



2018

# TAX GUIDE



# Contact



**Ramona Jurubiță**

Deputy Senior Partner  
Head of Tax & Legal  
E: rjurubita@kpmg.com



**René Schöb**

Tax Partner  
E: rschob@kpmg.com



**Mădălina Racovițan**

Tax Partner  
E: mracovitan@kpmg.com



**Dragoș Doros**

Tax Partner  
E: ddoros@kpmg.com



**Alin Negrescu**

Tax Partner  
E: vnegrescu@kpmg.com

## Corporate income tax

Corporate income tax rate	16%
Taxpayers	<ul style="list-style-type: none"> <li>• Romanian legal entities, except for taxpayers subject to the micro-enterprises tax or specific tax<sup>1</sup>, tax-transparent entities and certain institutions specifically defined in the Fiscal Code (Law no. 227/2015 as further amended).</li> <li>• Non-Romanian legal entities that carry out activities through one or more permanent establishments in Romania.</li> <li>• Non-Romanian legal entities which have their place of effective management in Romania.</li> <li>• Non-Romanian legal entities which obtain income from the transfer of ownership or any other rights related to immovable property located in Romania.</li> <li>• Legal entities established according to European legislation that have their registered office in Romania.</li> </ul>
Fiscal year	<p>The fiscal year generally follows the calendar year.</p> <p>Taxpayers which have opted for a financial year that is different from the calendar year, according to accounting legislation, may also choose to have a tax year which corresponds to the financial year.</p>

<sup>1</sup> Since 1 January 2017, companies carrying out hospitality activities (e.g. hotels, restaurants, catering companies) have been subject to a “specific tax”, determined based on the size and location of their activities, in accordance with Law no. 170/2016.

Returns / payment	<ul style="list-style-type: none"> <li>• Quarterly (for quarters I-III) – by the 25th of the month following the relevant quarter.</li> <li>• Annually:             <ul style="list-style-type: none"> <li>- In general, by the 25th of the third month after the end of the tax year (25 March of the following year, if the fiscal year follows the calendar year).</li> <li>- By the 25th of the second month after the end of the tax year (25 February of the following year, if the fiscal year follows the calendar year), for not-for-profit organisations that record taxable income and for taxpayers that obtain the majority of their income from growing cereals, technical plants and potatoes, orchards and viticulture.</li> </ul> </li> </ul>
Advance payments	<ul style="list-style-type: none"> <li>• Banks are required to make quarterly advance payments based on the previous year's results.</li> <li>• For regular taxpayers, the advance payment system is optional.</li> </ul>
Tax losses	<ul style="list-style-type: none"> <li>• Losses may be carried forward for 7 years.</li> <li>• There is no carry back of losses.</li> <li>• Changes in ownership do not affect carrying forward tax losses.</li> <li>• Tax losses recorded by taxpayers which cease to exist as a result of reorganisations are transferred to the taxpayers which are the beneficiaries of these reorganisations.</li> <li>• Taxpayers which have been subject to the micro-enterprises tax, having previously been corporate tax payers and recorded tax losses, and which subsequently become corporate tax payers once again, may carry forward their losses from the previous period as corporate tax payers starting from the date at which they have begun again to be subject to corporate tax. This loss may be carried forward for up to 7 years.</li> </ul>
Deductibility of expenses	<p>As a general rule, expenses are deductible only if they are incurred for the purpose of carrying out economic activity.</p> <p>Certain types of expenses are specifically provided under the Fiscal Code as being non-deductible or having limited deductibility.</p>

## Limited deductibility expenses

Social expenses	Up to 5% of total salary expenses.
Protocol expenses	Up to 2% of the gross accounting profit to which protocol expenses are added.
Vehicle expenditure	50% for expenditure related to acquisition, functioning, maintenance and repairs of vehicles (including leasing and rental), if the vehicles are not used exclusively for business purposes.
Expenses recorded in relation to the sale of receivables	30% of the net loss from the sold receivables

## Provisions and reserves

Legal reserves	Deductible up to 5% of the gross accounting profit of the period (calculated and recorded until the reserves reach one fifth of the share capital).
Provisions for guarantees granted to clients	Deductible, only for deliveries of goods and services within the relevant tax period, as provided in contracts concluded with clients.
Allowances for doubtful debts	For receivables that are not guaranteed by a third party and are not due by related parties, allowances are deductible up to: <ul style="list-style-type: none"> <li>• 30% of the receivables, if the due date has been exceeded by more than 270 days.</li> <li>• 100%, if the debtor is subject to bankruptcy (companies) or insolvency (individuals).</li> </ul>

Allowances for impairment of tangible assets	Impairment allowances are deductible if: <ol style="list-style-type: none"> <li>1. The tangible assets have been destroyed as a result of a natural disaster or <i>force majeure</i>, as detailed in application norms.</li> <li>2. An insurance contract has been concluded for the event.</li> </ol>
Specific provisions and reserves	Provision expenses and reserves recorded in accordance with legislation specific to certain activities are deductible, e.g. credit institutions, non-banking financial institutions, insurance and reinsurance companies, private pension funds and private pension funds' administrators, airlines, companies in the natural resources or waste storage sectors etc.

## Depreciation and amortisation

Calculation methods	<ul style="list-style-type: none"> <li>• Straight-line.</li> <li>• Reducing-balance.</li> <li>• Accelerated depreciation (up to 50% in the first year).</li> </ul>
Tangible assets	<ul style="list-style-type: none"> <li>• Buildings – only the straight-line method.</li> <li>• Technological equipment and computers – accelerated, straight-line or reducing-balance method.</li> <li>• Any other fixed asset – straight-line or reducing-balance method.</li> <li>• Deductibility of depreciation expenses incurred for vehicles with a maximum of 9 seats, which are not used exclusively for business purposes, is limited to 1,500 lei/month.</li> </ul>
Intangible assets	<ul style="list-style-type: none"> <li>• Intangible assets (e.g. patents, licenses, copyrights, trademarks) – straight-line method over the period of the contract or the period of use, as appropriate.</li> <li>• Patents may be amortised through the accelerated or the reducing-balance method.</li> </ul>

- Software acquisition or production – straight-line method, over a period of 3 years.
- Goodwill is not a depreciable asset (amortisation is not tax deductible).

