COLUN TAX

Accounting and Taxation in Romania 2020

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Colun Tax was established by Stela Colun – expert in the fields of VAT, corporate income tax, double tax treaties and European tax legislation, individual income tax, social security contributions, local taxes and other Romanian taxes.

I gained experience in the field of tax and accounting consultancy by working in the direct tax department within PricewaterhouseCoopers and Ministry of Finance.
In the Ministry of Finance, I participated in drafting accounting legislation and guidance within Department for Accounting Regulations.

My tax advisory services are addressed to international companies investing in Romania, Romanian established companies, expatriates working in Romania and to any person who needs tax advice.

In Colun Tax I managed to develop a portfolio of clients whom I assist in solving their different tax and accounting issues.

I consider that I distinguish myself on the market of tax advisory services by preparation and communication of practical and proactive solutions to the business operations of my clients, by working together.

The advisory is personalised for each client, based on its specific needs.
I help my clients to navigate through the complicated tax jungle-type legislation by applying straight forward thinking and avoiding professional jargon.

The consultancy services offered to the clients are in form of help–desk services, conducting training on tax issues prepared based on the specific transactions of the client, preparation of opinions regarding tax and accounting issues, etc.

For further information or assistance, please contact Stela Colun.

"Accounting and taxation in Romania" is a booklet published by Colun Tax in Romania to provide useful information to foreign companies investing in Romania, Romanian companies, expatriates and to any person doing business or performing activity in Romania.

The material is based on the legislation in force in February 2020.

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1. Summary of the main taxes

Corporate taxation

Corporate income tax

- Corporate income tax rate: **16%**
- Tax for nightclubs and casinos: **5% of total revenue, or 16% of profit,** whichever is higher

Micro-companies' income tax

- Micro-companies' income tax is a mandatory taxation regime for companies having an annual turnover not exceeding **1.000.000 EUR.**
- Taxation rates are:
  - **1%** for micro-companies having at least one employee.
  - **3%** for companies with no employees.

- Tax applies on the turnover adjusted with certain categories of income and expenses.
- Any income received by micro-company from another state is not taxable if the income is obtained from a state with which Romania has concluded a double tax treaty and the income was taxed in the other state, based on a payment proof.
- Micro-companies' income tax shall be paid and reported on a quarterly basis, by 25th of the month following the previous quarter.

Specific tax for the hospitality field

- Starting 1 January 2017, Romanian companies must pay specific tax if, on 31 December of the previous year, met the following cumulative conditions:
  - Had as main activity or secondary activity one or several of the following activities: hotels and similar accommodation facilities, restaurants, catering and other food services, bars and other beverage service activities and perform work in these areas.
  - Do not undergo liquidation.
- Specific tax is computed based on certain formulas provided in legislation.
- Micro-companies are not obliged to pay specific tax.
- Tax for specific categories of activities is payable in two equal instalments: by 25 July and 25 January that follows the previous semester.

Dividend tax

- Dividend tax in case of dividends obtained by companies is:
  - **0%** in case the companies have minimum 10% in the share capital of the company paying dividends for an uninterrupted period of one year ending at the dividend payment date
  - **5%** in all the other cases

- As a rule, dividend tax shall be paid and reported monthly, by 25th following the month in which the income was paid to the associate/shareholder.

Tax for representative offices: annual flat tax of 18.000 RON

Individual Income Tax

- Flat rate of **10%** applies starting 1 January 2018, including for salaries (being reduced from 16%)
- As a rule, salary tax shall be paid and reported monthly, by 25th following the month the income relates to
- Dividends obtained by individuals are taxed at **5%**
- Income from transfer of immovable property from personal patrimony is taxed as follows: **3%** x (transaction value – non-taxable cap of 450.000 RON)

Social security contributions

- Contributions due by employees:
  - pension contribution: **25%**
  - health insurance contribution: **10%**

- Contribution due by employer: work insurance contribution: **2.25%**

- Company having at least 50 employees shall employee disabled persons in a percentage of at least 4% from the total number of employees multiplied with the minimum salary per economy.

Tax incentives for construction sector applicable in the period 1 January 2019 – 31 December 2028

Gross monthly salaries ranging between 3.000 RON and 30.000 RON inclusive obtained by individuals based on individual labour contracts benefit from the following tax incentives:		
Tax	Employee	Employer
Income tax	Exemption	N/A
Social security contribution	21.25%	Exemption
Health insurance contribution	Exemption	N/A
Work insurance contribution	N/A	0.3375% (reduction from 2.25%)

Income assimilated to salaries (such as remuneration obtained by administrators and directors) benefit only from salary tax exemption.

