

We propose you to get acquainted with the legislative amendments and completions published in the Official Monitor of the Republic of Moldova during March, 2012.

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Entrepreneurship and enterprises

1. In order to amend and improve the legal framework on banking and finance field, as well as the admission and enforcement procedure of the decision of Court and arbitration instances, amendments and completions were made in a number of legislative acts, as follows:

- There were made modifications in the Article 15 of *Financial Institutions Law* No. 550-XIII of July 21, 1995 (republished in the Official Gazette of the Republic of Moldova No. 78-81). The given modifications establish the fact that the share transfer in the capital of the bank is exclusively carried out by a prior written permission of the National Bank of the Republic of Moldova, under sanction of absolute nullity.

- As a result of the amendments in the *Law on Stocks and Shares Market* No.199-XIV of November 18, 1998 (republished in the Official Gazette of the Republic of Moldova, 2008, No. 183-185), bank shares transfer (within the transfer of share in the bank capital), will be made only after the submission of a prior written permission of the National Bank of Moldova, under sanction of absolute nullity of the transaction registration.

- Amendments were made in the *Execution Code of the Republic of Moldova* No. 443-XV of December 24, 2004 (republished in the Official Gazette of the Republic of Moldova, 2010, no. 214-220), establishing that the executor is to provide the debtor with a 15 days term for voluntary execution of the executorial document. In this case only fee payment on institution and archiving of the execution dossier is required. If the debtor refuses the voluntary execution, other execution costs will be calculated.

- As a result of the amendment in the *Law on Executors* No. 113 of June 17, 2010, the Disciplinary Board was transferred from the National Union of Executors under Ministry of Justice. Simultaneously, in order to ensure a more effective examination of the complaints against the executors' activity, the number of members of Disciplinary Board was increased, from 5 up to 9 persons.

- Changes were also made in the *Code of Civil Procedure of the Republic of Moldova* No. 225-XV of May 30, 2003. The Article 257 of CPC was recalled. This entitles the court to order the immediate enforcement of the judgment, if it considers that the delay in enforcing the judgment would cause serious damage to the creditor or if the judgment enforcement may become impossible. Thus, currently, the court shall order the immediate execution of the judgment only if the CPC (Article 256) strictly provides. Moreover, in the Article 470 of the CPC there was set up the obligation of the court, which examines the admission application of the foreign judgment, to inform about this fact the Ministry of Justice and, where appropriate, the National Bank, in case if a financial institution licensed by the former is involved. (Law No. 5 of January 15, 2012, Official Gazette of the Republic of Moldova no. 46-47 of March 7, 2012).

2. Ministry of Transport and Road Infrastructure approved *Provisional instruction on issue and use of the permit for activity on route*.

Instruction is compulsory for all transport agents, which are assigned to serve regular passenger routes in public use. The driver, while is driving on route, including aboard, shall hold a permit for activity on route (in original), a document issued by the "National Road Transport Agency" Public Institution. The mentioned permit shall be issued for transport agents on the validity term of the license in passenger transportation field in public use. (Order of the Ministry of Transport and Road Infrastructure No. 41 of February 20, 2012, Official Gazette of the Republic of Moldova No. 46-47 of March 7, 2012).

3. It has also been approved *Provisional instruction on issuance, completion and control of Waybill (WB) for international transport of passengers*. The waybill is issued to the transport operator (entity that holds the certificate of registration and performs its activity in road transport field) of occasional international passenger transportation and to natural persons who hold vehicles with a capacity of 6-9 seats if its issuance is stipulated in the bilateral agreements and / or minutes of transport joint Boards meetings. (Order of the Ministry of Transport and Road Infrastructure No. 42 of February 20, 2012, Official Gazette of the Republic of Moldova no. 46-47 of March 7, 2012).

4. *Provisional instruction on issuance and use of waybills (INTERBUS)* was approved. Instruction requirements are to apply to transport agents registered in the Republic of Moldova, owners of the license, which is valid for activity in passenger transport field in public use. Persons who perform occasional international passenger transport shall observe the requirements of the said above instruction too. The transport is performed by vehicles registered in the origin country, with a capacity of more than 9 seats including driver's seat. (Order of the Ministry of Transport and Road Infrastructure No. 43 of February 20, 2012, Official Gazette of the Republic of Moldova No. 46-47 of March 7, 2012).

Tax legislation

1. Changes and additions were made in the Article 24 paragraph (21) of the Law on implementation of Titles I and II of the *Tax Code* No. 1164-XIII of April 24, 1997 (republished in the Official Gazette of the Republic of Moldova, special edition of February 8, 2007). The amendments are related to fiscal facility on income tax of economic operators' employees whose core activity is software development. Thus, it was established to consider their monthly income, which does not exceed 2 monthly average salaries per economy planned for the respective year (up to 7100 lei per month – for 2012) as taxable income. Simultaneously, the Supplement No. 3 to the Law on state social insurance budget for 2012 No. 270 of December 23, 2011 was amended. It was established to engage the employer, whose core activity is software development, to pay the social insurance for his employees by a fixed monthly fee calculated at the rate of 23% based on the amount equal to two monthly average salaries per economic planned for 2012 (7100 USD). In order to be provided with the listed above facility, the employer and its employees shall meet the requirements of Article 24 paragraph 21 of the Law on implementation of Titles I and II of the Tax Code. (Law 27 of March 2, 2012, Official Gazette of the Republic of Moldova No. 53 of March 17, 2012).

