



Tax and legal guide 2024

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Manuela Furdui, Managing Partner Crowe Romania



Crowe Romania

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Crowe Romania offers its clients a realistic overview of problems and risks, so that they can make the right business decisions.

This tax guide has been prepared in accordance with the legislation in force on March 1, 2024. The information presented is not exhaustive and is subject to numerous legislative changes.

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ROMANIA

short description

Area and Density

Area: 238,397 km²

Density: 84.4 inhabitants/km²

Population

Total Population: 19,053,000 inhabitants

Active Population 2023: 8,152,000

Unemployment Rate (May 2024): 5.4%

Capital and Major Cities

Capital: Bucharest, with 1,716,961 inhabitants

Major Cities: Cluj-Napoca: 286,598 inhabitants; Iași: 271,692 inhabitants; Timișoara: 250,849 inhabitants

Economy

National Currency: Leu (RON)

Exchange Rate (July 2024): €1 = 4.9752 RON

GDP 2023: 1,600 billion RON

Budget Deficit 2023: 6.6% of GDP

Inflation: 2017: 3.3%; 2018: 4.1%; 2019: 3.8%; 2020: 2.6%; 2021: 5.1%; 2022: 13.8%; 2023: 10.4%

Tax System and Salaries

Fiscal Year: Calendar year

Types of Organizations: "Joint-stock company"; "Limited partnership with shares"; "Limited liability company"; "General partnership"; "Limited partnership"; Other forms for non-resident companies: branch and representative office (without legal personality)

Minimum Wage:

- Gross Monthly Minimum Wage: 3,700 RON (starting from July 1, 2024)
- Gross Monthly Minimum Wage for the Construction Sector: 4,582 RON

Dividend Distribution: Quarterly

European Status

EU Member State: Since January 2007



I. Direct taxes for legal entities

Tax residency

Any Romanian legal person, any foreign legal person having the place of effective management in Romania, any legal person with its registered office in Romania, established according to European legislation, is considered a Romanian tax resident. The Romanian tax resident has a full tax obligation in Romania, being a taxpayer subject to taxation in Romania for income obtained from any source, both in Romania and outside Romania, in accordance with the provisions of the Romanian Fiscal Code and the tax treaties in force concluded by Romania..

The Romanian legal entity must pay:

- Microenterprise income tax - optional tax or
- Corporate income tax

Starting with **January 1, 2024**, the following taxes have been introduced:

- Minimum tax for taxpayers with an annual **turnover of more than EUR 50 million**;
- Additional tax for **credit institutions**;
- Specific tax for the oil and natural gas sector with an annual **turnover of over EUR 50 million**.

Microenterprise income tax

A micro-enterprise is a Romanian legal entity that cumulatively meets the following conditions, on December 31 of the previous fiscal year:

- i. a turnover that does not exceed the RON equivalent of EUR 500,000;
- ii. its share capital is held by persons other than the state and the administrative-territorial units;
- iii. generates over 80% of total income from sources other than consulting and/or management (except for income from tax consultancy, corresponding to CAEN code: 6920 - Accounting and financial audit activities; consultancy in the tax field);
- iv. has at least one full-time employee;
- v. shareholders/associates who hold, directly or indirectly, more than 25% of the value/number of shares or voting rights and is the only legal entity established by the shareholders/associates to apply this tax;
- vi. submitted the annual financial statements within the legal deadline.

The following Romanian legal entities cannot opt for the income tax system:

- Deposit Guarantee Fund in the banking system;
- Investor Compensation Fund;
- Private Pension Guarantee Fund;
- Insured Guarantee Fund;
- Fiscally transparent entity with legal personality;
- the Romanian legal entity that carries out activities in the banking field;
- the Romanian legal entity that carries out activities in the field of insurance and reinsurance, capital market, as well as the Romanian legal entity that carries out intermediation/distribution activities in these fields, with the exception of secondary insurance and/or reinsurance intermediaries, which have earned income from the insurance/reinsurance distribution activity in a proportion of up to 15% of the total revenues;
- the Romanian legal entity that carries out activities in the field of gambling;
- the Romanian legal entity that carries out activities of exploration, development, exploitation of oil and natural gas deposits.

TAX RATES	<ul style="list-style-type: none"> ▪ 1% - for micro-enterprises with revenues below 60,000 euros ▪ 3% - for micro-enterprises with revenues over 60,000 euros or that carry out activities related to certain NACE codes, which mainly refer to software and IT activities, activities in the HoReCa, legal services, medical or dental care activities.
TAXABLE BASE	<p>Income from any source</p> <p>– Certain categories of income provided by law</p> <p>+ elements such as commercial discounts received after invoicing and other elements provided by law</p> <p>= Taxable base</p>
CALCULATION, DECLARATION AND PAYMENT	<p>The calculation, declaration and payment of the microenterprise income tax shall be made quarterly, until the 25th of the month following the quarter for which the tax is calculated.</p> <p>For the last quarter, the deadline is June 25 of the following fiscal year, for the years 2021-2025.</p>
FISCAL YEAR	The fiscal year is calendar year.

Corporate income tax

Taxpayers

- Romanian legal entities;
- Non-Romanian legal entities that carry out activities through one or more permanent establishments in Romania;
- Non-Romanian legal entities according to the place of effective management;
- Legal entities with registered office in Romania, established according to European legislation;
- Non-Romanian legal entities that obtain income from:
 - the transfer of immovable property located in Romania or of any rights related to these properties,
 - renting or assigning the use of real estate properties located in Romania,
 - exploitation of natural resources located in Romania,
 - income from the sale-assignment of shares held by a resident.

The following are not subject to corporate income tax:

- State Treasury;
- The public institution, established by law, except for the economic activities carried out by it;
- the Romanian Academy, as well as the foundations established by the Romanian Academy as sole founder, with the exception of the economic activities carried out by them;
- the National Bank of Romania;
- Deposit Guarantee Fund in the banking system;
- Investor Compensation Fund;
- Private Pension Guarantee Fund;
- Insured Guarantee Fund;
- Romanian legal entity paying tax on micro-enterprise income;
- the foundation formed as a result of a legacy;
- the fiscally transparent entity with legal personality in situations other than those involving the existence of mismatches of inverted hybrid elements;
- owners' associations constituted as legal persons and tenants' associations recognized as owners' associations, except for those who obtain income from the exploitation of common property, under the conditions of the law;
- the local religious establishment, to the extent that the income obtained is used, in the current year and/or in the following years, for the maintenance and operation of the religious establishment, for construction, repair and consolidation works of places of worship and ecclesiastical buildings, for education, for the provision, in its own name and/or in partnership, of social services, accredited under the law, for specific actions and other non-profit activities of religious cults.

TAX RATE	16%
TAXABLE BASE	<p>Total Revenue – Total Expenses</p> <p>= Accounting result</p> <p>– Tax deductions</p> <p>– Non-taxable income</p> <p>+ Non-deductible expenses</p> <p>= Fiscal result</p> <p>– Tax losses</p> <p>= Profit/loss</p>
CALCULATION, DECLARATION AND PAYMENT	<p>Quarterly (quarters I-III) - until the 25th inclusive of the first month following the quarter for which the tax is due.</p> <p>Annually - generally by the 25th of the third month of the following fiscal year (March 25 of the following year, if the fiscal year corresponds to the calendar year).</p> <p>During the period of application of the provisions of GEO no. 153/2020, respectively 2021-2025, the deadline for submitting the corporate income tax return is extended until June 25 of the following year (in the case of the calendar fiscal year) or until the 25th of the sixth month inclusive from the end of the modified fiscal year.</p>
FISCAL YEAR	<p>Generally, the fiscal year is the calendar year.</p> <p>Taxpayers can opt for a financial year different from the calendar year.</p>
ADVANCE PAYMENTS	<p>Taxpayers paying corporate income tax can opt for the calculation, declaration and annual payment of corporate income tax, with quarterly advance payments.</p> <p>Credit institutions are obliged to use the system of quarterly advance payments based on the results of the previous year.</p> <p>In the case of the application of the advance payment system, the taxpayer cannot opt for a financial year different from the calendar year.</p>
	Depreciation and amortisation

<p style="text-align: center;">TAX DEDUCTIONS</p>	<p>Calculation methods:</p> <ul style="list-style-type: none"> ▪ Straight-line ▪ Reducing balance ▪ Accelerated (up to 50% in the first year) <p>Tangible fixed assets</p> <ul style="list-style-type: none"> ▪ Buildings – depreciate only with the straight-line method. ▪ Technological equipment and computers – amortized with the accelerated, straight-line or reducing-balance method. ▪ Any other fixed asset – is depreciated with the straight-line or reducing-balance method. ▪ For means of transport with a maximum of 9 seats that are not used exclusively in economic activities, depreciation expenses are deductible up to RON 1,500/month. <p>Intangible assets</p> <ul style="list-style-type: none"> ▪ patents, licenses, copyrights, trademarks – are amortized on a straight-line basis during the contract period or over the duration of use, as the case may be. ▪ computer programs purchased or produced – are amortized by the straight-line or reducing-balance method, over a period of 3 years. ▪ goodwill is not a depreciable asset from a tax point of view.
	<p>Legal reserve</p> <p>Deductible up to 5% of the gross accounting profit of the period, until one fifth of the subscribed and paid-up share capital or equity is reached.</p>
	<p>Research and development expenditure</p> <p>Additional deduction for the calculation of the tax result, in proportion of 50%, of the eligible expenses for these activities (to be calculated quarterly/annually).</p>
<p style="text-align: center;">NON-TAXABLE INCOME</p>	<ul style="list-style-type: none"> • dividends received from a Romanian legal entity. • dividends received from a foreign legal entity paying corporate income tax or a tax similar to corporate income tax, located in a state with which Romania has concluded a double taxation convention, if on the date of registration of the dividends received, the Romanian legal entity receiving the dividends holds at least 10% of the share capital of the legal entity distributing dividends, for an uninterrupted period of at least 1 year. • income from cancellation, recovery, including re-invoicing of expenses for which no deduction was granted • income from the valuation/revaluation/sale/assignment of equity securities held in a Romanian legal entity or in a foreign legal entity located in a state with which Romania has concluded a double taxation convention, if on the date of valuation/revaluation/sale/assignment, respectively on the date of commencement of the liquidation operation, the taxpayer holds at least 10% of the share capital of the legal entity in which he has the shares for a period of time. uninterrupted for at least 1 year.