Withholding tax (WHT)

- Under Romanian Fiscal Code:
  - 16% standard tax rate
  - 5% dividend tax
  - 50% special tax rate[1]
- Double tax treaties (DTTs) concluded by Romania with other countries and European legislation prevail over domestic legislation, if more favourable.
- DTTs may reduce the rates or exempt from WHT some categories of income.
- DTT prevalence is invoked based on tax residency certificate of the non-resident.
- European legislation prevalence is invoked based on the tax residency certificate and statement of the beneficial owner.
- The European legislation is applied in the relationship of Romania with the EU Member States.
- Zero WHT applies for dividends paid by Romanian companies to companies' resident in the EU if they have minimum 10% in the shares of distributing companies for an uninterrupted period of one year ending at the payment date of dividends.
- Zero WHT applies for interest and royalties paid between associated companies' resident in EU having at least 25% in the shares for an uninterrupted period of two years ending at the payment date of interest and royalties.
- As a rule, WHT shall be paid and reported monthly, by 25th following the month in which the income was paid.

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

Value-added tax

- Standard VAT rate is **19%**
- Reduced VAT rates are **9% and 5%**
- Taxable persons established in Romania whose annual turnover, declared or realised, is lower than **88.500 EUR** (whose lei equivalent is **300.000 RON**, computed using the exchange rate of the National Bank of Romania valid for the Romania's EU accession date) may apply VAT exemption (named special exemption regime)
- **Any individual may purchase a housing at reduced 5%VAT rate** if the housing, having a utile surface of maximum 120 square meters, excluding the household annexes, whose value, including the land on which are built, does not exceed **450.000 lei.**

Local taxes

- Building tax rates differ for residential buildings and non-residential buildings.

Building tax rates provided by the Fiscal Code	
Individual persons	**Legal persons**
0.08% – 0.2% for residential buildings (applicable to the amounts determined spreadsheet)	**0.08% – 0.2%** for residential buildings
0.2 – 1.3% for non-residential buildings for which a valuation report was submitted or any document attesting that the acquiring date is in the last 5 years	**0.2% – 1.3%** for non-residential buildings
0.4% used for activities from agricultural field	**0.4%** for non-residential buildings used for activities from agricultural field
2% if the taxable value of the non-residential building cannot be determined this rate applies over the value of the taxable value determined for residential building	
2% for non-residential buildings that have not been revalued in the last 5 years	**5%** if the owner of the non-residential building did not update the taxable value of the building in the previous 3 years

- Land tax is established at a fixed amount per square meter depending on the rank of the locality where the land is located and the area and / or category of land use, under the classification made by the local council.
- Local councils may increase the local taxes by up to 50% over the statutory caps.
- Building tax and land shall be paid in two equal instalments, by 31 March and of 30 September.
- Local council may grant to individuals **10%** discount if the entire amount of building tax and land tax is paid by 31 March.

Constructions taxes

- **1% tax for building permit**, applied on the authorised value of the constructions works, including related installations. This is due to the local council.

- **0.5% tax for construction quality**

  Investors or owners have the obligation to transfer to the State Construction Inspectorate an amount equivalent to 0.5% of the value, excluding VAT, of the works for the new constructions and of the intervention works for the existing constructions for which are issued building permits.

- **0.1% tax for the state control**
  The expenses for the control of the state in the planning of the territory, urbanism and the authorization of the execution of the construction works and the regulation in the field of urbanism are borne by the investors, in an amount equivalent to a share of 0.1% of the value of the authorized works.
  This tax is due to the Construction Inspectorate.

- **0.5% contribution due to the Social House of Constructors.**
  This is applied to the value of the general construction quote.

- **0.05% Architects Union Tax.** The tax is applied on the investment value.

Environmental fund contributions

- Contributions for packaging, air-pollutant emissions from fixed sources, sale of ferrous and non-ferrous waste, etc.
- Some contributions depend on compliance with waste management obligations.

2. Accounting in Romania

The Romanian accounting system is based on the Accounting Law no. 82/1991 that serves as general framework.

Detailed accounting regulations are approved by the Order of the Ministry of Public Finance no. 1802/2014 (Order 1802/2014). These regulations provide for the content and form of the financial statements, accounting principle, recognition and measurement of financial statement items, and the chart of accounts to be used by legal entities. This order is in line with the European Directives in the accounting field.

Order 1802/2014 is applicable to all companies.