## Interest expenses and other economically equivalent expenses

Deductibility of excess debt related costs.	<ul style="list-style-type: none"> <li>• Wholly deductible in the fiscal period when they are incurred by a taxpayer which is an independent entity, in the sense that it is not part of a consolidated group for financial accounting purposes, and has no associated companies and no permanent establishment. Likewise, for these taxpayers, interest and net foreign exchange losses are also wholly deductible.</li> </ul>
	<ul style="list-style-type: none"> <li>• Threshold for unlimited deductibility of excess debt related costs –200.000 euro</li> <li>• Limited deductibility within the limit of 10% of the following calculation base: gross profit plus corporate income tax payable, plus excess debt related costs and tax depreciation, minus non-taxable income.</li> <li>• If the tax base described above is 0 or negative, the excess debt related costs are treated as non-deductible for corporate income tax purposes during the current tax period, but can be carried forward indefinitely, under the same deductibility conditions.</li> <li>• Excess debt related costs are exempted from applying these limits if they arise from loans used to finance a long-term public infrastructure project for the purpose of providing, improving, operating and / or maintaining a large asset , considered to be of general public interest, and if the project operators are registered in the European Union.</li> </ul>

## Transfer of assets, tax residency or of economic activity carried out through a permanent establishment for which Romania loses the right to tax

Gains derived from the transfer of assets, of tax residency or of the economic activity of a permanent establishment for which Romania loses the right to tax, calculated as the difference between the market value and the tax value of assets transferred are subject to a 16% tax.

If, upon the transfer of assets, of tax residency or of economic activity a loss is incurred, the taxpayer can offset this against gains derived from operations of the same nature during the next 7 years.

Taxpayers that apply the provisions described above can pay the tax in installments, provided that they fulfill the provisions of the Fiscal Procedure Code on the payment of tax in installments and that the transfer is made to an EU or EEA member state.

## Anti-abuse general rule

For the purposes of calculating tax liabilities, the tax authorities may ignore arrangements which are, given the relevant facts and circumstances, not genuine and have been put into place with the main aim of, or having as one of their aims, obtaining tax advantages that contravene the object or purpose pursued by the applicable tax provisions.

## Rules on controlled foreign companies

An entity or a permanent establishment, which is considered a controlled foreign company (owns directly or indirectly more than 50% of the voting rights or owns directly or indirectly more than 50% of the share capital or is entitled to receive more than 50% of the profits of that entity), must apply the rules on controlled foreign companies if the income tax paid on its profits by the entity or the permanent establishment is lower than the difference between the corporate income tax that would have been charged on the entity or on the permanent establishment under the provisions of title II and the actual corporate income tax paid on its profits by the entity or the permanent establishment.

If the entity or the permanent establishment is considered a controlled foreign company, the payer of corporate income tax that controls it should include in the tax base for its tax period (during which the tax period of the foreign controlled entity/permanent establishment closes) in proportion to the ownership of the taxpayer in the entity, the following undistributed revenues of the entity:

- a) Interest or any other income generated by financial assets.
- b) Royalties or any other income generated by intellectual property rights.
- c) Dividends and income from the transfer of units.
- d) Financial lease income.
- e) Income from insurance activities, banking or other financial activities.
- f) Income from companies that obtain it from goods and services purchased from associated companies and sold to them without any added value or with low added value.

Tax losses registered by a permanent establishment as a controlled foreign company are deducted only from the income earned by the permanent establishment, separately, on each source of income. Uncovered losses are carried forward and may be recovered over the next 5 consecutive fiscal years.

For the avoidance of double taxation, if the entity distributes profit to the taxpayer and this distributed profit is already included in the taxable income of the taxpayer, the amount of the income previously included in the taxpayer's tax base is deducted in the tax period in which the amount of tax due for the profit distributed is calculated.

For the avoidance of double taxation, if the taxpayer surrenders its holding of a controlled entity or the economic activity carried out through a permanent establishment and part of the proceeds of the disposal was previously included in the tax base of the taxpayer, that amount is deducted in the tax period in which the amount of tax due for the receipts is calculated.

The taxpayer deducts the tax paid to a foreign state by the controlled entity/ permanent establishment from the income tax owed, in accordance with double taxation conventions.

## Participation exemption rules

The following types of income are non-taxable for corporate tax purposes:

- **Dividends** received from a Romanian company.
- **Dividends** received from foreign subsidiaries which are subject to corporate income tax or a similar tax, located in a state with which Romania has concluded a Double Tax Treaty, provided that the receiving company has had a minimum holding of 10% in the share capital of the distributing company, for an uninterrupted period of at least 1 year.
- **Income from valuation/revaluation/sale/transfer of shares and liquidation proceeds**, whether the legal entities in which the company holds shares are Romanian or foreign entities from states with which Romania has concluded Double Tax Treaties (including those outside the EU). In order for this income to be non-taxable, the company receiving the income must have owned at least 10% of the share capital of the company in which a participation is held, for an uninterrupted period of 1 year on the date of the valuation/revaluation/sale/transfer or on the date when the liquidation process starts.
- **Income registered through a permanent establishment in a foreign state**, under the conditions in which the provisions of the double taxation convention concluded between Romania and the foreign state apply, and the convention provides as a method of avoiding double taxation the exemption method.

## Micro-enterprises

Turnover tax is compulsory, instead of corporate income tax, for Romanian legal entities with a turnover of up to 1.000.000 EUR.

However, any company that has a minimum registered capital of 45,000 lei and at least 2 employees, may choose to apply profit tax in any quarter after 1 April 2018, even if it's turnover is less than 1,000,000 euros.

Tax rates are:

- 1% for companies that have at least 1 employee.
- 3% for companies with no employees.

## Withholding tax

Withholding tax is generally applicable on income earned by non-residents from Romania, such as:

- Dividends.
- Interest.
- Royalties.
- Commission fees.
- Management or consulting fees (irrespective of where the services are supplied).
- Income from services supplied in Romania, except for international transport and related services.

