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**Article 31**

The foreign personnel necessary for carrying out the foreign investment project's activity are determined by agreement of the parties or by the foreign investor, according to the case, and will be employed only in managerial and specialized positions.

**Article 32**

The salaries of Romanian and foreign personnel employed to carry on foreign investment activity are determined by agreement of the parties.

**Article 33**

The provisions of the present law apply if the international accords and agreements on foreign investments to which Romania is a party do not specify any other procedure.

**Article 34**

As of the date that the present law goes into effect, Decree No. 424/1972 on the Formation and Operation of Mixed Companies in Romania, Decree-Law No. 96/1990 on Measures to Attract Investment of Foreign Capital in Romania, as well as any other conflicting provisions are repealed.

Note: This law is being republished on the basis of Article II of Law No. 57 of 10 July 1993, published in MONITORUL OFICIAL, Part I No. 160 of 14 July 1993, giving the articles new numbers. Law No. 35/1991 was published in MONITORUL OFICIAL, Part I, No. 73 of 10 April 1991.

**\* Amended Law on Income Tax**

94BA0037A Bucharest MONITORUL OFICIAL in Romanian 29 Jun 93 pp 1-4

[Republication of Law No. 32/1991 on Income Tax]

[Text] Republications

Law No. 32/1991 Regarding Income Tax (republished on the basis of Art. II of Law No. 35 of 15 June 1993, published in MONITORUL OFICIAL Part I, No. 131 of 21 June 1993, assigning a new article numbering. Law No. 32/1991 was published in MONITORUL OFICIAL Part I, No. 70 of 3 April 1991)

**Article 1**

Income from salaries and other salary-related rights, earned by Romanian or foreign persons or legal entities in Romania, are subject to the provisions of the present law.

Considered as salaries earned in Romania are salaries paid in money and in kind, received by employees from persons or legal entities who reside or are headquartered in Romania, as well as salaries received from abroad by persons who conduct their activities in Romania.

Not subject to the provisions of Para. 1 and 2 are salaries and compensations in foreign currency, established as net amounts, paid by Romanian public institutions to Romanian personnel conducting their activities in diplomatic missions, consular offices, and other forms of Romanian representation abroad.

**Article 2**

Salary income and other taxable salary-related rights include all payments received during a month, independently of the period they cover, and which are obtained from:

- a) Salaries of any sort;
- b) Raises of any sort;
- c) Compensations of any sort;
- d) Profit sharing incentives, rewards, and bonuses of any sort;
- e) Social security payments in case of temporary work disability and maternity;
- f) Rest leave periods;
- g) Any other earnings in money or in kind received in payment for work, from employing persons or legal entities, including those obtained on the basis of collective work contracts, with the exception of those in kind paid to hired household help;
- h) Payments to employees in the form of indexing or compensation for price and rate increases;
- i) Payments to founding members of commercial companies formed with public shares, as apportionment of net profits, in accordance with Art. 30 of Law No. 31/1990.

Products tendered as payment in kind are evaluated at their sale price per unit for products produced in-house and at their purchase price for other products, and in the case of services, at the rate charged for those services. Prices and rates are those in effect at the time of the payments in kind.

**Article 3**

By derogation from the provisions of the previous article, salaries and other salary-related rights or discrepancies from those paid in the past on the basis of final court judgements, on direct initiative of the employing persons or legal entities, or as a result of procedures stipulated in Art. 13 of the present law, are deferred from the tax for the months to which they apply, and are cumulated with the rights received during the respective months.

The provisions of Para. 1 also apply to salary differentials for periods previous to the months in which they are paid on the basis of salary regulations, as well to vacation compensation when the duration of the latter is greater than a calendar month, and to payments made on the basis of the provisions of Art. 2, letter (i).

**Article 4**

Under the conditions of the present law, the following personal monetary rights are taxed:

- a) Earnings of daily or temporary employees;
- b) Fees received by lawyers through their bar association;
- c) Payments received by doctors and health personnel in paying clinics;
- d) Payments received through collaborations of any sort;

- e) Fees received for consultations of any sort;
- f) Monetary payments for inventions and innovations.

