

We continue to inform you about the news, amendments and modifications introduced in the legislation of the Republic of Moldova in August 2011.

Amendments and modifications of legislation in next fields:

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Entrepreneurship

1. As a result of the amendment and completion of the Code of Administrative Offences of the Republic of Moldova No. 218-XVI of October 24, 2008, control bodies will have additional grounds to hold liable economic operators and people responsible for them.

- New sanctions have been introduced for vendors selling jewelry and household items containing precious metals and gems, as well as for economic agents performing activity in this area (art. 282 paragraphs (21) and (22)). Thus, both for lack of register on circulation of articles made of precious metals and gems and for lack of their registration in the register a fine from MDL 2000 up to MDL 3000 was established for individuals and from MDL 6000 to MDL 10000 for legal entities.

- There was introduced the contravention liability for infringement of the legislation on prevention and combating of money laundering and terrorism financing (art. 2911). In this way, there will be applied a contravention fine from MDL 2000 up to MDL 3000 established for individuals and from MDL 6000 to MDL 10000 for legal entities in cases of deviation from requirements of identification of individuals, legal entities or beneficial owners, failure to present information within the deadlines by reporting entities or presentation of incomplete or erroneous information regarding suspicious activities and transactions, both completed or under implementation, with a value exceeding MDL 500 thousand, no matter whether the transaction is performed through a single or more operations within 30 calendar days.

- It was tightened the punishment for purchase, storage, transport for sale, and sale of goods, products or raw material without proof of origin if such proof is required by law (art. 265). The fine for the mentioned violation will constitute from MDL 2000 up to MDL 3000 established for individuals and from MDL 6000 to MDL 10000 for legal entities. Previously this contravention was applied a fine from MDL 200 up to 2000.

- Also, there was introduced the contravention liability for protectionism (art. 3131), failure to declare conflict of interests (art. 3132), concealment of a corruption act or failure to undertake necessary measures, impediment of legitimate activity of authorities protecting

competition (art. 314), advertising by advertisers contrary to the law (art. 364 (6)). (Law No. 126 of July 7, 2011, Official Monitor of the Republic of Moldova No. 131-133 of August 12, 2011).

2. Also, the Offences Code of the Republic of Moldova No. 218-XVI of October 24, 2008 was added new contraventions in the field of mandatory social state insurance. Thus, the National Social Insurance House will draw up minutes of finding the following administrative offences:

- Failure to present in time declarations concerning calculation and use of mandatory state social security contributions or declarations regarding nominal evidence of insured persons, as well as of documents related to personal record keeping (art. 294, paragraph 1). This violation will be applied a penalty from MDL 300 to 1000 for people with responsible positions and a fine from MDL 1000 to MDL 2000 in case of legal entities.

- Use of fake or alien personal social security code or non inclusion of the personal social security code in the declaration on nominal evidence of insured persons (art. 294 paragraph 2). These infringements will be applied a penalty from MDL 400 to MDL 8000 for entities with responsibility functions and from MDL 2000 to 4000 for legal entities.

- Inclusion of false or incomplete data in declarations concerning calculation and use of mandatory state social security contributions or in declarations on nominal evidence of insured persons (art. 294 paragraph 1). The penalty for the mentioned contravention will constitute from MDL 1000 to 2000 applied to person with responsibility functions.

- Non-transfer, delayed or incomplete transfer of mandatory state social security contributions, for all reasons and kinds of payments which, according to the legislation, are calculated the mentioned contributions (art. 294 paragraph 2). In this case, persons with responsibility functions will be applied a fine from MDL 600 up to 1000. (Law No. 148 as of July 15, 2011, Official Monitor of the Republic of Moldova No. 131-133 as of August 12, 2011).