NON-TAXABLE INCOME	<ul style="list-style-type: none"> income from the liquidation of another Romanian legal entity or a foreign legal entity located in a state with which Romania has concluded a double taxation convention, if on the date of the commencement of the liquidation operation, according to the law, the taxpayer holds for an uninterrupted period of one year at least 10% of the share capital of the legal entity subject to the liquidation operation.
DEDUCTIBLE EXPENSES	<p>Expenses incurred for the purpose of carrying out the economic activity are considered deductible.</p> <p>Expenses expressly provided as deductible: registration fees, dues and contributions due to chambers of commerce and industry, employers' and trade union organizations, as well as expenses with salaries and those assimilated to salaries.</p> <p>Certain expenses are provided by law as limited or non-deductible for the calculation of corporate income tax.</p>
EXPENSES WITH LIMITED DEDUCTIBILITY	<p>Social expenses – up to 5% of total salary expenses.</p> <p>Protocol expenses – up to 2% of the gross accounting profit to which protocol expenses are added.</p> <p>Vehicle expenses – 50% for cars that are not fully used for the purpose of economic activity (with certain exceptions)</p> <p>Claims representing the adjustment of receivables – 30% of the value of these adjustments</p>
INTEREST EXPENSE AND OTHER COSTS	<p>The taxpayer has the right to deduct, in a fiscal period, the excess borrowing costs up to the deductible ceiling represented by the RON equivalent of the amount of EUR 1,000,000.</p> <p>Excess borrowing costs</p> <ul style="list-style-type: none"> results from transactions/operations that do not finance the acquisition/production of assets in progress/assets established under the minimum tax or the additional tax, and which are carried out with affiliated persons, <p>shall be deducted, in a fiscal period, up to the deductible ceiling represented by the RON equivalent of EUR 500,000.</p> <p>For excess borrowing costs exceeding the ceiling of EUR 1,000,000, a limited deductibility of 30% of EBITDA will be calculated: the gross profit minus the non-taxable income and to which are added the corporate income tax expenses, the excess borrowing costs, as well as the deductible amounts representing tax depreciation.</p>
TAX LOSSES	<p>Starting with 2024/amended tax year starting in 2024, tax losses can be carried forward for a period of 5 years up to a limit of 70% of the taxable profits registered.</p> <p>Tax losses carried forward from periods before 2024 / amended tax year beginning in 2024, remaining to be recovered as of December 31, 2023:</p> <ul style="list-style-type: none"> can be used within the same limit of 70% of realized taxable profits, over a period of 7 consecutive years subsequent to the year of recording the respective losses.

Nonprofits

Represent any association, foundation, mutual aid house or federation established in Romania, in accordance with the legislation in force, but only if the income and assets of the association, mutual aid house, foundation or federation are used for an activity of general interest, community or non-patrimonial purpose.

In the case of non-profit organizations, trade union organizations, employers' organizations, for the calculation of the tax result, the income representing membership fees, monetary or in-kind contributions, donations, sponsorships, patronage, as well as other income provided by law is non-taxable.

Also, other income earned up to the RON equivalent of 15,000 euros in a fiscal year is non-taxable, but not more than 10% of the total non-taxable income provided for by law, listed above.

These organizations owe corporation tax on the portion of the taxable profit that corresponds to income other than that considered non-taxable income.

Tax facilities of the corporate tax system

Sponsorships and patronage

For sponsorship and patronage expenses, taxpayers can benefit from a tax credit, representing a deduction from the corporate income tax due within the limit of the minimum value between:

1. 0.75% turnover
2. 20% profit tax due.

In the case of sponsorships made to non-profit legal entities, including religious establishments, the amounts related to them are deducted from the corporate income tax due, within the limits provided by law, only if the beneficiary of the sponsorship is registered, on the date of conclusion of the contract, in the Register of religious entities/establishments for which tax deductions are granted. The register is organized by Romanian tax authorities, is public and is displayed on its website.

Starting with January 1, 2022, if the sponsorships made during a financial year do not exceed the above-mentioned ceiling, for the positive difference, the taxpayer may have the corporate income tax redirected for sponsorships or acts of patronage, until the deadlines for submitting the annual corporate income tax return.

The payments of the redirected amounts will be made by the competent tax authority, to which the redirection form was submitted.

The company that grants sponsorships and patronage has the obligation to prepare and submit the informative statement for the beneficiaries of the sponsorship by the date of submission of the annual statement.

Exemption of reinvested profit

Profit invested in technological equipment, assets used in production and processing activity, assets representing refurbishment, electronic computers and peripheral equipment, machines and cash, control and billing machines, in computer programs, as well as for the right to use computer programs, produced and/or purchased, including on the basis of financial leasing contracts, and put into operation, used for the purpose of carrying out the economic activity, is exempt from tax.

Taxpayers have the obligation to keep them in their patrimony for at least a period equal to half of their economic use according to the applicable accounting regulations, but not more than 5 years.

Otherwise, the corporate income tax is recalculated, and interest and late payment penalties are established for those amounts.

The accelerated depreciation method cannot be applied for these assets..

Tax facilities common to the two taxation systems

Fiscal measures to stimulate the maintenance/growth of equity

In order to stimulate the maintenance/growth of equity in the period 2021-2025, corporate income taxpayers, regardless of the declaration and payment system, as well as microenterprise income taxpayers, benefit from reductions in annual corporate income tax and microenterprise income tax.

In the context of meeting the conditions, tax reductions can vary between 2% and 15% on the tax due.

During the application of GEO 153/2020 regulating this facility, taxpayers benefit from the extension of the deadline for submitting the annual corporate income tax return, respectively the quarterly return for the fourth quarter for microenterprise income taxpayers, until June 25 inclusive of the following year.

For taxpayers paying corporate income tax who applied for a financial year other than the calendar year, the deadline for the annual corporate income tax return is extended until the 25th of the sixth month inclusive from the end of the amended fiscal year.

Fiscal consolidation for corporate income tax

Taxpayers paying corporate income tax have the possibility, starting with January 1, 2022, to opt for tax consolidation in the field of corporate tax, i.e. taxpayers can offset the tax profits of the companies in the tax group with the tax losses of the other companies in the tax group.

The period of application of the regime is five fiscal years, after which the option can be renewed. The group must consist of at least two entities, which directly or indirectly hold 75% of the value/number of their shares or voting rights.

Minimum turnover tax

TAXPAYERS	<p>Taxpayers who are obliged to calculate and pay the minimum tax:</p> <ul style="list-style-type: none"> record a turnover of more than 50 million euros in the previous year, in the calculation year determine a cumulative corporate income tax from the beginning of the fiscal year/amended fiscal year to the end of the quarter/calculation year lower than the minimum turnover tax. <p>If the cumulative tax result at the end of the quarter/year of calculation is a tax loss or taxable profit, before recovering the tax loss from previous years, the taxpayer determines the minimum turnover tax.</p>
TAX RATE	1%
TAX BASE - FORMULA	<p>(VT – Vs – I – A)</p> <p>VT – total revenues, determined cumulatively from the beginning of the fiscal year/amended fiscal year to the end of the quarter/calculation year, as the case may be</p> <p>Vs – revenues expressly provided for by law that are deducted from the total revenues, determined cumulatively from the beginning of the fiscal year/modified fiscal year until the end of the quarter/calculation year</p> <p>I - the value of the assets in progress occasioned by the acquisition/production of assets, recorded in the accounting records starting with January 1, 2024, respectively starting with the first day of the amended fiscal year starting in 2024</p> <p>A - accounting depreciation at the level of the historical cost related to the assets acquired/produced starting with January 1, 2024 / the first day of the amended fiscal year starting in 2024. This indicator does not include the accounting depreciation of assets included in the value of indicator I</p> <p><small>* The assets considered, for the determination of indicators I and A, are those established by order of the Minister of Finance, and the selection of the categories of eligible assets is made based on criteria related to the nature of the activity carried out</small></p> <p>If the application of the calculation formula results in a negative value, the minimum turnover tax is considered to be 0 (zero).</p>
CALCULATION, DECLARATION AND PAYMENT	<p>Quarterly (quarters I-III) - until the 25th inclusive of the first month following the quarter for which the tax is due</p> <p>Yearly – generally by the 25th of the third month of the following fiscal year (March 25 of the following year, if the fiscal year corresponds to the calendar year)</p>

Additional tax for credit institutions

TAXPAYERS	Credit institutions - Romanian legal entities and Romanian branches of credit institutions - foreign legal entities
TAX RATES	<ul style="list-style-type: none">• 2%, for the period 1 January 2024 - 31 December 2025 inclusive;• 1%, starting with January 1, 2026.
CALCULATION FORMULA	The additional tax is calculated by applying the turnover tax rate, expressly provided for by law.
CALCULATION, DECLARATION AND PAYMENT	<ul style="list-style-type: none">• for quarters I-III, until the 25th inclusive of the month following the quarter for which the payment is made• for the fourth quarter, until March 25 inclusive of the following year

Specific tax for the oil and natural gas sector

<p>TAXPAYERS</p>	<p>Legal entities carrying out activities in the oil and natural gas sector, established by order of the Minister of Finance, which register a turnover of over 50 million euros in the previous year, owe a specific turnover tax in addition to the corporate income tax.</p> <p>It does not apply to economic operators that exclusively carry out electricity and natural gas distribution/supply/transmission activities and that are regulated/licensed by the National Energy Regulatory Authority.</p>
<p>TAX RATE</p>	<p>0,5%</p>
<p>TAX BASE – FORMULA</p>	<p>(VT – V_s – I – A)</p> <p>VT - total revenues, determined cumulatively from the beginning of the fiscal year/modified fiscal year until the end of the quarter/calculation year, as the case may be</p> <p>V_s - revenues that are deducted from the total revenues, determined cumulatively from the beginning of the fiscal year/modified fiscal year until the end of the quarter/year of calculation</p> <p>I - the value of the assets in progress occasioned by the acquisition/production of assets, recorded in the accounting records starting with January 1, 2024, respectively starting with the first day of the amended fiscal year starting in 2024</p> <p>A - accounting depreciation at the level of the historical cost related to the assets acquired/produced starting with January 1, 2024 / the first day of the amended fiscal year starting in 2024. This indicator does not include the accounting depreciation of assets included in the value of indicator I</p>
<p>CALCULATION, DECLARATION AND PAYMENT</p>	<ul style="list-style-type: none"> ▪ for quarters I-III, until the 25th inclusive of the month following the quarter for which the payment is made ▪ for the fourth quarter, until the date of submission of the annual corporate income tax return

Global minimum tax

It applies to entities based in Romania, which are members of a multinational or national group with an annual income of at least **EUR 750,000,000** recorded in the consolidated financial statements of the final parent company, from at least 2 of the 4 financial years immediately preceding the reference financial year. There are also certain expressly provided exclusions.

Thus, a minimum form of taxation is ensured by one of the following taxes:

- Additional tax under the income inclusion rule (IIR): The parent company is obliged to calculate and pay its allocable share of the additional tax for group entities taxed at a reduced level.
- Additional tax under the Undertaxed Profits Rule (UTPR): The group entity owes a tax recorded as an additional expense, equal to its share of the additional tax not collected under the IIR at the level of the parent company for the group entities taxed at a reduced rate.
- National additional tax: Romania has opted for local entities taxed at a low level to owe the additional tax at national level.

The minimum tax rate, set at 15%, is analyzed in relation to the effective tax rate, calculated according to the provisions of this Law, and not those of the Fiscal Code.

It applies from the financial years starting from 31 December 2023, with certain exceptions. For 2024, the deadline for submitting the declaration or notification (if the declaration is not submitted by the local entity), and for paying the additional tax is 18 months from the last day of the reporting financial year, respectively on June 30, 2026. Subsequently, for the following financial years, the deadline is 15 months from the last day of the reporting financial year.

Dividend tax

A Romanian legal entity that pays dividends to a Romanian legal entity is obliged to withhold, declare and pay the dividend tax withheld from the state budget.

The dividend tax is established by applying a tax rate of 8% on the gross dividend paid to a Romanian legal entity.

The dividend tax is declared and paid to the state budget, until the 25th of the month following the month in which the dividend is paid.

Dividends paid by a Romanian legal person to another Romanian legal person are considered exempt from tax if, on the date of payment of dividends, each of these persons cumulatively meets the following conditions:

Beneficiary company:

- holds at least 10% of the share capital of the Romanian legal entity that pays the dividends, for a period of one year up to and including the date of their payment;
- is constituted as a “joint stock company”, “limited partnership”, “limited liability company”, “general partnership”, “limited partnership” or has the form of organization of another legal person in accordance with Romanian law;
- pays, without the possibility of an option or exemption, corporation tax or any other tax that replaces corporation tax;

Paying company:

- is constituted as a “joint stock company”, “limited partnership”, “limited liability company”, “general partnership”, “limited partnership” or has the form of organization of another legal person in accordance with Romanian law;
- pays, without the possibility of an option or an exemption, corporation tax or any other tax that replaces corporation tax.

