

NEWSLETTER
- 19.07.2010 -

**Registrul Operatorilor
Intracomunitari**

Registrul operatorilor intracomunitari este o notiune introdusa prin **OUG 54/2010** privind unele masuri pentru combaterea evaziunii fiscale si care instituie obligatia inregistrarii tuturor persoanelor impozabile si persoanelor juridice neimpozabile care efectueaza operatiuni intracomunitare, astfel cum sunt detaliate mai jos, incepand cu 1 august 2010; Registrul operatorilor intracomunitari este organizat in cadrul Agentiei Nationale de Administrare Fiscala.

In Monitorul Oficial Partea I nr. 429/2010 a fost publicat Ordinul nr.2101/2010 privind aprobarea Procedurii de organizare si functionare a Registrului operatorilor intracomunitari, precum si pentru aprobarea modelului si continutului unor formulare.

1) **Operatiuni intracomunitare** care determina inregistrarea persoanelor mai sus mentionate in Registrul operatorilor intracomunitari:

- livrari intracomunitare scutite;
- livrari ulterioare de bunuri in cadrul unei operatiuni triunghiulare;
- prestari de servicii intracomunitare;
- achizitii intracomunitare de bunuri;
- achizitii intracomunitare de servicii.

2) **Formalitati de inregistrare:**

Obligatia inregistrarii in registrul mentionat trebuie indeplinita de catre

**Intra-community Operators'
Registry**

The Registry of intra-Community Operators is a new concept introduced through the Government Emergency Ordinance no. 54/2010 on certain measures for combating tax evasion, which states the registration obligation for all taxable persons as well the non-taxable legal entities which perform intra-Community operations, as these are specified herein below, as of 1st of August, 2010; the Registry of Intra-Community Operators is organized within the National Agency of Fiscal Administration.

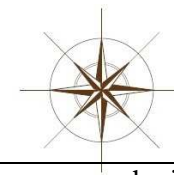
Recently, it was published the Order 2101/2010 for the approval of the Procedure for the organization and functioning of the Registry of intra-Community Operators as well the template and the content of certain forms.

1) **Intra-Community operations** which impose the registration of the herein above mentioned persons with the Registry of Intra-Community Operators:

- intra-Community free deliveries;
- subsequent deliveries of goods executed in a triangular operation;
- intra-Community services;
- intra-Community acquisitions of goods;
- intra-Community acquisitions of services;

2) **Registration formalities:**

The registration obligation with the herein mentioned Registry shall be



persoanele care intentioneaza sa desfasoare operatiuni intracomunitare, la data inregistrarii in scopuri de TVA; daca inregistrarea in scopuri de TVA a fost efectuata anterior inregistrarii in Registrul operatorilor intracomunitari, atunci obligatia nou instituita de legiuitor trebuie indeplinita inainte de efectuarea operatiuni intracomunitare.

Formalitatile de inregistrare privesc depunerea la organul fiscal competent a unei cereri insotita de alte acte doveditoare, stabilite prin Ordinul nr. 2101/2010 al președintelui Agenției Naționale de Administrare Fiscală. În cazul persoanelor impozabile este obligatorie prezentarea cazierului judiciar al asociațiilor, cu excepția societăților pe acțiuni, și al administratorilor. Admiterea sau respingerea motivata a cererii se va face in 10 zile de la depunere.

3) Persoane care nu pot fi inscrise in Registrul operatorilor intracomunitari:

- persoanele impozabile si persoanele juridice neimpozabile care nu sunt inregistrate in scopuri de TVA;
- persoanele impozabile ale caror asociati sau administratori au inscrise in cazierul judiciar infractiuni in legatura cu operatiunile intracomunitare sau care au asociati sau administratori importiva carora a fost pusa in miscare actiunea penala in legatura cu oricare dintre operatiunile intracomunitare care genereaza obligatia de inregistrare;
- contribuabilii declarati inactivi;
- contribuabilii aflati in inactivitate temporara, inscrisa in registrul comertului.

4) Radierea din Registrul operatorilor intracomunitari:

Organul fiscal competent va radia din acest registru persoanele care depun o cerere de radiere; radierea mai poate fi dispusa si din oficiu in cazurile expres prevazute de legiuitor, cum ar fi cazul persoanelor impozabile si persoanele juridice neimpozabile care figureaza in lista

accomplished by those persons who intend to perform intra-Community operations, at the date of registration for VAT purposes; if the registration for VAT purposes was performed before registering with the Intra-Community Operators Registry then, according to the new legal provisions, the registration with this Registry shall be accomplished before performing any intra-Community operations.

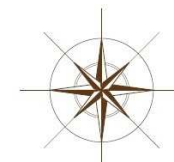
The registration formalities involve the submission of an application with the fiscal competent authority, along with other relevant documents as these are established through Order 2101/2010 issued by the President of National Agency of Fiscal Administration. It is mandatory the submission of the criminal record of shareholders, except for joint stock companies, and directors of the applicant. Solving the registration request will take 10 calendar days as of the submission date of the application.

3) Persons who cannot be registered with the Registry of intra-Community Operators:

- taxable persons and non-taxable legal entities which are not registered for VAT purposes;
- taxable persons whose shareholders or directors have criminal record within are included criminal offences related to the intra-Community operations or criminal proceedings connected to any of the intra-Community operations generating the registration obligation were started against their shareholders or directors;
- inactive taxpayers;
- taxpayers who are registered with Trade Registry as being in temporary inactivity.

4) Erasing from the Intra-Community Operators Registry:

The competent fiscal authority shall erase from the Registry those persons who registered an erasing application; the erasing can also be disposed, ex officio, in those cases, expressly provided by law, such as in case of taxable persons and non-taxable legal entities who are



<p>contribuabilor inactivi conform legii, precum si acele persoane impozabile care au ca asociat sau administrator o persoana impotriva caruia a fost pusa in miscare urmarirea penala si/sau care au inscrise in cazierul judiciar infractiuni in legatura cu operatiunile intracomunitare detaliate la punctul 1).</p> <p>5) <u>Sanctiunea neinregistrarii in Registrul operatorilor intracomunitari:</u></p> <p>OUG nr. 54/2010 prevede expres că persoanele care nu figurează în Registrul operatorilor intracomunitari se consideră că nu au un cod valabil de TVA pentru operațiuni intracomunitare, chiar dacă acestea sunt înregistrate în scopuri de TVA.</p> <p>Efectuarea de operațiuni intracomunitare de către persoanele care au obligația înscrierii în Registrul operatorilor intracomunitari fără a fi înscrise, conform legii, în acest registru constituie contravenție si se sancționează cu amendă de la 1.000 lei la 5.000 lei.</p>	<p>included, according to the law, within the inactive taxpayers' list as well as those taxable persons who have as shareholder or director a person against whom there has been started the criminal proceeding and/or in whose criminal record are included criminal offences related to the intra-Community operations detailed in paragraph 1).</p> <p>5) <u>The sanction for not registering with the Intra-Community Operators Registry:</u></p> <p>GEO no 54/2010 expressly provides that the persons who are not included within the Registry of intra-Community Operators are not considered having a valid VAT code for intra-Community operations, even if they are registered for VAT purposes.</p> <p>The execution of intra-Community operations by persons having the obligation of registering with the Registry of intra-Community Operators Registry without being registered, according to the law, in this Registry, is considered contraventions penalized with a fine comprised between RON 1000 and 5000 RON.</p>
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Yours sincerely,
Almaj & Albu, attorneys at law