Payments for inventions and innovations during a calendar year are tax deferred over the 12 months of the year, cumulating with other compensations of this nature paid by units during the respective year, even if their value covers a period greater than one year. If the payments cover a period shorter than one year, they are tax deferred over the months which they cover. These rights are not cumulative for taxation with other income from units in which employees serve their basic function.

#### Article 5

Not included in taxable monthly incomes and not taxed are:

- a) Payments based on work contracts, on statutes and legal provisions, as a result of shifts or transfers of employees to other locations in the interest of their job, payments covering moving expenses in the interest of the job, as well as compensation attendant to new hires;
- b) Payments to employees for work during layoff notice periods;
- c) Assistance received under legal conditions from social security and welfare, as well as salary assistance for births and the death of employees;
- d) Pensions of any sort;
- e) Allocations, compensations, and any other payments of this nature to persons with children, with the exception of those in Art. 2, letter (e), as well as support allocations to persons who were entrusted with or assigned family placement of minors;
- f) Free meals and therapeutic nutrition dispensed in kind according to law.

#### Article 6

The following categories of persons are exempt from the taxes stipulated under the present law:

- a) Foreign press correspondents for the salaries they receive, under reciprocal conditions;
- b) Pupils, students, and graduate students for scholarships;
- c) Persons who during one month receive an income of up to 7,600 lei in the form of salary and other salary-related rights from the units in which they serve their basic function;
- d) Grade I and II invalids, war veterans, as well as handicapped persons, as defined by the law regarding special protection for handicapped persons, classifiable as grade I or II of disability on the basis of certificates issued by medical expert commissions and of the recovery of their ability to work, under conditions stipulated by law;
- e) Heirs of heroes-martyrs of the Revolution, the wounded, as well as disability pensioners who have totally or partially lost their ability to work during the struggle for the victory of the Revolution in December 1989, as established by Law No. 42/1990 (see republication in MONITORUL OFICIAL, Part I, No. 204, 21 August 1992);

- f) Military personnel in service, military pupils and students, for the monetary rights they receive.

#### Article 7

Income taxes are calculated monthly, at each work site, on the total income received during the past month by each employee, on the basis of the following rates:

Taxable Monthly Income	Monthly Tax
Up to 2,700	5%
2,701—3,000	135 + 8% over 2,700
3,001—4,000	159 + 14% over 3,000
4,001—6,800	299 + 17% over 4,000
6,801—11,000	775 + 18% over 6,800
11,001—16,400	1,531 + 19% over 11,800
16,401—27,700	2,557 + 20% over 16,400
27,701—38,600	4,817 + 21% over 27,700
38,601—54,900	7,106 + 22% over 38,600
54,901—82,400	10,692 + 25% over 54,900
82,401—110,000	17,567 + 28% over 82,400
110,001—137,500	25,295 + 32% over 110,000
137,501—157,400	34,095 + 36% over 137,500
over 157,400	41,259 + 40% over 157,400

The portion of the total taxable monthly income that exceeds 300,000 lei is taxed at the rate of 60 percent.

When these tax rates reduce the net monthly income of an employee at the unit where he serves his basic function to under 7,600 lei, the tax is reduced so as to ensure this amount of income. Income in the form of salaries and other salary-related rights received by employees for work performed outside of their basic functions and outside the units which hold their work cards is taxed separately at each work site at the rate stipulated in Para. 1 of this article, with the tax increasing by 30 percent.

In the case of salaries and other salary-related rights in foreign currency, the tax is calculated by an exchange to lei at the exchange rate valid on the last day of the month in which the payment is made, after which the tax in lei established on the basis of the rates in Para. 1 is converted, withheld, and deposited in the budget, in foreign currency, at the same exchange rate.

Together with indexing, as well as for salary compensation allowances, the government will appropriately modify the taxable monthly income categories stipulated in Para. 1, the amounts established by Para. 2 and 3 of the present article, as well as the amount indicated in Art. 6, letter (c) of the present law, so as not to annul the effect of the indexing or compensation.

#### Article 8

The income tax is calculated by payers and is withheld monthly from the amounts due on the second 15-day period of the month.

For the monetary rights stipulated by Art. 4 of the present law, taxes are calculated and withheld at each payment, by cumulating the amounts paid previously during the same month by the same payer.

