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TAX GUIDE 2023

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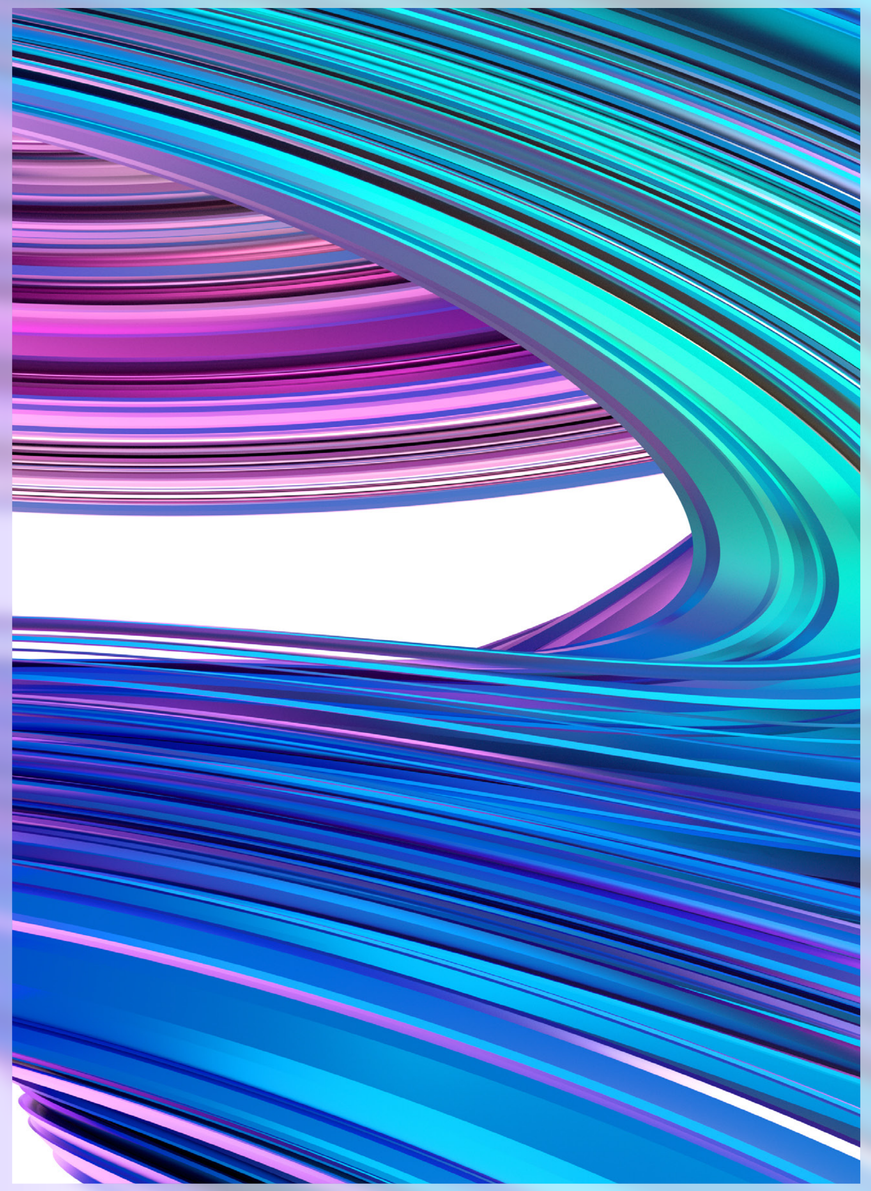

Corporate income tax rate

16%

Taxpayers

- Romanian legal entities, except for taxpayers subject to the micro-enterprises tax, tax-transparent entities and certain institutions specifically defined in the Fiscal Code (Law no. 227/2015 as further amended).
- Non-Romanian legal entities that carry out activities through one or more permanent establishments in Romania.
- Non-Romanian legal entities according to their place of effective management.
- Non-Romanian legal entities which obtain income from the transfer of ownership or any other rights related to immovable property located in Romania.
- Legal entities established according to European legislation that have their registered office in Romania.
- Non-Romanian legal entities operating in Romania through one or more elements treated as permanent establishments, with respect to situations involving the existence of non-uniform treatment of hybrid elements or non-uniform treatment of tax residence.
- Fiscal transparent entities, in situations that involve the existence of non-uniform treatments of the inverted hybrid elements.

Fiscal year

- The fiscal year generally follows the calendar year.
- 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.

Corporate income tax rate 16%

Tax returns / payment

- Quarterly (for quarters I-III) – by the 25th of the month following the relevant quarter.
- Annually:
  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). During the period when the provisions of GEO no. 153/2020 apply, i.e. 2021-2025, the deadline for the submission of the annual corporate income tax return has been extended to 25 June of the following year (for the calendar fiscal year) or to the 25th of the sixth month after the end of the amended fiscal year.

  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 most of their income from growing cereals, technical plants and potatoes, orchards and viticulture.

Advance payments

- Banks are required to make quarterly advance payments based on the previous year's results.
- For regular taxpayers, the advance payment system is optional.

Corporate income tax rate 16%

Tax losses

- Losses may be carried forward for 7 years.
- There is no carry back of losses.
- Changes in ownership do not affect carrying forward tax losses.
- 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.
- 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.

Deductibility of expenses

- As a general rule, expenses are deductible only if they are incurred for the purpose of carrying out economic activity.

  Certain types of expenses are specifically provided under the Fiscal Code as being non-deductible or having limited deductibility.

  With effect from 1 January 2021, expenses incurred by an employer in relation to telework activity by employees are now deductible.

Corporate income tax rate

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Deductibility of expenses	As a general rule, expenses are deductible only if they are incurred for the purpose of carrying out economic activity. Certain types of expenses are specifically provided under the Fiscal Code as being non-deductible or having limited deductibility. With effect from 1 January 2021, expenses incurred by an employer in relation to telework activity by employees are now deductible.

Expenses with limited deductibility

examples

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: • 50% of the receivables, if the due date has been exceeded by more than 270 days. • 100%, if the debtor is subject to bankruptcy (companies) or insolvency (individuals).
Allowances for impairment of tangible assets	Impairment allowances are deductible if: • 1. The tangible assets have been destroyed as a result of a natural disaster or force majeure, as detailed in application norms. 2. An insurance contract has been concluded for the event.

Provisions and reserves

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 & amortisation

Calculation methods

- Straight-line.
- Reducing-balance.
- Accelerated depreciation (up to 50% in the first year).

Tangible assets

- Buildings – only the straight-line method.
- Technological equipment and computers – accelerated, straight-line or reducing-balance method.
- Any other fixed asset – straight-line or reducing-balance method.
- 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 RON/month

Depreciation & amortisation

Intangible assets

- Intangible assets (e.g. patents, licenses, copyrights, trademarks) – straight-line method over the period of the contract or the period of use, as appropriate.
- Patents may be amortised through the accelerated or the reducing-balance method.
- Software acquisition or production – straight-line or reducing-balance method, over a period of 3 years.
- Goodwill is not a depreciable asset (amortisation is not tax deductible).

