

real estate - legal changes published in November and December 2016

Order of the Minister of Justice and Minister of Finance no. 4344/C/2843/2016 for approval of the Working Methodology on the evaluation and capitalization of seized movable assets was published in the Official Gazette of Romania, Part I, no. 1037 of December 22, 2016.

The order was issued in order to implement the provisions of the Law no. 318/2015 for the establishment, organization and functioning of the National Seized Asset Management ("Agency") and for amending and supplementing certain acts. The Agency will take the necessary measures to ensure that the valorization of seized movable assets is made at the average market price, with the lowest cost and in the shortest possible time. In order to valorize the mentioned assets, several steps are necessary.

Initially, the seized assets are appraised by the Agency through a valuation commission or by certified appraisers, selected in accordance with the legal provisions on public procurement. The valuation is made in relation to the average price on the free market for goods of similar type, quality and quantity.

After the appraisal, the Agency shall select the entity to valorize the assets. Thus, the assets can be valorized directly by the Agency or through (i) specialized entities and companies, (ii) bailiffs according to their own procedures or (iii) fiscal authorities, according to own valorization procedures. The direct valorization by the Agency can be made either by direct public tender or by public tender through electronic means.

Law no. 216/2016 on establishing the destination of seized real estate assets was published in the Official Gazette of Romania, Part I, no. 918 dated November 15, 2016.

The law aims to establish the destination of real estate properties taken over by the state by seizing, within criminal proceedings. The mentioned properties can be transferred free of charge into the state's public domain and put under management of the central public administration authorities, of other public institutions of national interest or of the state business enterprises of national interest, at their request, to be used as the primary or secondary offices thereof.

Jurisdiction to judge the application belongs to the National Agency for the Management of Seized Assets ("Agency"), which will select the receiving entity upon the following criteria: (i) lack of premises used as headquarters, (ii) the need to extend the current headquarters, (iii) building location, (iv) area, (v) technical condition of the property, (vi) the current purpose, (vii) date of receipt of the request, (viii) the applicant's financial situation and (ix) the potential impact on the state budget.

In case the property is not given for free to one of the entities mentioned above, the Agency will be entitled to organize a public auction in accordance with Government Ordinance no. 14/2007 regulating the mode and conditions of valorizing the goods taken over by the state under the law.

For additional details on this material, please do not hesitate to contact us.

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