3. The National Commission of Financial Market issued the Decision on the approval of the form and content of specialized reports of insurers (reinsurers). Through the nominated Decision there were approved the forms and the content of the Report on the basic activity of the insurer (reinsurer), the Report on technical reserves of the insurer (reinsurer) and the Report on solvency margins and liquidity ratio of the insurer (reinsurer). Insurers (reinsurers) were required to present the mentioned reports to the National Commission of Financial Market until the date of 25 of the month following the reporting year. (Decision of the National Commission of Financial Market No. 26/15 of July 7, 2011, Official Monitor of the Republic of Moldova No. 135-138 of August 19, 2011).

Labor legislation

Government Decision on minimum health and safety requirements for use of work equipment by employees at work was published. By this Decision, there were approved the regulations establishing general minimal health and safety requirements for the use of work equipment by employees, as well as minimal health and safety requirements applicable to work equipment. The given Decision enters into force on January 1, 2013 (Government Decision No. 603 of August 11, 2011, Official Monitor of the Republic of Moldova No. 135-138 of August 19, 2011).

Banks and banking activity

With purpose of improving the legal framework regarding transactions on Securities Market of the banking system, there was amended art. 15 of the Law of Financial Institutions No. 550-XIII of July 21, 1995, setting out expressively the cases where transfer of rate from the bank capital is to be made exclusively with prior written permission of the National Bank of Moldova. Failure to comply with this requirement will lead to absolute nullity of such transactions. At the same time, there was introduced a change to the Law on Securities Market No. 199-XIV of November 18, 1998 in the result of which the transfer of banks' shares in terms of art. 15 of the Law on Financial Institutions will be registered only after presentation of prior written permission of the NBM, also being established that the transfer of ownership of securities will made only if court decisions are irrevocable. (Law No. 184 of August 27, 2011, Official Monitor of the Republic of Moldova No. 146 of August 28, 2011).

Regulations in various fields

1. In order to facilitate the external trade and to simplify customs procedures at import and export of goods to/from the customs territory of the Republic of Moldova, on the basis of the Regulation on customs clearance procedure at residence there started the implementation of a new procedure of customs clearance – at residence. This simplified procedure allows customs clearance of goods to be carried out at the residence of the interested person, in places of goods loading or unloading or places designated by the Customs Service. Access to this procedure of clearance at residence is given by the Customs Service to the interested person by issuing an Order with the clause for the applicant on meeting a series of conditions. In this way the applicant must:

- be active in foreign trade for at least 2 years since the closing date of the first customs declaration;
- have no crimes or customs violations committed during the 2 year period before submitting the request;
- have no debts to the state budget;
- financial solvency must be confirmed by records and other documents;
- have implemented during the two year period before submitting the request of foreign trade operations with a turnover exceeding MDL 5 million per year or more than 100 customs operations per year;
- use of a satisfactory system of records management and of trade operations and, if

necessary, of transport document allowing carrying out adequate customs controls;

- have personnel, locations and equipment needed to handle goods.

At the examination of the request for the access to the customs clearance procedure at residence it will be taken into account the information and opinions presented by other public authorities regarding the applicant. (Main State Tax Inspectorate, Ministry of Internal Affairs, Center for Combating Economic Crimes and Corruption, etc.). (Order of the Customs Service No. 214-O of August 1, 2011, Official Monitor of the Republic of Moldova No. 131-133 of August 12, 2011).

2. The legal framework regulating organization and functioning of the judicial system was amended.

- In the result of the amendment of the Law on judicial organization No. 514-XIII of July 6, 1995 judiciary specialized economic and military courts were excluded from the Moldovan judicial system. At the same time, it was established the possibility of settling the colleagues/panels of judges in the courts.

- New changes were introduced in the Code of Civil Procedure of the Republic of Moldova No. 225-XV of May 30, 2003. The given changes refer to transfer of competence to examine economic disputes in courts and courts of appeal. As exception from the basic rule, according to which the action is brought in the court of location of the defendant, new amendments were added which establish that the action of collecting debt maturity from the contract signed between economic agents can be brought in the court of plaintiff's location. Thus, the place for initiation of proceedings is left to the discretion of the applicant.