Interest expenses & other economically equivalent expenses

Deductibility of excess debt related costs.

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.

Interest expenses & other economically equivalent expenses

Exceeding borrowing costs with limited deductibility

- Threshold for unlimited deductibility of excess debt related costs –1.000.000 euros
- Limited deductibility within the limit of 30% of the following calculation base: gross profit plus corporate income tax payable, plus excess debt related costs and tax depreciation, minus non-taxable income.
- If the tax base described above is 0 or negative, the difference between the excess debt-related costs and the deductible limit 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.
- 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.
- The right to carry forward for taxpayers which cease to exist as a result of a merger or division is transferred to the newly established taxpayers, i.e. those who take over the assets of the absorbed or divided company, as appropriate, proportional to the assets transferred to the beneficiary legal entities under the draft merger/division.
- The right to carry forward for taxpayers which do not cease to exist as a result of a transfer of a part of their assets as a whole will be shared proportionally between those taxpayers and the ones that took over these assets.

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.

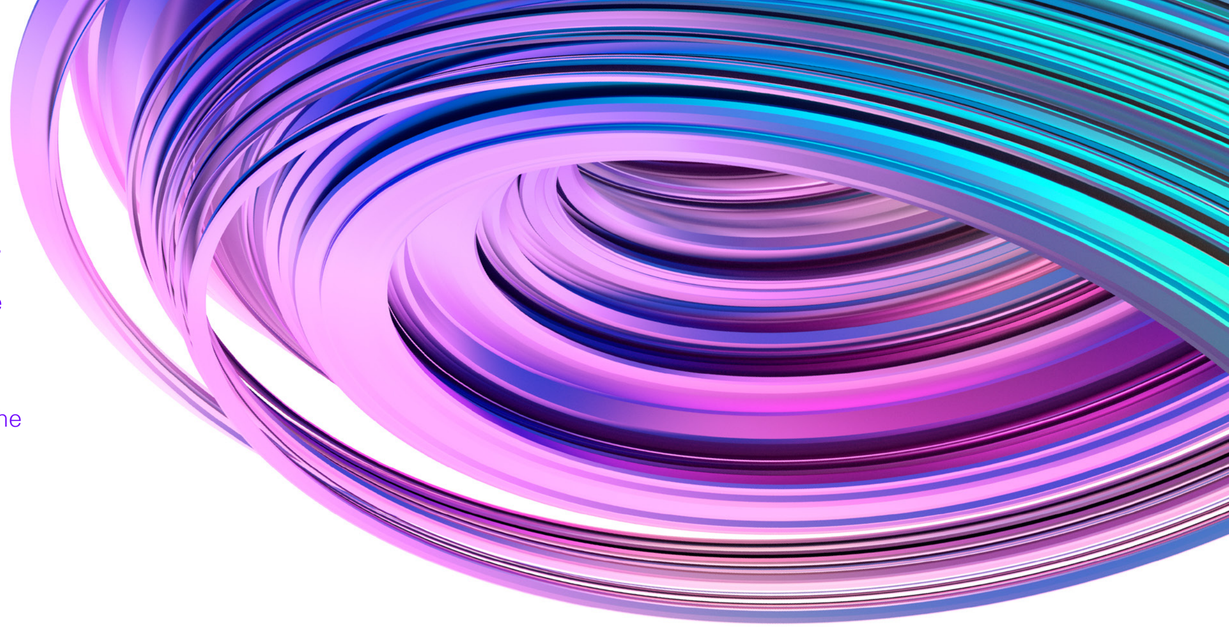
Rules on controlled foreign companies

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:

- Interest or any other income generated by financial assets.
- Royalties or any other income generated by intellectual property rights.
- Dividends and income from the transfer of units.
- Financial lease income.
- Income from insurance activities, banking or other financial activities.
- 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.

Hybrid mismatch

“Hybrid mismatch” means a situation involving a taxpayer or an entity where:

- A payment under a financial instrument gives rise to a deduction without inclusion outcome.
- A payment to a hybrid entity gives rise to a deduction without inclusion and that mismatch outcome is the result of differences in the allocation of payments made to the hybrid entity under the laws of the jurisdiction where the hybrid entity is established or registered and the jurisdiction of any person or entity with a participation in that hybrid entity.
- A payment to an entity with one or more permanent establishments gives rise to a deduction without inclusion and that mismatch outcome is the result of differences in the allocation of payments between the head office and permanent establishment or between two or more permanent establishments of the same entity under the laws of the jurisdictions where the entity operates.
- A payment gives rise to a deduction without inclusion as a result of a payment to a disregarded permanent establishment.
- A payment by a hybrid entity gives rise to a deduction without inclusion and that mismatch is the result of the fact that the payment is disregarded under the laws of the payee jurisdiction.
- A deemed payment between the head office and permanent establishment or between two or more permanent establishments gives rise to a deduction without inclusion and that mismatch is the result of the fact that the payment is disregarded under the laws of the payee jurisdiction.
- A double deduction outcome occurs.

To the extent that a hybrid mismatch results in a double deduction:

1. the deduction of the payment/ expense will be denied; or
2. the amount of the payment will be included in the taxable income.

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.

Fiscal consolidation for corporate income tax

Tax consolidation has been made possible, optionally, starting from 1 January 2022, for corporate income tax, i.e. to offset the taxable profits of companies in a group against the tax losses of other jointly owned firms, directly or indirectly, if the member of the group which benefits from the offset holds a proportion of at least 75 % of the value/number of shareholdings or voting rights in the entity which incurs the tax losses, for an uninterrupted period of one year prior to the start of consolidation.

The period of application of the system will be five fiscal years, after which the option may be renewed. The application should be submitted at least 60 days before the beginning of the period for which the tax consolidation is requested, and the system will be applied from the tax year following the submission of the application.
One of the members should be designated as the responsible legal entity which will calculate, declare and pay corporate income tax for the group, determined by adding up the individual calculations of each member.

The tax losses incurred by a member of the group before the application of the system cannot be compensated at group level. If the group is abolished after five years, the losses incurred and not recovered during the consolidation will be recovered by the responsible entity/individual.

Micro enterprises

Starting from 1 January 2023, the micro- enterprise income tax system becomes optional for Romanian companies which have a turnover that does not exceed the RON equivalent of EUR 500,000.

