Taxation in Romania

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Corporate taxes at a glance

Profits tax Rate (%)	16	(a)
Capital Gains Tax Rate (%)	16	(a)
Branch Tax Rate (%)	16	(a)
Withholding Tax (%)		(b)
- Dividends	0/10/16	(c)
- Interest	0/10/16	(d)
- Royalties	0/10/16	(d)
- Services	16	(e)
- Commissions	16	
- Entertainment and sports activities	16	
- Proceeds from liquidation	16	(f)
- Branch Remittance Tax	N/A	
Net Operating Losses (Years)		
- Carry-back	N/A	
- Carry-forward	5	(g)

(a) See section on profits tax.

(b) The withholding taxes referred to above are levied on income earned in Romania by non-resident individuals and legal entities (referred to below as 'non-residents'), income that is not attributable to a Romanian permanent establishment of the non-resident income recipient.

(c) See section on dividends.

(d) See section on withholding tax.

(e) Withholding tax generally applies to services rendered in Romania, except for international transport and services related to such transport. However, income from management and consultancy services is taxable regardless of whether these services are rendered in Romania or abroad, if such income is obtained from a resident or if it is a cost of a permanent establishment in Romania.

(f) Withholding tax applies to the proceeds from liquidation or dissolution without liquidation of a Romanian legal entity.

(g) See section on determination of taxable income.

The information in this overview is current as at May 2007.

Taxes on corporate income and gains

The Fiscal Code came into effect on 1 January 2004. The code integrates key tax legislation and provides the basis for a more stable framework of tax legislation, by requiring amendments to necessarily follow a specific juridical route.

Fiscal year

In Romania, the fiscal year is the calendar year.

Profits tax

Resident entities are subject to tax on worldwide income. An entity is resident in Romania if it is incorporated in Romania or if its effective management and control are in Romania.

Associations or consortia between Romanian legal entities, which do not qualify as legal persons, are taxable in Romania separately at the level of each partner. For such associations between a Romanian legal entity and individuals or foreign entities, the tax must be computed and paid by the Romanian legal entity on behalf of the individuals or its foreign partners.

Non-resident companies are subject to tax on their Romanian-sourced income only. Sale of shares held in Romanian companies by non-resident companies and sale of real estate located in Romania are also subject to profits tax in Romania (see section on capital gains tax).

A foreign company is considered to have a permanent establishment in Romania, without a legal presence here, if it has any of the following types of presence in Romania: an office, a branch, an agency, a factory, a mine, land for oil and gas extraction, a building site that exists for a period exceeding six months.

Rates of profits tax

The standard profits tax rate is 16%. Profits tax payable by companies earning revenues from bars, nightclubs, discos, casinos and sports bets (including revenues from an association agreement) is computed at the standard 16% rate, provided the tax amount is not less than 5% of the total declared revenue. In case the profits tax payable is below this threshold, the taxpayer is liable to pay profits tax computed at 5% of the declared revenue from such activities.

If certain conditions are met, companies may opt for the micro enterprise regime, under which a 2% (2.5% in 2008 and 3% in 2009) income tax rate is applied to revenues derived by the company. The conditions to qualify for the micro enterprise regime are the following:

- annual turnover up to EUR 100,000;
- company should have between 1 and 9 employees; and
- company should derive more than 50% of its income from activities other than consultancy and management.

Representative offices are taxed on a yearly basis at a lump sum of the RON equivalent of EUR 4,000, payable in two equal instalments.

Capital gains tax

No separate capital gains tax is payable by resident entities. Capital gains from sale of immovable property in Romania or from sale/transfer of shares held in a Romanian legal entity are taxed at the standard corporate tax rate of 16%.

Dividends

Under the EU Parent-Subsidiary Directive, dividends paid by resident legal entities to their shareholders (i.e. resident legal entities and EU resident legal entities) are exempt from withholding tax in Romania provided the shareholders own a minimum 15% (10% starting 1 January 2009) of the share capital of the Romanian legal entity for an uninterrupted two years period ending at the date of dividend payment. Unless the above conditions are met, a 10% tax rate applies to dividends paid by

resident entities to other resident entities, while a 16% tax rate applies to dividends paid to any non-resident legal entities (or a tax rate available under a tax treaty, if favourable).

If the condition of shareholding period is fulfilled at a later stage, the dividend beneficiary would be entitled to exemption at that moment and may request reimbursement of the withholding tax paid.

Dividends paid by a Romanian entity to individual shareholders are subject to 16% withholding tax rate.

Payments made by a Romanian legal entity to any of its shareholders for goods or services provided by the latter, in excess of the market value of the transaction, are assimilated to dividends from a tax point of view. The same tax treatment will apply to payments made for supply of goods/services to be used for personal purposes by the company's shareholders or associates.

The dividend tax must be withheld and paid to the state budget by the 25th of the month following the payment of dividend. In case of dividends declared, which were not effectively paid by the end of the year, the dividend tax must be paid by 31 December of the respective year.

Foreign tax relief

Foreign income of Romanian entities is included in the taxable income. This includes passive income as well as capital gains. However, a credit is allowed for foreign taxes paid, up to the level of the Romanian tax on that income.

Dividends received from EU resident entities constitute non-taxable income at the level of the Romanian recipient, if the Romanian beneficiary of dividends holds at least 15% (10% starting 1 January 2009) of the shares of the EU entity for an uninterrupted period of minimum two years.

Determination of taxable income

Starting point for determining taxable income

Taxable income equals revenues from all sources, including the delivery of goods and the supply of services, less deductible expenses, non-taxable revenues and other deductions and adding the non-deductible expenses and other elements.

The following items are considered as non-taxable:

- dividends received by a Romanian entity from another Romanian entity. Dividends received from a non-resident (except for EU resident entities, under certain conditions) are taxable (see also the *Foreign Tax Relief* and *Dividends* sections);
- gains in the value of participations in other entities, registered further to the increase of capital in those entities through incorporation of reserves, premiums, profits, etc.;
- revenues from the reversal of non-deductible expenses and provisions;
- non-taxable income, expressly provided by specific regulations.

Deductions

As a rule, expenses related to earning taxable revenues including those regulated by legal norms are considered deductible.

The Fiscal Code also provides for certain types of expenses that are specifically deductible such as:

- expenses incurred for labour protection, prevention of professional hazards and diseases and insurance premiums for professional risks;
- advertising and publicity expenses for the promotion of business, products and/or services, if properly documented, as well as expenses with other goods and services incurred to boost sales;
- transport and accommodation expenses of employees as well as other authorised persons, based on contractual clauses;
- subscription fees, dues and other mandatory contributions, as provided by legal norms;
- contributions to the fund for the negotiation of the collective labour contract;

- expenses associated with professional training of employees;
- marketing expenses, market research and promotion expenses in existing or new markets, participations in fairs and exhibitions, business missions;
- research and development expenses, in case these do not qualify as intangible assets from an accounting perspective;
- expenses for the improvement of management, of information systems, for the implementation, maintenance and improvement of quality management systems, for the acquisition of certificates attesting quality standards;
- expenses for the protection of environment and conservation of resources;
- expenses related to losses made by companies when writing off doubtful or disputed uncollected receivables in case of bankruptcy (based on a final court decision), as well as in other cases such as death of the debtor (when the receivable cannot be collected from the heirs), dissolution of SRLs with sole shareholders or liquidation in case no successor exists and when the debtor has financial difficulties;
- registration fees, dues and contributions owed to commercial chambers, unions and owners' associations.