If the payer has a bank account, the income tax is withheld and disbursed together with the collection of the amounts to be paid for the second half of the month.

When the amounts for payment of salaries in Rumania or to or from abroad are collected, banks must verify the withholding and disbursement of the income tax to the budget of the central public administration.

#### Article 9

Excess income tax is returned to employees by the payer within 30 days of the date when the overpayment is discovered.

Reimbursement of the amounts withheld in excess, can be made for a period of three years following the date they were withheld.

Income tax not withheld in time or in legal amounts is withheld by the payer of the income from the respective employees for a period of three years following the date of discovery. Withholding can be carried out in equal installments over a maximum of 12 months from the time of discovery of the failure to withhold.

If the income tax can no longer be recovered from the respective employee, it is paid by the payer of the salary.

#### Article 10

Persons or legal entities who have employees as part of their activities must file every six months, with the financial agency within whose jurisdiction they reside or are headquartered, a report of the calculation, withholding, and disbursement of income tax to the budget of the central public administration. Specialized economic entities, defined according to law, will file this report with the Ministry of Finance.

#### Article 11

An increase of 0.3 percent for each day of delay is charged for failure to disburse income tax on time (see Government Ordinance No. 14 of 17 August 1992, published in MONITORUL OFICIAL, Part I, No. 209 of 26 August 92, whose provisions became effective on 1 September 1992).

#### Article 12

Audits of the calculation, withholding, and disbursement of income tax are conducted by the fiscal agencies with whom the salary payers must file reports one the calculation, withholding, and disbursement of income tax.

#### Article 13

Within 30 days from the date of income tax withholding, employees can file complaints with the persons or legal entities that employ them, against the manner in which the provisions of the present law are implemented by these persons or entities. Within 30 days from the date of the filing of the complaint, the person or legal entity acting as

employer must recheck the manner in which the taxable monthly income is determined, and in which the tax is paid, and must issue a decision that will include the results of the reexamination. The decision will be communicated to the respective employee.

#### Article 14

Within 30 days from the date when the decision is communicated by the employer, the employee can file an appeal addressed to the general directorate of public finances and state financial control in whose jurisdiction the person or legal entity resides or is headquartered, with the directorate being under obligation to resolve the appeal within 30 days from the filing of the appeal. The appeal is resolved through a decision communicated to the respective employee.

Within 30 days from the communication of the decision of the general directorate of public finances and state financial control, the employee can file an appeal with the Ministry of Finance, who must resolve it within 40 days from its filing. The resolution of the Ministry of Finance is final and is communicated to the respective employee.

#### Article 15

Challenges and appeals regarding income tax are exempt from the stamp tax.

#### Article 16

In soundly justified cases, the Ministry of Finance can allow installments or the postponement of income tax payment, and installments, postponements, reductions, or exemptions of payment of late penalties.

#### Article 17

The following are offenses unless they are considered infractions according to penal law:

a) Failure to file a report of the calculation, withholding, and disbursement of income tax within 15 days from the closing of a six-month period;

b) Refusal to make available to fiscal agencies, documents regarding the calculation, withholding, and disbursement of income tax to the state budget.

The offense under letter (a) is fined by 50,000 to 150,000 lei, and the offense under letter (b) by 100,000 to 200,000 lei (also see Part IV of the Appendix to Government Ordinance No. 23 of 21 August 1992, published in MONITORUL OFICIAL, Part I, No. 213, of 28 August 1992).

The findings of offenses and the fines imposed by the present law are implemented by specialized agencies and their territorial units in the Ministry of Finance, within three years from the date the offenses are committed.

The documents of findings by agencies empowered to investigate and impose fines, are executory instruments under the law after they become final.

Banks will execute these instruments without the consent of the payer.

NOTE: The amounts stipulated in Art. 6, letter (c); the taxable monthly income categories included in Art. 7, Para.

1; as well as the amounts established in Art. 7, Para. 2 and 3 of the present law, are not indexed in accordance with Government Decision No. 243 of 7 June 1993, published in MONITORUL OFICIAL, Part I, No. 124 of 11 June 1993.