Additionally, new conditions have been introduced for companies in order for them to be able to opt for the application of the micro-enterprise income tax, i.e.:

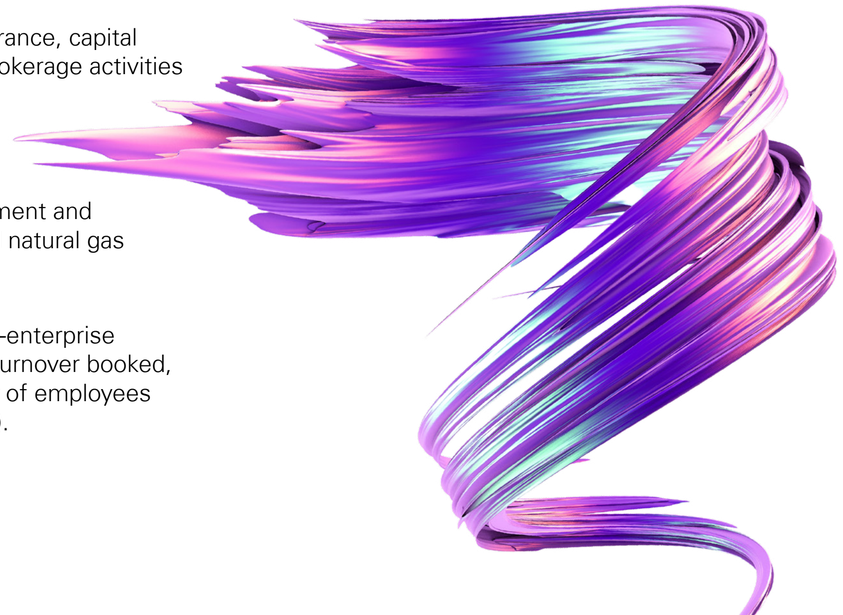
1. At least 80% of their revenues must be earned from activities other than consulting and/or management;
2. They must have at least one full-time employee;
3. The company's shareholders should not hold more than 25% of the value/number of shares in more than three micro-enterprises, including the company concerned.

However, companies carrying out activities in the following economic sectors cannot opt for the application of the micro-enterprise income tax:

1. Banking;
2. Insurance and reinsurance, capital markets, including brokerage activities in this sector;
3. Gambling;
4. Exploration, development and exploitation of oil and natural gas deposits.

The tax rate for the micro-enterprise income tax is 1% of the turnover booked, regardless of the number of employees (minimum one employee).

Micro-enterprises which are involved in sponsorship activities to support non-profit entities and religious organizations, which at the date of conclusion of the contract are signed up in the Register of entities/religious organizations for which tax deductions are granted, as well as micro-enterprises that grant scholarships to students enrolled in dual (practical and theoretical) vocational education, will be able to deduct the corresponding amounts from the income tax of micro-enterprises up to the value of 20% of the micro-enterprise income tax due for the quarter when those expenses were incurred.



TAX WITHHOLDING

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

1. Dividends
2. Interest
3. Royalties
4. Commission fees
5. Management or consulting fees (irrespective of where the services are supplied)
6. Income from services supplied in Romania, except for international transport and related services
7. 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)
8. Income earned from sports or entertainment activities carried out in Romania [1]
9. Prizes granted as a result of competitions organized in Romania
10. Gambling income
11. Income earned by non-residents from the liquidation of a resident
12. Income representing the remuneration received by foreign legal entities acting as administrators, founders or members of the administration board of a resident.

Tax rates (for non-residents)

16% standard tax rate

10% for the income obtained by individuals resident in an EU Member State or in a state with which Romania has concluded a double taxation treaty.

8% for dividends.

50% special tax rate.[2]

[1] 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.

[2] 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 EU Interest & Royalties and the Parent-Subsidiary 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:

Albania
Algeria
Armenia
Australia
Austria
Azerbaidjan
Bangladesh
Belarus
Belgium
Bosnia-Herzegovina
Bulgaria
Canada
China
Croatia
Cyprus
Czech Republic
Denmark
Ecuador
Egypt
Estonia
Ethiopia
Finland
France
Georgia
Germany
Great Britain
Greece
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Luxembourg
Macedonia
Malaysia
Malta
Morocco
Mexico
Moldova
Montenegro
Namibia
Netherlands
Nigeria
North Korea
Norway
Pakistan
Philippines
Poland
Portugal
Qatar
Russian Federation
F. R. Yugoslavia (applicable with Serbia and Montenegro)
San Marino
Saudi Arabia
Singapore
Slovakia
Slovenia
South Africa
South Korea
Spain [3]
Sri Lanka
Sudan
Sweden
Switzerland
Syria
Tadjikistan
Thailand
Tunisia
Turkey
Turkmenistan
Ukraine
United Arab Emirates
United States of America
Uruguay
Uzbekistan
Vietnam
Zambia

On 10 January 2022, Romania ratified the Multilateral Convention to Implement Tax Treaty Related Measures to prevent BEPS (originally signed in Paris on 7 June 2017). Ratification of the Convention enables changes to be made to the above-mentioned Double Taxation Avoidance Treaties in order to eliminate potential tax avoidance situations from which taxpayers could have benefited in a country with which a tax treaty exists.

[3] From 2022, the new double taxation treaty concluded with Spain enters into force.

PERSONAL INCOME TAX

The standard income tax rate is 10% with a few variations as mentioned below.

Type of income	Tax rate	Comments
Dividends	8%	Taxable income = gross income
Sale of real estate	Progressive rates	• 3% for properties owned for up to and including 3 years; • 1% for properties owned for more than 3 years
Gambling and prizes	Progressive rates	• 3% for income up to 10,000 RON. • 300 RON + 20% on income exceeding 10,000 RON. • 11,650 RON + 40% on income exceeding 66,750[4] RON.
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	10%	Taxable income = gross income The income is withheld at source by the income payer at the time of payment
Intellectual property rights[5]	10%	Taxable income = gross income[6] – 40% of gross income Taxable income = gross income – deductible expenses, if the taxpayer has opted for the actual expenses system

Type of income	Tax rate	Comments
Salary income	10%	Taxable income = gross income , less: Mandatory social security contributions. • Personal deduction granted for the respective month . • Trade union fees paid for the respective month.[7] • Contributions to private pension funds, paid according to the law, within the limit of 400 EUR/year/individual, paid by employees. • Voluntary medical insurance fees and expenses for subscriptions for medical services within the limit of 400 EUR/year/individual, paid by employees. The cost of subscriptions for the use of sports facilities for the practice of sport and physical education for maintaining fitness, prophylactic or therapeutic purposes, in accordance with the conditions stipulated in the Fiscal Code, borne by employees, up to the equivalent in RON of 400 EUR per year.
Rental income	10%	• Taxable income = gross income [8] • Taxable income = gross income – deductible expenses, if the taxpayer has opted for the actual expenses system

Type of income	Tax rate	Comments
Pensions	10%	Non-taxable amount: 2.000 RON per month Taxable income = gross income - 2.000 RON per month
Investments - interest	10%	Taxable income = gross income
Investments – capital gains	10%	Taxable income = net income [9]
Other sources	10%	Taxable income = gross/net income [10]

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

[5] The income tax is withheld at source by the income payer.

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

[7] The personal deduction is granted to individuals who have a total gross income less than 5,000 RON. (The deduction varies according to the number of dependents the taxpayer has, starting at 600 RON for employees with no dependents and rising to 1,350 RON for employees with four or more dependents). The deduction is applied degressively according to the table published in Art. 77 of the Fiscal Code.

[8] 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.

