

Order no 3483/144/2008 (“the Order”) for the approval of Norms regarding computation, withholding and payment of tax on capital gains earned by individuals from the transfer of securities was published in Official Journal no. 24 of 12 January 2009.

The Order replaces the previous Instruction 12/2005, approved by Order no. 80/2006 of the National Securities Exchange Commission.

The main changes brought to the methodology of calculating, withholding and paying tax on capital gains earned by individuals from securities transactions include, *inter alia*:

- ❖ For the purpose of calculating capital gains, the acquisition cost of a class of securities, in situations where several tranches of the same class titles have been acquired at different prices, is determined under the FIFO method is to be used.
- ❖ Besides transactions involving the sale – purchase of securities, the Order now takes into account capital gains earned from closing positions on financial derivatives reaching maturities and sets specific rules for calculating, withholding and paying the related tax.
- ❖ The Order takes into account the various types of intermediaries via which securities are traded and sets out similar obligations for Investment Administration Companies (in Romanian “*societati de administrare a investitiilor*”) as for intermediaries in other types of transactions in respect of capital gains derived upon redemption of units in investment funds.
- ❖ A new obligation is set out for intermediaries to declare with the tax authorities the computation and withholding of the 1% tax for each income beneficiary, by 28<sup>th</sup> of February of each year in respect of the previous year.
- ❖ Rules provided by the Order are equally applicable to repos/reverse repos on Treasury bills.
- ❖ Concerning capital gains derived by non-resident individuals, the Order establishes that non-residents may benefit from the provisions of relevant Double Tax Treaties if a fiscal residency certificate is provided both to the fiscal representative/tax agent appointed in Romania and to intermediaries via which transactions are carried out.

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