

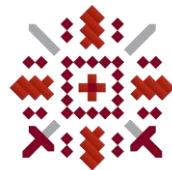


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Changes in the Form o88 "Affidavit for assessing intention and ability to carry out economic activities involving VAT taxable operations"



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Order no. 2048/2016 amending the Order of the National Agency for Fiscal Administration no. 3841/2015 approving the model and content of form (088) "Affidavit for assessing intention and ability to carry out economic activities involving VAT taxable operations", has been published In the Official Gazette 533/15 July 2016 .



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The main changes concern:

1. Submission of the form by taxable persons already registered for VAT purpose would be made at the request of tax authorities, in case the taxable persons are assessed as having fiscal risk (the form would no longer be connected by cases such as the change of administrators and / or associates, the change of the registered office);
Please note that, the form is also used by companies set up based on Law 31/1990 regarding trading companies, republished, with further modifications and amended, if they request registration for VAT purposes as a result of exceeding the exemption threshold, registration by option or after cancellation of VAT registration.
2. The Form o88 is changed by reducing the number of questions / requests for information to 12 (compared to 20 as currently exists) by:
 - a. Removing the request of information on:
 - ◆ Position as associate and / or administrator of taxable persons having outstanding tax liabilities;

- ◆ Contraventions included in the tax records of the associates and / or administrators or of the taxpayers in which they hold the position of associate and / or administrator;
- ◆ Individuals who can provide information on the administrators of the taxpayer;
- ◆ Economic indicators achieved by associates and administrators, legal persons;
- b. Introducing new requests for information on:
 - ◆ Investments are to be made;
 - ◆ Type of assets held;
 - ◆ In certain cases, about Intra-Community acquisitions and supplies and export and import operations.
- c. Reshuffling of requests for information concerning:
 - ◆ Activities carried on at the registered office / headquarters or secondary to other addresses;



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- ◆ Income obtained by associates and administrators will be presented on income brackets, but it should be provided information about the payer of the income and country from where the income was obtained.
- d. Maintaining the requests for information on:
 - ◆ The position of associates and / or administrators in other taxable persons or if they were / are holders of freelancers, individual enterprises or members of family businesses;
 - ◆ The type of visa for non-EU citizens administrators;
 - ◆ Bank accounts and real beneficiaries;
 - ◆ The organization of accounting department and submission of declarations;
 - ◆ The number of individual employment agreements;
 - ◆ Studies / professions / occupations held by individuals, acting as administrators.
- e. Reducing the number of documents to be submitted with the form. The form will enclose:
 - ◆ Documents justifying the type of activities carried in other spaces than the registered / professional office and secondary offices;
 - ◆ Documents proving the type of visa and purpose of stay in Romania for non-EU citizens who acts as administrators;
 - ◆ Copy of the contract for provision of accounting services for taxable persons whose accounting matters are dealt on the basis of service contracts;
 - ◆ Copy of the service contract for the provision of personnel, if the case.

However, in to clarify the intent and ability to conduct economic activities, the tax authorities may require additional documents than those required under Form o88. Moreover, if foreign authorities issue these additional documents, they have to meet the conditions of legalization or have an apostille.

The amendments shall enter into force within 15 days from the date of publication in Official Gazette.

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