[9] For capital gains, bank/broker charges may be deducted if supported by documents.

[10] 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.

In the case of income obtained from sale of receivables, the income is considered to be the amounts cashed-in and the monetary equivalent of income in kind, and the expenses are the payments made, in relation to each sale, irrespective of the payment date, based on supporting documents. In the case of income obtained from the transfer of virtual currency, the taxable amount is determined as the positive difference between the sale price and the purchase price, including the transaction related costs. Capital gains below 200 RON/transaction are not taxable, provided that the total capital gain derived during the fiscal year does not exceed 600 RON.

SOCIAL SECURITY CONTRIBUTIONS

Salary income

Social Security Contributions

Employee	Employee

Health contribution	Pension contribution	Work insurance contribution
10%	25%	2.25%

Other types of income

Source of income	Health insurance	Pension insurance
Independent activities (including agriculture, sport activities, forestry and fisheries)	10% [13]	25% [11]
Intellectual property rights [12]	10% [13]	25% [11]

[11] The pension insurance contribution is due, as follows: a) in the case of earned income between 12 and 24 gross national minimum wages, the basis for calculating the pension contribution is at least 12 gross national minimum wages and b) in the case of earned income above 24 gross national minimum wages, the basis for calculating the pension contribution is at least 24 gross national minimum wages (the gross national minimum wage is RON 3,000 from January 2023).

Other types of income

Source of income	Health insurance	Pension insurance
Rental income	10%[13]	-
Investment (including dividends)	10%[13]	-
Sale of real estate		-
Gambling and prizes		-
Pensions		-
Other sources	10%[13]	-

[12] For individuals earning income from wages and salaries and for persons who are pensioners, social security contributions and health insurance contributions are no longer due.

[13] The health insurance contribution is payable by persons who have a cumulative annual income of at least 6 times the gross national minimum wage from one or more sources of income, such as rent, investments, other income, etc., as follows: a) in the case of earned income between 6 and 12 gross national minimum wages, the basis for calculating the health contribution is the level of 6 gross national minimum wages; b) in the case of earned income between 12 and 24 gross national minimum wages, the basis for calculating the health contribution is the level of 12 gross national minimum wages; and c) in the case of earned income above 24 gross national minimum wages, the basis for calculating the health contribution is the level of 24 gross national minimum wages (the gross national minimum wage is RON 3,000 from January 2023).

[14] Starting from 1 January 2022, any individual may acquire at the reduced VAT rate (5%), a single dwelling with a max price of 600,000 RON (excl. VAT). The surface criteria are still applicable (max. 120 sqm).

[15] Certain exclusions apply.

VALUE ADDED TAX

VAT rates

- 19% - standard rate applicable also for alcoholic and non-alcoholic beverages which are classified under NC codes 2202 10 00 and 2202 99 (beverages where sugar is added)
- 9%
- rate for food, medicines for human and veterinary use, orthopaedic products, water for irrigation in agriculture, water supply and sewerage, fertilizers and pesticides supply used in agriculture, seeds and other agricultural products for sowing or planting, as well as specific categories of services in connection with agriculture;
- accommodation, restaurants and catering services.
- 5%
- the right to use sport facilities, and transport for tourist purposes;
- supply of high value food, supplies of schoolbooks, magazines (irrespective of the format – paper or electronic);
- admission to castles, museums, zoos and botanical gardens, theatres, fairs, exhibitions, and cultural events,
- supplies of real estate as part of social policy[14], supply of wood for heating, supply of thermal energy during the cold season for specific types of consumer;
- supply and installation of solar panels, supply and installation of highly efficient low emissions heating systems for housing including installation kits, components or full solutions (the same also applies for public buildings[15]).

VALUE ADDED TAX

Tax period	• Monthly, if the annual turnover is higher than 100,000 euros[16] or if intra-community acquisitions of goods have taken place. • Quarterly, if the annual turnover is lower than 100,000 euros or if intra-community acquisitions of goods have not taken place. • Twice per year/annually, with the approval of the tax authority
Submission of VAT return (300)	Electronic submission by the 25th of the month following the reporting period. Nil returns are required if no transactions.
Submission of Recapitulative return (390)	Electronic submission by the 25th of the month following the reporting period. No returns if no transactions.
Submission of informative return (394)	Electronic submission by the 30th of the month following the reporting period. Nil returns are required if no transactions.
Intrastat	Monthly, by 15th of the month following the month when the movement of goods took place. Submission is required if the volume of intra-Community arrivals of goods exceeds 900,000 RON and/or the volume of intra-Community dispatches of goods exceeds 900,000 RON.

VALUE ADDED TAX

Small enterprises	VAT registration is optional for entities with a turnover lower than 300,000 RON (88,500 euros based on the exchange rate on the date of Romania's accession to the EU).
Limitation of deduction right	The VAT deduction right is limited to 50% for expenditure related to acquisition, maintenance and repair of vehicles (including leasing and rental), if the vehicles are not exclusively used for business purposes.
Non-deductible VAT	Alcohol and tobacco products, except when used for business purposes (e.g., resale or supply of services)
Cash accounting	Resident companies which obtain a turnover lower than 4,500,000 RON 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	Invoicing elements as provided by Directive 2006/112/EC.

[16] Calculated in RON based on the exchange rate as at 31 December of the previous year.

VALUE ADDED TAX

SAF-T	Mandatory for large taxpayers: • From 1 January 2022, for taxpayers which were mentioned in the previous list; • From 1 July 2022, for taxpayers which became large taxpayers as per the new list; • From 1 January 2023, for middle sized taxpayers included in the list published in December 2022.
E-invoice	For B2B supplies of certain goods considered as high-risk by the tax authorities, starting from 1 July 2022, the use of the e-invoice platform hosted by the authorities will be mandatory for suppliers. For B2G, irrespective of the type of supply, reporting by means of an e-invoice is mandatory from 1 July 2022.[17]
E-transport	For high risk goods, from 1 July 2022, reporting of the transport by means of the e-transport system is mandatory.
High risk goods	Fruit and vegetables, clothing and shoes, beverages, certain construction materials, new buildings, certain ferrous products.

[17] Based on public acquisitions legislation.

VALUE ADDED TAX

Other aspects

Transfer of assets	Transfers of assets fall outside the scope of VAT. 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.
Deduction in relation to inactive taxpayers	Taxpayers acquiring goods/services from inactive taxpayers may exercise the VAT deduction right after the supplier re-activates its registration. Inactive taxpayers carrying-out economic activities during their inactivity period may exercise their deduction right for the incurred VAT upon their reactivation.
Adjustment for 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, in cases where capital goods are supplied under VAT exemption, the adjustment should be made one-off for the full remaining adjustment period.
Adjustment of the taxable base	The taxable base may be reduced if the invoiced value cannot be recovered due to: 1. the opening of bankruptcy procedures against the client OR 2. due to the implementation of a reorganization plan permitted and confirmed by a court order, through which the claim of the creditor has been changed or eliminated. Starting from 2021, the adjustment of the tax base is also possible for open invoices issued to individuals under certain conditions.