- The Code of Criminal Procedure of the Republic of Moldova No. 122-XV of March 14, 2003 was excluded the provisions referring to the military court. In this way, the competence of military judges is transferred to judges that will hear all criminal cases on offences under the Criminal Code, regardless of subject of crime, in first instance. (Law No. 163 of July 22, 2011, Official Monitor of the Republic of Moldova No. 146 of August 28, 2011).

3. The Government approved the Regulation on registration of contracts of assessment, license, pledge and franchising regarding industrial property objects. According to this Regulation, contracts of assessment, license, pledge and franchising regarding industrial property are registered at the State Agency on Intellectual Property of Moldova at the request of the Contracting Parties. The Regulation sets out the conditions of application for registration of the above mentioned contracts, the rules applied to the documents to be enclosed with the application form, the procedure for examining applications and registration of contracts, the procedure of registration of contract changes, removal of information of some contracts registration, data published in the Official Industrial Property Gazette of the Republic of

Moldova, as well as the rules governing activities related to the mentioned procedures. (Government Decision No. 612 of August 12, 2011, Official Monitor of the Republic of Moldova No. 135-138 of August 19, 2011).

4. With purpose of enhancing consumer protection and of eliminating the obstacles in defending their rights, changes and additions were made in a series of legislative acts on consumer protection that will come into force on January 1, 2012:

- The Law on Consumer Protection No. 105-XV of March 13, 2003 was completed with new notions such as contract of adhesion, transaction decision, undue influence, etc. There were specified unfair terms in contracts concluded with consumers, listed situations representing unfair trade practices, and nominated the competent bodies in the field (the courts and Consumer Protection Agency).
- The State Tax Law No. 1216-XII of December 3, 1992 and the Code of Civil Procedure No. 225-XV of May 30, 2003 were added provisions according to which the complainants in actions of protection of consumer rights are exempted from paying state fees.
- The Offences Code of the Republic of Moldova No. 218-XVI of October 24, 2008 was added a new offence, which is use by trader of unfair (misleading and/or aggressive) trade practices that distort consumer's economic behavior. It was also tightened the liability for violation of consumer protection rules, which will be applied a fine from MDL 1000 to 2000 in case of entities with responsible functions and a fine from MDL 2000 to 4000 in case of legal entities by issuing a decision of cessation or prohibition of unfair commercial practice. (Law No. 140 of July 28, 2011, Official Monitor of the Republic of Moldova No. 146 of August 28, 2011).

5. The National Energy Regulation Agency approved the Regulation on quality of electricity transmission and distribution services. The given Regulation sets out quality indicators which reflect the continuity of electricity supply and quality of relations between the transmission system operator, operators of electricity distribution networks and final consumers, as well as consequences of non-compliance with the established minimal values of quality indicators. In case of failure to ensure quality indicators (scheduled or unscheduled interruption exceeding the allowed duration, issue of permits for connection in terms maximum of 15 calendar days, reconnection to the power grid within two days from the date of payment for reconnection, etc.), the transmission system operator and the operator of electricity distribution network is obliged to pay the ultimate potential or existing consumer a compensation or to reduce the tariff for electricity distribution or transmission services. (Decision of National Energy Regulation Agency No. 406 of February 25, 2011, Official Monitor of the Republic of Moldova No. 131-133 of August 12, 2011).

6. The Regulation – Organization and Functioning of Private Medical-Sanitary Institutions was approved. (Order of the Ministry of Health No. 609 of July 27, 2011, Official Monitor of the Republic of Moldova No. 128-130 of August 5, 2011).

7. It was published the Regulation on issue of technical notice certifying the degree of execution of construction and compliance of construction works with project documentation. The Regulation sets out the modality and procedure for issuing the mentioned technical notice by the State Construction Inspection. (Order of the Ministry of Regional Development and Construction of Moldova No. 41 of June 29, 2011, Official Monitor of the Republic of Moldova No. 128-130 of August 5, 2011).