- Income earned from the supply of professional services in Romania, other than through a permanent establishment (e.g. by lawyers, engineers, doctors, dentists, architects, auditors).
- Income earned from sports or entertainment activities carried out in Romania<sup>2</sup>.
- Prizes granted as a result of competitions organized in Romania.
- Gambling income.
- Income earned by non-residents from the liquidation of a Romanian legal entity.
- Income representing the remuneration received by foreign legal entities acting as administrators, founders or members of the administration board of a Romanian legal entity.

## Tax rates

- 16% - the standard tax rate.
- 5% for dividends.
- 1% for gambling income, with certain exceptions.
- 50% - special tax rate<sup>3</sup>.

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*2 Non-residents (companies or individuals) earning income from sports or entertainment activities carried out in Romania have the option of registering for corporate/personal income tax purposes in Romania and paying tax on a net basis, by deducting expenses related to the carrying out of activities; otherwise, withholding tax is applicable on the gross income from these activities.*

*3 If the income is paid in a state with which Romania has not concluded a treaty for the exchange of information and the payment is deemed to be related to an artificial transaction.*

The Interest & Royalties and the Parent-Subsidiary EU Directives are fully applicable in Romania:

Dividends	Exempt under the EU Parent-Subsidiary Directive, subject to the condition of ownership of at least 10% for an uninterrupted period of at least 1 year that ends before the payment of the dividend
Interest / Royalties	Exempt under the EU Interest and Royalties Directive, subject to the condition of direct ownership of at least 25% for an uninterrupted period of at least 2 years.

Tax treaties

A wide network of Double Taxation Avoidance Treaties concluded by Romania may allow non-residents to be taxed at a reduced rate, or to be exempt, subject to certain conditions being fulfilled (e.g. presenting a certificate of tax residence). The following countries have concluded tax treaties with Romania.

4 Treaty concluded with F.S.R. Yugoslavia, in force since 1989, applies to Bosnia-Herzegovina.

5 Income from prizes under RON 600 and income from casinos, poker clubs, slot-machines and lottery tickets under RON 66,750 is non-taxable.

6 The income taxes are withheld at source by the income payer.

7 Certain amounts (e.g. per-diems, indemnities granted according to the law, business expenses, etc.) are not included in the gross income.

8 The personal deduction is granted to individuals with a gross monthly salary of up to RON 1,950, depending on the number of dependents (between RON 510 if they have no dependents, and RON 1,310 for four or more dependents). If the monthly gross salary income is between RON 1,951 and RON 3,600, personal deductions are established on a decreasing basis, by order of the Ministry of Public Finance.

Albania	Egypt	Italy	North Korea	Sweden
Algeria	Estonia	Japan	Norway	Switzerland
Armenia	Ethiopia	Jordan	Pakistan	Syria
Australia	Finland	Kazakhstan	Philippines	Tadjikistan
Austria	France	Kuweit	Poland	Thailand
Azerbaijan	Georgia	Latvia	Portugal	Tunisia
Bangladesh	Germany	Lebanon	Qatar	Turkey
Belarus	Great Britain	Lithuania	Russian Federation	Turkmenistan
Belgium	Greece	Luxembourg	SanMarino	Ukraine
Bosnia-Herzegovina <sup>4</sup>	Holland	Macedonia	Saudi Arabia	United Arab Emirates
Bulgaria	Hong Kong	Malaysia	Singapore	United States of America
Canada	Hungary	Malta	Slovakia	Uruguay
China	Iceland	Maroc	Slovenia	Uzbekistan
Croatia	India	Mexic	South Africa	Vietnam
Cyprus	Indonezia	Moldova	South Korea	Zambia
Czech Republic	Iran	Montenegro <sup>5</sup>	Spain	
Denmark	Ireland	Namibia	Sri Lanka	
Ecuador	Israel	Nigeria	Sudan	



# PERSONAL INCOME TAX

Type of income	Tax rate	Comments
Dividends	5%	Taxable income = gross income
Sale of real estate	3%	Non-taxable amount: RON 450,000 Taxable income = gross income - RON 450,000
Gambling and prizes	Progressive rates	<ul style="list-style-type: none"> <li>- 1% for income below RON 66,750.</li> <li>- 6675 RON + 16% on income between RON 66,750 and RON 445,000.</li> <li>- 61,1875 RON + 25% on income exceeding RON 445,000<sup>5</sup>.</li> </ul>
Independent activities (including agriculture, forestry and fisheries)	10%	Income from liberal professions is taxed based on gross income minus deductible expenses. Income from trade/services is taxed based on notional income quotas or, optionally, based on gross income minus deductible expenses.
Sporting activities		Taxable income = gross income The income is withheld at source by the income payer at the time of payment.
Intellectual property rights <sup>6</sup>		Taxable income = gross income – 40% of gross income

Salary income	10%	Taxable income = gross income <sup>7</sup> , less: <ul style="list-style-type: none"> <li>- Mandatory social security contributions.</li> <li>- Personal deduction granted for the respective month<sup>8</sup>.</li> <li>- Trade union fees paid for the respective month.</li> <li>- Contributions to private pension funds, paid according to the law, within the limit of EUR 400/year/individual, paid by employees.</li> <li>- Voluntary medical insurance fees and expenses for subscriptions for medical services within the limit of EUR 400/year/individual, paid by employees.</li> </ul>
Rental income		Taxable income = gross income - 40% of gross income <sup>9</sup>
Pensions		Non-taxable amount: RON 2,000/month Taxable income = gross income - RON 2,000/month
Investment (except dividends)		Taxable income = gross income <sup>10</sup>
Other sources		Taxable income = gross income <sup>11</sup>

<sup>9</sup> If the number of contracts/rooms exceeds 5, the income obtained falls under the category of income from independent activities and the taxable income is determined based on gross income minus deductible expenses.

<sup>10</sup> For capital gains, bank/broker charges may be deducted if supported by documents.

<sup>11</sup> The income tax due is calculated by the taxpayer, on the basis of the single tax return by applying the 10% tax rate to the taxable income, determined as the difference between the gross income (the amounts received and the equivalent in RON of the income obtained) and actual expenses incurred (payments made during the relevant fiscal year from all transactions concerned, as demonstrated by supporting documents), related to all operations carried out during the fiscal year.