VALUE ADDED TAX

Other aspects

Payment of import VAT

As a general rule, VAT on imports is paid to the customs authorities and deducted through the VAT return.

Companies will not be required to pay the import VAT (application of reverse charge) if:

- *They hold an AEO (Authorized Economic Operator) certificate.*
- *They hold an authorization for an entry in the declarant's records.*
- *They hold a VAT deferment certificate - imports with a value of at least 50 million RON within the last 6 calendar months.*

Import VAT is not due on importation for acquisitions of certain goods for which the domestic reverse charge (see below) is applicable, such as: cereals and technical plants, waste, raw wood, mobile phones, integrated circuit devices, games consoles, PC tablets and laptops.

Global fiscal representative

The Norms for the application of this concept have still not been published by the authorities.

VAT Group

The VAT grouping system rules do not exclude from the scope of VAT 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 an optimization of cash-flow.

VALUE ADDED TAX

Other aspects

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.

Domestic Reverse charge

As long as both the supplier and the client are VAT registered in Romania, the reverse charge mechanism is applicable for supplies of:

- *Ferrous or non-ferrous waste, waste from paper, textiles, rubber, plastic, glass and broken glass;*
- *Raw wood;*
- *Buildings, parts thereof and any type of land, if taxable, either by law or by option;*
- *Cereals and technical plants (certain categories);*
- *Transfers of emissions of greenhouse gases;*
- *Supplies of energy made to Romanian traders;*
- *Transfers of green certificates;*
- *Mobile phones, integrated circuit devices, games consoles, PC tablets and laptops* .[18]

Brexit

Taxable persons established in the UK and which need to register for VAT in Romania should appoint a Romanian fiscal representative. The refund of VAT paid in Romania by UK entities is not yet possible (no reciprocity agreement has been signed).

[17] Based on public acquisitions legislation.

[18] Certain conditions apply

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.

For processed tobacco, intermediate products and ethyl alcohol, with certain exceptions, there is a requirement to apply stamps issued by the fiscal authorities on to the products.

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 and the excise duties become chargeable at the time when the products are released from consumption (are dispatched from the fiscal warehouse).

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 or do not hold a Registered Consignee authorisation, 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.

The level of excise duties (excluding excise duties for cigarettes) is updated annually by the rate of inflation in the previous 12 months, calculated in September of the year before the new rates apply, and is published every year on the website of the Ministry of Finance no later than 31 December.

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), along with related acts: the Delegated Act (Regulation (EU) No. 2015/2446 of the Commission) and the Implementing Act (Regulation (EU) No. 2015/2447 of the Commission).

The above EU legislation included important amendments such as:

1. 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.

2. The customs regimes, which 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).

3. AEO authorisation, which although not mandatory, enables the holder to obtain certain customs facilities through the fulfilment of the criteria/conditions for obtaining AEO authorisation.

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

Property Taxes

Local taxes

The most common property taxes payable to the local authorities are on buildings, land and vehicles.

These are owed 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)	Residential buildings - 0.08% - 0.2% of the taxable value. Non-residential buildings -0.2% - 1.3%, of the taxable value. 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 purposes
Tax on buildings (for legal entities)	For buildings used in agriculture, the tax rate is 0.4% of the taxable value. The taxable value is generally determined by valuation for tax purposes (carried out by an authorised valuator, at the owner's expense). If the taxable value of buildings has not been updated in the 3 previous years, the building tax rate is 5%.
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 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.Specific provisions have been introduced starting 2020 for the sale of agricultural land from the unincorporated area.

Under certain conditions, these regulations could lead to an obligation to pay an 80% tax on the difference between the sale price and the purchase price or on the difference between the sale price and the value of the land according to the notarial grid.

ENVIRONMENTAL TAXES

The most common Environmental Fund contributions payable in Romania are in relation to:

1. Packaging related to packed goods and tires placed on the Romanian market (i.e. produced, acquired from another EU Member State or imported), for the difference between the annual recycling/recovery targets set by law and the quantities of packaging waste entrusted for recycling recovery. These targets can be fulfilled by concluding a contract with an organization that implements the extended liability of the producer or individually, but only by recycling/ recovering packaging waste related to its own products;
2. Environmentally hazardous substances.
3. Semi-synthetic and synthetic mineral-based oils introduced on to the Romanian market.
4. Emissions of pollutants from fixed sources (e.g. factories, energy plants), depending on the type of pollutant.
5. Transport bags, except those made of materials that meet the requirements of SR EN 13432: 2002 . Since the start of 2019, the commercialization of thin and very thin plastic shopping bags made from non-renewable materials has been prohibited.
6. The sale of all types of waste.
7. Contribution to the circular economy payable by owners or, as appropriate, administrators of municipal waste storage facilities, and facilities for construction waste and dismantling, which are destined for disposal by storage;
8. Electrical and electronic equipment ("WEEE") and for batteries and portable accumulators ("WB&A") placed on the national market for the difference between the quantities corresponding to the minimum WEEE/WB&A collection legal targets and the quantities actually collected.

In 2021, restrictions on the placement on the market of certain products such as drinking straws, cotton swabs, cutlery or plates made out of plastic, etc. were introduced in order to reduce the amount of single use plastic.

Tax incentives for companies

Sponsorship & private scholarships

Corporate income tax

Corporate income tax credit for sponsorship expenses (including private scholarships or scholarships for students in dual vocational education) may be granted, up to the lesser of:

1. 0.75% of net turnover;
2. 20% of the corporate income tax due.

If the sponsorships are granted to non-profit legal entities including religious organizations, the amounts relating to them are deducted from the income tax due, within the limits provided by law, only if the beneficiary is signed up, at the date of conclusion of the contract, in the Register of Entities/religious organizations for which tax deductions are granted. The register is organized by A.N.A.F, is public and can be found on A.N.A.F.'s website.

1. Starting from 1 January 2022 the following tax rules apply with respect to sponsorships granted by taxpayers:If the sponsorships granted during a financial year do not exceed the threshold mentioned above, within the limits of the positive difference, the taxpayer can redirect part of their corporate income tax for sponsorship purposes, within a maximum time period of 6 months from the date of submitting the annual corporate income tax return. The payments of the redirected amounts will be made by the relevant tax authority, to which the taxpayer has submitted the redirection form.
2. If the sponsorships granted during a financial year exceed the threshold mentioned above, the amounts in excess may not be carried over to the following years; the last amounts which may be carried forward and used in the future are those for 2021.

Tax on microenterprises

Microenterprise income tax payers keep the right to deduct the amounts of sponsorships granted up to 20% of the income tax due in the quarter.
Starting from 1 January 2022, taxpayers which closed the financial year and submitted their tax return for the 4th quarter must calculate the sponsorship threshold for the entire financial year.

If the value of the sponsorships granted in the financial year does not exceed 20% of the income tax, the taxpayer may, within 6 months from the date of submitting the tax return for the fourth quarter, redirect the difference. Similarly, to the changes for corporate income tax payers, amounts in excess may not now be carried over to the next 28 quarters.