II. Income tax and social contributions

Tax residency

Any individual is considered a tax resident in Romania if he or she meets at least one of the following conditions:

- is domiciled in Romania, evidenced by a valid identity document;
- the center of the vital interests of the individual (the place where the individual's personal and economic relationships are closest) is located in Romania;
- is present in Romania for a period or periods exceeding a total of 183 days during any 12-month consecutive period ending in the calendar year concerned.

If the individual, based on the above criteria, can be considered a tax resident in both countries, according to the legislation of the respective states, the provisions of the Double Taxation Convention, concluded between Romania and that country, are applicable, if this document has been ratified by the Countries involved.

In Romania, the status of tax resident is established by the tax authorities, following the submission by individuals of the "Questionnaire for establishing tax residence upon arrival in Romania" and the "Questionnaire for establishing tax residence upon departure from Romania".

The fine for late submission of both types of questionnaires is between 50-100 RON. We recommend submitting questionnaires even if the deadline has passed to clarify the status of tax residence.

Income tax – general aspects

The non-resident individual who meets the conditions to become a Romanian tax resident in terms of the center of vital interests and presence in Romania is subject to income tax for income obtained from any source (i.e. both from Romania and outside Romania), starting from the first day of arrival in Romania.

The tax and social contributions due for income other than salaries must be declared through the Annual Tax Return and paid annually, by May 25 of the year for the previous year.

Tax rates

In general, the income tax rate in Romania for individuals is 10% (with certain exceptions, such as dividend income, gambling, transfer of real estate, capital gains).

Individuals, both Romanian tax residents and non-residents, are obliged to pay income tax in Romania for salary activity carried out in Romania, as well as for self-employment carried out through a permanent establishment in Romania.

Normative acts regarding the social contributions regime

The following provisions of the Treaties on the coordination of social security systems will apply:

- In the case of EU Member States, Iceland, Liechtenstein, Norway, Switzerland - EU Regulation 883/2004.
- Countries other than those mentioned above - social security agreements concluded by Romania. Examples: Albania, Algeria, Macedonia, Republic of Korea, Soviet Union, Quebec, Israel, Libya, Canada, Republic of Moldova, Republic of Serbia, Turkey, Chile.

In the case of the United Kingdom, the Protocol on the Coordination of Social Security Systems applies.

Income from salaries

If the individual is employed by a Romanian employer, the employer calculates, declares and pays income tax for this category of income.

The taxable base for income tax is the gross income, from which the following are deducted:

- the pension contribution, due by the employee;
- the health contribution, due by the employee;
- personal deduction, as the case may be;
- contributions to private pension funds up to EUR 400 per year when it is borne by the employee;

- contributions to private health insurance up to EUR 400 annually when it is borne by the employee;
- the value of subscriptions for the use of sports facilities, up to EUR 100 per year, similar, only when it is borne directly by the employee (starting with the income for February 2023).

If the individual is employed by a Romanian employer, the employer calculates, declares and pays the social security contributions due by both the employer and the employee.

In terms of income from salaries, the employee and the employer owe the following social security contributions:

- Pension contribution due by the employee – 25%;
- Health contribution due by the employee – 10%;
- Work insurance contribution due from the employer – 2.25%.

Persons exempt from paying tax on salary income

Regarding the list of persons exempt from paying the 10% tax on salary income, the following categories of employees benefit from this exemption, total or capped, according to the law:

- Persons with severe or accentuated disabilities are fully exempt from income tax;
- Persons involved in research, development and innovation are fully exempt from income tax, subject to certain conditions;
- People in the construction sector, agri-food industry, IT, within the limit of 10,000 lei gross until December 31, 2028.

Non-taxable benefits granted in Romania

The tax treatment of salary benefits has undergone substantial changes, as starting with January 2023, a ceiling of 33% of the gross salary granted to the employee has been introduced for some of them to be considered non-taxable benefits, but many of them have also provided for an individual ceiling up to which the benefit can be granted in order to benefit from favorable tax treatment.

Benefits included in the ceiling of 33% of the average gross salary

The following cumulative monthly incomes are not taxable and are not included in the calculation of social contributions, within the limit of 33% of the basic salary corresponding to the job held or of the monthly salary granted in accordance with the law, but also of the separate individual ceiling:

	Advantage in kind	Tax treatment	From the point of view of corporate income tax	Individual ceiling
1	The additional benefits received by employees based on the mobility clause, other than the additional amounts received by mobile workers provided for in Government Decision no. 38/2008 regarding the organization of the working time of persons who perform mobile road transport activities	Non-taxable and not included in the calculation base of social security contributions within the limits of the two mentioned ceilings	Deductible expenses	2.5 x the level established for public sector employees (separate normative act)
2	The value of the food provided by the employer for its own employees	Non-taxable and not included in the calculation base of social security contributions within the limits of the two mentioned ceilings	Deductible expenses	The maximum value, according to the law, of a meal voucher/person/day, provided on the date of granting, in accordance with the legislation in force (respectively 40 RON)
3	Accommodation and rent for housing made available to employees by employers	Non-taxable and not included in the calculation base of social security contributions within the limits of the two mentioned ceilings	Deductible expenses	20% of the guaranteed minimum gross basic salary per country/month/person (respectively 660 RON)

	Advantage in kind	Tax treatment	From the point of view of corporate income tax	Individual ceiling
4	The value of tourist and/or treatment services, including transport, during the period of leave, for its own employees and their family members, granted by the employer	Non-taxable and not included in the calculation base of social security contributions within the limits of the two mentioned ceilings	Social expenses, deductible up to 5% of salary expenses	Average gross salary (i.e. 7,567 lei for 2024)
5	Contributions to an optional pension fund (Pillar III) in accordance with Law no. 204/2006, paid by the employer for its own employees	Non-taxable and not included in the calculation base of social security contributions within the limits of the two mentioned ceilings	Deductible expenses	The equivalent in RON of the amount of 400 euros annually, for each person
6	Voluntary health insurance premiums, as well as medical services provided in the form of a subscription, paid by the employer for its own employees	Non-taxable and not included in the calculation base of social security contributions within the limits of the two mentioned ceilings	Deductible expenses	The equivalent in RON of the amount of 400 euros annually, for each person
7	The cost of subscriptions for the use of sports facilities for sports and physical education for maintenance, prophylactic or therapeutic purposes offered by providers whose activities fall under NACE codes 9311, 9312 or 9313.	Non-taxable and not included in the calculation base of social security contributions within the limits of the two mentioned ceilings	Deductible expenses	100 EUR per year/person
8	Expenses incurred by the employer/employer with early education of children, starting with 2024	Non-taxable and not included in the calculation base of social security contributions within the limits of the two mentioned ceilings	Deductible expenses	1.500 RON per month/child and can be granted to a single parent

Non-taxable benefits with their own tax regime

Apart from the above, there are also some salary benefits exemplified by the law that do not fall within the 33% ceiling and that have maintained their favorable tax treatment, that of not being subject to income tax and social contributions. These are:

Other non-taxable income, which does not fall within the 33% ceiling			
Advantage in kind	Tax treatment	From the point of view of corporate income tax	Individual ceiling
Aid for funerals, serious and incurable diseases, aid for medical devices, aid for childbirth, aid for losses suffered by households as a result of natural disasters	Non-taxable and not included in the calculation base of social contributions	Social expenses, deductible up to 5% of salary expenses.	-
Gifts in cash and/or in kind, including gift vouchers for employees and/or minor children	Non-taxable; No contributions are due.	Social expenses, deductible up to 5% of salary expenses.	300 RON/ person for each occasion mentioned by the Fiscal Code
Meal vouchers	10% income tax Starting with 2024, an additional 10% CASS is also due	Deductible expenses	40 RON from January 1, 2024
Holiday vouchers Holiday vouchers can no longer be granted and tourist and/or treatment services can be reimbursed at the same time	10% income tax No social contributions are due	Deductible expenses	6 minimum gross salaries per country (6 x 3,300 RON = 19,800 RON) per year

Other non-taxable income, which does not fall within the 33% ceiling

Advantage in kind	Tax treatment	From the point of view of corporate income tax	Individual ceiling
Nursery vouchers	10% income tax No social contributions are due	Social expenses, deductible up to 5% of salary expenses.	450 RON / month/child
Cultural vouchers	10% income tax No social contributions are due	Social expenses, deductible up to up to 5% of salary expenses.	150 RON/month or 300 RON/ event
Reimbursement of public transport passes (work-home route) for employees whose activity involves frequent trips in the locality.	Non-taxable and not included in the calculation base of social contributions	Deductible expenses	-
Expenses incurred by employers for the improvement of employees	Non-taxable and not included in the calculation base of social contributions	Deductible expenses	-
Stock-option plan benefits at the time of granting and exercise, provided that there is at least one year between the period of granting and the period of exercise of the right	Non-taxable and not included in the calculation base of social contributions	Non-deductible. Items similar to expenses at the time of granting, regardless of the employee's tax treatment	-
The delegation allowance, the posting allowance, including the specific allowance for transnational posting, additional benefits received by mobile workers provided for in Government Decision no. 38/2008 on the organization of the working time of persons who perform mobile road transport activities, with subsequent amendments.	Non-taxable and not included in the calculation base of social contributions	Deductible expenses	Trips to Romania 2.5 x 23RON, up to 3 basic salaries Travel abroad 2.5 x the level set for each country, within the limit of 3 basic salaries

Other non-taxable income, which does not fall within the 33% ceiling			
Advantage in kind	Tax treatment	From the point of view of corporate income tax	Individual ceiling
Accommodation and transport costs during delegation/secondment	Non-taxable and not included in the calculation base of social contributions	Deductible expenses	-
Transportation expenses to and from the employee's place of work	Non-taxable and not included in the calculation base of social contributions	Deductible expenses	Transportation expenses to and from the employee's place of work
Transportation expenses to and from the employee's place of work	Non-taxable and not included in the calculation base of social contributions	Deductible expenses	-
Moving expenses in the interest of the service	Non-taxable and not included in the calculation base of social contributions	Deductible expenses	-
The advantage of using the company car for personal purposes, if the expenses are deductible at a rate of 50% when calculating the corporate income tax	Non-taxable and not included in the calculation base of social contributions	50% deductible expenses	-
Expenses for epidemiological tests and/or vaccination of employees	Non-taxable and not included in the calculation base of social contributions	Deductible expenses	-

For many of the mentioned benefits, there is also the condition that they are mentioned in the individual employment contract/collective bargaining agreement or the company's internal regulations in order to benefit from favorable tax treatment. Therefore, it is also important how these benefits are reflected in the documents that certify the legal employment relationship.

Private income

Income from self-employment activities

For an activity to be considered independent, at least four of the following seven criteria must be met:

- the freedom to choose the place, the way in which the activity is carried out and the working hours;
- the freedom to carry out business for multiple clients;
- the risks inherent in the activity assumed by the person carrying out the activity;
- activity carried out with the help of the assets of the person carrying it out;
- the activity carried out by the person by using his/her intellectual capacity and/or physical performance, depending on the specifics of the activity;
- the person's membership of a professional body/order with the role of representation, regulation and supervision of the profession carried out and
- the freedom to carry out the activity directly, with employed personnel or through collaboration with third parties, under the conditions of the law.