Key items which are partially deductible include, *inter alia*:
- provision expenses and contribution to reserve funds exceeding specified limits (see the *Provisions and reserves* section);
- protocol and entertainment expenses (e.g., gifts to clients, business lunches) up to 2% of the adjusted accounting profit before tax;
- daily allowances for domestic and foreign travel expenses up to the level of 2.5 times the ceiling set for public institutions;
- employee-related expenses (i.e., birth, death, incurable disease support, expenses aimed at the proper functioning of certain units/activities of taxpayers, e.g., kindergartens, health units, canteens, sports clubs, sponsorship for schools, as well as Christmas gifts for employees' children, treatment in health resorts) currently up to 2% of the total salary cost;
- expenses for meal vouchers, in accordance with the law;
- losses of perishable goods within the limits provided by government-approved norms;
- interest expenses and foreign exchange differences within the limits described in the *Thin capitalisation rules* section;
- expenses on behalf of employees in relation to optional occupational pension schemes, within legal limits (i.e., EUR 200);
- health insurance premiums within the legal limits (i.e., EUR 200);
- expenses for the maintenance or repair of cars used by management and administrative personnel, limited to one car per person.

Key expenses which are non-deductible include, *inter alia*:
- Romanian and foreign profits tax (a tax credit is allowed for taxes paid in other countries – see the *Foreign tax relief* section);
- sponsorship expenses (a tax credit is allowed for sponsorship expenses on meeting certain conditions – see the *Sponsorship* section);
- late payment interest, penalties and fines paid to Romanian or foreign authorities and non-residents;
- losses from reduction in the value of inventory and assets that have not been insured, including the corresponding VAT;
- VAT on goods given to employees as benefits in kind, if they were not taxed at employees' level;
- any expenses made in favour of shareholders or associates, other than those generated by payments for goods and services at the market value;
- insurance premiums that are not related to the taxpayer's assets or its business scope, except for rented and leased assets or assets used as collateral for a business-related loan;
- insurance premiums and other employment-related expenses that are not taxable at the level of the employee;
- expenses related to non-taxable income;

- service expenses, including management and consultancy expenses, which cannot be supported by written contracts and documents for their provision;
- losses in the value of shares held in other entities, except for losses made by selling such shares;
- contributions paid in excess of the legal limits or those that are not regulated by legal norms.

Sponsorship

Taxpayers incurring sponsorship expenses in accordance with relevant legislation are entitled to a tax credit (i.e., deduction from the profits tax payable of an amount equal to the sponsorship expense) if the following conditions are cumulatively fulfilled:

- sponsorship expenses do not exceed 0.3% of turnover; and
- sponsorship expenses do not exceed 20% of profits tax liability.

Provisions and reserves

Under existing regulations, the following provisions and reserves are deductible for profits tax purposes:

- Contributions to the legal reserve fund, generally up to 5% of the adjusted annual accounting profits before tax, till the reserve fund reaches 20% of the share capital;
- bad debt provisions, if certain conditions are met;
- provisions for quality performance guarantees granted to clients;
- specific provisions created by credit institutions, non-banking financial institutions registered in the NBR's General Register, as provided by the laws governing these entities, as well as specific provisions created by similar legal entities;
- technical reserves set by insurance and reinsurance companies, as provided by the relevant regulatory laws, except for the equalisation reserve;
- risk provisions for financial market operations, as provided by the regulations of the CNVM.

Thin capitalisation rules

Usually, interest expenses incurred by companies (other than credit institutions) are subject to the following limitations:

- Debt-equity ratio – interest expenses are deductible if the debt-equity ratio is not higher than 3. In case such ratio is higher than the aforementioned limit, interest expenses are non-deductible for profits tax purposes and can be carried forward until they are fully deductible under the same conditions.
- Interest expenses for loans granted by companies other than financial institutions are deductible based on the following limits:
    - the reference interest rate of the NBR relating to the last month of the quarter, for loans denominated in RON;
    - the annual interest rate of 7%, i.e., 1.75% per quarter for loans in foreign currencies.

The difference between foreign exchange losses and foreign exchange revenues relating to long-term loans (over one year) is treated as interest expense and is subject to the debt-equity ratio limitation (see above).

Interest expenses as well as foreign exchange differences related to loans obtained from Romanian banks (including subsidiaries of foreign banks), leasing companies (for leasing operations) and other legal entities allowed to grant loans according to the law are not subject to the thin capitalisation rules.

Deductibility of interest expenses incurred by financial institutions is not limited based on the above-mentioned rules.

Tax depreciation

Three alternative methods are available for the computation of tax depreciation, namely:

- straight-line depreciation;
- reducing balance depreciation; and
- accelerated depreciation (for equipment and patents).

These methods must be followed consistently.

Buildings can be depreciated only on the straight-line method. Land is not a depreciable asset.

From a tax perspective, the law prescribes the concept of 'useful lives', which are provided by Government Decision, as follows:

Asset	*Years*
Buildings and constructions (e.g., roads and fences)	8 to 60
Machinery and equipment	2 to 24
Furniture, fittings and protection systems	2 to 15
Vehicles	3 to 9

The useful life for each type of asset is provided as an interval. Upon commissioning, the taxpayer is allowed to choose a useful life within such interval. In case of improvements upon depreciable assets that are expected to result in future benefits, the useful life may be increased by 10%.

Patents, licences, know-how, manufacturer's brands, trademarks, as well as other similar industrial and commercial property rights, are depreciated over the period provided for their utilisation or the contractual period, as the case may be. Goodwill is not considered a depreciable asset for tax purposes.

Any revaluation of fixed assets would be taken into account for fiscal purposes (except revaluations of entirely depreciated fixed assets made after 1 January 2004).

Reorganisation, liquidation, other transfers

Under the domestic legislation, the following principles apply in relation to business reorganisation operations.

Capital contributions in exchange of shares are not considered taxable transfers. The tax value of the assets received as contribution is equal to the tax value of these assets when held by the contributor. At the same time, the tax value of shares received by the contributor equals the tax value of the contributed assets.

Asset distribution to shareholders, either as dividend or following liquidation, is taxable, except in case of:

- merger, whereby the shareholders of merging entities receive shares in the resulting entity;
- split, whereby shareholders receive proportional stakes in the resulting entities;
- acquisition of the business of a Romanian entity by another Romanian entity in exchange of shares;
- acquisition by a Romanian entity of at least 50% of shares in another Romanian entity, in exchange of its own shares, and, as the case may be, for a cash payment not exceeding 10% of the nominal value of the newly issued shares.