Incentives for supporting vocational and technical education and dual (practical and academic) pre-university and university education

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

The profit invested in supporting dual (practical and theoretical) vocational education by ensuring the practical training and quality training of students is exempt from profit tax.

Tax credit for early education expenditure

Although expenses related to the operation of early education units managed by the taxpayer or amounts paid by the taxpayer for placing the children of employees in early education units have been classified as non-deductible expenses, taxpayers which incur such expenditure may benefit from a tax credit of up to 1,500 lei / month for each child.

If the value of the tax credit exceeds the amount of corporate income tax due, the difference will be deducted, in order, from the salary tax, from the value added tax due or from the excise duties due.

This measure is suspended until 31 December 2023.

Acquisition of electronic fiscal cash registers

For expenses representing the acquisition cost of fiscal electronic cash registers, companies benefit from a fiscal credit (deduction from the corporate income tax due). The unused tax credit is carried forward for the next 7 consecutive years.

Companies benefiting from this incentive can no longer include these acquisitions in the application of the reinvested profit exemption incentive.

Expenses representing the depreciation of electronic fiscal cash registers are considered non-deductible expenses.

This incentive can also be applied by micro-enterprise income taxpayers as well as specific taxpayers.

Corporate tax relief on reinvested profit

Corporate tax relief is available for profit reinvested in technological equipment, in assets used in production and processing activities, assets used for retooling, computers and peripheral equipment, machines and appliances, registers, control and invoicing devices and software, including the rights to use the software, produced/purchased and put into use in the relevant fiscal period.

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.

Also, the profit invested in supporting dual (practical and theoretical) vocational education by ensuring the practical training and quality training of students is exempt from tax.

Fiscal measures to maintain or increase the equity of companies

In order to encourage maintain/increase the equity of companies during the period 2021-2025, certain reductions in the annual corporate income tax/microenterprise tax are regulated to maintain a positive level or increased equity in the period mentioned above. If the conditions are fulfilled, the tax reductions can vary between 2% and 15% of the tax due.

In order to be able to apply this incentive, all taxpayers benefit from an extension of the deadline for submitting the annual corporate income tax return/the fourth quarter tax return (for micro-enterprise income tax payers) until 25 June of the following year. The same deadline is applicable for the payment of the related tax obligations.

For corporate income tax taxpayers which have opted for a financial year that is different from the calendar year, the deadline for submitting the annual corporate income tax return is extended until the 25th of the sixth month from the end of the financial year.

Tax deduction for defensive driving courses

The legislation provides the option to deduct the cost of defensive driving courses from income tax or corporate income tax, depending on the conditions expressly provided by law.

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.

Innovation, research and development – corporate tax deduction

Additional deduction of 50% of the eligible expenditure for these activities; the additional deduction is calculated quarterly/yearly.

Fiscal incentives are granted, in compliance with the state aid law, for research and development activities carried out in order to obtain research results that can be capitalized by the taxpayer. The activities can be carried out both in Romania and in other Member States of the European Union; or in countries belonging to the European Economic Area.

R & D activities eligible for additional deduction in determining the tax result should fall within the categories of applied research and/or technological research activities relevant to the work carried out by the taxpayer.

Tax incentives are granted separately from the R & D activities of each project.

In addition, companies that carry out only innovation, research and development activities are exempt from tax payment in the first 10 years of activity.

Starting from 1 January 2023, large taxpayers are required to obtain a certification of the R & D activity from an expert registered with the National Register of Experts for the certification of research and development activity.

Software development; personal income tax exemption for salary 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.

Incentives for the construction industry

For the period 1 January 2019 – 31 December 2028, employees of companies which carry out construction related activities, who meet the conditions provided for under the Fiscal Code benefit from exemption from income tax, exemption from paying the individual health insurance contribution and the option to apply a reduction of the individual pension contribution rate to 21.25%. The minimum gross wage for the construction industry for 2023 is 4,000 RON.

Incentives for the agricultural and food industry

Until 31 December 2028, employees of companies operating in the agricultural and food sectors who meet the conditions set out in the Fiscal Code will benefit from exemption from income tax, exemption from the payment of individual social health insurance contributions and the option to apply a reduction of the individual pension contribution rate to 21.25%.

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 gift tickets offered to female employees on 8 March- up to 300 RON for each individual and occasion.

Meal tickets, holiday vouchers, nursery vouchers and cultural tickets

Exemption from social security contributions for meal tickets, holiday vouchers, nursery vouchers and cultural tickets granted in accordance with specific legislation.

Stock option plans (SOPs)

Entitlements granted to employees under equity-based compensation plans that qualify as Stock option plans as defined by Romanian law, are exempted from income tax and social contributions at the moment of being granted and exercised.

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, up to the level of a gross average salary (as established by law). 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).

Using a company car for personal purposes

The benefits relating to the personal usage of a company's cars by employees are exempt from personal income tax and social security contributions if the company deducts only 50% for corporate tax purposes.

The same applies, i.e., exemption from personal income tax and social security contributions, for micro-enterprise employees who use the company's car for personal purposes.

Additional allowances granted under the mobility clause [25]

The additional allowances granted under the mobility clause are not taxable for income tax purposes and are not included in the monthly basis for calculating social security contributions up to 2.5 times the legal level established for the delegation/secondment allowance, by Government decision, for staff of public authorities and institutions;

[19] Starting with income for January 2023, a new cap on non-taxable income that employers can grant has been introduced. Thus, these benefits granted monthly by the employer to its employees are exempted from income tax and social contributions, cumulated, up to a monthly limit of 33% of the employee's basic salary.

The cost of food provided by employers for their employees [25]

The value of the food provided by an employer for its employees, granted in accordance with the provisions of the employment contract or internal regulations, is not subject to income tax and is not included in the monthly basis for calculating social security contributions up to the value of one meal voucher/day/employee, excluding the days on which the employees are teleworking or home working or are on rest/medical leave/delegation.

Food is defined as food prepared in the employer's own establishments or purchased from specialised establishments. Favourable tax treatment does not apply to employees receiving meal vouchers.

Accommodation and rent for own employees [19]

Accommodation and rent for own employees is not taxable for income tax purposes and is not included in the monthly basis for calculating social security contributions up to a monthly limit of 20% of the national minimum wage, provided that the conditions stipulated in the Fiscal Code are met.

Epidemiological testing and/or vaccination of employees

Exemption from personal income tax and social security contributions for expenses incurred by a company for epidemiological testing and/or vaccination of employees in order to prevent the spread of diseases which endanger the health of employees and the public.

Early education of employees' children

Amounts paid by employers for the early education of employees' children are exempted from personal income tax and social security contributions up to 1500 RON per month/child.

This provision is currently suspended until 31 December 2023 inclusive.