The annual net income from independent activities is established on the basis of accounting data, as the difference between the gross income and the deductible expenses incurred for the purpose of obtaining the income. By exception, taxpayers who obtain income from independent activities, for activities other than liberal ones, and whose income is less than 25,000 euros, determine their annual net income based on the annual income norms.

Income tax is declared through a single tax return and is paid annually by the taxpayer. The deadline for declaring and paying income tax (i.e. May 25 of the current year or the following year, as the case may be) depends on how the net annual income tax is determined.

Determination of annual net income based on income norms

It applies to income from self-employed activities, other than liberal professions, for those taxpayers who obtain no more than 25,000 euros during the year.

The income norm for each activity carried out by the taxpayer must be at least 12 times the minimum gross basic salary per country guaranteed in payment, in force at the time of its establishment.

The Ministry of Public Finance develops the nomenclature of activities for which the net income can be determined on the basis of the annual income norms, which are approved by order of the Minister of Public Finance, in accordance with the activities of the Classification of Activities in the National Economy -

NACE, approved by order of the President of the National Institute of Statistics. The income norm for each activity carried out by the taxpayer cannot be lower than the minimum gross basic salary per country guaranteed in payment, in force at the time of its establishment, multiplied by 12.

A PFA (freelancer) can fall under the income norm if it simultaneously meets two conditions: annual income below 25,000 euros and carries out an activity that is found in the nomenclature of income norms.

The income norm is published annually, in the fourth quarter of the year prior to the one in which it is to be applied, as well as the correction coefficients established with the consultation of the county councils/General Council of the Municipality of Bucharest, as the case may be.

Taxpayers who carry out activities for which the net income is determined based on the income norms must fill in only the income part of the Tax Register and do not have accounting obligations.

Taxpayers who earn income from independent activities for which the annual net income is established on the basis of the income norms have the obligation to establish the annual tax due, based on the single declaration on income tax and social contributions due by individuals by applying the 10% rate on the adjusted annual income norm, the tax being final.

Determination of the annual net income from independent activities in real system, based on accounting data

The annual net income from independent activities is determined in the real system, based on accounting data, as the difference between the gross income and the deductible expenses incurred for the purpose of earning income.

For determining the net income from self-employment, the rules have remained in principle the same, except that, starting with the income obtained in 2024, the health insurance contribution is deductible for the calculation of income tax.

Exceptions: Taxpayers who earn income based on sports activity contracts and payers of income legal entities or other entities that have the obligation to keep accounting records and to calculate and withhold tax at source.

The option to determine the net income in the real system, based on accounting data, is mandatory for the taxpayer for a period of 2 consecutive fiscal years and is considered renewed for a new period if the taxpayer does not request the return to the previous system, by duly filling in the single declaration on income tax and social contributions due by individuals and submitting the form to the competent tax authority by May 25 inclusive of the year following the expiry of the 2-year period.

Deductible expenses

- expenses incurred within the independent activity, included in the financial year of the year in which they were paid;
- expenses with salaries and assimilated to salaries,
- insurance premiums,
- delegation/secondment expenses,
- expenses with social security contributions paid to their own social insurance systems and/or mandatory professional contributions paid;
- expenses for the organization and conduct of vocational and technical education,
- expenses related to the acquisition of medical tests performed for the purpose of detecting COVID-19.

Limited deductible expenses

- sponsorship, patronage and scholarship expenses will be deducted within the limit of 5% of the calculation base;
- protocol expenses can be deducted up to 2% of the calculation base;
- social expenses can be deducted within the limit of 5% of the calculation base;
- perishables, losses resulting from handling or storage;
- meal vouchers;
- holiday vouchers;
- contribution to the optional pension fund;
- voluntary health insurance premiums can be deducted up to 400 euros/year for each person;
- expenses incurred for self-employment;
- operating expenses, maintenance, repairs related to cars within the limit of no more than one car related to each associated member; expenses for ensuring safety and health at work; Interest on loans from individuals or legal entities; rent expenses, leasing rate and depreciation;
- contributions paid to professional associations within the limit of 4000 euros per year;
- expenses representing professional contributions due within the limit of 5% of the gross income;
- the value of subscriptions for sports activities carried out within the limit of 100 euros/year.

Non-deductible expenses

- amounts or assets used by the taxpayer for personal or family use;
- expenses corresponding to non-taxable income;
- the income tax due, including the tax on income obtained abroad;
- donations of any kind;
- interest/late payment surcharges, fines, amounts or value of confiscated goods and penalties due to Romanian/foreign authorities;
- the installments on the loans contracted;
- depreciation of personal assets assigned to the activity, under the conditions of the law.

For taxpayers who earn income individually or in a form of association for which the determination is made in the real system, the tax is determined by applying the rate of 10% on the estimated annual net income considered taxable income. The payment of tax obligations shall be made to the state budget, until May 25 inclusive of the year following the year in which the income is obtained.

Other private income

Type of income	Tax treatment
Pension	10% income tax for pensions > 2,000 lei, with certain exceptions
Dividends	Rate - 8%, starting with dividend income distributed after January 1, 2023; taxable income = gross income
Rental income	10% income tax after deduction of a flat rate of 20% Starting with January 1, 2023, the obligation to register the contract concluded between the parties, as well as the changes that occurred subsequently, within no more than 30 days from the conclusion/occurrence of its modification, with the competent tax authority is introduced
Income from intellectual property rights	You can opt for an income tax of 10% applied to the net income (gross income - flat rate of 40%) or for determining the net income in the real system.
Interest	Income tax 10%; taxable income = gross income The health contribution is due under the conditions mentioned above
Gains from the transfer of securities	Income tax 10%. Taxable income = the price obtained at the sale minus the cost of acquiring them, plus the costs related to the transaction. If these gains are obtained through intermediaries who are Romanian tax residents or non-residents who have a permanent establishment in Romania acting as an intermediary: 1% on each gain obtained from the transfer of securities that have been acquired and disposed of in a period longer than 365 days, inclusive, from the date of acquisition; 3% on each gain obtained from the transfer of securities that have been acquired and disposed of in a period of less than 365 days from the date of acquisition.
Income obtained from the transfer of virtual currency	The taxable base is determined as the positive difference between the sale price and the purchase price, including the direct costs related to the transaction. The gain below the level of 200 RON/ transaction is not taxed provided that the total earnings in a fiscal year do not exceed the level of 600 RON

Social contributions due for private income

Health Insurance Contribution

Starting with the income obtained in 2023, individuals who obtain income from rents, income from dividends, income from investments, income from other sources, whose cumulative value is equal to at least 6 minimum gross salaries per country, owe this contribution. The calculation basis depends, similarly, on the amount of income received (6 minimum gross salaries, 12 minimum gross salaries, 24 minimum gross salaries) and is calculated by applying the 10% rate on the mentioned ceilings. The person who received the income must keep track of his net income in order to establish the CASS ceiling in which he falls.

Separately from the above, for income from self-employment, the health insurance contribution will be due separately for this activity. In this case, it will be calculated by applying the 10% rate to the calculated net income, being however capped at the level of 60 minimum wages per economy (RON 198,000, the equivalent of approximately EUR 39,600).

¹ In 2023, the minimum wage considered for setting thresholds is 3,000 RON. In 2024, the minimum wage considered for setting thresholds is the minimum wage in effect as of May 25, 2024, which, until this moment, is 3,300 RON.

Social Security Contribution (Pension)

For taxpayers who obtain income from self-employment and intellectual property rights, the social security contribution rate is 25%, applicable to the following calculation basis:

a) the level of 12 minimum gross salaries per country, in force at the deadline for submitting the declaration, in the case of earned incomes between 12 minimum gross salaries per country inclusive and 24 minimum gross salaries per country;

b) the level of 24 minimum gross salaries per country, in force at the deadline for submitting the declaration, in the case of incomes earned at least equal to 24 minimum gross salaries per country.

The annual ceiling of at least 12 minimum gross salaries per country or at least 24 minimum gross salaries per country, as the case may be, in force at the deadline for submitting the declaration, shall be made by cumulating the net income.

Individuals who do not fall within the ceiling of at least 12 salaries may opt for the payment of the social security contribution for the current year under the conditions provided for persons who estimate that they earn annual incomes above the level of 12 minimum gross salaries per country.

When determining the taxable income, the social security contribution is deducted from the gross income, both for those who have opted for the determination of the income in the real system or income norms.

III. Withholding tax

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

- Dividends;
- Interest;
- Royalties;
- Commission fees;
- Management or consultancy services in any field, regardless of where the place of services are supplied;
- Income from services provided in Romania, excluding international transport and the related services;
- Income from self-employed professions carried out in Romania - doctor, lawyer, engineer, dentist, architect, auditor and other similar professions - if it is obtained under conditions other than through a permanent establishment or in a period or in several periods that do not exceed a total of 183 days during any period of 12 consecutive months ending in the calendar year concerned;
- Income earned by non-residents from the liquidation of a resident;
- Income from sports and entertainment activities carried out in Romania;
- Income representing remuneration received by foreign legal entities acting as a director, founder or member of the board of directors of a resident;
- Income from prizes awarded at competitions organized in Romania;
- Income from the transfer of the fiduciary estate from the trustee to the non-resident beneficiary in the trust transaction.

Tax rates

- **8%** for dividends;
- **50%** for the income expressly provided for by law, 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.
- **10%** for income obtained from Romania by individuals resident in an EU member State or in a state with which Romania has concluded a double taxation treaty;
- **16%** in the case of any other taxable income obtained in Romania.

EU Directives

The provisions of 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.*

*When applying the exemptions provided by the European Directives, taxpayers must ensure that they meet all the conditions provided by law.

Double taxation treaties

The double taxation treaties concluded by Romania with other states have the role of establishing reduced or exempt rates for certain incomes obtained by non-residents, in compliance with certain conditions. The most important condition is the presentation of the tax residence certificate.