Specific accounting regulations were issued, thus:

- Accounting regulations in line with IFRS approved by the Order of the National Bank of Romania (NBR) no. 27/2010, applicable to the credit institutions.
- Accounting regulations in line with IFRS approved by the Order no 2844/2016, applicable to the companies whose securities are admitted for trading on a regular market.
- Accounting regulations in line with the European Directives approved by the Order of NBR no. 6/2015, applicable to the non-banking financial institutions, payment institutions, electronic money institutions and to the Guaranty Fund for Bank Deposits.
- Accounting regulations in line with the European Directives approved by the Norm no. 41/2015 of the Financial Supervisory Authority, applicable to the entities in the insurance/reinsurance field.
- Accounting regulations in line with the European Directives approved by the Norm no. 14/2015 of the Financial Supervisory Authority, applicable to the entities in the private pension system.
- Accounting regulations in line with the IFRS approved by the Norm no. 39/2015 of the Financial Supervisory Authority, applicable to the entities authorized, regulated and supervised by the Financial Supervisory Authority.
- Accounting regulations, approved by the Order of the Ministry of Public Finance no. 3103/2017, applicable to not-for-profit organizations.
- Accounting regulations on single-entry accounting, approved by the Order of the Ministry of Public Finance no. 170/2015, applicable to the individuals and associations without legal personality whose income is subject to income tax and net income is computed in real system, being obtained from the following sources: independent activities, renting out of goods, agricultural, forestry and pisciculture activities.

Accounting records

The main accounting principles are the following:

- Double-entry bookkeeping is generally applicable.
- Singe-entry bookkeeping is applicable to representative offices and the individuals and associations without legal personality whose income is subject to income tax and net income is computed in real system. As a rule, these entities may opt to apply double-entry accounting.
- Accounting records shall be kept in Romanian language and in RON. Foreign currency transactions shall be kept both in RON and in the foreign currency.
- Receivables and liabilities denominated in foreign currency and monetary items in foreign currency must be valued at the end of each month. Differences between the exchange rate from their recognition date and exchange rate of the month-end date or settlement date shall be recognised against income and expenses.
- Accounting documents, ledgers and financial statements shall be stored and archived for a 10-year period, starting with 1 January of the year following that for which they were prepared. However, payrolls shall be kept for 50 years.
- Order 1802/2014 details a specified chart of accounts to be used by companies and provides guidance for mapping the individual accounts to the balance sheet and profit and loss account templates.

Financial year

The accounting year represents the period for which the annual financial statements shall be prepared and, as a rule, corresponds to the calendar year.
Duration of the accounting year is of 12 months. However, certain categories of entities (e.g. the consolidated Romanian subsidiaries of a parent-company with head-office abroad) may establish an accounting year different from the calendar year, if the accounting year of the parent-company differs from the calendar year.

Person that opts for an accounting year different from the calendar year has the following obligations:

- To prepare and submit an annual accounting reporting to the territorial tax authority.
- To notify in written the territorial tax authority regarding the accounting year chosen with at least 30 calendar days before the start of the accounting year chosen.

Annual financial statements

Preparation of the annual financial statements is mandatory. The form and content of the annual financial statements is provided by the Ministry of Public Finance or by the other regulators for the entities under their supervision.

As a rule, companies are required to prepare annual financial statements and to submit them to the local tax authorities, on paper and in electronic format, or only in electronic format, within **150 calendar days** of the closing of their financial year.

Order 1802/2014 establishes a set of size criteria according to which entities are required to prepare and submit either regular or abridged financial statements.

The entities defined in terms of size are:

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

- Total assets – 1.500.000 RON (equivalent of 338.310 EUR)
- Net turnover – 3.000.000 RON (equivalent of 676.620 EUR)
- Average number of employees – 10

These entities are required to submit abridged financial statements.

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

- Total assets – 17.500.000 RON (equivalent of 3.946.953 EUR)
- Net turnover – 35.000.000 RON (equivalent of 7.893.906 EUR)
- Average number of employees – 50

These entities are obliged to submit an abridged balance sheet, an extended profit and loss account and explanatory notes. The presentation of the statement on changes in equity and the statement of cash flows statement is optional.

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

- Total assets – 17.500.000 RON (equivalent of 3.946.953 EUR)
- Net turnover – 35.000.000 RON (equivalent of 7.893.906 EUR)
- Average number of employees – 50

Medium-sized and large entities and public interest entities are required to submit extended financial statements.