In the above-mentioned cases, the following rules apply:

- transfers of assets/liabilities and exchange of shares held in one Romanian entity with the shares in another Romanian entity are not taxable;
- in a split, distribution of shares is not treated as dividend payment;
- tax value of assets/liabilities for the receiver equals the tax value of the same items for the transferor;
- tax depreciation for assets continues in the same manner as before the transfer;
- transfer of provisions/reserves is not taxable if the receiver takes them over and maintains them at the same value as before the transfer;
- in a share exchange (as above), the tax value of shares received equals the tax value of the shares transferred;
- in a split, the tax value of shares held before the distribution is allocated between these shares and distributed shares proportionally with their market value immediately after the distribution.

Starting 1 January 2007, similar principles would apply to cross-border reorganisations, as a result of the implementation of the EU Merger Directive in the Romanian Fiscal Code. Under the Directive, cross-border business reorganisations (i.e., mergers, spin-offs, transfers of assets and exchange of shares) between different EU member states are tax neutral, subject to certain conditions.

Transfer pricing

According to the domestic fiscal legislation, transactions between related parties must be carried out in accordance with the arm's length principle (i.e., transactions should be carried out at the same price as if concluded among non-related parties). The methods for the assessment of market value include: the Comparable Uncontrolled Price Method, the Cost Plus Method, the Resale Price Method and any other method recognised by the transfer pricing guidelines issued by the Organisation for Economic Cooperation and Development (OECD).

Relief for losses

Tax losses may be carried forward over five years and are not updated for inflation purposes. Loss carry-forward is not available for entities that cease to exist as a result of a split or merger. The carry-back of losses is not permitted.

Fiscal consolidation

The legislation for the consolidation of companies is at an early stage of development and till now only the consolidation for accounting purposes has been regulated. Special norms for consolidation of financial statements for credit institutions are available since 2002 for company groups headed by a bank and beginning 2003, for those held by a credit cooperative.

There is no provision in legislation on consolidation for profits tax purposes.

Filing tax returns

Taxpayers are required to file profits tax returns and pay profits tax quarterly by the 25th of the month following the quarter. The definitive annual tax return should be filed by April 15th of the following year. As an exception, certain categories of taxpayers are required to pay profits tax by February 15th of the following year (for 2006 tax return, banks and branches of foreign banks have to file by 31 March 2007).

Legal entities ceasing to exist need to file a final tax return and pay the profits tax by the date of submission of the financial statements to the Trade Registry.

Banks and branches of foreign banks in Romania are required to pay quarterly profits tax in advance starting 1 January 2007. Other profits tax payers (with certain exceptions) will apply this system from 2008.

Withholding taxes

Withholding tax is applicable on a number of payments made by Romanian tax residents to non-resident recipients.

Types of payments which require withholding tax are presented in the table below.

Type of payment	*Withholding Tax Rate (%)*
Royalties (see explanations below)	0/10/16
Interest (see explanations below)	0/10/16
Commissions	16
Dividends (see explanations below)	0/10/16
Various services	16
Gambling income	20

Starting 1 January 2007, an exemption is available for dividends paid to companies incorporated in the EU countries, under certain conditions (see the Dividends section).

Under the EU Interest & Royalties Directive implemented in the Fiscal Code, interest/royalty payments made by a resident legal entity to an EU resident entity are exempt from withholding tax in Romania if the beneficiary holds a minimum 25% of the share capital of the domestic legal entity for an uninterrupted two years at the date of the payment. The Directive was incorporated in the Fiscal Code with a transition period lasting till 31 December 2010 during which the withholding tax rate for interest/royalty will be 10%. If the above conditions are not met, the 16% tax rate applies to interest/royalty payments made to EU resident legal entities (or a tax rate available under a tax treaty, if favourable).

If the shareholding period condition is fulfilled at a later stage, the beneficiary would be entitled to an exemption and may request a reimbursement of the withholding tax paid.

Interest income related to term deposits, deposit certificates and other savings instruments provided by banks and other authorised lending institutions from Romania, set up or acquired between 4 June 2005 and 31 December 2005, is subject to a withholding tax rate of 10%. For interest income related to term deposits, deposit certificates and other savings instruments provided by banks and other authorised lending institutions from Romania, set up or acquired after 1 January 2006, a 16% withholding tax rate is applicable.

The following categories of interests derived by non-residents are not subject to withholding tax:

- interest income on on-sight deposits and current accounts;
- interest related on foreign loans or debt instruments, as well as interest related to state bills issued on the domestic and external markets, if they are issued and/or guaranteed by the Romanian government, local councils, the NBR or by financial institutions acting as agents for the Romanian government; and
- interest on debt instruments or securities traded on a regulated stock market and issued by a Romanian legal entity under the provisions of the Romanian Company Law paid to an unaffiliated person/issuer.

Under the EU Savings Directive, savings incomes paid to EU resident individuals are exempt from withholding tax in Romania.

Incomes received by non-residents from consultancy and assistance services based on contracts financed by international financing bodies with which Romanian state authorities or Romanian legal entities have signed financing agreements are not subject to withholding tax if the interest rate charged for such financing is less than 3% per year. The qualifying entities are the European Bank for

Reconstruction and Development, the International Bank for Reconstruction and Development, the International Finance Corporation and the Association for International Development, the International Monetary Fund, the European Investment Bank. The exemption applies also in case of non-resident entities earning income from consultancy services based on non-reimbursable financing agreements signed between the Romanian government and foreign governments or organisations.

The withholding tax must be paid to the state budget by the 25th of the month following the one in which payment was made.

Companies are required to file an annual withholding tax return till 28th (29th) February of the year following the relevant tax year.

Romania has signed around 80 agreements since the 1970s for the avoidance of double taxation, which may reduce the applicable withholding tax rate.

In order to apply the more beneficial provisions of a treaty, the income beneficiary has to provide a certificate of tax residence issued by the foreign tax authority. Domestic law does not allow application of double tax treaties in case of net-of-tax arrangements, when it is the Romania payer of income and not the beneficiary that bears the tax.

Value added tax (VAT)

Regime

The Romanian VAT system is modelled on the EU 6th VAT Directive and aims at full harmonisation.

Taxable persons

General

Any person supplying taxable goods or services in the course of business on a regular basis is considered a taxable person. The term 'business' refers to all independently carried out activities of producers, traders and suppliers of services.

Persons with an annual turnover of EUR 35,000 are required to register for VAT purposes. Persons not meeting the above-mentioned turnover criterion may also register for VAT purposes.

The registration may be performed before carrying out any taxable or/and exempt with right of deduction operations (by opting for registration or by declaring an envisaged turnover higher than the registration threshold upon starting the activity). Persons that were not registered as VAT payers will have to register within 10 days from the end of the month during which the above threshold was reached or exceeded.