# SOCIAL SECURITY CONTRIBUTIONS

## Salary income

Social Security Contributions		
Employee		Employer
Health contribution	Pension contribution	Work insurance contribution
10%	25%	2.25%

## Other types of income

	Health insurance	Pension insurance
Independent activities (including agriculture, forestry and fisheries)	10%	25% <sup>12</sup>

12 The pension insurance contribution is payable at the level of income chosen by the taxpayer, which cannot be less than the national minimum monthly wage applicable for the month for which the contribution is due.

13 For individuals who earn salary and wage income, as well as for retired persons, the social security contribution and the health insurance contribution are no longer due.

14 The health insurance contribution is due at the level of the gross minimum wage (i.e. 1,900 RON as of January 2018) by individuals who obtain annual cumulated incomes at the level of at least 12 gross minimum wages, from one or more sources of income such as rent, investment, other income, etc.

15 As per the categories set out by the Ministry of Public Finance and the Ministry of Agriculture and Rural Development.

16 The threshold for applying the reduced 5% VAT rate for supplies of social housing is 450,000 lei (previously 380,000 lei).

Intellectual property rights <sup>13</sup>	10% <sup>14</sup>	25% <sup>12</sup>
Rental income	10% <sup>14</sup>	-
Investment (including dividends)	10% <sup>14</sup>	-
Sale of real estate	-	-
Gambling and prizes	-	-
Pensions	-	-
Other sources	10% <sup>14</sup>	-

# VALUE ADDED TAX

## VAT rates

- 19% - the standard VAT rate.
- 9% reduced VAT rate for certain goods and services, e.g. accommodation, foodstuffs, restaurant and catering services, water, orthopaedic products, medicines suitable to both human and animal use, supply of fertilizers and pesticides used in agriculture, seeds and other agricultural products intended for sowing or planting, and also for specific supplies of types of services employed in agriculture<sup>15</sup>.
- 5% reduced VAT rate for school books, magazines, admission to shows, theatres, circuses, fairs, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities, sale of real estate, as part of social policy<sup>16</sup>, under certain conditions.

Filing of VAT return	Monthly, if annual turnover > EUR 100,000 <sup>17</sup> . Quarterly, if annual turnover < EUR 100,000, with no intra-Community acquisitions of goods. Bi-annually/annually, under certain conditions (approval of relevant tax authorities is required).
Filing of Recapitulative Statement	Monthly, by 25th of the month following the month in which eligible transactions took place.
Filing of Informative Statement	Monthly/quarterly (as per the fiscal period), by 30 <sup>th</sup> of the month / quarter following the period in which the invoices were issued / received.  The statement must be submitted, regardless of whether during this period, any transactions took place.
Filing of Intrastat return	Monthly, by 15 <sup>th</sup> of the month following the month when the movement of goods took place. Submission is required only if the volume of intra-Community arrivals of goods is > RON 900,000 and/or the volume of intra-Community dispatches of goods is > RON 900,000.
Small enterprises	Before 1 April 2018, annual turnover threshold < EUR 65,000 (i.e. RON 220.000). Starting 1 April 2018, annual turnover threshold < EUR 88,500 euro (i.e. 300.000 lei).  Legislation on transitional measures is in place.

Distance selling	Annual threshold = EUR 35,000 (i.e. RON 118.000).
Non-taxable legal entities, businesses which carry out VAT exempt without credit operations, small businesses	Volume of intra-Community acquisitions of goods > EUR 10,000 (VAT registration required).
Limited VAT deduction right for vehicle expenditure	The VAT deduction right is limited to 50% for expenditure related to acquisition, functioning, maintenance and repairs of vehicles (including leasing and rental), if the vehicles are not used exclusively for business purposes.
Non-deductible VAT	Alcohol and tobacco products.
VAT cash accounting system	Resident companies which obtain a turnover lower than RON 2,250,000 during the calendar year may opt for the application of the VAT cash accounting system (i.e. deduction/collection of input/output VAT at the time of payment/cashing of consideration to/from suppliers/customers).
Invoicing	Council Directive 2010/45/EC on invoicing rules has been transposed into Romanian VAT law. This states that any documents or messages on paper or in electronic format, if in compliance with Art. 319 of the Fiscal Code, are to be considered invoices.

<sup>17</sup> The equivalent in lei is determined on the basis of the exchange rate communicated by the NBR as valid on 31 December of the previous year.

## Other issues to be taken into account:

Transfer of business as a going concern	Transfers of assets as part of spin-offs/mergers fall outside the scope of VAT without being subject to the restrictions specific to transfers of assets as part of transactions other than spin-offs/mergers. The recipient of the assets must also be established in Romania. In the case of spin-offs, payable/refundable VAT amounts or the related VAT refund right are taken over, as per the quotas allocated from the divided entity's assets and liabilities.
VAT deduction right	<p>Taxpayers declared inactive / which have had their VAT registration number cancelled, which carry out economic activities during this period, have the right to deduct the input VAT related to the acquisitions of goods / services carried out during this period, after their re-registration for VAT purposes. With respect to the supplies of goods / services made during this period, after VAT re-registration, taxpayers are entitled to issue invoices, mentioning separately the related output VAT; these invoices are not declared in the VAT returns.</p> <p>Taxable persons which carry out acquisitions of goods / services from inactive suppliers / suppliers which have had their VAT registration number cancelled, have the right to deduct the input VAT related to the acquisitions of goods / services made during this period, based on the invoice issued by the relevant suppliers, after the re-registration.</p>
Input VAT adjustments related to capital goods	Input VAT adjustments related to capital goods should be made annually within the period of adjustment, for 1/5 or 1/20 of the input VAT deducted on the purchase / construction of the goods, for each year when there is a change of purpose for which the goods are used. However, when taxpayers switch from the general taxation regime to the special scheme for small enterprises and in cases where capital goods are supplied under VAT exemption, the adjustment should be made only once for the entire remaining adjustment period.