The annual financial statement shall be also accompanied by the following documents:

- Administrators report, which provides a fair presentation of development and performance of the entity's activity and of its financial position, as well as a description of main risks and uncertainties faced by the entity
- Auditors report or censors report, if applicable
- Decision of the general assembly of the shareholders for approval of the annual financial statements

- Written declaration under which the management of the company takes responsibility for the preparation of the annual financial statements according to the applicable accounting regulations
- Form Informative data
- Statement of fixed assets

Companies that opted for a financial year different from the calendar year shall also submit an accounting reporting at 31 December, distinct from the annual financial statements prepared for the date selected by them.

This reporting has a standard form, regulated annually by order of Ministry of Finance, and shall be filed with the tax authority within 150 days of the closing date of the calendar year. This reporting includes the following documents:

- Statement of assets, liabilities and own equity
- Statement on income and expenses
- Form Informative data
- Form Statement of fixed assets

Items presented in annual financial statements must be recognised and valued in accordance with the following general principles: going concern, consistency, prudence, accrual-based accounting, separate measurement of assets and liabilities, intangibility, non-offsetting between assets and liabilities, materiality, valuation at the purchase price or acquisition cost and substance over form.

Valuation of the fixed assets at the fair value at the balance sheet date is optional. If the company opts for such valuation, it is recommended that this to be realised by authorised professionals in the field.

Permanent establishments

The accounting and tax rules applicable to permanent establishments belonging to foreign companies are similar to those applicable to companies: obligation to register to the tax authorities, similar tax obligations, double-entry accounting, periodical accounting reporting and annual financial statements.

Audit

The annual financial statements of medium and large entities, as well as of national companies, companies with full or majority state capital and autonomous regies, shall be audited by one or more statutory auditors or audit firms.
Entities which, at the balance sheet date, exceed the limits of at least two of the following three criteria are also subject to audit:

- total assets: 16.000.000 RON
- net turnover: 32.000.000 RON
- average number of employees during the financial year: 50

The audit obligation for the entities mentioned above shall apply when they exceed those limits in two consecutive financial years.

The annual financial statements of small entities and micro-entities shall be verified, as appropriate, by censors, according to the law.

Consolidated financial statements

Order no. 1802/2014 provides for the requirements of consolidated financial statements.

A parent-company is required to prepare consolidated financial statements and a consolidated administrators' report if that entity is part of group of entities and meets one of the following conditions:

- Has most of the shareholders' or members' voting rights in another entity: subsidiary.
- It is a shareholder in or a member of a subsidiary and has the right to appoint or remove most of the members of the administrative, management or supervisory body of that subsidiary.
- It is a shareholder in or a member of a subsidiary and has the right to exercise a dominant influence over that subsidiary, under a contract concluded with that entity or to a provision in its memorandum or articles of association, in case the law governing that subsidiary permits its being subject to such contracts or provisions.
- It is a shareholder in or a member of an entity and most of the members of the administrative, management or supervisory bodies of that entity who have held office during the financial year, during the proceeding financial year and up to the time when the consolidated financial statements are prepared, have been appointed because of the exercise of is voting rights. or
- It is a shareholder in or a member an entity and controls alone, based on agreement with other shareholders in or members of that entity, a majority's shareholders or members' voting rights in that subsidiary.

Also, any entity must prepare consolidated annual financial statements and an administrators' report if the entity (parent-company) has the power to exercise or effectively exercises a dominant influence or control over another entity (subsidiary).

Based on size criteria, groups are classified in two categories: small and medium sized groups and large groups.

Small and medium-sized groups are groups constituted of parent-companies and subsidiaries that follow to be included in consolidation and which, on a consolidated basis, do not exceed the limits of at least two of the following three criteria at the balance sheet date of the parent-company:

- total assets: 105.000.000 RON (equivalent of 23.681.717 EUR)
- net turnover: 210.000.000 RON (equivalent of 47.363.435 EUR)
- average number of employees during the financial year: 250

Large-sized groups are groups constituted of parent-companies and subsidiaries that follow to be included in consolidation and which, on a consolidated basis, exceed the limits of at least two of the following three criteria at the balance sheet date of the parent-company:

- total assets: 105.000.000 RON (equivalent of 23.681.717 EUR)
- net turnover: 210.000.000 RON (equivalent of 7.363.435 EUR)
- average number of employees during the financial year: 250

Computation of the value of the size criteria are based only on the indicators corresponding to the parent-company and subsidiaries included in consolidation.

A parent-company shall prepare consolidated annual financial statements starting the first financial year in which size criteria are exceeded.