VAT representative

Taxable persons that are established in the Community (but outside Romania) and obliged to pay Romanian VAT have to register directly or appoint a fiscal representative for VAT purposes, to fulfil their VAT obligations in Romania. If the person liable to pay tax is a taxable person who is not established in the Community, such person is required to appoint a tax representative as the person liable to pay tax. If the foreign taxable person does not register for VAT purposes, the VAT liability shifts, in principle, to the Romanian beneficiary of the supply (under the reverse-charge mechanism).

Taxable operations

Transactions subject to VAT refer to the supply of goods and services, import of goods and intra-Community acquisitions of goods. To be taxable, a supply must be made for consideration.

Supply of goods

Supply of goods refers to the actual transfer of the right to dispose as owner of the goods from one person to another against payment, directly or through an intermediary.

As a rule, a supply of goods has the place of supply where the goods are located at the moment when the delivery takes place, with certain exceptions for goods to be transported, installed, goods to be delivered on board of ships, aircraft, trains and for distance sales, provided certain conditions are met, etc.

Supply of services

The supply of services is taxable in Romania if the place of supply is deemed to be in Romania. The general rule is that the place of supply is considered to be the place where the supplier is established or has a fixed establishment from where the services are rendered. However, there are several exceptions similar to those listed in the EU 6th Directive (e.g., services related to immovable property – place where immovable property is located, renting and lease of movable goods, except means of transport and 'intangible' services rendered to EU taxable persons or to any person from outside the Community – place where the recipient of the services is established or has a permanent establishment). The term 'services' applies to all transactions not treated as supply of goods.

Import of goods

Goods brought from outside the Community and introduced into EU territory in Romania are considered to be imports and to fall within the scope of VAT with certain exceptions (i.e., entry of goods under a qualifying customs duty suspension procedure).

Intra-Community acquisition of goods

Intra-Community acquisition of goods means acquisition of the right to dispose as owner of movable tangible property dispatched or transported to the destination indicated by or on behalf of the purchaser or the supplier to Romania from another EU member state from which the goods are dispatched or transported.

'Reverse-charge' VAT

In case of taxable intra-Community acquisitions, certain acquisitions of goods/services and, under certain conditions, imports, for which the 'place of supply' is deemed to be in Romania, the law imposes the application of the so-called VAT 'reverse-charge' mechanism by the Romanian beneficiary provided certain conditions (which vary for different operations) are met.

Under the reverse-charge mechanism, the beneficiaries have to recognise the related output VAT in their return of the respective month. The input VAT can, as a general rule, be recovered in the same VAT return to the extent of the beneficiary's right to deduct VAT.

Simplified recording of VAT

For certain supplies (e.g., waste and scrap materials, land, buildings, construction-assembly works, wooden material, etc.), a simplified VAT mechanism is applicable, provided that both the seller and the purchaser are registered as VAT payers.

Under this mechanism, the purchaser has to simultaneously recognise the related VAT both as an output and input VAT in the return of the respective month, without any cash flow implications (provided the purchaser has a full right to deduct VAT).

Other specific VAT schemes

These VAT-related schemes are:

- simplified triangulation rules;
- simplification consignment/call-off-stock;
- special scheme for small undertakings;
- special scheme for travel agents;
- special scheme for second-hand goods;
- special scheme for investment gold, etc.

Taxable base

VAT is assessed on the total amount received or to be received by the supplier, as consideration for the supply of goods or services, including taxes, commissions, packaging, transport and insurance expenses. The discount provided to the client is not included in the taxable base.

Tax rates

The following rates apply in Romania:

- 19% standard rate, which is applicable to supplies of goods and services not subject to VAT exemptions or to the reduced rate; and
- 9% reduced rate, which is applicable to the supplies of certain goods/services specifically enumerated in the Fiscal Code, such as sale of medicines, hotel accommodation, books, tickets for museums, cinemas, etc.

Exempt operations

Supplies within the scope of VAT are classified as taxable operations and exempt operations.

Exempt operations are divided as follows:

- exempt supplies with credit for input tax (exemption for intra-Community supplies of goods under certain conditions, exports and other similar supplies, international transportation, as well as specific exemptions related to international traffic of goods, etc.);
- exempt supplies without credit for input tax (e.g., healthcare services, educational services, financial and banking services, supply of immovable property, except for new buildings or application of an option to tax, lease and renting of immovable property with certain exceptions, etc.);
- exemption for import and intra-Community acquisitions of goods whose local supplies are exempted, etc.

The Fiscal Code provides specific rules on goods benefiting from special customs regimes. The following transactions are VAT exempt with credit for input tax:

- supply of goods placed under a bonded warehouse customs procedure;
- goods introduced in free trade zones;
- goods under an inward processing procedure, etc.

Credit for input VAT

General rule

Carrying out taxable supplies allows offsetting output VAT against input VAT. Exempt supplies do not allow the recovery of input VAT, except in the case of VAT exempt supplies with credit, for which input VAT can be recovered. Companies performing a combination of taxable and exempt supplies generally have the right to recover the input VAT on a pro-rata basis. The unrecovered input VAT would generally represent a cost.

Refund of VAT

If the input VAT exceeds the output VAT, the recoverable balance VAT (defined as 'negative VAT balance') can be:

- carried forward to the next period; or
- refunded by the tax authorities, based on the option expressed by the taxpayer in the VAT return. The option can be exercised only for a negative VAT balance exceeding RON 5,000.

A taxable person established in the Community that is not registered or liable to register for VAT purposes in Romania may request a refund of VAT paid.

A taxable person not established in the Community that is not registered or liable to register for VAT purposes in Romania may request the refund of the VAT paid if, under the laws of its country of establishment, a taxable person established in Romania has the same right in that country.

Taxable persons established in or outside the EU can claim a VAT refund if the application refers to a period:

- less than a calendar year but not less than three months, the amount requested for reimbursement cannot be less than RON 200;
- equal to a calendar year or the remaining period of a calendar year, the amount requested for reimbursement cannot be less than RON 25.

Payment and filing requirements

Taxpayers must file VAT returns with the tax authorities and pay VAT on a monthly basis, specifying the taxable amount and the tax due. The tax return must be filed and the respective VAT paid by the 25th of the following month. In case of taxpayers whose annual turnover is less than EUR 100,000, the VAT returns should be filed with the tax authorities on a quarterly basis.

A VAT recapitulative statement should be filed with the tax authorities on a quarterly basis. Such returns should comprise the following information: total amount of intra-Community supplies exempt from VAT, total amount of intra-Community acquisitions for which the beneficiary is obliged to pay VAT, and operations within the triangulation scheme.

Companies registered for VAT purposes in Romania, having deliveries of goods to/arrivals of goods from other EU member states which exceed an annual RON 900,000/RON 300,000 are legally obliged to submit INTRASTAT declarations on a monthly basis.

Community customs legislation

Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code ('CCC') and Commission Regulation (EEC) No. 2454/93 laying down provisions for implementation of CCC have become directly applicable in Romania as from the accession date (i.e. 1 January 2007).