Expenses for utilities at the place where employees carry out telework activity [25]

Amounts granted to employees for utility expenses (electricity, heating, water and internet subscription) and for the purchase of office furniture and equipment, are exempted from personal income tax and social security contributions, up to a monthly ceiling of 400 RON/employee corresponding to the number of days in the month in which the employee is carrying out work in telework conditions, as detailed in the employer's Internal Regulation or Collective Labour Agreement.

Optional pension funds [25]

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 [25]

Exemption from personal income tax and social security contributions for voluntary health insurance premiums and subscriptions to medical services providers 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.

Fitness/sports services [25]

The cost of subscriptions for the use of sports facilities for the practice of sport and physical education for maintaining fitness, prophylactic or therapeutic purposes, in accordance with the conditions stipulated by the Fiscal Code, paid by the employer for its employees, up to the equivalent in lei of 400 euros per year for each person, is exempt from income tax and social contributions.

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.

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.
As a matter of principle, Romanian affiliates which are part of fiscal groups for corporate income tax purposes are still required to prepare a transfer pricing report for the transactions carried out with members of the fiscal group.

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 following a request. 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.

Romanian legislation provides specific requirements on the submission of the Country by Country report and notification obligations relating to the identity and fiscal residence of the reporting entity, for companies that are part of a multinational group which has a total consolidated group revenue of at least EUR 750 million. 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. When the headquarters of this type of group is resident in a country outside of the European Union, a secondary filing of the report in Romania may be needed. The fines for late or incomplete submission of the report are significant.

On 7 September 2022, legislation to implement the EU Public CbyC Reporting Directive was published and will apply for financial years starting on or after 1 January 2023, Romania being thus one of the Member States which opted for an early adoption of the rules. The legislation will apply to groups with consolidated net turnover exceeding RON 3.7 billion (equivalent of approximately EUR 747.5 million), for two consecutive financial years. The provisions of the Directive and of the local legislation will require multinational groups operating in the EU (that exceed the threshold mentioned) to publish certain information on their tax affairs. Practically speaking, in the absence of such reporting in many other Member States, the eligible Romanian subsidiaries / branches will need to carry out the reporting (as per current local legislation) prior to the groups reporting in other EU Member States

Fiscal Procedures

Administration

Communication of documents issued by A.N.A.F.

Starting from 3 September 2022, the communication of documents issued by A.N.A.F. takes place only through electronic communication systems of remote transmission that are carried out through the "Virtual Private Space" (SPV) service.

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 six months in special situations.

Advance Tax Rulings (ATRs) and Advance Pricing Agreements (APAs) are also available. An ATR (Romanian SFIA) subject is limited to a single future actual tax situation and a single main tax liability.

Non-residents applying for ATRs pay an issuance fee of EUR 5,000. The legal deadline for issuing an ATR is up to six 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 five 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 ten years, starting from the date when the criminal offence occurred. The statute of limitations is suspended during a tax audit.

Interest and late-payment penalties

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

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

The imposition of penalties does not eliminate the late payment interest.

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).

In the case of amounts to be refunded or reimbursed from the budget, the taxpayer has the right to claim interest within five years. The limitation period for this right starts on 1 January of the year following that in which the amounts to be refunded or reimbursed have been extinguished by any means provided by law, by final cancelation of the administrative tax document, or if the refund has been definitively granted.

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 can 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.

Classification of taxpayers based on the risk levels

Tax administration procedures are carried out by A.N.A.F. based on a classification system, which divides taxpayers into specific fiscal risk classes/subclasses, based on a risk analysis carried out by the tax authorities.

Taxpayers fall into three main risk classes:

1. Taxpayers with low fiscal risk.
2. Taxpayers with medium fiscal risk.
3. Taxpayers with high fiscal risk.

The general criteria according to which the fiscal risk class/subclass is determined are as follows:

1. Criteria related to fiscal registration.
2. Criteria related to filing tax returns.
3. Criteria related to the level of declaration.
4. Criteria related to the fulfilment of payment obligations to the general consolidated budget and to other creditors.

The risk analysis is carried out periodically, after which the tax authorities establish the taxpayer's risk class/subclass, which is published on the A.N.A.F website.

The taxpayer cannot appeal against the way in which the risk is determined nor against the fiscal risk class/subclass in which it is categorized.

At the taxpayer’s request, the tax authorities will communicate the tax risk class/subclass in which it falls, by any means of communication that provides proof of receipt of the information, except for cases where objectives of general interest justify restricting access to this information.

Fiscal inspection

Starting from 2023, fiscal inspections will take place, as a rule, at the headquarters of the relevant tax authority.

As an exception and only on the initiative of the tax authorities or based on a reasoned request from the taxpayer, the fiscal inspection can be carried out at the taxpayer’s workplace.

The fiscal inspection period for non-resident companies is a maximum of 180 days.

Starting from 2023, the taxpayer may request the issuance of a temporary decision from a tax audit after the completion of half of the legal period for carrying out the fiscal inspection as long as the taxpayer has not been informed by the tax authorities as to the completion of a fiscal period and of a type of tax liability.

Mandatory Disclosure Requirements

MDR

The EU Directive on Mandatory Disclosure Rules (MDR) also known as “DAC6” was implemented into Romanian law in February 2020.

The reporting should be done within 30 days of the day after the reportable cross-border arrangement (i) is made available for implementation, (ii) is ready for implementation or (iii) when the first step in its implementation has been made, whichever occurs first.

The start date for the 30 days reporting deadline was 1 January 2021, including for the cross-border arrangements for which the reporting trigger occurs between 1 July 2020 and 31

December 2020. Reporting according to DAC 6 rules also involved the reporting of retrospective arrangements (i.e. those which took place between 25 June 2018 and 30 June 2020), the deadline for which was 28 February 2021.

In the case of marketable arrangements, the intermediary prepares a report every 3 months for ANAF in order to disclose the new information or to update the reporting information that has become available since the last report was submitted.

Romanian intermediaries and taxpayers are required to disclose to the Romanian tax authorities ("ANAF") information on reportable cross-border transactions which fulfill the hallmarks mentioned by the Directive. ANAF will subsequently exchange this information through automatic exchange of information with the tax authorities in the countries involved in each transaction.
An intermediary is only required to report to ANAF if it has a presence in Romania (local residency, permanent establishment, incorporation or professional registration).

An intermediary can be exempt from its reporting obligation if it obtains proof that the same information related to a certain reportable cross-border arrangement has already been reported by another intermediary.

The intermediary must be able to demonstrate that the information in its possession is contained in the report submitted by the other reporting entities and must, at ANAF's request, provide the following:

A copy of the information that was reported to the tax authorities in the country where the transaction was reported, including the number and date under which the reporting was recorded;

Written confirmation of the identification code of the arrangement allocated in the country where the transaction was reported.

Intermediaries covered by legal professional privilege will be required to fulfil their reporting obligation to the Romanian tax authorities only if they are in the possession of a written agreement from the client, allowing them to do so.

In the absence of such an agreement from the taxpayer, an intermediary which is exempt from the reporting obligation is required to notify in writing the other intermediaries or the taxpayer itself (if no other intermediaries exist) that no data will be disclosed, and that the reporting obligation reverts to the taxpayer.