Small and medium-sized groups are exempted from the obligation to prepare consolidated annual financial statements.
The exemption does not apply if one of the companies to be consolidated is a public interest entity.

Also, a parent-company, including a public interest entity, is exempted from the obligation to prepare consolidated annual financial statements and the administrators' report (exempt company) if this company is a subsidiary itself, including a public interest entity, and its own parent-company has head office in Romania, in one of the following cases:

- the parent-company of the exempt company holds all the shares of the exempt company. In this respect, there are not considered the shares in the exempt company, held by the members of the administrative, management and supervision bodies, based on legal obligations or those provided the articles of association; or
- the parent-company of the exempt company holds 90% or more of the shares in exempt company, and the other shareholders in that company approved the exemption.

Consolidated annual financial statements shall be prepared and submitted to the local tax authorities within 8 months of the financial year-end.

Application of IFRS in Romania

Application of IFRS as the basis of accounting and preparation of annual financial statements in line with IFRS is mandatory for companies whose securities are admitted for trading on a regulatory market.

3. Taxation in Romania

Romanian general tax framework and treaties include Fiscal Code and its Norms, OECD Guidelines, the Community Customs Legislation, the Common Customs Tarif and the EU commercial measures on imports and exports, social security laws, and other legislation.

International treaties prevail over Fiscal Code if this contravenes to the treaties.

If the application of a treaty's provision by the taxpayer is challenged by the tax inspection, this situation may be argued in the Court of Justice and the Court's decision will be imposed than to the tax authorities.

In tax field, Romanian tax authorities and other national authorities must consider Jurisprudence of the EU Court of Justice.

3.1. Corporate taxation

3.1.1. Corporate income tax

Entities subject to corporate income tax (CIT or profit tax)

Entities considered taxpayers for corporate income tax purposes include:

- Romanian companies.
- Foreign companies having one or several permanent establishment/s in Romania (e.g. branches), for the taxable profit attributable to the permanent establishment/s.
- Foreign legal entities with the place of effective management in Romania.
- Foreign companies that obtain income related to real estate situated in Romania and/or from the sale of share in the Romanian companies.
- Not-for-profit organisations on income derived from economic activities that exceed **15.000 EUR per year**.

Standard profit tax rate: 16%

Tax for nightclubs and casinos: 5% of total revenue, or 16% of profit, whichever is higher.

The dividend tax rate for the dividend distribution between Romanian legal entities has been be decreased from 16% to **5%,** as of 1 January 2016.

Fiscal year and accounting year

Fiscal year corresponds to the calendar year.

Taxpayers which opted for a financial year different from the calendar year, according to the accounting legislation, may also choose to have a tax year which corresponds to the financial year.

Tax incentives

Tax incentives include:

- 50% additional CIT deduction for all eligible research & development costs and accelerated depreciation used in this activity.
- Corporate tax relief is available, in certain conditions, for profit reinvested in technical equipment, computers and peripheral equipment, cash, control and billing registers, software programs, as well as the right to use software, produced and/or purchased, including under financial leasing contracts, and put into service, used to perform business.
- Accelerated depreciation.

Taxable result

Taxable result
= income recorded under the applicable accounting regulations
– expenses recorded under the applicable accounting regulations
– non-taxable income
– tax deductions
+ non-deductible expenses
+ income-like items
– expenses-like items
– tax losses in the 7-years reporting period

The taxable result is computed quarterly / yearly, cumulatively from the beginning of the fiscal year.

The taxable result is determined by consolidating both the income and the expenses related to the registered office and those related to the secondary offices of the company.

Transactions between affiliated persons are carried out according to the market value principle. When determining the tax result of affiliated persons, the transfer pricing regulations shall be considered.

The taxpayer is required to keep a tax register in written or electronic whose purpose is to record the computation of the taxable result.

The accounting methods regarding the removal of the stocks from the administration are recognised in computing the taxable result. The accounting methods for valuation of stocks may not be changed during the fiscal year.

Income and expenses erroneously recorded or omitted

The fiscal correction of the accounting errors takes place in the year when the recording of income and expenses is made, in correlation with the accounting provisions, as follows:

- Errors that are corrected in accordance with accounting regulations against the retained earnings – by adjusting the taxable result of the year to which they relate and the submission of a rectifying annual profit tax return.
- Errors that are corrected according to the accounting regulations against the profit and loss account are considered for the determination of the taxable result in the year in which the correction is made.

Taxable income includes all income recorded in the accounting, except for non-taxable income and tax deductions expressly provided by the tax law.