The states with which Romania has concluded double taxation treaties and the presentation of tax rates for the most common types of income:

	State	Dividend (%)	Interest (%)	Royalties (%)	Commissions (%)
1	South Africa	15	15	15	x
2	Albania	10*/15	10	15	15
3	Algeria	15	15	15	x
4	Saudi Arabia	5	5//0*	10	x
5	Armenia	5*/10	10	10	15
6	Australia	15/5*	10	10	x
7	Austria	5/0*	8	10	x
8	Azerbaijan	5*/10	8	10	x
9	Bangladesh	10/15	10	10	x
10	Belarus	10	10	15	x
11	Belgium	15/5*	10	5	5
12	Bosnia and Herzegovina	10/5*	7	5	x
13	Bulgaria	5	5	5	x
14	Canada	15/5*	10	5/10	x
15	Czech Republic	10	7	10	x
16	China	3	3	3	x

	State	Dividend (%)	Interest (%)	Royalties (%)	Commissions (%)
17	Cyprus	10	10	5	5
18	South Korea	10/7*	10	10/7*	10
19	North Korea	10	10	10	x
20	Croatia	5	10	10	4
21	Denmark	15/10*	10	10	10
22	Ecuador	15	10	10	10
23	Egypt	10	15	15	15
24	Switzerland	10	10	10	x
25	United Arab Emirates	3/0*	3	3	x
26	Estonia	10	10	10	2
27	Ethiopia	10	15	15	x
28	Russian Federation	15	15	10	x
29	Philippines	15/10*	15/10	10/15/25	x
30	Finland	5	5	5/2,5	x
31	France	10	10	10	x
32	Georgia	8	10	5	5
33	Germany	15/5*	3	3	x
34	Greece	45/25	10	5	5
35	Hong Kong	3/5	3	3	x
36	India	10	10	10	x
37	Indonesia	12,5*/15	12,5	12,5*/15	10
38	Jordan	15	12,5	15	15
39	Iran	10	8	10	x
40	Ireland	3	3	3	x
41	Iceland	10/5*	3	5	x

	State	Dividend (%)	Interest (%)	Royalties (%)	Commissions (%)
42	Israel	15	10	10	x
43	Italy	5/0*	5	5	x
44	Japan	10	10	10/15	x
45	Kazakhstan	10	10	10	10
46	Kuwait	1	1	20	x
47	Latvia	10	10	10	2
48	Lebanon	5	5	5	x
49	Lithuania	10	10	10	2
50	Luxembourg	15/5*	10	10	5
51	Malaysia	10	15	12	x
52	Malta	5/30	5	5	10
53	Macedonia	5	10	10	x
54	United Kingdom	15/10*	10	15	12 1/2
55	Morocco	10	10	10	10
56	Mexico	10	15	15	x
57	Moldova	10	10	15/10*	x
58	Montenegro	10	10	10	10
59	Namibia	15	15	15	x
60	Nigeria	12,5	12,5	12,5	x
61	Norway	10/5	5	5	x
62	Netherlands	0*/5*/15	3	3	x
63	Pakistan	10	10	12,5	x
64	Poland	5*/15	10	10	10
65	Portugal	15	10	10	x
66	Qatar	3	3	5	3

	State	Dividend (%)	Interest (%)	Royalties (%)	Commissions (%)
67	San Marino	0*/5*/10	3	3	x
68	Serbia	10	10	10	10
69	U.S.	10	10	10/15	x
70	Singapore	5	5	5	x
71	Syria	5*/15	10	12	x
72	Slovakia	10	10	10*/15	x
73	Slovenia	5	5	5	x
74	Spania	0*/5	3	3	x
75	Sri Lanka	12,5	0*/10	10	x
76	Sudan	5*/10	5	5	x
77	Sweden	10	10	10	10
78	Tajikistan	5*/10	10	10	x
79	Thailand	15*/20	10/20/25	15	10
80	Tunisia	12	10	12	4
81	Turkey	15	10	10	x
82	Turkmenistan	10	10	15	x
83	Ukraine	10*/15	10	10*/15	x
84	Hungary	5*/10	15	10	5
85	Uruguay	5*/10	10	10	x
86	Uzbekistan	10	10	10	x
87	Vietnam	15	10	15	x
88	Zambia	10	10	15	x

* – with the fulfillment of certain conditions provided for in the double taxation treaties

x – there is no quota in the double taxation convention

IV. Value added tax and other indirect taxes

VAT

VAT registration

For taxable persons established in Romania through the headquarters of the economic activity, the registration for VAT purposes is:

- Mandatory if the annual turnover, defined for VAT purposes, of EUR 88,500 (RON 300,000) is exceeded;
- Optional before the threshold is exceeded - strict criteria that must be met.

Taxable persons with the headquarters of their economic activity in Romania, who are not subject to normal VAT registration in Romania, are obliged to obtain a special VAT code in the following situations:

- Purchase of services from persons established outside Romania, but established in the EU, which have the place of supply in Romania;
- Supplies of services with a place of supply in another EU Member State;
- Intra-community acquisitions of goods that cumulatively exceed the annual threshold of EUR 10,000.

Taxable persons who are not established in Romania must register for VAT purposes before performing the following:

- Intra-community acquisitions or intra-community supplies of goods;
- Transactions giving the right to deduct the VAT, for which the customer is not subject to reverse charge taxation;
- Optional: for imports, rental or sale of real estate.

Registration before the start of the activity is also necessary for taxable persons who do not have the seat of economic activity in Romania, but who are established in Romania through a fixed establishment.

Tax Representative

An entity not established in the EU that carries out taxable transactions in Romania and that is obliged to register for VAT purposes, must appoint a tax representative. A taxable person established in the EU can either appoint a tax representative or register directly.

Cancellation of the VAT code

In certain cases (e.g. in case of inactivity), the VAT code may be cancelled by the tax authorities. The taxpayer still needs to collect output VAT but will not be able to deduct input VAT until they re-register for VAT purposes.

Single tax group

According to Romanian law, a group of companies that are in close relations with each other from an organizational, financial and economic point of view, can be considered as forming a single tax group.

A minimum of two taxable persons may form a single tax group for a period of at least 2 years if the members meet the following conditions:

- They are established in Romania;
- They do not belong to another tax group;
- They apply the same tax period;
- Their share capital is held directly or indirectly in a percentage greater than 50% by the same shareholder.
- Transactions carried out between members of the single tax group are included in the scope of VAT. The advantage of this system is that a consolidated VAT return is drawn up at the group level, which can thus generate a possible optimization of the VAT amount to be paid.

VAT rates

The standard rate is 19%

Two reduced rates are provided, of **5% and 9%**. They must be considered exceptions to the general rule and are limited to certain specific categories of goods or services. They are usually based on social motives and tend to facilitate certain transactions of primary importance.

The reduced rate of 9% applies to the following supplies of goods and services:

- supply of medicines for human and veterinary use.
- delivery of food and beverages, with the exception of alcoholic beverages and certain beverages or foods with added sugar.
- the supply of water for irrigation in agriculture, as well as fertilizers and pesticides (including chemical ones) for agri-cultural production.
- water supply and sewerage services.
- accommodation services within the hotel sector or the like.

- restaurant and catering services, with the exception of alcoholic beverages and certain non-alcoholic beverages.
- the provision of housing as part of social policy, including the land on which they are built.
- delivery and installation of photovoltaic panels, solar thermal panels, high-efficiency low-emission heating systems, for living spaces or for public administration buildings, under certain conditions, including installation kits and necessary components purchased separately.
- services consisting of allowing access to fairs, amusement parks, fairs, exhibitions, cinemas, other cultural events, as well as sports events.

The reduced rate of 5% applies to the following supplies of goods and services::

- delivery of school textbooks, books, newspapers and magazines, on physical and/or electronic support, with some exceptions.
- services consisting of allowing access to castles, museums, memorial houses, historical monuments, architectural and archaeological monuments, zoos and botanical gardens.
- the delivery of firewood (and the like, expressly provided) to individuals and to legal persons or other entities, regard-less of their legal form of organization, including schools, hospitals, medical dispensaries and social assistance units.
- the supply of thermal energy in the cold season, intended for certain categories of consumers.

Deductions

Any taxable person is entitled to deduct the tax related to the acquisitions, if these acquisitions are intended for use for the benefit of taxable transactions or transactions resulting from economic activities. VAT paid and due for transactions such as local purchases of goods or services, intra-community purchases or imports can be deducted.

The right to deduct VAT on the purchase of road vehicles used for the transport of persons and vehicles meeting certain criteria, as well as the purchase of fuel and all related services used for those vehicles, is limited to 50%, except in specific cases (e.g. vehicles used by sales agents, taxis, transport services).

Romania has also requested a derogation from the provisions of Directive 2006/112/EC on VAT in order to include a new paragraph in the legislation, according to which the right to deduct the tax related to the purchase, rental or leasing of buildings/living spaces, regardless of their destination, located in residential areas or in apartment blocks and the tax related to the expenses related to these buildings/living spaces, is limited to 50%, if they are not used exclusively for the purpose of economic activity. At the time of publication of this Guide, this special derogation measure has not yet been authorised.

Separately, VAT resulting from purchases of alcohol and tobacco products or the tax related to amounts paid in the name and on behalf of the customer, as well as the tax related to amounts collected in the name and on behalf of another person, not included in the supply tax base, is not deductible.

Exemptions

Exemptions can be without the right of VAT deduction or with the right of VAT deduction. Most of the exempt supplies are examples of exemptions without the right of VAT deduction, i.e. supplies for which the input VAT which was incurred in the previous production and distribution processes that led to the supply cannot be deducted.

Examples of exemptions without the right of VAT deduction: medical and dental services, postal services, education, cultural activities, financial and insurance services, gambling, transactions involving real estate (with the option of taxation under certain conditions), etc.

Examples of exemptions with the right of VAT deduction: intra-community supplies, exports, international public transport.

Transfer of a going concern

The total or partial transfer of assets, regardless of whether this transfer is made as a result of a sale, merger, division or a contribution in kind to the share capital, does not fall within the VAT scope, with the condition that the transferred assets constitute a line of independent activity capable of carrying out economic activities and that the beneficiary is a taxable person established for VAT purposes in Romania.

VAT collection system

Taxable persons with an annual turnover below the threshold of RON 4,500,000 may opt for the application of the “VAT on collection” system (i.e., VAT collection on the date of cashing of invoices and VAT deduction on the date of payment of invoices).

Internal reverse charge (simplification measures at local level)

As long as both partners of the transaction are taxable persons registered for VAT purposes in Romania, the reverse charge applies for the supply of:

- ferrous and non-ferrous waste, waste of recyclable materials and waste recyclable materials consisting of paper, cardboard, textile, cables, rubber, plastic, glass shards and glass;
- delivery of timber and timber materials;
- the supply of cereals and technical plants (for certain categories expressly provided);
- the transfer of greenhouse gas emission allowances;
- the supply of electricity and natural gas to a taxable person trader, established in Romania;
- the transfer of green certificates;
- constructions, parts of buildings and land of any kind, subject to the mandatory or optional taxation regime;
- mobile phones, devices with integrated circuits, game consoles, tablet PCs and laptops (if the value without VAT, written in an invoice, is greater than or equal to 22,500 lei).

Compliance process

As a general rule, the fiscal period is represented by the calendar month. For taxable persons registered for VAT purposes whose turnover at the end of the previous year did not exceed EUR 100,000 and who do not perform intra-Community acquisitions of goods, the tax period is the calendar quarter.

The VAT return must be submitted to the tax authorities by the 25th of the month following the end of the tax period and the VAT payment must be made by the same date. The VAT return is submitted in electronic format, regardless of whether there have been transactions or not.

Taxable persons with the seat of economic activity in Romania who are not registered for VAT purposes in Romania and who are not obliged to register are obliged to pay VAT and submit a special VAT return in relation to the services provided by non-resident suppliers. These obligations must be fulfilled by the 25th day of the month following the month in which the services were provided.

All taxable persons who are registered for VAT purposes in Romania must also submit an informative statement to the Romanian tax authorities. In principle, this declaration must include all local supplies and purchases performed between taxable/non-taxable persons during the reporting period. The deadline for this declaration is the 30th day of the month following the end of the tax period.

Also, the VIES declaration must be submitted by the 25th of the month following the tax period, if intra-community operations have been carried out.

The Intrastat declaration is submitted, monthly, until the 15th of the month following a calendar month in which the movement of the goods took place. The obligation to provide data for Intrastat is only incumbent on taxpayers registered for VAT purposes who exchange goods with other EU member states, and their total annual value for each of the two flows, introductions and dispatches, exceeds the threshold of RON 1,000,000 per flow.

Special VAT regimes

In the legislation, there are special provisions from a VAT perspective, among others, for:

- small enterprises;
- travel agencies;
- second-hand goods, works of art, collectibles and antiques;
- gold for investments;
- for electronic, telecommunications, radio and television broadcasting services provided by taxable persons who are not established in the European Union, respectively by taxable persons established in the European Union, but in a Member State other than the Member State of consumption;
- for farmers;
- for the distance sale of goods imported from third territories or third countries; and
- a special mechanism for declaring and paying VAT on imports.