If no intermediaries exist, or if they are covered by professional privilege, the reporting obligation reverts to the taxpayer.

The following penalties will apply:

Between RON 20,000 and RON 100,000 (approx. EUR 4,000 – EUR 20,000) – applicable to both intermediaries and taxpayers, if the information is not disclosed or it is disclosed after the relevant deadline.

Between RON 5,000 and RON 30,000 (approx. EUR 1,000 – EUR 6,000) –for intermediaries covered by legal professional privilege which are exempt from the reporting obligation- if the intermediary does not notify other intermediaries involved or the taxpayer itself that no information will be disclosed and that the reporting obligation reverts to the other intermediaries or the taxpayer.

Further clarifications were provided by the DAC 6 Guideline ,published on ANAF's website.

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. Entities opting for a financial year which is different from the calendar year are required to prepare and submit annual accounting reports as at 31 December to the local offices of the Ministry of Public Finance, as well as, separately, the annual financial statements concluded on the date set as per the modified financial year, in compliance with the provisions of the Accounting Law (no. 82/1991, with subsequent amendments).

Micro-entities are those that, at the date of the financial statements, do not exceed the limits of at least two out of the following three criteria:

1. Total assets: 1.500.000 RON;
2. Net turnover: 3.000.000 RON;
3. Average number of employees during the financial year: 10.

These entities are required to submit only condensed financial statements. Micro-entities are not required to prepare explanatory notes to the annual financial statements but are required to present information about the accounting policies adopted.

Small entities are those that, at the date of the financial statements, do not exceed the limits of at least two out of the following three criteria:

1. Total assets: 17.500.000 RON;
2. Net turnover: 35.000.000 RON;
3. Average number of employees during the financial year: 50.

These entities are required to submit a condensed balance sheet, extended income statement and explanatory notes to the financial statements. The presentation of a statement of changes in equity and a statement of cash flows is optional.

Medium-sized and large entities are those that exceed the limits of at least two out of the following three criteria:

1. Total assets: 17.500.000 RON;
2. Net turnover: 35,000,000 RON.
3. Average number of employees during the financial year: 50.

These entities and public interest entities are required to submit extended financial statements that also include information about payments to the Government and other specific information required by the Ministry of Public Finance.

The annual financial statements should be accompanied by the management report, the audit report or the report of the audit committee, as appropriate, and by the proposal to distribute the profit or to cover the accounting loss.

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:

1. Total assets > 16.000.000 RON;
2. Net turnover > 32.000.000 RON;
3. Average number of employees during the financial year > 50.

Entities with an average of more than 500 employees at the date of the annual financial statements are required to include in the Administrator's report a non-financial statement containing basic information about the entity's commitment to environmental protection, social responsibility, ethical employment policies, respect for human rights, and to combating corruption and bribery.

Furthermore, companies that at the date of their annual financial statements for the previous year have a turnover in excess of 1.000.000 euros, equivalent in RON at the exchange rate valid for closure at the end of the year (published by the National Bank of Romania), are required to prepare and submit Half Yearly Accounting Reports for the current year.

Archiving deadlines

Starting from January 2023, users of computer systems for automatic data processing are required to ensure the processing of data recorded in the accounts for a period of 5 years starting from 1 July of the year following that of the end of the financial year.

Thus, the general term of keeping the justifying documents, the payrolls, the compulsory accounting registers, the fiscal memory of the cash registers and the special register is 5 years, calculated from 1 July of the year following the end of the financial year in which they were drawn up.

Accounting for interim divisions

The accounting by entities of amounts received as a result of the interim distribution of dividends during the financial year is made using the account 467 "Debts related to interim dividend distributions".

Entities that have opted to distribute dividends during the financial year, will recognize the relevant claims in the account 463 "Receivables representing dividends distributed during the financial year".
The adjustment of the interim dividends is made at the beginning of the following year, based on the approved annual financial statements.

Capitalization of borrowing costs

The capitalization of borrowing costs must cease when most of the activities necessary for the preparation of the asset with a long manufacturing cycle are carried out, in order to use it for its predetermined use or sell it.

An asset is normally ready for its default use or sale when the physical construction of the asset is completed, even if some routine administrative work is still going on. If only minor changes are to be made, such as interior decoration of a building according to the specifications of the buyer or user, then it is considered that most of the activities have been completed.

The start date for the capitalization of borrowing costs, for an asset with a long manufacturing cycle, is the date on which the entity meets for the first time, at the same time, all of the following criteria:

1. Bears the expenses for the respective asset
2. Bears the cost of the indebtedness
3. Undertakes the activities necessary for the preparation of the asset for its intended use or for sale

An entity incurs expenses for an asset with a long manufacturing cycle only when those expenses have generated cash payments, transfers of other assets or the acquisition of interest-bearing debts.

The activities necessary to prepare the asset for its intended use or for sale do not include only the physical construction of the asset.

They also include the technical and administrative work prior to the commencement of the physical construction, such as the activities associated with obtaining the approvals prior to the commencement of the physical construction.

However, such activities preclude holding of an asset when no production or development activity takes place that changes the condition of the asset.

For example, borrowing costs incurred during the development of land are capitalized during the period in which the development activities are carried out.

In contrast, borrowing costs incurred during a period in which land acquired for the purpose of constructing buildings is owned without being subject to associated development activities are not accepted for capitalization.

The accounting regulations specify the conditions under which an entity interrupts the capitalization of borrowing costs, when it does not actually work on the realization of the long-term manufacturing cycle asset.

However, the entity will not interrupt the capitalisation of borrowing costs during a prolonged period during which it temporarily discontinues activities for the purpose of preparing an asset for its predetermined use or for sale, or during a period in which it carries out significant technical and administrative work.

Accounting of intellectual property licensing contracts

The method of recognizing the income obtained from the assignment of intellectual property is determined by the contractual provisions, by the nature of the obligation to grant the license, whether or not the licenses granted are distinct from the transfer of a good or service, as well as other related obligations.

The entity must also determine the specific time at which the license is transferred to the customer. Thus, an entity accounts for the licensing and other goods or services together as a single operation, when an obligation to grant a license is not distinct from other contracted goods or services.

If the license is distinct from the other contracted goods or services and is a separate performance obligation, the entity determines whether the license is transferred to the customer at a given time or in time, analyzing and accounting differently the income corresponding to the granting of the license depending on the type of licensing obligation:

1. a right to access its intellectual property, as it exists during the license period; or
2. a right to use its intellectual property, as it exists at a specific time, when the license is granted.

The recognition of revenues from royalties based on sales or on the basis of promised use in exchange for an intellectual property license is made by businesses only when or as the last of the events below occurs:

1. the sale or subsequent use takes place; and
2. the performance obligation to which part or all of the royalty has been allocated on the basis of sales or use has been fulfilled (or partially fulfilled).

The application of the above treatment should be used where the fee relates only to an intellectual property licence or where an intellectual property licence is the predominant element to which the royalty relates.

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