Non-taxable income

The most relevant non-taxable income provided under the Romanian Fiscal Code are:

- Dividends received from a Romanian legal person.

- Dividends received by a Romanian company from its foreign subsidiaries in another EU member state or third country with which Romania concluded Double tax treaties, if the Romanian company and the subsidiary pay profit tax with no option or exemption, and the Romanian company holds at least **10%** of the shares of the subsidiary for a **continuous period of one year**, ending at the receipt date of dividends.

- Revenues from reversal / reinvoicing of expenses which were previously non-deductible, revenues from reduction or reversal of the provisions, which were previously treated as non-deductible, and revenues from refund or cancellation of interest and/or late payment penalties which were previously treated as non-deductible.

- Non-taxable revenues expressly stipulated in agreements and memoranda approved under the legislation.

- Income from sale of shares held by a Romanian legal person or a foreign legal person located in a state with which Romania has a double tax treaty, if at the selling date the taxpayer holds for a **continuous period of one year at least 10%** of the share capital of the legal entity with which has the shares.
  Income from sale of shares held at a Romanian legal person by a legal person resident in a state with which Romania has not concluded a double tax treaty do not benefit from this treatment.

- Income from revaluation of fixed assets and land that compensate any previous decrease in the value of the asset.

- Income from the liquidation of another Romanian legal person or a foreign legal person located in a state with which Romania has concluded a double tax treaty, if at the start of the liquidation operation, 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.

- The amounts received representing restitution of the shares of the shareholder contributions, on the reduction of the share capital.

Expenses

As a rule, expenses incurred for business purposes are considered deductible when calculating taxable result.

Deductible expenses

The most relevant deductible expenses include:

- Salary expenses and salary-like amounts (except for expenses with limited deductibility or non-deductible expenses).
  As a rule, salary expenses are those stipulated in the employment contracts.

- Advertising and publicity expenses performed to promote the company, products or services and the costs associated to produce the materials necessary for broadcasting advertisements, including goods granted as samples, for product

testing at selling units, as well as other goods and services granted to stimulate sales.

- Transport and accommodation expenses related to business trips in Romania or abroad, generated for the employees, administrators, directors and secondees (resident and non-resident individuals) whose costs are covered by the Romanian company; transport of the personnel to and from the workplace; and, also, for other individuals if the expenses are linked to services supplied by them to the taxpayer.

- Expenses incurred for marketing, market research, promotion on existing or new markets, participation in fairs and exhibitions, business missions and publishing own brochures.

- Research and development costs that do not meet the criteria to be recognised as intangible assets from accounting perspective.

- Expenses incurred for improvement of management, IT, the introduction, maintenance and improvement of quality management systems, and obtaining quality compliance confirmation.

- Expenses incurred for environment protection and resource conservation.

- Fines and damages due under commercial contracts.

- Service expenses incurred for efficiency, optimisation, operational and/or financial restructuring of the taxpayer's activity.

- Expenses from depreciation of equity securities and bonds, recorded under applicable the accounting regulations, if at the valuation date the taxpayer does not hold for a continuous period of one year at least 10% of the share capital with which has equity securities.

- Expenses from subsequent valuation and execution of derivative financial instruments, recorded under the accounting regulations.

- Expenses performed for work safety, expenses incurred for prevention of work accidents and occupational diseases, contributions for insurance of work accidents and professional diseases, and professional risk insurance premiums.

- Contributions for the fund designated to negotiate collective work contract which are due to the patronage.

- Expenses generated for professional training and development of the employees.

- Registration fees and contributions due to the trade and industry chambers, trade unions and employer's organisations.

- Expenses incurred for acquisition of packaging during their useful live.

- Bad debts expenses are fully deductible in any of the following cases:
  an application of an organisation plan was confirmed by a court decision;
  the bankruptcy procedure of the debtor was closed based on a court decision;
  the debtor is deceased and the receivable cannot be recovered from its heirs;
  the debtor is dissolved in case of limited liability company or liquidated without successors; debtor has major financial difficulties affecting its entire patrimony;
  have been concluded insurance policies.

Expenses with limited deductibility

Expenses with limited deductibility include:

- Expenses with meal tickets and holiday vouchers granted by the employers.

- Losses, perishables, losses from handling / storage, according to the law.

- Technological losses that are comprised in own consumption norms required for the manufacture of a product or a service.

