disciplinary sanctions provided by the legislative acts issued by the Superior Council of the Chamber of Tax Advisors are enforced under the law, penalties between 25% and 100% of the annual fixed contribution can also be applied. The application of the penalty level shall consider the circumstances where the deed was committed, the means and manner of perpetration thereof, the intended purpose, the consequence of the deed, the personal

circumstances of the sanctioned person, as well as the degree of social danger of the perpetrated deed.

(2) The exercise of tax consultancy activities by natural persons who have not acquired the status of tax advisor in accordance with the provisions of this ordinance or who have not become active members of the Chamber, as well as by the legal entities which have not been authorized by the Chamber or which have not registered with the Register of tax advisors and tax consultancy companies is a criminal offence and shall be punished in accordance with the criminal law.

(3) Repealed through point 16 in Emergency Ordinance no. 8/2014 as of 2/28/2014.

(4) Repealed through point 16 in Emergency Ordinance no. 8/2014 as of 2/28/2014.

(5) Repealed through point 16 in Emergency Ordinance no. 8/2014 as of 2/28/2014.

(6) Repealed through point 16 in Emergency Ordinance no. 8/2014 as of 2/28/2014.

CHAPTER VIII

Final provisions

Art. 26. – On the date of entry into force of this ordinance shall be repealed the provisions of art. 6 letter e) with regard to the execution of works of fiscal nature, in Government Ordinance no. 65/1994 on the organization of the activity of accounting survey and of authorized accountants, published in the Official Gazette of Romania, Part I, no. 243 of August 30, 1994, approved and amended through Law no. 42/1995, as subsequently amended and supplemented.

Art. 26¹. – The decisions adopted by the National Conference or by the Superior Council of the Chamber shall be published in the Official Gazette of Romania, Part I.

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