#### Article 18

The provisions of Law No. 32/1968 regarding the establishment and penalties for offenses, with the exception of Art. 25, 26, and 27, also apply to the offenses stipulated in Art. 17 of the present law.

#### Article 19

Until the date on which the present law becomes effective, the Ministry of Finance will develop a methodology for calculating income tax, the corresponding formulas, and the responsibilities of fiscal agencies regarding the application of this law, which will be published in MONITORUL OFICIAL (see Instructions No. 115665 of 12 June 1991, published in MONITORUL OFICIAL, Part I, No. 134, of 24 June 1991, and Specifications of the Ministry of Finance No. 116189, of 3 July 1992, published in MONITORUL OFICIAL, Part I, No. 163, of 15 July 1992).

#### Article 20

The application of the provisions of the present law does not affect the net income tax existing on 31 December 1990.

#### Article 21

In order to generally assure the same amount of net income, the supplements established in the form of percentages of salary rates are maintained at the same level and will apply to basic salaries.

The supplements, bonuses, and compensations which according to law are established as net fixed amounts, will be changed to gross amounts by their increase of 30 percent.

#### Article 22

The salary rights granted after the present law becomes effective are established as gross amounts.

#### Article 23

The rights of compensation granted as part of social security and paid vacation for the care of children of up to one year of age, continue to be calculated on the basis of established rates, applied to the gross salaries that constitute the basis of calculation.

Similarly, social security pensions, military pensions, and supplementary pensions continue to be calculated on the basis of existing rates according to law on the date of application of the present law.

If both net and gross salaries are included in the period considered for pension determination, the basis of calculation of the pensions is the average of these salaries determined according to law.

#### Article 24

Net salary rates or net incomes determined according to regulations in force on 31 December 1990 are used to establish state allocations for children, rents for state

housing, scholarships for pupils and students, as well as parents' contributions for maintaining children in child care and kindergarten facilities.

#### Article 25

The net sum of 750 lei per month granted beginning on 1 November 1990 for salary indexing as a result of price and rate liberalization is established as a gross amount of 975 lei per month.

#### Article 26

The 3-percent contribution for additional pension is calculated on the base salary, including seniority raises, and the contribution of 1 percent owed by employees for the unemployment fund is calculated on the base salary.

#### Article 27

In order to establish compensation for legal rest leaves, the net monthly income received by employees previous to the application of the present law will be changed into gross income on the basis of the tables of income tax calculation used for persons with children.

#### Article 28

When international conventions or other agreements to which Rumania is a party exist, the provisions of those conventions or agreements are applied with regard to income tax in order to avoid double taxation.

#### Article 29

Law No. 1/1977 regarding taxes on total remuneration in state socialist units; Art. 16-18 of Law No. 2/1977 regarding agricultural tax; Art. 3 of Law No. 4/1990 regarding remuneration and other rights of the president of Rumania, senators, and deputies; Art. 9 and Appendix No. 2 of Decree No. 279/1983 regarding the regulation of paid medical assistance; Decree No. 409/1985 regarding contributions from childless persons; Art. 3-7, 9, and 10 of the Decision of the Council of Ministers No. 545/1970 regarding the regulation of certain taxes on the population's income; Art. 7, Art. 14 Para. 3, and Appendix No. 3 of Government Decision No. 1222/1990 regarding taxes and duties applicable to representatives of foreign commercial companies or economic organizations in Rumania; Government Decision No. 52/1991 regarding income taxes; as well as any other contrary provisions, are abrogated on the date the present law becomes effective (in accordance with Part III, Para. 2 of Law No. 35/1993, the provisions of Art. 2 of Decision of the Council of Ministers No. 545/1970 regarding the regulation of certain taxes on the population's income; Ch. IV of the Appendix to Government Ordinance No. 23/1992 regarding the modification of penalties for offenses, approved by Law No. 114/1992; Art. 3, Para. 2 of Law No. 58/1992; as well as any other provisions to the contrary, are abrogated beginning 1 July 1993).

#### Article 30

The present law becomes effective on 1 April 1991 (excepted are the provisions of Art. 11, which became effective on 1 September 1992, as well as those of Art. 1, Para. 2 and 3; Art. 2, Para. 1, letters (g) and (i), and Para. 2;

Art. 3, Para. 2; Art. 4, letter (f); Art. 5, letters (c) and (f); Art. 6, letters (c) and (d); Art. 7; Art. 9, Para. 3; and Art. 16, 17, and 18; which become effective on 1 July 1993).