The adjustment of the VAT taxable base	<p>The VAT taxable base may be reduced if the value of the delivered goods or the rendered services cannot be recovered as a result of the bankruptcy of the beneficiary or following the implementation of a reorganization plan admitted and confirmed by a court order, through which the claim of the creditor is changed or eliminated.</p> <p>The period of time for the adjustment of the VAT base mentioned above has been set at 5 years starting from 1 January of the year following the year in which the court decision confirming the reorganization plan was delivered, i.e. the court decision on the closure of the insolvency law procedure under the deferral sanction.</p>
The special scheme for farmers	On 1 January 2017, the special scheme for farmers, individuals, self-employed persons, sole proprietorships or family enterprises, which carry out agricultural activities / services, was introduced. Farmers do not now deduct input VAT, nor collect output VAT, regardless of turnover. Instead, they receive compensation, subject to a flat rate of 1% in 2017, 4% in 2018 and 8% in 2019, so that no VAT will be borne in relation to purchases of agricultural products / services. The special scheme is optional for farmers, who might opt to apply the general VAT regime.
No payment of VAT on import of goods	<p>As a general rule, VAT on imports is paid to the customs authorities<sup>18</sup> and deducted through the VAT return.</p> <p>However, subject to the "Value Added Tax Deferment Certificate", companies are no longer required to pay VAT to the customs authorities, thus recording a cash flow improvement.</p> <p>The certificate of postponement of Value Added Tax is issued to taxable persons registered for VAT purposes which meet any of the following conditions:</p>

	<ul style="list-style-type: none"> <li>• Holding an AEO certificate - Authorized Economic Operator.</li> <li>• Having an authorization for the customs clearance procedure at home<sup>19</sup>.</li> <li>• They have carried out imports with a value of at least 100 million lei in the last 12 calendar months.</li> </ul>
VAT groups	VAT grouping system rules do not exclude from the scope of VAT (or exempt) transactions carried out between the members of the group. Instead, the system simply allows the consolidation of the VAT returns of all members, possibly leading to a reduction in the amount of any VAT payable.
VAT registration	Although the VAT registration process was simplified in February 2017, taxpayers are still required to submit many documents to the relevant tax office (fiscal records of directors and associates, affidavits for the fiscal records of foreign administrators / associations, statements on activities carried out at and outside the headquarters, if any, and any other documents that the tax authorities consider necessary for assessing the taxpayer's intention and ability to carry out economic activities).

<sup>18</sup> Order of the Minister of Finance no. 4121/2015 for the approval of the Norms regarding the procedure for granting the deferred certificate of the value added tax and the release of the guarantee for the import of goods.

<sup>19</sup> Starting May 1, 2016, the "home clearance procedure" was replaced by "entry in the declarant's records".

	<p>Before rejecting a VAT registration request the tax authorities are required to allow the taxpayer to present its case.</p> <p>The deadline for settling VAT registration requests is 45 days from the date of submission.</p> <p>A non-resident taxable person may opt to request a VAT registration if it carries out one of the following operations in Romania: import of goods, rental and leasing of immovable property, with certain exceptions, if the taxpayer has chosen to tax these operations and supplies of buildings / parts of buildings and the land they are built on, if the taxpayer has chosen to tax these operations.</p>
Cancellation of VAT registration	In specific situations, the tax authorities may cancel VAT registrations, e.g. if the VAT returns filed for 6 consecutive months (for taxpayers that have the month as their fiscal period), or for two consecutive quarters (for taxpayers that have the quarter as their fiscal period) submitted by the taxpayer, did not include any acquisitions / supplies of goods / services, i.e. if the taxpayer did not carry out taxable transactions during the reporting periods.
Taxpayers entitled to claim interest for late VAT refunds	If a VAT refund is delayed by the tax authorities, taxpayers are entitled to apply for late payment interest.

Reverse charge	For supplies of goods or services which take place in Romania, made by a taxable person which is neither established in Romania nor registered for VAT purposes in Romania, to a taxable person or non-taxable legal entity which is established in Romania, regardless of whether it is registered for VAT purposes or not, or a legal entity which is not established in Romania but registered for VAT purposes in Romania, the beneficiary must account for the related VAT in Romania via the reverse charge mechanism.
Simplification measures	<p>Simplification measures (the reverse charge mechanism) apply to supplies of:</p> <ul style="list-style-type: none"><li>• Ferrous and non-ferrous waste</li><li>• Raw wood.</li><li>• Buildings, parts thereof and any type of land, if taxable, either by law or by option.</li><li>• Investment gold, if taxable by option.</li></ul> <p>Temporary simplification measures (until 31 December 2018) apply to supplies of:</p> <ul style="list-style-type: none"><li>• Cereals and technical plants.</li><li>• Transfers of emissions of greenhouse gases.</li><li>• Supplies of energy made to taxable persons (electricity traders).</li><li>• Transfers of green certificates.</li><li>• Mobile phones.</li><li>• Integrated circuit devices.</li><li>• Games consoles, PC tablets and laptops.</li></ul>
Split VAT	<p>The split VAT payment system was introduced in Romania, optionally, starting 1 October 2017 and, as a mandatory rule, starting 1 January 2018.</p> <p>The split VAT payment is mandatory for the following categories of taxpayers:</p> <ul style="list-style-type: none"><li>• Taxpayers registered for VAT purposes, which have outstanding VAT liabilities to the state budget on 31 December 2017 as well as those which, from 1 January 2018 have, at any time, VAT liabilities which are more than 60 days overdue.</li></ul>

	<ul style="list-style-type: none"><li>• Taxpayers which are undergoing insolvency proceedings.</li></ul> <p>The split VAT mechanism does not affect the general VAT rules, making changes only to the way VAT is paid in invoices issued between business partners as well as to the state budget. Different VAT implications may arise depending on the parties involved in the transactions, if one or both parties involved apply the split payment system, invoice date and date of payment. For example, if a VAT-registered taxpayer purchases goods / services from a supplier which applies the split VAT system, it will have to pay VAT to its supplier's VAT account even if it (the purchaser) does not apply the VAT split payment system.</p> <p>Non-resident taxpayers (unregistered and non-registered for VAT purposes in Romania) will not be required to pay VAT to the supplier's VAT account, even if the latter applies the VAT split payment system.</p>
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## EXCISES

Harmonised excisable goods:

- Alcohol and alcoholic beverages.
- Processed tobacco.
- Energy products (e.g. leaded and unleaded gasoline, diesel, kerosene, liquefied petroleum gas, natural gas, etc.) and electricity.