- 50% limited deductibility applies to expenses incurred with functioning, maintenance and repair of motor vehicles used for passenger transport with a maximum authorised weight of 3.5 tones and maximum 9 seats (including driver's seat) that are not used exclusively for business activities. Depreciation of these vehicles is deductible up to **1.500 RON / month.**

  50% limited deductibility applies also to the operating, maintenance and repair expenses related to the cars used by the persons with management functions of the legal person, limited to a single passenger car for each person with such duties.

  This restriction does not apply to vehicles used exclusively for business activities and by special categories, for example, sales and acquisition agents.

- Exceeding interest costs and other costs equivalent to interest from economic perspective (see below).

- Fiscal depreciation of fixed assets and intangible assets under fiscal depreciation rules.

- Expenses with provisions and reserves under the applicable related rules (see below).

- Protocol expenses are deducted up to the limit of **2%** applied to the difference between the total revenues and total expenses, to which are added protocol and profit tax expenses.
- Daily allowances for domestic and foreign business trips made by the employees are deductible up to the level of **2.5 times** the ceiling for public institutions.

- Social expenses are deductible up to **5% of salary expenses**.
  These expenses include maternity allowances, funeral allowances, allowances for serious or incurable diseases and prosthesis, expenses for nursery tickets, cultural tickets, gifts in cash or in kind granted to minor children of the employees for certain occasions and up to a certain limit, holiday tickets and benefits, and allowances for the employees who suffered losses in the household.

- Taxes and fees paid to the non-government organisations and professional associations connected to the company's activity are deductible up to the limit of **4.000 EUR per year.**

Non-deductible expenses

Non-deductible expenses include:

- Domestic profit tax and profit tax paid in foreign countries; expenses related to withholding tax supported by the Romanian company on behalf of the non-residents for the income obtained by them from Romania.

- Interest, fines, penalties and confiscations due to Romanian or foreign authorities (except for those related to contracts concluded with these authorities).

- Expenses with stocks and depreciable tangible assets missing from the stock location or damaged and related VAT, if this is due (except for the following cases: goods/depreciable fixed assets destroyed further to natural calamities or other cases of major force; goods/depreciable tangible assets for which have been concluded insurance policies; goods/depreciable tangible assets degraded qualitatively if they destroy is proved; other goods if their validity/expiry term is exceeded).

- Expenses incurred in the benefit of shareholders.

- Expenses recorded without justifying documents proving the performance of transactions.

- Expenses related to non-taxable revenues. If these expenses cannot be directly linked to a specific source of non-taxable income, certain allocation keys shall be used.

- Expenses incurred from insurance premiums not-connected to company assets or business, except for the goods which are bank collateral on loans used to perform the activity for which the company is authorised or those used under rental or leasing contracts, based on the contractual clauses.

- Bad debts expenses that exceed deductible provisions (see below).

- Sponsorship and patronage expenses and expenses for private scholarships are not deductible. However, tax credit for these expenses may be applied, up to the lesser:
  - **0,75%** of net turnover and
  - **20%** from the profit tax due only if the beneficiary of sponsorship is registered, at the singing the date of the contract, in the Registry of entities to which are granted tax deductions. Romanian Agency of Tax Administration organised the Registry concerned. https://www.anaf.ro/RegistrulEntitatilorUnitatilorCult/

  If sponsorship expenses exceed these limits, the unused tax credit may be carried forward over the next seven consecutive years and recovered under the same conditions.

- Expenses representing the depreciation value of the fixed assets, in case when, further to a revaluation, a decrease in their value is booked.

- Expenses recorded in the accounting, irrespective of their nature, proved subsequently as beinked linked with corruption deeds, under the law.

- Expenses with depreciation of equity securities, if at the valuation date the taxpayer holds for a continuous period of one year at least 10% of the share capital with which has equity securities.

Provisions and reserves

Companies are required to set up a legal reserve that is computed as **5%** of the gross accounting profit, until it reaches **20%** of the paid in share capital. This reserve is deductible for tax purposes.

Specific provisions set up by credit institutions, non-banking financial institutions and other similar legal entities, as well as technical reserves set up by insurance and reinsurance companies (in accordance with specific legal provisions) are fully deductible for tax purposes.

Provisions for performance guarantees granted to clients

Such provisions may be set up on a quarterly basis only for goods and services supplied during the respective quarter for which the guaranty is granted in the next periods, up to the levels stipulated in the concluded contracts.

Adjustments for depreciation for up to 30% of receivables

Adjustments for depreciation of receivables are deductible up to the limit of **30%** of their value, if the receivables meet cumulatively the following conditions:

- Are not collected for a period exceeding 270 days from the due date.
- Are not guaranteed by another person.
- Are due by a person not affiliated with the profit taxpayer.