VAT refund

The VAT refund can be requested, if case, or postponed until the expiry of the statute of limitation period (5 years).

The VAT refund can be made with a previous or subsequent tax audit. If a previous tax audit is carried out, the refund process can last up to 1 year.

If the VAT refund is performed late, taxpayers have the possibility to claim late payment interest.

SAF-T

SAF-T (Standard Audit File for Tax) is an XML-based file type used internationally for the electronic exchange of tax information.

The SAF-T declaration became mandatory starting with 2022 for large-sized taxpayers and starting with 2023 for medium-sized taxpayers, and in 2025 it will also become mandatory for all other taxpayers (including non-residents registered for VAT purposes in Romania).

Through the SAF-T file, taxpayers submit to the tax authorities detailed information on the transactions carried out during the reporting period, such as: accounting records at transaction level (journal), sales and purchase invoices, payments made, detailed information on inventories and their movements, detailed information on the respective assets and transactions.

RO e-Invoice (Electronic Invoice)

Starting with January 1, 2024, the transmission of invoices through the RO e-Invoice system is mandatory in certain situations for taxable persons established in Romania (regardless of whether or not they are registered for VAT purposes) and those not established but registered for VAT purposes in Romania, in B2B and B2G relationships. Apparently, the intention of the legislator is that the RO e-Invoice system must be applied for local operations, although certain clarifications are still needed in this regard.

RO e-Transport

The RO e-Transport system is mandatory for national road transport of goods with high fiscal risk and international road transport of goods (only for the part of transport carried out on the territory of Romania).

The goods with high fiscal risk that are subject to monitoring through the RO e-Transport system are the following:

- Vegetables, plants, roots and tubers, foodstuffs - CN codes 0701 to 0714 inclusive;
- Edible fruits; citrus or melon peels - CN codes 0801 to 0814 inclusive;
- Beverages, alcoholic liquids and vinegar - CN codes 2201 to 2208 inclusive;
- Salt; sulfur; earth and stones; plaster, lime and cement - CN codes 2505 and 2517;
- Clothing and clothing accessories; footwear – CN codes 6101 to 6117 inclusive, CN codes 6201 to 6212 inclusive, CN codes 6214 to 6217 inclusive and CN codes 6401 to 6405 inclusive;
- Cast iron, iron and steel - CN codes 7213 and 7214.

Excise duties

The following products are subject to harmonised excise duties:

- alcohol and alcoholic beverages,
- manufactured tobacco products, and
- energy products and electricity.

Customs duties

Goods imported from non-EU countries are subject to the import customs clearance procedure.

V. Local taxes

The most common local taxes are: the tax on buildings, the tax on land and the tax on means of transport (cars, trucks, buses, tractors, motorcycles, boats, etc.).

These three taxes are due annually and are paid in two equal installments, until March 31 and September 30 inclusive. If the tax is fully paid in advance, before March 31, a reduction of up to 10% of the tax can be granted.

Tax on buildings

The method of calculating the tax on buildings is based on the use of the building:

- **Residential buildings** - Tax rate between 0.08% and 0.2% applicable to the taxable value according to the specific table provided by law for individuals or, for legal entities, to the value resulting from the purchase/construction, the valuation report, etc.
- **Non-residential buildings** - Tax rate between 0.2% and 1.3%. In the case of a building used for agricultural purposes, the applicable tax rate is 0.4%.
- **Mixed use** – The tax is determined by adding the tax calculated for the area used for residential purposes with the tax calculated for the area used for non-residential purposes.

Buildings used by legal entities should be revalued with a recurrence of 5 years to avoid an increase in the tax rate to 5%.

Tax on land

The land tax is set at a fixed amount per square meter, depending on the area, the rank of the locality in which it is located, the area and the category of land use, according to the classification made by the local council.

Tax on means of transport

This tax is calculated progressively according to the cylinder capacity and according to the type of means of transport.

Special tax on real estate and movable property of high value

Starting with January 1, 2024, the legislation provides for a special tax on high-value real estate and movable property, which is due by:

- individuals who, on December 31 of the previous fiscal year, have in common ownership/ownership residential buildings located in Romania whose taxable value exceeds the amount of RON 2,500,000 (approx. EUR 500,000);
- individuals and legal entities that own cars registered in Romania whose individual purchase value exceeds 375,000 RON (approx. 75,000 EUR).

This tax is calculated by applying a rate of 0.3% on the difference between the value of the asset and the above-mentioned ceiling and is due and paid annually in a single installment.

Other local taxes are the following:

- tax for issuing certificates, notices and authorizations,
- tax for the use of advertising and advertising means,
- tax on shows,
- special taxes.

VI. Transfer Pricing

According to the legislation in force, the need to prepare the transfer pricing file takes into account two aspects, namely the type of taxpayer (large, medium, small) and the materiality thresholds regarding the value of intra-group transactions carried out with affiliated entities during a year.

According to Order no. 442/2016, there are three situations regarding the preparation of the transfer pricing file, as follows:

Obligation to prepare the transfer pricing file

Taxpayers in the large taxpayers category who carry out transactions with affiliated persons, with a total annual value greater than or equal to any of the following materiality thresholds, have the obligation to prepare the transfer pricing file annually:

- EUR 350,000 for transactions related to the purchase/sale of tangible or intangible assets;
- EUR 250,000 for transactions related to services received/rendered;
- EUR 200,000 for interest received/paid for financial services.

Taxpayers who have the obligation to prepare the transfer pricing file will analyze all transactions with related parties, regardless of their value.

The deadline for preparing the transfer pricing file is the legal deadline for submitting the annual corporate income tax returns.

The deadline for making the transfer pricing file available at the request of the tax authorities is a maximum of 10 calendar days from the date of the request. There is no obligation to submit the file to the tax authorities before the application.

Preparation of the transfer pricing file on request

The following have the obligation to prepare and submit the transfer pricing file at the specific request of the tax inspection bodies:

- Taxpayers in the category of large taxpayers who do not meet the thresholds described above;
- Taxpayers in the categories of small and medium-sized taxpayers who carry out transactions with related persons with a total annual value greater than or equal to any of the following materiality thresholds:
 - EUR 100,000 for transactions related to the purchase/sale of tangible or intangible assets;
 - EUR 50,000 for transactions related to services received/provided;
 - EUR 50,000 for interest received/paid for financial services.

The deadline for submitting the transfer pricing file is set by the tax inspection body within a tax inspection and is between 30 and 60 calendar days, with the possibility of extending, only once, for a period of no more than 30 calendar days, at the written request of the taxpayer.

There is no need to prepare the file

Taxpayers who carry out transactions with related persons with a total annual value below any of the above thresholds will document compliance with the arm's length principle during a tax inspection, in accordance with the general rules established by the financial-accounting and tax regulations in force.

VII. Country-by-country reporting (CbCR)

Romanian companies that are part of multinational enterprise (MNE) groups with a total consolidated revenue of more than EUR 750 million are obliged to comply with certain formalities related to the “Country by Country Report”.

Based on Action 13 of BEPS (Base Erosion and Profit Shifting), the European Union has issued the Directive (EU) 2016/881 on country-by-country reporting. This obligation was transposed into national fiscal legislation by Emergency Ordinance No 42/2017, approved by the Government on 9 June 2017.

The companies in Romania, mentioned above, have the obligation to submit forms **R405** (Notification on the status of the entity constituting the MNE group, respectively regarding the identity and tax residence of the reporting entity of the MNE group) and **R404** (Country by Country Report), in certain circumstances.

- **Reporting requirements:**

- **CbC Notification (R405)**

- CbC notification to be filed by Romanian entities that are part of a MNE group whose **total consolidated group revenue** is at least **EUR 750 million**.

- **CbC Report (R404)**

- The CbC Report will be filed by Romanian entities that are part of a MNE group with total consolidated group revenue of at least EUR 750 million in certain circumstances.

- **Reporting deadlines:**

- **CbC Notification (R405)**

- The notification must be submitted by the taxpayers by the **last day** of the reporting tax year of the group to which they belong, but no later **than the deadline for filing the annual corporate income tax return** of the respective taxpayer for the previous tax year.

- **CbC Report (R404)**

- The report must be filed, if required to be filed in Romania, within 12 months starting the last day of the tax year of reporting of the MNE group.

- **Penalties:**

- **CbC Notification (R405)**

For failure to submit/failing to file the CbC notification (F405), fines will be imposed the penalty ranges between from **RON 500 and to RON 1,000** (~EUR 100 EUR to EUR 200 EUR) for small taxpayers and between from **RON 1,000 and to RON 5,000** (~EUR 200 EUR to EUR 1.000 EUR) for medium and large taxpayers.

- **CbC Report (R404)**

For **late filing of country-by-country reporting (F404)** the penalty ranges from **RON 30,000 to RON 50,000** (EUR 6.000to EUR 10.000), and for failing to file, the penalty ranges from **RON 70,000 to RON 100,000** (EUR 14.000 to EUR 20.000).

VIII. Reporting on corporate income tax information (EU Public CbC)

According to the legislation in force, multinational groups, whose consolidated net turnover exceeded at the balance sheet date, for each of the last two consecutive financial years, the amount of RON 3,700,000,000 (equivalent to EUR 747,474,740), as reflected in their consolidated annual financial statements, are required to prepare, publish and ensure access to a report on corporate income tax information for the most recent of those two consecutive financial years.

Based on EU Directive 2021/2101, Romania was among the first countries to transpose the directive applicable from January 1, 2023 through the Order of the Minister of Finance 2048/2022, amended by Order 1730/2023, into national legislation .

- **Reporting deadlines:**

The first reporting year is the one that started on January 1, 2023 or after the beginning of 2023, in the case of groups that have a tax change.

The report shall be published within 12 months from the balance sheet date of the financial year for which the report is prepared.

- **Penalties:**

Until the time of drafting this guide, no specific sanctions have been introduced in the Romanian legislation for non-compliance with **EU Public CbC reporting obligations**.

- **“Safeguard” clause:**

Romania has resorted to transposing the “safeguard” clause into national law, allowing eligible groups to postpone the disclosure of information for **up to five years**, under certain conditions.

IX. Tax procedure

Virtual Private Space

Taxpayers/payers who are legal persons, associations and other entities without legal personality, as well as individuals who carry out a liberal profession or carry out an economic activity independently, communicate with the tax authorities, starting with September 3, 2022, only by electronic means of remote transmission, respectively by registering in the electronic communications system developed by the Ministry of Finance/National Agency for Fiscal Administration.

Resolution of requests

The legal deadline for the Romanian tax authorities to resolve the applications submitted by taxpayers is 45 days from registration, with the possibility of extension up to 6 months – if additional evidence is requested from public authorities or institutions or from third parties in Romania.

Limitation period

The right of the tax authority to establish tax claims is prescribed within 5 years. The limitation period starts to run from July 1 of the year following the year for which the tax liability is due.

However, the right to establish tax claims is prescribed within 10 years if they result from the commission of an act provided for by the criminal law.

Interest and late-payment penalties

Late-payment interest - 0.02% for each day of delay, starting with the day immediately following the due date and up to and including the date of payment of the amount due;

Late payment penalties - 0.01% for each day of delay, starting with the day immediately following the due date and up to and including the date of payment of the amount due.

The late payment penalty does not apply to the main tax obligations for which a penalty for non-declaration is due.