Excisable products are subject to excise duties at the time of their production/extraction on EU territory or at the time of their import into the EU. The chargeability of the excise duties occurs at the time of their release for consumption.

Production of excisable goods is subject to fiscal warehouse authorisation. No retail sales are allowed in the fiscal warehouse for production (except in cases permitted by law).

Establishment of storage tax warehouses is possible for energy products, processed tobacco as well as for ethyl alcohol and alcoholic beverages.

Traders which sell, either in the wholesale or retail system, energy products – gasoline, diesel, kerosene, Liquefied Petroleum Gas and biofuels – as well as those which distribute and sell alcoholic beverages and/or manufactured tobacco, in wholesale, but which are not tax warehouse keepers, may carry out these operations only after obtaining a certificate for distribution and sale in the wholesale/retail system for the products mentioned above.

In addition to the harmonised excise duties mentioned above, Romania also applies excise duties on liquids containing nicotine for inhalation by means of an electronic device (“electronic cigarettes”) and heated tobacco products which, by heat, release an aerosol that can be inhaled, without the combustion of tobacco blend.

Excise duties are generally payable by the 25th of the month following that when they become chargeable. However, the supply of energy products like diesel gas, gasoline, kerosene and liquefied petroleum gas can only be made if the supplier holds a document confirming the payment (by the supplier or by the buyer on the supplier’s behalf) of the excise duties related to the goods that will be dispatched.

Exceptions/exemptions from excise duties are available for specific excisable products intended for particular uses, for instance energy products used in mineralogical processes or used to produce, in cogeneration, combined heat and electricity.

## CUSTOMS DUTIES

There are no customs controls, no formalities and no customs charges inside the EU, so Union goods may be moved freely between Romania and other EU member states.

As an EU member state, Romania applies Union Customs Legislation, as well as the Common Customs Tariff and EU commercial measures on imports and exports.

Except for certain agricultural products, for which specific duties apply, customs duties are established as a percentage, generally ranging between 0 and 22%.

The customs value is determined according to the principles set out in the Community Regulations, the main method used being the “transaction value method” (i.e. the price paid or payable for the goods).

Special customs regimes applicable within the European Union (such as inward processing relief, outward processing, internal transit, external transit, free trade zones, customs warehousing, end-use or temporary admission) are also available in Romania.

At present, the applicable legislation on customs duties is the Union Customs Code (“UCC” - Regulation (EU) No. 952/2013 of the European Parliament and of the Council), which entered into force on 1 May 2016 along with related acts: the Delegated Act (Regulation (EU) No. 2015/2446 of the Commission), the Implementing Act (Regulation (EU) No. 2015/2447 of the Commission), and the UCC Transitional Delegated Act establishing the transitional rules for operators and customs authorities pending the upgrading or the development of the relevant IT systems to create a fully electronic customs environment (Regulation (EU) No. 2016/341 of the Commission).

The most important amendments made by the UCC include the following:

- Introducing new concepts and definitions such as permanent establishment, holder of the goods, self-assessment procedure consisting of the possibility for the customs authorities to transfer some of their attributes to importers or exporters, for example certain verifications/checks or the calculation of customs duties, the definition of the exporter of record, etc.
- The customs regimes are as follows: release for free circulation, export and special regimes such as transit, storage (bonded warehouses and free zones), special usage (temporary admission and end use) and processing (inward processing and outward processing).
- Even though AEO authorisation is not mandatory, for specific situations, in order to obtain certain facilities, the fulfilment of the criteria/conditions for obtaining AEO authorisation is needed.

In addition to the EU regulations mentioned above, Romanian legislation is still applicable, e.g. Law No. 86/2006 on the Romanian Customs Code, Government Decision No. 707/2006 approving the Implementing Norms of the Romanian Customs Code, etc.

# PROPERTY TAXES

## Local taxes

The most common property taxes payable to the local authorities are on buildings, land and vehicles. These are assessed annually for assets held as at 31 December of the previous year and must be paid in two equal instalments per year, by 31 March and 30 September. If paid in advance before 31 March, a reduction of up to 10% may be granted on the annual tax payable (the exact percentage is established by each local council).

Tax on buildings (for legal entities)	<ul style="list-style-type: none"><li>• Residential buildings - 0.08% - 0.2% of the taxable value.</li><li>• Non-residential buildings -0.2%-1.3%, of the taxable value.</li><li>• Mixed use – sum of the tax calculated for the area that is used for residential purposes and the tax calculated for the area used for non-residential buildings.</li></ul> <p>For buildings used in agriculture, the tax rate is 0.4% of the taxable value.</p> <p>The taxable value is generally determined by valuation for tax purposes (carried out by an authorised valuator, at the owner's expense).</p> <p>If the taxable value of buildings has not been updated in the 3 previous years, the building tax rate is 5%.</p>
Tax on land	Fixed amount per sqm, depending on factors such as: type of settlement; the land's location within the settlement (downtown / uptown / out of the town); the land's use (e.g. for constructions, agriculture, fields, orchards, forests).
Tax on vehicles	Taxed on a rising scale for every 200cc with varying rates depending on the vehicle type.



## Transfer duties

According to Romanian legislation, transfer of real estate properties by legal entities (e.g. land and buildings) is not subject to transfer taxes, except for notary fees and taxes for registration with the Real Estate Book. These fees are approximately 1% of the value of the property.

## ENVIRONMENTAL TAXES

The most common environmental taxes payable in Romania are in relation to:

- Packaging materials and tires placed on the Romanian market (i.e. produced, imported or acquired from another EU Member State), for the difference between the quantities collected/ recycled and the collection/recycling targets set by law.
- Oil introduced on to the Romanian market (0.3 RON per Kg).
- Emissions of pollutants from fixed sources (e.g. factories, energy plants), depending on the type of pollutant.
- Shopping bags made of non-renewable materials - 0.1 RON per bag. Starting from July 2018, it will be no longer possible for companies to introduce on to the national market thin and very thin plastic shopping bags made of non-renewable materials. Starting from 2019, the commercialization of these shopping bags will also be prohibited.
- Hazardous substances (2% of the value of the hazardous substances placed on the Romanian market).
- The sale of scrap metal (3% of the income obtained from sales, by withholding) – no tax is payable for the sale of goods designated for dismantling.
- The administration of deposits for inert and non-hazardous waste assigned by third parties for disposal through final elimination, the so-called „landfill tax” that is currently suspended until 1 January 2019.