2. As a result of the completion in the Article 103 paragraph (1) Section 6) of the *Tax Code* No. 1163-XIII of April, 24 1997 (republished in the Official Gazette of the Republic of Moldova, special edition of February, 8 2007), services provided by the court executors were exempted from VAT. (Law No. 37 of March 7, 2012, Official Gazette of the Republic of Moldova No. 60-62 of March 30, 2012).

3. The completion in the Article 10 of the *Law on mandatory health insurance* No. 1585-XIII of February, 27 1998, the court executors were required to be registered as payers of mandatory health insurance bonuses within one month after the license has been obtained, to pay mandatory health insurance bonuses, to submit the nominal record registers of the insured persons, to fulfill other obligations towards the National Health Insurance Company. Similar provisions were introduced in the Law on amount, manner and terms of payment of mandatory health insurance bonuses No. 1593-XV of December 26, 2002. (Law No. 37 of March 7, 2012, Official Gazette of the Republic of Moldova no. 60-62 of March 30, 2012).

4. National Commission of Financial Market approved the *Regulation on classification of loans and interests rated by the microfinance organizations*.

The microfinance organizations implement the Regulation on classification of loans to determine the amount of deductions allowed for fiscal purposes of the provisions on covering potential losses related to the default of loans and interests, in order to meet the requirements of the

Article 31 paragraph 4 of the Tax Code. (Decision No. 11/1 of March 14, 2012 of the National Commission of Financial Market, Official Gazette of the Republic of Moldova no. 60-62 of March 30, 2012).

Regulations in various fields

1. *Law on conformity accreditation and assessment* was published. This law establishes the legal framework for the activity of conformity accreditation and assessment of conformity assessment bodies. This activity is performed under compulsory or voluntary title regardless the product placement in market and conformity assessment activity, whether this assessment is compulsory or not on the products placed and / or used in the market of the Republic of Moldova. (Law No. 235 of December 1, 2011, Official Gazette of the Republic of Moldova No. 46-47 of March 7, 2012).

2. In order to improve the legal framework for consumer protection, Article No. 720 of the *Civil Code*

No. 1107-XV of June 6, 2002 and Consumer Protection Law no. 105-XV March 13, 2003 were amended. There were excluded the divergences between the mentioned Law and Law No. 256 of December 9, 2011 on ultra vires clauses in the agreements concluded with the consumers. Simultaneously, the Code of Civil Procedure No. 225-XV of May 30, 2003 was completed, setting the provision content of the judgment within the lawsuit on establishing the abusive nature of contractual clauses developed to be used in a variety of agreements (Article 245). By completing the Contravention Code No. 218-XVI of October 24, 2008, there was set up the contravention liability on failure of submission by the trader of a proposed agreement sample with standard contractual clauses whether the consumer requests (Article 344). The mentioned amendments will take effect on June 23, 2012. (Law No. 23 of March 1, 2012, Official Gazette of the Republic of Moldova No. 54-59 of March 23, 2012).

3. In order to complete the legislative lack caused by the declaration of unconstitutionality of the Law No. 163 of July 22, 2011 ruling liquidation of specialized courts, the Law No. 29 of March 6, 2012 on completion and modification of certain legislative acts was adopted. As a result, changes and additions were made in the Law on judicial organization No. 514-XXIII of July 6, 1995. According to this, there were re-established the specialized courts in the judicial system, these are: Military Court and District Commercial Court. It was also ordered the liquidation of the Economic Appellate Court. Simultaneously, the *Code of Civil Procedure of the Republic of Moldova* No. 122-XV of March 14, 2003 was amended. According to this, there was reassigned the jurisdictional competence and established the competence of District Commercial Court, attaching the following categories of

reasons:

- Appeal of arbitration decisions under law;
- Issuance of enforced execution titles of arbitration decisions;
- Reasons on reorganization or dissolution of legal person;
- Reasons on protecting professional reputation in entrepreneur and economic activity.

Another significant change consists in excluding review bases, established by the Article 449 point f). It provides that the review is established when there was applied a law, which has been stated by the Constitutional Court as an unconstitutional one. Changes and additions were performed in other legislative acts too. (Official Gazette of the Republic of Moldova No. 48 of March 13, 2012).

4. The Government approved the *Decision on facilitating the residence right granting and issuance of identity acts to aliens involved in foreign assistance projects.*

The above decision sets up the required documents, which shall be submitted to Migration and Asylum Bureau of the Ministry of Internal Affairs, by the foreigners engaged in projects of foreign assistance received by the Republic of Moldova from international organizations and donor countries. The decision is applicable for family members of the aliens too. (Government Decision No. 128 of February 24, 2012, Official Gazette of the Republic of Moldova No. 42-45 of March 2, 2012).

5. Changes and completions were made in the *Real Estate Cadastre* Law No. 1543-XIII of February 25, 1998. These refer to the rights and documents drawn up by cooperation of the executor and cadastral bodies. Thus, the executor has been granted the right to free access to central data bank of Real Estate Cadastre. Simultaneously, it was established to issue free copies of the pages in the real estate register, which should be certified by the Territorial Cadastral Office whether the executor requires (Article 8 paragraph (3) - (4)). These and other changes were introduced in the Real Estate Cadastre Law by Law No. 37 of March 7, 2012. (Official Gazette of the Republic of Moldova no. 60-62 of March 30, 2012).