**\* Amended Law on Wages of President, Government**

*94BA0089A Bucharest MONITORUL OFICIAL in Romanian 14 Jul 93 No 162 pp 1-16*

[Amended Law on Presidential, Government Salaries]

[Excerpts] Republication of Law No. 40/1991 Regarding the Salaries of President of Romania and of the Government, and the Salaries of Presidential, Governmental, and other Executive Personnel. (Republished on the basis of Art. IV of Law No. 33 of 9 June 1993, published in MONITORUL OFICIAL, Part I, No. 125 of 11 June 1993, renumbering the articles and correlating the names of organizations and institutions with those stipulated in the Romanian Constitution, and of Law No. 69/1991. Law No. 40/1991 was published in MONITORUL OFICIAL, Part I, No. 126 of 7 June 1991, and modified by Law No. 28/1992, published in MONITORUL OFICIAL, Part I, No. 57 of 3 April 1992.)

*Romania's Parliament adopts the present law.*

**Article 1**

The salaries of the President of Romania and of the Government, as well as those of presidential, governmental, and other executive personnel are determined by the role, importance, and responsibilities of the organizations in the management of society.

**Article 2**

The base salary of the President of Romania is stipulated in Appendix 1.

**Article 3**

The base salaries of functions in the Romanian Government are stipulated in Appendix 2.

**Article 4**

The base salaries for specialized administrative and executive functions specific to the Presidency and the government management structure are stipulated in Appendixes 3 and 4.

**Article 5**

In the service of the Presidency and the government management structure, the base salaries of persons who coordinate the activities of directorates, sectors, or departments correspond to the specific specialized executive functions or to the executive functions that they perform, to which is added a management premium in accordance with Appendix 5, which is part of the base salary, classified by the responsibility of the administrative function performed and of the fraction of the respective work in the executive activity being carried out.

**Article 6**

The base salaries for administrative functions in central institutions corresponding to those at the governmental level, are stipulated in Appendix 6.

**Article 7**

The base salaries of functions in the administration of prefectures and local councils, are stipulated in Appendix 7.

**Article 8**

(1) The base salaries of personnel with management and executive functions in specialized departments in the management structures of ministries and other central specialized organizations, the management structures of prefectures, local councils, and specialized territorial organizations of public administration, as well as in the litigation services of executive power organizations, are stipulated in Appendixes 8, 9, and 10.

(2) The base salaries of executive personnel are classified by functions, and within each function, by professional grades or levels. The base salaries for each professional grade or level are established for three-four grades.

(3) The base salaries for the administrative personnel stipulated in Appendixes 8, 9, and 10—director general, director, department manager, office manager, assistants, and their counterparts—correspond to the executive functions performed and to professional grade or level, added to which are a management premium which is part of the base salary, classified by the responsibilities of the function being performed, the size of units and departments, and by the fraction of management work in the executive activity being carried out. The attributions of executive functions are established by ministries and other central and local organizations of public administration in the form of minimum obligations, through statutes, regulations, or internal standards, by areas of activity. The management premium is established annually by the manager of the appropriate public institution, according to law, and in accordance with results obtained and assigned responsibilities.

(4) The percentage of management functions, including those stipulated in Art. 9, cannot exceed 20 percent of the total personnel in the institutions stipulated in Appendixes 8 and 9, and is established by the minister or by the manager of the central and local institution of public administration.

**Article 9**

Executive personnel responsible for the task of coordinating the implementation of programs, complex studies, and similar responsibilities, can be temporarily assigned to a management function corresponding to the complexity of the task, and receive a remuneration within the limits of the present law.

**Article 10**

(1) For outstanding results obtained in their activities, the personnel can receive a merit salary which is part of the base salary. The merit salary can amount to as much as 15 percent of the base salary.

(2) Persons who deserve a merit salary are determined once a year, generally after approval of the budget, corresponding to the results obtained in their activities. For newly hired personnel, merit salaries can be granted after a period of six months following hiring.