- Starting from January 2018, a tax is payable for waste electrical and electronic equipment (“WEEE”) and for batteries and portable accumulators (“WB&A”) placed on the national market. The contribution is paid for the difference between the quantities corresponding to the minimum WEEE/WB&A collection legal targets and the quantities actually collected.

In 2018, the relevant software assistance program for submitting the monthly statement on the obligations to the Environment Fund in electronic format will be launched. The program will be free and available on the website of the Environment Fund Administration, [www.afm.ro](http://www.afm.ro).

## TAX INCENTIVES FOR COMPANIES

### Sponsorship & private scholarships

Corporate income tax credit for sponsorship expenses (including private scholarships) may be granted, up to the lesser of:

- 0.5% of net turnover; or
- 20% of the corporate income tax due.

When sponsorship expenses exceed these limits, the unused tax credit can be carried forward over the next 7 consecutive years and recovered under the same conditions.

### Incentives for supporting vocational and technical education

Expenses incurred in relation to theoretical and/or practical training of students in vocational and technical education, including depreciation of fixed assets or investments used for this purpose, are specifically defined as being deductible for corporate tax purposes.

## TAX INCENTIVES FOR COMPANIES

Corporate tax relief on reinvested profit	<ul style="list-style-type: none"> <li>• Corporate tax relief is available for profit reinvested in technical equipment (subgroup 2.1 or class 2.2.9 of the Catalogue of the Classification and the Normal Useful Life of Fixed Assets) and software property or license rights produced/acquired and commissioned during the relevant tax period.</li> <li>• The accelerated depreciation method cannot be applied for these assets. Equipment must also be kept for at least half its normal useful economic life in accordance with the applicable accounting rules, but for no more than 5 years. Otherwise, corporate tax is recalculated accordingly and late payment interest and penalties are imposed.</li> </ul>
Innovation, research and development – corporate tax exemption	Taxpayers carrying out exclusively innovation, research and development activities (as defined by Government Ordinance no. 57/2002 on scientific research and technological development, as further amended) and closely related activities are exempt from corporate income tax for the first 10 years of operation (in force from January 2017, although no application norms have yet been issued).
R&D costs – additional deduction	<ul style="list-style-type: none"> <li>• 50% additional CIT deduction for all eligible R&amp;D costs. If fiscal loss is recorded, the deduction is carried forward for the next 7 years</li> <li>• The additional deduction does not apply if the objectives of the R&amp;D project have not been realized</li> <li>• Accelerated depreciation for equipment used in R&amp;D activity.</li> </ul>
Innovation, research and development – personal income tax exemption for salary income	Employees who are part of teams which carry out research & development and innovation projects as defined under Ordinance 57/2002 are exempt from paying personal income tax for the salary income earned from carrying out research & development and innovation activities in the above mentioned projects. The incentive is granted subject to meeting certain conditions set out by law.

Software development income	Exemption from personal income tax for employees involved in software development activities. The incentive is granted subject to meeting certain conditions set out by law.
Salary income exemption for seasonal activities	Exemption from personal income tax may be granted for salary income earned under a 12-month employment contract concluded with an employer carrying out seasonal activities as set out under Article 1 of Law no. 170/2016 on the tax specific to certain activities (e.g. hotels, restaurants).
Gifts, Gift tickets	Exemption from personal income tax and social security contributions for gifts and gift tickets offered by employers to their employees and to their minor children for the Easter holidays, 1 June, Christmas, as well as gifts and gifts tickets offered to female employees on 8 March, up to RON 150 for each individual and occasion.
Meal tickets, holiday vouchers and nursery vouchers	Exemption from personal income tax and social security contributions for meal tickets, holiday vouchers and nursery vouchers granted in accordance with specific legislation.
Tourist and/or medical treatment services during holidays	Payments made during holidays for tourist and/or medical treatment services, including transport, covered by an employer for its employees and their family members (as provided in the employment contract), are not taxable for personal income tax purposes and are not included in the taxable base for social security contributions. Expenses incurred by the employer are deductible for corporate tax purposes within the limit for social expenses (i.e. up to 5% of the total salary expenses).

Optional pension funds	Exemption from personal income tax and social security contributions for contributions to optional pension funds in accordance with Law no. 204/2006 paid by employers for their employees (or paid for the personal benefit of the taxpayer, in the case of independent activities), up to the limit of EUR 400 per year.
Voluntary health insurance premiums	Exemption from personal income tax and social security contributions for voluntary health insurance premiums paid by employers for their employees (or paid for the personal benefit of the taxpayer, in the case of independent activities), up to a limit of EUR 400 per year.
Employment	Unemployment contribution incentives for hiring unemployed people; specific incentives for hiring unemployed people from certain social categories (e.g. recent graduates, single parents, older people, disabled people and students hired during summer vacations). The incentives are granted subject to the fulfilment of certain conditions set out by law.

Newly established micro-enterprises	<p>Newly established micro-enterprises may benefit from a reduced 1% tax rate in the first 24 months, subject to certain conditions, such as:</p> <ul style="list-style-type: none"> <li>• Shareholders must not have previously owned shares in other companies.</li> <li>• The company must have at least one full-time employee.</li> <li>• The company must have functioned for a period of at least 48 months, during which none of the following events should have occurred: liquidation, dissolution, inactivity, contributions to share capital by new shareholders or its shareholders transferring/selling their shares.</li> </ul>
Local tax	Exemption from the payment of land and building tax can be granted by local councils, subject to state aid legislation.