Penalty for failure to declare

Penalty for non-declaration - 0.08% per day, starting with the day immediately following the due date and until the date of settlement of the amount due, including from the main tax liabilities not declared or incorrectly declared by the taxpayer/payer and established by the tax authority through tax decisions.

Certification of tax returns

Taxpayers can opt for the certification of tax returns by an authorized tax consultant, a member of the Chamber of Tax Consultants in Romania.

The certification of the tax return is an evaluation criterion in the risk analysis carried out by the tax authorities for the purpose of selecting taxpayers/payers for the tax inspection.

Classification of taxpayers based on the risk levels

Taxpayers fall into 3 main risk classes, as follows::

- taxpayers with low tax risk;
- taxpayers with medium tax risk;
- taxpayers with high tax risk.

The general criteria according to which the tax risk class/subclass is established are the following:

- criteria for tax registration;
- criteria for filing tax returns;
- criteria regarding the level of declaration;
- criteria for the fulfilment of payment obligations to the consolidated general budget and other creditors.

Fiscal control

The fiscal control can be of 5 forms:

- Tax inspection
- Unannounced control
- Anti-fraud control
- Checking your personal tax situation
- Documentary verification

Tax inspection

It can be a general inspection (all tax obligations) or a partial inspection (certain tax obligations) – for a period determined by time.

The effective duration is established by the tax authority and cannot be longer than:

- o 180 days to large taxpayers,
- o 90 days for medium taxpayers,
- o 45 days for other taxpayers, but does not include suspension periods.

Throughout the exercise of the tax inspection, the taxpayer/payer has the right to benefit from specialized or legal assistance.

Regardless of the place where the tax inspection is carried out, the tax inspection body has the right to inspect the places where the activity is carried out.

Notification of Compliance

Tax authorities may issue compliance notices to taxpayers who are likely to be selected for tax inspection or personal tax verification. The notification contains information on the identified tax risks, and the taxpayer has 30 days from the receipt of the notification to reassess the tax situation and submit or correct the tax returns.

X. ROMANIAN LAW ON COMPANIES

The fundamental legislation of reference regarding the companies is Law no. 31 of 1990. In view of Romania's accession to the European Union, the law was amended on 1 December 2006 (Law no. 441/2006). Other important changes were subsequently brought by Law no. 515/2006 and no. 76/2012, through the Emergency Ordinances no. 52/2007, no. 82/2008, no. 54/2010, no. 2/2012, with the norms for the application of the New Criminal Code and the New Code of Criminal Procedure, respectively Law no. 187/2012 and no. 255/2013, Laws 102 and 223 of 2020, Law no. 265/2022, as well as Law 222 and 296 of 2023.

According to the legislation, in order to carry out activities for profit, individuals and legal entities can associate and establish companies with legal personality, in compliance with the provisions of the law.

Companies that have their registered office in Romania are considered by law to be Romanian legal entities.

Companies **can be incorporated** in one of the following forms:

- general partnership (S.N.C.)
- limited partnership (S.C.S.)
- joint-stock companies (S.A.)
- limited partnership (S.C.A.)
- limited liability company (S.R.L.)

As regards **liability for social obligations**, the following rules apply:

- S.N.C.: is that company whose social obligations are guaranteed by the social patrimony and by the unlimited and joint liability of all the partners;
- S.C.S.: is the company whose social obligations are guaranteed by the social patrimony; the limited partners have the same liability as in the case of S.N.C., and the limited partners will be liable within the limit of their contribution.
- S.C.A.: the social obligations are guaranteed by the social patrimony and by the unlimited and joint liability of the limited partners; The limited partners are liable only up to the amount of their contribution;
- S.A. and S.R.L.: the social obligations are guaranteed by the social patrimony; The partners/shareholders are liable only within the limit of their contribution.

In the following, only S.R.L. and S.A. will be analyzed in detail, as they represent the corporate forms most used by foreign investors in carrying out an investment transaction in Romania.

A. Joint stock company

A.1. Establishment of S.A.

The establishment of a S.A. must take place through the signing of a memorandum of association by all shareholders, except in the case of a public subscription, in which case the signature of the founders is required.

By signing the articles of incorporation, the founders assume the responsibility of fulfilling the conditions provided by Law 31/1990 through a specific clause in the articles of association and provided for by Law 265/2022.

The minimum share capital required for these companies cannot be less than RON 90,000.

The number of shareholders of a joint stock company **may not be less than two**. If the company has fewer than two partners, for a period of more than 9 months, any interested person may request the dissolution of the company. However, it shall not be dissolved if, until the dissolution court decision becomes final, the minimum number of shareholders provided for by this law is reconstituted.

The articles of association are **concluded in written form and must contain a number of elements** (for a complete list, see Article 8 of Law No 31/1990), including:

- the value of the share capital, which must be paid in any bank authorized by the National Bank of Romania;
- the value of the transferred assets and how they were valued;
- the unit value of the shares;
- the identification data of the beneficial owners and the methods of exercising control over the company.

An assessment of in-kind contributions by an authorised expert is also required.

The company is subject to approval by the Trade Register. In order to obtain such approval, **the following documents must be submitted** to the registry within 15 days from the signing of the articles of incorporation:

- the articles of association;
- documents proving ownership of in-kind contributions;
- the lease contract of the space used for the purpose of the registered office;
- affidavit for the administrator of the newly established company with the express acceptance of the mandate conferred;
- declaration of authorization of the NACE codes related to the activity carried out.

In addition, if the partners/administrators are **natural persons**:

- a copy of an identity document (passport or identity card);
- self-certification of the natural person who is a foreign citizen if he or she is not registered for tax purposes in Romania;

If, on the other hand, the members are **legal persons**:

- authentic extract from the minutes of the shareholders' meeting or of the board of directors of the company authorizing the director or another person to establish a company in Romania;
- the certificate of the Chamber of Commerce of the company with an apostille according to the Hague Convention (in the case of the signatory countries of this convention) or with superlegalization (as the case may be);
- self-certification by the representative that the legal entity is not fiscally registered in Romania.

The decision of the registrar ordering the registration of the company is immediately enforceable and can be appealed within 15 days.

If no appeal or other request for modification or opposition to the incorporation of the company is submitted during this period, the approval becomes final and is registered with the Trade Register and the Tax Administration. The approval will also be published in the Official Gazette.

A.2. Actions

The shares can only be **registered** and not **bearer**, according to the new Law no. 129/2019. It is forbidden to issue shares and units with a value below nominal value. The capital cannot be increased until the previously issued shares have been paid in full. The nominal value of the shares cannot be less than RON 0.1 and all shares must have the same value.

The right of ownership over the shares issued in material form shall be transmitted by a declaration made in the register of shareholders and by the mention made on the title, signed by the transferor and the assignee or their representatives. The articles of incorporation may also provide for other forms of transmission of the ownership right over the shares.

Each share confers the **right to vote** at general meetings of shareholders, but a limitation on the number of votes for the shareholder holding more than one share may be provided for in the articles of association; the exercise of the right is in any case suspended by shareholders who are not up to date with the payments due.

Shares are indivisible, but if a share belongs to more than one person, they are jointly and severally liable for the execution of payments due. It is possible to issue non-voting priority dividend preferred shares at the general meeting of shareholders.

A.3. General Assemblies

The general meeting is convened by the board of directors, respectively by the directorate, whenever necessary, and the term of the meeting may not be less than 30 days from the publication of the notice in the Official Gazette of Romania, Part IV.

The convocation shall be published in the Official Gazette of Romania, Part IV and in one of the newspapers of wide circulation in the locality where the company's headquarters are located or in the nearest locality, and it may be made only by registered letter or, if the articles of incorporation allow, by letter sent electronically.

The general assemblies are ordinary and extraordinary.

The Ordinary General Meeting shall meet at least once a year, within a maximum of 5 months from the end of the financial year. The ordinary general meeting addresses topics such as: the annual financial situation; election of the members of the board of directors, of the supervisory board and of the censors; establishing the income and expenditure budget; pronouncing on the management of the board of directors, respectively of the directorate; fixing the remuneration of the members of the board of directors; appointment or dismissal of the financial auditor, in the event that the company will be subject to an audit, pledge, lease or dissolution of one or more units of the company.

For **ordinary** meetings of shareholders, unless otherwise provided in the articles of association, the quorum of validity has been reduced to a number of shareholders representing at least 1/4 of the **total number of votes**, while resolutions are valid by a **majority vote** of the votes cast. The articles of incorporation may provide for higher quorum and majority requirements.

However, at the second call, the general meeting of shareholders validly deliberates **by majority**, regardless of the quorum present. The company's articles of incorporation cannot provide for a minimum quorum or a majority higher than the legal ones for the second call.

The extraordinary general meeting meets whenever it is necessary to take a decision such as: the transfer of the company's registered office; the change of the legal form of the company; the change of the company's activity objective; the establishment or abolition of secondary offices: representatives, branches, agencies; the conversion of registered shares into bearer shares or bearer shares into registered shares; the conversion of shares from one category to another; the conversion of a categories of bonds in another category or in shares; bond issuance; reduction or reintegration of the share capital; merger with other companies or its dissolution; any other decision that needs the approval of the extraordinary general meeting.

In order to be validated, the resolutions of the extraordinary general meeting require, at the first call, the presence of shareholders holding at least one quarter of the total number of voting rights, and at subsequent calls, the presence of shareholders representing at least one fifth of the total number of voting rights. Decisions are taken by a majority of the votes held by the shareholders present or represented. The decision to change the main object of activity of the company, to reduce or increase the share capital, to change the legal form, to merge, divide or dissolve the company is taken with a majority of at least two-thirds of the voting rights held by the shareholders present or represented.

The statutes may provide for higher quorum and majority requirements.

A.4. Administration of S.A

The part relating to the administration of the S.A. was undoubtedly the subject of the most radical reform in 2006. Two “management systems” have been introduced that will allow more options in terms of the choice of governance of the JSC:

(i) The “unitary” system

In this system, it is mandatory to have an odd number of directors which, in the case of companies subject to mandatory audit, must be at least equal to 3.

In addition, if the administrator is dismissed without a **valid reason**, he is entitled to compensation for damages (previously there was no reference to a valid reason in the event of dismissal).

The directors are appointed by the ordinary general meeting of shareholders, except for the first directors, who are appointed by the articles of association, and during the term of office, the directors cannot conclude an employment contract with the company.

Also, the Directors may be revoked at any time by the ordinary general meeting of shareholders, and if the revocation occurs without just cause, the administrator is entitled to the payment of damages.

The board of directors may delegate the management of the company to one or more directors (appointing one of them as general manager), and they may be appointed from among the directors or from outside the board of directors. In this situation, the power to represent the company belongs to the general manager, and the board of directors retains the power to represent the company in relations with the directors.

In the case of companies audited by law, this delegation is mandatory (!). In this case, the Board of Directors must be composed of a majority of non-executive directors.

The directors may be revoked at any time by the board of directors. If the dismissal occurs without just cause, the director concerned is entitled to the payment of damages.

The articles of association or the general meeting of shareholders may provide for one or more **independent directors** to be elected to the board of directors, i.e. directors who are not or have not been linked to the company by professional and/or similar relationships.

(ii) The “dualist” system

The articles of incorporation may provide that a S.A. may provide for an administration by a **directorate** and a **supervisory board**.

▪ **Directorate**

Under this system, the administration is managed exclusively by the **Directorate**, under the control of the Supervisory Board.

The Executive Board consists of one or more members, the number of which is always odd, and their appointment is the responsibility of the Supervisory Board, which also assigns to one of them the position of Chairman of the Executive Board. In the case of joint-stock companies whose annual financial statements are subject to a legal audit obligation, the board of directors consists of at least 3 members.

