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Romania – Updated Rules Governing Deductibility of Social Contributions

by KPMG Tax, Bucharest
(KPMG in Romania is a KPMG International member firm)

Romania's Fiscal Code has been updated such that monthly mandatory social security contributions due in other states and paid by taxpayers subject to Romanian taxation, according to European Union (EU) regulations or bilateral conventions / agreements on the coordination of social security systems, are considered deductible for Romanian income tax purposes (previously this was not specifically set out)[1].

Why This Matters

These changes could have significant effects on both the tax cost for the individual (where the individual's contract is based on gross remuneration) and the company's tax burden (in the case of individuals whose contracts stipulate net remuneration). Careful analysis of the changes should help determine the correct payment obligations and deductibility permissible with respect to affected cross-border workers.

Background

Prior to this change, when calculating the Romanian income tax due by individuals, the Romanian tax authorities did not recognize the deductibility of social security contributions paid to non-Romanian mandatory social security systems.

The KPMG International member firm in Romania filed a complaint with the European Commission, as the practice used by Romanian tax authorities was considered a violation of EU legislation. After several deliberations, the government agreed to update the rules.

Government Ordinance No. 102/2013

As of 1 January 2014, Romania's Fiscal Code was amended by means of a government ordinance[2] that makes monthly mandatory social security contributions due in other states deductible for Romanian income tax purposes in accordance with EU regulations or bilateral agreements on social security.

However, residents of the European Economic Area (EEA)[4] member states are entitled to the same deductions as Romanian residents (e.g., social contributions paid in the home member state) only if the EEA member state resident provides supporting documentation and he or she cannot claim a deduction for these contributions in the state of residence.

KPMG Note

As a result of these changes, the social security obligations of each inbound expatriate should be reviewed to help ensure proper application of the new rules. This analysis

KPMG Note (cont'd)

should take into consideration a number of issues, such as the tax residence status of each individual, legal framework applicable, etc.

As the legal **deadline for declaring and paying Romanian income tax for January 2014 is 25 February 2014**, this analysis should be carried out as soon as possible to help make sure that taxes are correctly calculated and paid and that the payment deadline is met.

Footnotes:

1 These provisions apply to individuals who are resident in EU/EEA member states – except Liechtenstein, with which Romania has not concluded a legal instrument for the exchange of information.

2 Government Ordinance no. 102/2013 on amendments to the Fiscal Code and regulations of some fiscal-financial measures ("the Ordinance" or "GO 102/2013") was published in *Monitorul Oficial* (Official Journal of Romania) no. 703 of 15 November 2013. For the published laws and other statutory instruments (in Romanian), see the Web site for *Monitorul Oficial* at: http://www.monitoruloficial.ro/ .

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For further information or assistance, please contact your local KPMG IES/People Services professional or Madalina Racovitan (tel. +40 372 377 782 or e-mail: mracovitan@kpmg.com), IES country leader with the KPMG International member firm in Romania.

The information contained in this newsletter was submitted by the KPMG International member firm in Romania. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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