## Transfer pricing

- The criteria for companies to be considered related parties under Romanian legislation is a minimum 25% direct or indirect shareholding and/or economic control.
- Transactions which take place between related parties (including those between domestic group companies) are required to be carried out on arm's length (i.e. market) terms.
- Since January 2016, large taxpayers which carry out transactions with related parties over certain significance thresholds have been required to prepare their transfer pricing documentation files on an annual basis, no later than the legal deadline for submitting the annual corporate tax return, for each fiscal year. In this case, the deadline provided by law for presenting the transfer pricing documentation file to the Romanian tax authorities is a maximum of 10 days. Large taxpayers carrying out transactions with related parties below the thresholds mentioned above, and all other taxpayers which carry out transactions with related parties over certain (different) significance thresholds, are required to provide their transfer pricing documentation files to the Romanian tax authorities in the event of a tax audit. In this case, the deadline for presenting the transfer pricing documentation file to the Romanian tax authorities is between 30 and 60 days, with the possibility of extension by another 30 days maximum.
- Even though Romania is not part of the OECD yet, the OECD Transfer Pricing Guidelines are, in principle, recognised by Romanian transfer pricing legislation. Nevertheless, the Romanian legislation also contains a number of specific national elements related to transfer pricing, which prevail and which are carefully verified by the tax authorities during transfer pricing tax audits.
- In terms of documentation, the EU Masterfile and Countryfile concept has been broadly implemented into Romanian law.

- Advance Pricing Agreements (APAs) and the Mutual Agreement Procedure (MAP) are also possible under Romanian legislation. These aim to reduce the risk of transfer pricing adjustments. However, their implementation in practice is quite difficult.
- Romanian legislation provides specific requirements on the submission of the Country by Country report, i.e. notification obligations relating to the identity and fiscal residence of the reporting entity. These obligations result from the transposition of EU Directive 881/2016 on the mandatory automatic exchange of information on taxation, which follows the recommendations of BEPS Action 13 issued by the OECD.

## Fiscal Procedures / Administration

### Rulings

The legal deadline for the Romanian tax authorities to issue a non-binding ruling is within 45 days of the submission of documentation. This period can be extended to up to 6 months in special situations.

Advance Tax Rulings (ATRs) and Advance Pricing Agreements (APAs) are also available. The legal deadline for issuing an ATR is 3 months from the date of application, while the deadline for issuing an APA is 12 months for unilateral APAs and 18 months for bilateral or multilateral APAs.

### Statute of limitations

The statute of limitations period is 5 years, starting from 1 July of the year following that to which the tax obligation is related. However, in the case of fraud, the statute of limitations can be extended to 10 years, starting from the date when the criminal offence occurred. The statute of limitations is suspended during a fiscal inspection period.

### Interest and late-payment penalties

A combined system of late-payment interest and penalties is currently applicable:

- **Interest** of **0.02%** per day of late-payment.
- **Penalties** of **0.01%** per day of late-payment.

For tax obligations arising as from 1 January 2016, which were undeclared or under-declared by taxpayers and imposed by a decision resulting from a tax audit, **non-compliance penalties** of **0.08%** per day are due, instead of the 0.01% late payment penalties and the potential fines for failure to file tax returns. (This does not eliminate late payment interest of 0.02% per day).

### Certification of tax returns

Certification of tax returns by a certified tax consultant (a member of the Romanian Chamber of Fiscal Consultants) is optional. However, certification could present some advantages for businesses, as it constitutes a criterion in the risk analysis carried out by the tax authorities when they select taxpayers for tax audits.

## Accounting regulations

Romanian accounting regulations are compliant with EU accounting and audit directives (regulations approved by Order of the Ministry of Public Finance no. 1802/2014 implementing the provisions of Directive 2013/34/EU).

Romanian GAAP draws many of its principles and rules from International Financial Reporting Standards (IFRS). However, differences remain and their impact on the financial statements of companies varies from one industry to another.

Credit institutions carrying out activities in Romania, including Romanian branches of foreign credit institutions and foreign branches of Romanian credit institutions, as well as listed companies, are required to apply International Financial Reporting Standards (IFRS) as a basis for accounting and reporting of financial statements.

The financial year generally corresponds to the calendar year. However, both Romanian entities and branches of a foreign company (except for credit institutions, non-banking financial institutions, as well as entities operating under the supervision of the Authority for Financial Supervision) may opt for a different financial year.

Companies are required to have their financial statements audited (statutory audit) if they are public interest entities or if they meet at least two of the three size criteria below for two consecutive years:

- Total assets > RON 16,000,000 (the equivalent of EUR 3,650,000).
- Net turnover > RON 32,000,000 (the equivalent of EUR 7,300,000).
- Average number of employees during the financial year > 50

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## KPMG Romania SRL

### Bucharest Office

Victoria Business Park,  
DN1, Bucuresti - Ploiesti Road  
no. 69-71, Sector 1, Bucharest  
013685, Romania  
P.O. Box 18-191  
**T:** +40 (372) 377 800  
**F:** +40 (372) 377 700  
**E:** kpmgro@kpmg.ro

[www.kpmg.ro](http://www.kpmg.ro)

### Cluj Napoca Office

Liberty Technology Park  
Gării Street no 21, Cluj-Napoca,  
Cluj, Romania  
**T:** +40 (372) 377 900  
**F:** +40 (753) 333 800  
**E:** kpmgro@kpmg.ro

### Constanta Office

Mamaia blv., no. 208,  
4th Floor, Constanta,  
900540, Romania  
**T:** +40 (756) 070 044  
**F:** +40 (752) 710 044  
**E:** kpmgro@kpmg.ro

### Iasi Office

Ideo Business Center,  
Pacurari Road, no. 138,  
1st Floor, Office B 105  
Iasi, 700521, Romania  
**T:** +40 (756) 070 048  
**F:** +40 (752) 710 048  
**E:** kpmgro@kpmg.ro

### Timisoara Office

Mihai Viteazul blv., no. 30B,  
Timisoara, 300222  
Timis, Romania  
**T:** +40 (256) 221 365  
**F:** +40 (256) 499 361  
**E:** kpmgro@kpmg.ro

## KPMG Moldova SRL

### Chisinau Office

171/1 Stefan cel Mare blv.,  
8th floor, MD-2004, Chisinau  
Republic of Moldova  
**T:** + 373 (22) 580 580  
**F:** + 373 (22) 540 499  
**E:** kpmg@kpmg.md

[www.kpmg.md](http://www.kpmg.md)

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



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