Common customs tariff

The specific customs duties payable upon releasing the goods into free circulation, are established based on the Community Customs Tariff (adopted for each year by the Commission) and related preferential tariff measures. There is an online EU customs tariff database (TARIC) which comprises:

- the combined nomenclature of goods;
- the rates and other items of charge normally applicable to goods covered by the combined nomenclature as regards customs duties and import charges laid down under the common agricultural policy or under the specific arrangements applicable to certain goods resulting from the processing of agricultural products;
- the preferential tariff measures contained in agreements which the Community has concluded with certain countries or groups of countries and which provide for the granting of preferential tariff treatment;
- preferential tariff measures adopted unilaterally by the Community in respect of certain countries, groups of countries or territories;
- autonomous suspensive measures providing for a reduction in or relief from import duties chargeable on certain goods;
- other tariff measures provided for by other Community legislation.

Customs duties are expressed as a percentage of the cost-insurance-freight (CIF) value of goods. Other taxes, duties and levies may be required to be paid upon import in addition to customs duties, such as excise duty, etc.

The CCC and its Implementing Regulations include new rules and provisions in respect of the status of the goods, customs valuation, amendment of customs declarations, binding origin information and binding tariff information, quota administration system, etc.

Establishing the customs value of goods

Where the goods to be imported into Romania as from the Accession date will be subject to a sale, the customs value should be based on the CIF price (cost, insurance, freight) increased with certain other costs that may have been incurred with purchasing the goods (e.g. commissions, royalty and licence fees, etc.).

The cost of (i) transport and insurance of the imported goods, and (ii) loading and handling charges associated with the transport of the imported goods to the place of entering into the customs territory of the Community shall be added to the price actually paid or payable by the importer when declaring the customs value of the goods.

Customs procedures

As provided by the Community Customs regulations, the goods may be placed under one of the customs procedures, as follows:

- Release of goods for free circulation;
- Transit;
- Customs warehousing;
- Inward processing;
- Processing under customs control;
- Temporary admission;
- Outward processing; and
- Exportation.

The *release for free circulation* confers non-Community goods the status of Community goods. This means that the customs duties and charges have been paid and as a result, the goods may freely move within the territory of the European Community from a customs perspective.

The specific customs procedures suspending the payment of the import duties are generally subject to authorisation from the customs authorities.

A *customs warehouse* is any place approved by and under the supervision of the customs authorities where goods may be stored under certain conditions.

The customs warehousing procedure allows the storage in a customs warehouse of:

- Non-Community goods, without such goods being subject to import duties or commercial policy measures;
- Community goods, where Community legislation governing specific fields provides that their placement in a customs warehouse attracts the application of measures normally used for export of such goods.

Free warehouses are specifically regulated by the Community customs regulations, where Community goods are considered as not being on Community customs territory for the purpose of import duties and commercial policy import measures, and also where Community goods subject to export measures may be placed.

The *Inward Processing procedure* provides non-Community goods intended for re-export from the territory of the Community in the form of compensating products, without application of import duties or commercial policy measures. This specific procedure is also applicable to goods released for free circulation with repayment or remission of import duties chargeable on such goods if they are exported from the territory of the Community as compensatory products.

Processing under customs control procedure allows non-Community goods to be used in the territory of the Community in operations which alter their nature or state, without application of import duties or commercial policy measures, and shall allow the products resulting from such operations to be released for free circulation at the rate of import duty appropriate to them.

The *temporary admission* procedure allows the use in the customs territory of the Community, with total or partial relief from import duties and without them being subject to commercial policy measures, of non-Community goods intended for re-export without having undergone any change except normal depreciation due to their use.

The *outward processing* allows Community goods to be exported temporarily from the customs territory of the Community in order to undergo processing operations and the products resulting from those operations to be released for free circulation with total or partial relief from import duties.

The *export* allows Community goods to leave the customs territory and entails the application of exit formalities including commercial policy measures.

Customs regime for individuals

Customs regulations provide for a specific customs duty treatment for the personal belongings of individuals establishing domicile or residence in Romania, goods introduced into Romania upon marriage, inherited goods and household goods used for furnishing a secondary residence in Romania, as well as goods shipped by individuals via parcels and postal services.

A specific import duty exemption applies for goods in the personal luggage of travellers, brought into Romania without commercial purposes. This duty exemption can be granted up to a total value of EUR 175 per traveller. For certain goods, such exemption is granted within the following quantity limits:

- Tobacco products: 200 cigars or 100 cigarettes (cigars with a maximum weight of 3 grams each) or 50 cigars or 250 grams of smoking tobacco or their proportional combination;
- Alcohol and alcoholic beverages:
  - distilled and spirit beverages whose alcoholic content exceeds 22% by volume; un-processed ethyl alcohol of 80% concentration or more: 1 litre;
  - distilled and spirit beverages and appetizers based on wine or alcohol, sake or similar beverages whose alcohol content does not exceed 22% by volume; sparkling wines, brandy: 2 litres or proportional combination of such products;
  - light wines: 2 litres;
- Perfumes: 50 ml (eau de toilette: 250 ml);
- Medicines: quantity required to meet the needs of the traveller.

For travellers under the age of 15, the duty exemption can be granted up to a total value of EUR 90 per person. The duty exemption mentioned above for tobacco and alcoholic beverages does not apply for travellers under 18 years.

Excise duty

Excise duty is a consumption tax payable on certain categories of goods including alcoholic beverages, gasoline, tobacco products, cars, perfumes, electricity and certain other items. The tax is payable on import and sales of locally produced items on the domestic market and is set as fixed EUR amount per unit ('specific excises') or as a percentage of a specified taxable base.

The excise duties in respect to the main categories of goods are given in EUR in the table below:

Category of products	*Excise duty rates*
Alcoholic products	up to EUR 750 per hl
Cigarettes	EUR 16.28/1,000 cigarettes + 29% of the declared maximum retail price
Coffee	EUR 612-EUR 3,600 per ton
Car fuel	EUR 259.91-EUR 547 per ton
Fur, jewels, crystal, perfumes, guns	10-100%
Electricity	EUR 0.26 or EUR 0.52/MWh

The excise duty for cigarettes is computed as the sum of the specific and *ad valorem* tax, which may not be lower than EUR 30.83/1,000 cigarettes.

Taxpayers are normally required to submit monthly tax returns and pay the excise duties for excisable goods from internal production by the 25th of the following month, with certain exceptions. In case of imported goods, the related excise duty (if applicable) should be paid at the time of making import declaration at customs.

A special supervision and control system is provided for the production and distribution of alcoholic beverages and certain mineral oils.

A specific reimbursement procedure for harmonised excise duties based on fiscal risk analysis is available for supplies of certain excisable goods.