The Supervisory Board may dismiss one or more members of the Executive Board at any time, but in the absence of a valid reason, the dismissed person may claim damages.

▪ **Supervisory Board**

The members of the Supervisory Board are elected by the general meeting, and the number of members must be between 3 and 11. For their revocation, the votes of at least 2/3 of the shareholders present are required.

The position of member of the Supervisory Board is incompatible with that of member of the Executive Board, as well as that of employee of the company.

The management of the company cannot be transferred to the supervisory board, however, the articles of incorporation may provide that certain types of operations can only be carried out with the agreement of the board. If the board does not give its consent for such an operation, the board of directors may request the agreement of the ordinary general meeting.

The term of office of the directors, respectively of the members of the Executive Board and of the Supervisory Board, is established by the Articles of Association, which may not exceed 4 years, and the term of office of the first members of the Board of Directors, respectively of the first members of the Supervisory Board, may not exceed 2 years.

Also, if you hold one of the positions listed above, you must have **professional liability insurance**.

The members of the Board of Directors or of the Supervisory Board may not exercise this function in more than 5 companies under Romanian law (except for the cases provided for in art. 15316 of Law 31/1990).

Only members of the Management Board or the Supervisory Board may also be legal persons.

It also establishes **the incompatibility** between the position of director and the status of employee of the company (for joint stock companies): otherwise, the employment contract is suspended for the entire duration of the mandate.

A.5. Audit and auditors

The joint stock company will have 3 censors and an alternate, if the articles of incorporation do not provide for a higher number. In all cases, the number of censors must be odd.

The financial statements of the companies subject to the legal obligation of auditing will be audited by financial auditors - individuals or legal entities - under the conditions provided by the law.

The companies whose annual financial statements are subject to financial audit, according to the law or the decision of the shareholders, will organize the internal audit according to the norms developed by the Chamber of Financial Auditors of Romania.

For companies whose annual financial statements are not subject, according to the law, to financial audit, the ordinary general meeting of shareholders will decide to contract the financial audit or to appoint the auditors, as the case may be.

A.6. Social registers and financial statements

Joint-stock companies must keep a register of shareholders, a register of decisions of general meetings, a register of decisions of the board of directors, a register of deliberations made by auditors and internal auditors and, where appropriate, a register of bonds.

The Board of Directors, respectively the Executive Board, must submit to the auditors, respectively to the internal auditors and the financial auditors, at least 30 days before the day set for the meeting of the general meeting, the annual financial statement for the previous financial year, accompanied by their report and supporting documents.

At least 5% of the company's profit will be taken each year for the formation of the reserve fund, until it reaches at least one fifth of the share capital.

The submission of the annual financial statements must take place in accordance with the following deadlines:

- a. for legal entities that apply accounting standards harmonized with European directives, and with International Accounting Standards or that apply simplified accounting standards: within 150 days from the end of the financial year;
- b. for legal entities that, since their establishment, have not carried out activities: submission of a declaration within 60 days from the end of the financial year.

Dividends are distributed to shareholders in proportion to profit sharing, quarterly, optionally and on the basis of interim financial statements, or annually, after the approval of the annual financial statements.

B. Limited Liability Company

The discipline of the S.R.L. has some explicit references to that of the S.A. In reality, the practice (accepted by the jurisprudence) of applying to the S.R.L. some norms provided by Law no. 31/1990 only for S.A. In the following presentation, the repetition of the common rules will be abandoned, making explicit reference, from time to time, to the regulations in which force for S.A.

B.1. Establishment of S.R.L.

The limited liability company is constituted by means of a memorandum of association signed by the shareholders, and the articles of association have the same content as in the case of the S.A. It should also be indicated that the capital should be divided into shares that cannot be represented by negotiable securities.

The maximum number of shareholders is 50, providing for the possibility of setting up several LLCs with a sole shareholder (including foreigners), Law no. 102/2020 annulling the constraint that a natural or legal person be a sole shareholder only in a S.R.L. under Romanian law.

B.2. General Assembly of S.R.L.

For S.R.L. there is only one type of general meeting, responsible for examining and deliberating on each subject, and each social part gives the right to one vote.

The general meeting shall decide by the vote representing the absolute majority of the shareholders and social partners, unless otherwise provided in the articles of incorporation.

If the legally constituted meeting cannot take a valid decision due to the failure to meet the required majority, the reconvened meeting may decide on the agenda, regardless of the number of shareholders and the part of the share capital represented by the shareholders present.

The shares can be transferred between the partners. The transfer between persons outside the company is possible only if it is approved by the shareholders representing at least three quarters of the share capital unless otherwise provided for in the articles of association.

B.3. Administration of S.R.L.

The company is managed by one or more directors, who may or may not be partners, appointed by the articles of association or by the general meeting.

The administrators may not receive, without the authorization of the shareholders' meeting, the mandate of administrator in other competing companies or having the same object of activity, nor may they carry out the same type of trade or another competitor on their own account or on behalf of another natural or legal person, under penalty of revocation and liability for damages.

The articles of incorporation may also provide for the election of one or more auditors or financial auditors. In any case, if there are more than fifteen partners, the appointment of censors becomes mandatory in accordance with the rules established for the S.A. The financial statements of the company are prepared in accordance with the regulations provided for the S.A. In the absence of censors or, as the case may be, of a financial auditor, each of the partners, who is not an administrator of the company, shall exercise the right of control that the partners have in the general partnerships. The provisions provided for the reserve funds of the joint stock company, as well as those regarding the reduction of the share capital, also apply to limited liability companies.

B.4. Social register

The limited liability company must keep, through the care of the administrators, a register of associates, in which shall be registered, as the case may be, the name and surname, name, domicile or registered office of each associate, his part of the share capital, the transfer of the shares or any other change regarding them.

C. Other regulations for companies under Romanian law

C.1. Changes in share capital

The reduction of the share capital may not be carried out before the expiry of two months from the publication of the relevant decision in the Official Gazette. The company's creditors, whose claims are prior to the publication of the decision, will be entitled to obtain guarantees for the claims that have not become due by the date of such publication, they have the right to formulate an opposition claim to this decision within 30 days as from the date of the decision or the amending addendum were published in the Official Gazette of Romania.

The share capital may be increased by issuing new shares or by increasing the nominal value of existing shares in exchange for new contributions in cash and/or in kind. New shares are released by incorporating reserves, except for legal reserves, as well as benefits or issue premiums, or by offsetting liquid and payable claims on the company with its shares.

The shares issued for the increase of the share capital will be offered for subscription, first of all to the existing shareholders, in proportion to the number of shares they own. The exercise of the right of preference may be carried out only within the term decided by the general meeting or by the board of directors, respectively the directorate, if the articles of incorporation do not provide for another term. In all cases, the term granted for the exercise of preference rights may not be less than one month from the date of publication of the decision of the general meeting, respectively of the decision of the board of directors/directorate, in the Official Gazette of Romania, Part IV. After the expiry of this term, the shares may be offered for subscription to the public.

The capital increase takes place in accordance with the provisions established for the incorporation of the company; The cash paid for the capital increase cannot be used until the transaction is completed.

C.2. Loss of equity

Article 69 of Law 31/1990 provides that “If a net asset loss is ascertained, the subscribed share capital shall have to be restored or decreased prior to any profit assignment or distribution.”

According to art. 153²⁴, para. 1 of the same normative act “ If the board of directors or the directorate, respectively, finds that, following losses established in the annual financial statements approved according to the law, the net assets of the company, determined as the difference between the total assets and total liabilities of the company, have decreased to less than half of the value of the subscribed share capital, it shall convene forthwith the extraordinary general meeting to decide whether the company must be dissolved.”

If the extraordinary general meeting does not decide to dissolve the company, then the company is obliged, by the closing of the financial year subsequent to the one when the losses were established, in compliance with the minimum capital provided by law, to reduce the share capital by an amount at least equal to that of the losses that could not be covered from the reserves, if during this period the company’s net assets have not been reconstituted up to a value at least equal to half of the share capital.

C.3. Acts of alienation of assets held by the company

By Emergency Ordinance no. 52/2008, a decisive aspect regarding powers of attorney has been clarified, with important implications at a practical level: The acts of disposition over the assets of a company can be concluded by virtue of the powers conferred on the legal representatives of the company by law, the articles of association or by the decisions of the statutory bodies of the company, a special power of attorney in authentic form not being necessary for this purpose, even if the acts of disposition must be concluded in authentic form (art. 701 L.31/1990).

C.4. Distribution of dividends

Dividends are distributed to the shareholders in proportion to the share of participation in the paid-up share capital, optionally quarterly based on the interim financial statements and annually, after the adjustment made through the annual financial statements, unless otherwise provided by the articles of incorporation. These can be paid optionally quarterly within the term set by the general meeting of shareholders, the adjustment of the differences resulting from the distribution of dividends during the year being made through the annual financial statements. The payment of the differences resulting from the adjustment is made within 60 days from the date of approval of the annual financial statements for the financial year ended.

C.5. Register of beneficial owners

All companies are obliged to declare and register in the specific register kept by the Romanian Trade Register Office the “real beneficiary”, i.e. the natural person who holds at least 25% +1 of the company’s share capital, including through other companies. This new obligation was introduced by Law no. 129/2019.

OTHER POSSIBLE FORMS FOR THE PRESENCE OF A NON-RESIDENT COMPANY

According to art. 44 of Law no. 31/1990 on companies, republished, with subsequent amendments and completions, foreign companies may establish subsidiaries, branches, agencies, representative offices or any other secondary headquarters in Romania, if this right is recognized by the articles of association of commercial companies.

BRANCHES

Foreign companies can operate in the territory through one or more branches. Branches must be registered with the Trade Register and are subject to the same tax obligations as companies. **They do not have their own legal personality**, being a dismemberment of the parent company.

REPRESENTATION

The representative office does not have legal personality, cannot carry out commercial activities directly, cannot sign sales contracts, cannot receive payments, cannot issue invoices and cannot repatriate profits.

The representative office is therefore a mere cost Centre (normally deductible for the parent company) which does not produce any income and which, not being classified as a permanent establishment, is not subject to the obligations laid down for secondary offices.

Therefore, the representative office is not a taxable person for direct tax purposes but must pay a fixed annual fee of €4,000 in lei, following an authorization issued by the competent ministry.

XI. CONTACT



Manuela Furdui
Managing Partner



Mitel Spătaru
Tax Partner



Roberto Falato
Tax Partner



Carlos Sanz-Mulas
Tax Partner



Roberto Turchetto
Tax Partner



Contact information

office@crowe.ro

5 Popa Petre Street, district 2,
Bucharest, Romania
+40 (0) 31 228 51 15
+40 (0) 21 529 95 00

10A Coriolan Brediceanu Street,
building A, 2nd floor, 4G office
AFI PARK, Timisoara, Romania
+40 (0) 25 630 60 56

147 Constantin Brâncuși Street
Cluj-Napoca, Romania
+40 (0) 26 459 00 67

About us

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FINEXPERT - one of the largest Romanian professional services companies providing integrated accounting, payroll, audit & consulting and tax & corporate services - and **BOSCOLO** - an international consulting, accounting, payroll and audit company, established in Romania in 1994, with offices in Bucharest, Timisoara and Cluj, member of the Crowe Global network since 2016 - merges under one name: Crowe Romania. The merger places Crowe Romania on the number 6 position nationally in the top consulting, accounting and auditing companies, according to turnover (approximately € 9 million).

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