

LEGAL ALERT



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Amendments to simple and default interest, and regulation of financial and tax measures in banking under Government Ordinance No. 13 / 2011

Monitorul Oficial al Romaniei No. 607 / 29 August 2011 has published Government Ordinance No. 13 / 2011, regarding simple and default interest, and regulating financial and tax measures in banking.

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The main amendments refer to the following:

- ▶▶ The parties to agreements are free to establish the interest rate in the case of both loan repayment and late payment of pecuniary obligations.
- ▶▶ Interest shall mean not only the amounts charged for the use of credit or borrowed money but also other obligations assumed by debtor in exchange for the use of capital.
- ▶▶ Simple interest shall mean the interest due by the debtor of the obligation to give an amount of money at a certain date, calculated for the period prior to such date.
- ▶▶ Default interest shall be the interest owed by the debtor of the pecuniary obligation for failing to pay it on the due date.
- ▶▶ Unless otherwise provided, interest shall mean both simple and default interest under this Ordinance.
- ▶▶ In accordance with legal or contractual provisions, if the payment obligation bears simple and/or default interest and no specific provision has been set by the parties on the level of such interest, then the statutory reference interest rate shall be applied.
- ▶▶ The simple interest rate shall be established at the reference interest rate of the National Bank of Romania ("NBR"), which is the interest rate of the monetary policy set under decision of the NBR Board of Administration.
- ▶▶ The default interest rate shall be set at the level of the reference interest rate plus four (4) percentage points.
- ▶▶ The level of the reference interest rate of the NBR shall be published in *Monitorul Oficial al Romaniei*, Part I, under NBR care, whenever the level of interest rate of the monetary policy modifies.
- ▶▶ In the case of legal relationships having foreign elements, when Romanian law is applicable and payment has been provided to be made in foreign currency, the statutory interest rate shall be 6% per annum.
- ▶▶ Interest shall be established in writing. When no such document exists, it is only the statutory interest that should be applied.
- ▶▶ Interest shall be calculated only on the borrowed amount (*i.e.* on the principal). However, interest may be capitalised and bear interest under a special agreement concluded to this effect, after becoming due and payable at least one (1) year later. Simple interest may be capitalised and may produce interest.
- ▶▶ Government Ordinance No.9/2000, regarding the level of interest on borrowed amounts, published in *Monitorul Oficial al Romaniei*, Part I, No.26 of 25 January 2000, approved as amended under Law No.356/2002, as amended and supplemented, has been abrogated.

Legal Alert contains a selection of the latest major issues occurred in the Romanian legislative framework, is intended only to provide information and, hence, shall not be deemed to provide professional advice or consultancy. Therefore, we assume no responsibility in this respect.

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