Fiscal warehouse regime

The fiscal warehouse regime allows the production, transformation and/or storage of products subject to harmonised excise duties (e.g., beer, wines, other fermented beverages, intermediary products, ethyl alcohol, tobacco products, mineral oils) without the payment of related excise duties. Generally, the fiscal warehouse regime cannot be used for retail sale of such products.

The Fiscal Code allows production (and storage) of electricity and natural gas outside fiscal warehouses.

Local taxes

Local taxes in Romania are regulated by the Fiscal Code. Local taxes represent a distinct category of taxes set by the local administration, which are payable by both individuals as well as entities in Romania.

These local taxes include:

Building tax

Building tax is payable by owners of buildings located in Romania, regardless of their residence. The tax rate is 0.1% for individuals and ranges between 0.25% and 1.5% for legal entities. For buildings not revaluated three years prior to the concerned year, the tax payable by legal entities may vary between 5% and 10% applied on the book value of the building. The tax is applied to the value of the building (minimum established values are provided) for individuals and to the book value of the building for legal entities. The tax must be paid annually, in two equal instalments by 31st March and 30th September.

Land tax
Land tax is payable by owners of land. Generally, the tax is established as a fixed amount per hectare, depending on the location of the land within certain determined zones, towns or villages and depending on land use. The tax is payable annually, in two equal instalments, by 31 March and 30 September.

Local councils may grant full or partial exemption to legal entities carrying out investments exceeding EUR 500,000 from the payment of building and land tax.

Vehicle tax
Vehicle tax is payable by owners of land/water vehicles, which should be registered in Romania. The tax depends on the engine capacity, and is computed as a fixed amount per 200 cubic centimetres. The tax is payable annually, in two equal instalments, by 31 March and 30 September.

Tax for construction authorisations
The tax is established as a percentage on the construction value and is payable upon obtaining the construction authorisation.

Publicity and advertising tax
Advertising tax is payable by the 10th of each month during the execution of the contract by the suppliers of publicity and advertising services rendered in Romania, except for publicity and advertising services through audio, video and the print medium. The tax rate is established by the local councils and ranges between 1% and 3%. It is applied to the value of the publicity and advertising services. Users of outdoor advertising have to pay an outdoor media advertising tax computed as a fixed quota per square metre, depending on the surface used for advertising. Such tax should be paid in four equal instalments by 15 March, 15 June, 15 September and 15 November.

Resort tax
The tax is payable by individuals over 18 years for their stay in resorts and is included in the accommodation tariff. The tax rate is established by local councils and ranges between 0.5% and 5% on the accommodation tariff.

Show tax
Show tax is payable by individuals and entities for public performances at a rate of between 2% and 5% of revenues, or a fixed fee depending on the surface area of the premises. The show tax is payable monthly in arrears by the 15th of the month following the performance.

Other local taxes
The local councils may impose a daily fee for temporary use of public places and for admissions to museums, memorials, or historical, architectural and archaeological monuments and also for the ownership or use of equipment that is held for the purpose of obtaining income using public infrastructure, as well as fees for activities with an impact on the environment.

Stamp duty

Stamp duty is payable on most judicial claims, issue of certificates and licences, and documentary transactions which require authentication.

There are two types of stamp duty:
- judicial stamp duty; and
- extra-judicial stamp duty.

Judicial stamp duty is levied on claims and requests filed with courts and the Ministry of Justice, depending on the value of the claim. Quantifiable claims are taxed under the regressive tax mechanism.

Non-quantifiable claims are taxed at fixed amount levels. A judicial stamp duty may also be levied at the transfer of real estate property under certain circumstances.

Extra-judicial stamp duty is charged for the issue of various certifications such as identity cards, car registrations, etc.

Individual taxation

Romanian citizens domiciled in Romania are considered to be Romanian tax residents and are taxed in Romania on their worldwide income. Foreigners and Romanian individuals without a Romanian domicile, who become Romanian tax residents, may be subject to taxation in Romania on worldwide income under certain circumstances (see the *Taxpayers* section below).

Residence

An individual is considered to be a Romanian tax resident if he/she fulfils at least one of the following conditions:

a) individual has domicile in Romania;
b) individual's centre of vital interest is located in Romania;
c) individual is present in Romania for a period or periods exceeding 183 days during any 12-month period ending in the respective calendar year; or
d) individual is a Romanian citizen working abroad as employee of the Romanian state.

Taxpayers

Taxpayers of individual income tax can be:

- residents, Romanian individuals domiciled in Romania for incomes obtained from any source, both from Romania and abroad and residents other than Romanian individuals domiciled in Romania – only for Romania sourced income;
- non-residents, who either:
    - carry out independent activities through a permanent establishment in Romania, for the net income attributable to the permanent establishment; or
    - carry out dependent activities in Romania, for the net income from such dependent activities; or
    - earn other types of income.

If a non-resident individual complies with one of the conditions mentioned in the *Residence* section above under b) or c) for a period of three consecutive years starting 1 January 2004, he/she becomes subject to taxation on worldwide income starting from the fourth year. Until the end of the three-year period, the respective individual is subject to Romanian income tax only for Romania-sourced income.

Individuals who are tax residents in countries that have signed double tax treaty with Romania may benefit from a reduced tax rate or a tax exemption under the terms of the respective treaty. Individuals who are tax residents in countries that have not entered into a double tax treaty with Romania are subject to Romanian taxation from the first day of presence in Romania.

Categories of income subject to taxation

A flat income tax rate of 16% applies to the following categories of income:

- income from freelance activities;
- salary income;
- rental income;
- pension income;
- prizes;
- agricultural income;
- other income.

The Fiscal Code provides special tax rates in case of income obtained from investments, gambling and transfer of ownership rights over real estate.

Employment income

Taxable compensation includes salaries, income in cash or kind, wage premiums, rewards, temporary disability payments, paid holidays and any other income received by an individual based on an employment agreement. Taxable compensation also includes compensation received by daily or temporary workers, fees and compensation paid to directors and managers of private commercial companies, to members of the board of directors and General Shareholders Meeting, to members of the administration council and to members of the audit committee.

For employment, the monthly tax is determined by deducting from the gross income:

- mandatory social security contributions;
- personal deductions allowed, if any;
- monthly trade union contribution;
- contribution to the voluntary occupational pension scheme (up to EUR 200 per year).

Income from independent activities

Income from independent activities includes:

- income from commercial activities;
- income from freelance activities;
- income from intellectual property rights.

Income from freelance activities

The net taxable income from freelance activities is computed as gross income less specified deductible expenses that may be subject to certain limits. Authorised individuals are obliged to maintain single entry books. Alternatively, income earned by certain categories of freelancers who do not have employees is subject to income tax based on income quota(s), which are annually established by the Ministry of Finance.

Freelancers are required to make anticipated payments on a quarterly basis, by the 15th of the last month of each quarter.

Income from intellectual property rights

The net income from intellectual property rights results by deducting from the gross income the following:

- deductible expenses representing 40% of gross income;
- compulsory social security contributions.

