

GMS Flash Alert

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Romania - New Tax Incentives for Research and Development Activities

A new tax incentive has been introduced into the Romanian Fiscal Code,¹ intended to encourage research and development activities. According to this new provision, **salary income derived as a result of carrying out research and development is exempt from Romanian income tax**. This provision applies to salary income paid by either Romanian or non-Romanian employers. The tax incentive will apply starting from August 2016.

This tax incentive is designed to stimulate the economy, with only a small impact on government budget revenue. With this measure, the Romanian government is aiming to boost competitiveness, stimulate investment in research and development, and encourage both companies and individuals to develop new technologies.

WHY THIS MATTERS

The exemption from Romanian income tax may also apply to employees of non-Romanian entities who are assigned to Romania and meet the specific requirements under law.

This new provision will apply not only to research and development companies, but also to firms which do not perform research and development as a main activity, but which conduct such activities in certain specialized departments (e.g., companies in the automotive, pharmaceutical industries, etc.). Depending on the contractual arrangements made between employers and employees, this new provision may represent a cost saving for individuals, the company, or both.

Highlights Regarding Expected Content of the Application Norms

- This new provision applies to employees working on research and development projects, irrespective of whether the company itself is a research and development company or if it only has certain specialized research and development departments. The exemption will only apply to individuals who are working in research and development departments, if their activity is considered eligible under the law.

- This measure comes as a complement to the already existing provisions applicable to companies that can deduct 50 percent of the expenses incurred from research and development activities.
- The provision applies to applied research and/or technological development. Recurrent modifications to products, processes, and existing services *are not considered research and development activities* even though they may represent improvements to existing products/processes/services.
- In order to benefit from the favorable treatment, the research and development activities must be part of a research and development project, as defined by the law. The exemption from the income tax can also be applied when the *objectives of the research and development project are not achieved*, as this is considered an inherent risk of research and development activities.
- To qualify for the income tax exemption on the salary income earned, the individuals must have completed at least the 1st "cycle" of university education or a long-term period of an accepted form of higher education and must hold a Bachelor's degree offered by an accredited institution in Romania, or from abroad if this is recognized by the Ministry of National Education and Scientific Research as the legal equivalent of a Romanian qualification.
- Individuals may benefit from this tax incentive if the following conditions are cumulatively met:
 - a) The position is part of a research and development department, specifically mentioned in the institution's organizational chart.
 - b) Their activities and corresponding salary expenses are included in the budget of a formalized research and development project, as per relevant legal requirements.
 - c) The employer's activity also includes research and development activities.
- A "Register of experts" in research and development will be set up. Both the companies conducting research and development activities as well as the tax authorities will be able to consult the registered experts in order to validate the projects for which the tax exemption is applicable.

KPMG NOTE

The tax incentive has only recently been introduced into Romanian tax legislation and consequently there are still practical aspects to be clarified. The relevant application norms are expected to be issued very shortly.

In the meantime, given that the tax incentive is applicable to salary income derived from August 2016, employers should start thinking about whether they might be able to benefit from it. Consequently, they should analyze whether their research and development activities are eligible for the tax exemption, whether their employees meet the required conditions, how research and development projects are budgeted, etc.

The KPMG International member firm in Romania is actively participating in discussions of the work group formed by the ministries involved in defining the application norms and, consequently, has a degree of access to the authorities' approach in respect of applying the exemption, as well as the opportunity to engage them on various issues raised within the business community.

FOOTNOTE:

1 Ordinance 32/2016 on tax exemption of salary income obtained from research and development activities was published in the *Monitorul Oficial* (Official Journal of Romania) no.488/30.06.2016, which can be found at: <http://www.monitoruloficial.ro>.

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