Payers of intellectual property rights compensation are required to compute, withhold and pay a 10% advance income tax by the 25th of the following month.

Income from other independent activities

Income from the following sources is also taxed at 10% advance income tax:

- income from sale of goods on consignment;
- income from agent, commission or commercial mandate agreements;
- income from civil conventions based on the Civil Code;
- income from accounting, technical, judicial and extra-judicial expertise.

Payers of such income are required to compute, withhold and pay the advance income tax by the 25th of the following month.

Separately, payers of income required to compute, withhold and pay the advance income tax are also required to submit a statement for each individual by June 30th for the previous year. Only payers of salary income are exempt from this obligation.

Income from all types of independent activities is subject to an annual regularisation, which is performed by applying a 16% tax rate to the annual taxable income less carried forward fiscal losses (if any) for a period of five consecutive years.

Rental income

Gross rental income consists of amounts in cash or in kind stipulated in the rental agreements and related to a fiscal year (regardless of the time of effective cashing), as well as certain expenses borne by the tenant and which, based on the law, are the landlord's liability.

The taxable amount is determined by deducting a 25% expense quota from the gross income. Tax on rental income is determined by applying 16% on the taxable amount.

As an exception, taxpayers may opt for the determination of the net rental income based on single entry accounting.

Investment income

Investment income includes:

- dividend income;
- interest income;
- gains from transfer of securities;
- income from futures/forward transactions with foreign currencies and other similar operations;
- income from liquidation/dissolution without liquidation of a legal entity.

Dividend income

Dividends are defined as any grant of benefits in cash or kind by a legal entity to shareholders or associates as a consequence of holding participation titles (with certain exceptions). Any amount paid by a legal entity for goods or services provided by a shareholder is treated as dividend in case the value of such goods or services exceed the market value. Also, any amount paid by a legal entity for goods and services provided for a shareholder is considered dividend. Amounts received from holding participation titles in closed investment funds are treated in the same manner as dividends.

The tax rate applicable to dividends distributed to resident individuals is 16% and is calculated, withheld and paid by the payer of dividend. The tax should be paid by the 25th of the month following the dividend payment. In case of dividends distributed but not paid till the end of the year, the tax is payable by December 31st of that year. The dividend tax is final (i.e., the income is not subject to regularisation). The withholding tax for non-resident individuals is either 16% or a more favourable rate if a double tax treaty is applicable (see the Withholding taxes section).

Interest income

The taxable income from interest is any income in the form of interest other than:

- interest from current account/on-sight deposits and deposits;
- interest related to debt instruments and municipal bonds;
- interest for deposits made in accordance with the provisions of Law 541/2002 on real estate collective savings and loans.

The tax rate applicable to interest income is 16%, and is calculated, withheld and paid by the payer of interest on a monthly basis, by the 25th of the following month. The interest tax represents a final tax. The withholding tax applied to interest income earned by non-resident individuals as per the domestic legislation is 16% or a more favourable rate if a double tax treaty is applicable (see the Withholding taxes section).

Gains from transfer of securities

Capital gain represents the positive difference between the sale price and the purchase price of different types of securities, reduced by related costs, as the case may be. In case of transfer of shares in a limited liability company, the capital gain represents the difference between the sale price and the nominal value/purchase price of such shares. In case of redemption of investment titles held in open-

ended investment funds, the capital gain is the positive difference between the redemption price and the purchase/subscription price. Capital gains on shares obtained as a result of a stock option plan is defined as the difference between the sale price and the preferential acquisition price.

A concept of "net capital gain" has been introduced as representing the difference between gains and losses registered during one year (i.e., positive or negative differences between the sale and purchase price, less the related transfer costs).

Starting 1 January 2007, the net capital gains from sale of shares in open companies and open investment funds are subject to:

- a 16% tax applied to the gains obtained from the sale of the shares sold within 365 days of acquisition; and
- 1% tax in case of shares held for a period exceeding 365 days.

Gains from transfer of shares and participation titles in closed companies are subject to 16% tax.

Income from futures/forward transactions with foreign currencies and other similar operations

Gains from sale-purchase transactions of foreign currencies with subsequent term settlement, as well as from any other similar operations, are taxable at the rate of 16%. The tax is computed and withheld by the intermediary of such transaction (e.g., a bank), upon finalisation of the operation. Subsequently, the tax is payable by the 25th of the following month. The tax is final (i.e., the gain is not subject to year-end adjustment).

Income from pensions

Income from pension comprises any amount received in form of pension from funds created from mandatory social contributions made to a social insurance system. Income from pension includes any amount from optional occupational pension schemes and those financed by the state budget. Monthly pension income of up to RON 900 is not taxable. The tax is final and is to be determined by levying 16% on the taxable amount.

The tax computed for pension is to be withheld on the date of actual payment of the pension and remitted to the state budget by the 25th of the following month.

Income from agricultural activities

Taxable income from agricultural activities is determined on income quotas issued by the Ministry of Agriculture. Alternatively, taxpayers earning income from agricultural activities may choose to determine the income based on single entry bookkeeping. The tax is computed by levying 16% on the taxable income.

Prizes and gambling income

The tax on prizes is 16% and is levied on the net income representing the balance between gross realised income and the tax free amount (i.e., currently RON 600).

The tax is payable by the 25th of the following month and the liability to compute, withhold and pay the tax rests with the payer of the income. The tax is final.

The tax on gambling is final and is determined by applying a tax rate of 20% on the net income not exceeding RON 10,000 and a tax rate of 25% on the net income that exceeds RON 10,000.

The net income in case of gambling income is computed similar to income from prizes.

Taxation on real estate transactions

The real estate transfer tax, which has to be paid by the taxpayer on the transfer of the property right or part of it, is computed as follows:

- for buildings and related land, as well as vacant land, acquired and sold within a three-year period inclusively:

  - 3% of the sale amount, if this amount is up to RON 200,000 inclusively;
  - for a sale amount over RON 200,000, the due tax is RON 6,000 plus 2% of the amount which exceeds RON 200,000;
- for buildings and related land, as well as vacant land, acquired and sold after three years:
  - 2% of the amount, if this amount is up to RON 200,000 inclusively;
  - for a sale amount over RON 200,000, the due tax is RON 4,000 plus 1% of the amount exceeding RON 200,000.

Income from other sources

Incomes from other sources include, *inter alia*:

- insurance premiums borne by a freelancer or any other entity on behalf of an individual who is not an employee of the respective freelancer/entity. Such income is taxable in the hands of the recipient at 16%, through withholding, the tax being final;
- income received by pensioners or former employees arising out of the employment contracts concluded with their former employers or based on certain special laws, in the form of price differences for certain goods, services or other rights. Such income is taxable in the hands of the recipient at 16%, through withholding, and the obligation for the calculation and withholding rests with the payer of such income.

Tax on income from other sources is payable by the 25th of the month following the realisation of the income.

Personal deductions

Romanian individuals domiciled in Romania as well as foreigners meeting the residence criteria for three consecutive years are entitled to personal deductions, which vary depending on the gross monthly income and the number of dependents, as follows:

- for gross monthly income up to RON 1,000, the monthly deductions vary between RON 250 for persons without dependents and RON 650 for at least four dependents;
- for gross monthly income between RON 1,000 and RON 3,000, the digressive deductions have been established through an order of the Ministry of Finance.

For gross monthly income higher than RON 3,000, the taxpayer's right to deductions is withdrawn.

Filing and payment requirements

Taxpayers, with certain exceptions, have to file an annual income tax return as well as special declarations with the tax authorities by 15 May of the following year. The tax authorities compute the annual income tax on the basis of the information provided in the annual income tax return. The taxpayers are subsequently informed about the tax payable/reimbursable and the deadline for its payment.

Taxpayers earning only salary income throughout the entire fiscal year fulfil their tax obligations through employer withholdings. Employers withhold the income tax on a monthly basis.

Expatriates employed abroad but performing an activity in Romania should file monthly tax returns and pay monthly tax in Romania by the 25th of the following month.

Social security

Under Romanian employment regulations, both employer and employee are required to contribute to the social security system.

Social security contributions at the individual level

- *Social security contribution* – 9.5% on the gross salary, capped at the level of five times the national average salary (for the respective year);
- *Health fund contribution* – 6.5% on the gross monthly income subject to income tax; and
- *Unemployment fund contribution* – 1% on basic monthly salary.

Social security contributions at the employer level

- *Social security contribution* – between 19.5% and 29.5% (depending on working conditions) of the total salary fund, which is capped at the level of five times the national average salary, multiplied by the average number of employees;
- *Health fund* – 6% of total salary fund;
- *Unemployment fund* – 2% of total salary fund;
- *Contribution for medical leave and indemnity* – 0.85% of total salary fund, capped at 12 national minimum gross salaries multiplied with the number of insured persons;
- *National insurance fund for work accidents and professional diseases* – the contribution ranges between 0.4% and 3.6% of total salary fund, depending on the risk category;
- *Labour Chamber commission* – 0.25% or 0.75% of total salary fund, depending on whether the company or the Labour Chamber keeps the workbooks; and
- *Contribution to the Guarantee Fund for payment of salary debts* – 0.25% of the total gross salary fund.

Contribution to the health fund by foreign individuals

According to existing regulations regarding the health fund, foreign individuals requesting the extension of their residence right in Romania are liable to pay a monthly health contribution of 6.5% calculated at the level of the taxable income obtained from Romania. In case no income is obtained from Romania, the above-mentioned foreign individuals are liable to pay a monthly 6.5% contribution calculated at the level of one national minimum gross salary.

Citizens of European Union countries benefit from coverage of medical expenses incurred on Romanian territory, as well as exemption from the above mentioned contribution, according to the EU legislation on social security, based on certificates of coverage.

Fiscal Procedure Code

The Fiscal Procedure Code regulates the rights and obligations of parties engaged in fiscal juridical relations regarding:

- administration of taxes (i.e., activities related to fiscal registration, declaration, assessment, verification and collection of taxes, solving of appeals against fiscal assessments) provided by the Fiscal Code;
- administration of customs duties;
- contributions, fines and other revenues of the general consolidated budget.

The Fiscal Procedure Code constitutes the common law for administration of taxes and if silent on certain matters, provisions of the Civil Procedure Code are to be applied.

General principles for administration of taxes

Consistent application – states the obligation of the fiscal authorities to apply in a consistent manner the provisions of fiscal legislation with a view to correctly assess taxes due by taxpayers.

Right to be consulted – according to this principle, the fiscal authorities are obliged to allow the taxpayer to express the position in respect to the deeds and circumstances relevant for decision-making prior to making a decision. The Fiscal Procedure Code stipulates several exceptions from this general principle.

Confidentiality – fiscal authorities are obliged to ensure the confidentiality of information pertaining to taxes and taxpayers.

Representation

Taxpayers may appoint representatives in their relations with the fiscal authority. Representatives of taxpayers without Romanian fiscal residence should be Romanian fiscal residents.

General procedure provisions

Competence of fiscal authorities

The fiscal authorities are empowered to administer fiscal claims, perform fiscal audits and issue application norms for the fiscal legislation. Customs authorities are empowered to manage customs related duties.

The competent fiscal authority for administration of taxes is the fiscal authority of the district where the taxpayer or the income payer has fiscal residence. In case of taxpayers performing activities through a permanent Romanian establishment, the competent fiscal authority is determined based on the place where the turnover of the permanent establishment is obtained.

Correction of material errors

The fiscal authority may proceed to correction of material errors identified in the fiscal administrative acts on its own initiative or further to an application submitted by the taxpayers.

Material errors are errors or omissions in respect to the name, capacity of parties of the fiscal legal relationship, computation errors or other errors similar to these, and do not refer to the substance of the fiscal act.

The corrected act will be notified to taxpayers.

Obligation to provide information

Taxpayers or their appointed representatives are obliged to provide the fiscal authorities with the requested information, necessary for the determination of the actual facts regarding the fiscal position, in writing. The fiscal authorities may request information from other persons only when the facts scrutinised have not been clarified by taxpayers, such information being considered only if confirmed by other evidence.

The spouse and relatives of taxpayers may refuse to provide information and written documents and performing of expertise, such persons being informed about such rights. Other persons such as priests, lawyers, notary public, fiscal consultants, judicial executors, auditors, certified accountants, physicians and psychiatrists may refuse to provide information gathered during professional practice, except for information concerning compliance with their own fiscal liabilities.

Charge of proof

Taxpayers are held responsible to prove the facts and deeds supporting their declarations and appeals to the fiscal authorities, whereas the latter have the obligation to motivate the amount payable by taxpayers.

Fiscal sanctions

Failure to submit tax returns and failure to pay taxes in due time entails penalties as follows:

Failure to file tax returns

Non-filing of tax returns by the respective deadline may attract the following fines:

- RON 50 to RON 1,500 for individuals and RON 10 to RON 100 for the income tax return of individuals; and
- RON 500 to RON 10,000 for legal entities.

Taxpayers remain liable for the payment of fines for late filing of returns regardless of the payment of the tax due.

Interest and penalties on delays in payment of tax due

Failure to pay taxes at the prescribed date is penalised with late payment penalty, which is currently 0.1% for every day of delay.

Additionally, for failure to withhold or failure to pay taxes withheld at source (taxes on salary type income, dividend income and non-residents' income), a fine ranging between RON 500 and RON 10,000 and possible penal charges may be applied, depending on the fiscal obligations.

Contact:

Venkatesh Srinivasan, Partner
Head of Taxation Services
venkatesh.srinivasan@ro.ey.com

Ernst & Young SRL
Forum 2000 Building, 8th Floor
75 Dr. N. Staicovici Street
Sector 5, 050557 Bucharest
Romania
Phone: (40) 21 402 4000
Fax: (40) 21 410 7052