Fully deductible adjustments for depreciation

Adjustments for depreciation of receivables are fully deductible, if the receivables meet cumulatively the following conditions:

- Debtor is a company over which it was declared the bankruptcy procedure opened under a court decision attesting this situation, or at an individual over which an insolvency procedure was opened based on refund plan of debts, asset liquidation and simplified procedure.
- Receivables are not guaranteed by another person.
- Debtor is not a related party of the profit taxpayer.

Reduction or reversal of any provision or reserve which was previously deducted is included in the taxable revenues, irrespective if the reduction or reversal is due to a change in destination of provision or reserve, distribution of the provision or reserve to the shareholders in any form, liquidation, spin-off in any form, merger of the taxpayer and any other reason. This provision does not apply if another taxpayer takes over the provision or the reserve in relation to a spin-off or merger, subject to certain conditions.

Reserves from revaluation of fixed assets and land, performed after 1 January 2004, which are deducted in computing the taxable profit via the fiscal depreciation or via the expenses regarding the sold and/or written off assets, are taxed either concomitantly with deduction of the fiscal depreciation or at the date when the assets are removed from the administration, as applicable.

Accounting depreciation and fiscal depreciation

Fiscal Code makes a distinction between accounting and fiscal depreciation.
For depreciable fixed assets and intangible assets, fiscal depreciation shall be computed based on the rules provided in the Fiscal Code and its norms.

Depreciation of fixed assets for tax purposes is computed based on their fiscal value.

Fiscal value of depreciable fixed assets and of land is represented by the acquisition cost, production cost or the market value of the assets acquired for free or contributed to the share capital, at the entry date in the patrimony's company; this fiscal value is used to compute the tax depreciation.

Fiscal depreciation shall be computed based on the asset's fiscal value, useful life for tax purposes and depreciation methods.

The following depreciation methods are available for tax purposes:

- Straight-line method.
- Reducing balance depreciation (may be applied to certain assets).
  When using this method, a coefficient of between 1.5 and 2.5 is applied to the straight-line depreciation dates).
- Accelerated depreciation (applied in case of technological equipment, computers and they peripherals, and patents).
  The accelerated method allows for a deduction pf up to 50% of the cost of the assets during the first year of operation.

Ranges of acceptable depreciable useful lives for certain categories of assets

- Buildings (only straight-line method may be applied):
  - Office and industrial buildings: between 40 and 60 years
  - Buildings used in storage, trading and distribution activities and stores: between 32 and 48 years

- Motor vehicles: between 4 and 6 years
  (straight-line or degressive method may be applied)
- IT equipment, cash and invoicing machines: between 2 and 4 years
  (straight-line, degressive or accelerated method may be applied)
- Furniture: between 9 and 15 years (straight-line or degressive methods may be applied)
- Software: 3 years (straight-line or degressive method may be applied)
- Trademarks, licenses: contract duration or period of use
  (straight-line or degressive method may be applied)
- Patents: contract duration or period of use (straight-line, degressive or accelerated method may be applied)

Management and consultancy services

Management and consultancy services, technical assistance services and other services are fully deductible.

However, between the affiliated parties the costs connected to the administration, management, control, consultancy and similar functions are deducted at the central or regional level through the parent-company, in the name of group. It is expressly provided that a company may not deduct such costs incurred based on the mere juridical relationship with an affiliated party. Such costs could be deducted by the subsidiary only if the subsidiary receives services it needs for its business (i.e. do not duplicate the services provided by its own management).

Romanian companies that benefit from construction, assemblage, supervision, consultancy, technical assistance and any other activities performed by non-residents are obliged to register the contracts concluded with these partners with the territorial tax authorities. Contracts concluded for activities performed outside Romania do not have to be registered.

Deadline for registration of service contracts is **30** calendar days from their signing date. A standard statement shall be submitted in this respect by the Romanian company to its territorial tax office where it has its tax domicile.
Any change to the initial statement shall be also reported within **30** days from the date when the change has occurred.

Special provisions when expenses are considered as non-deductible

The New Fiscal Code explicitly provides that expenses with management, consultancy and assistance services will be considered as non-deductible if these are supplied to the Romanian taxpayer by a person situated in a state with which Romania **has no** legal instrument for exchange of information and the transactions are qualified as artificial.

Legal instruments for exchange of information include double tax treaties concluded by Romania with other states, agreements concluded by the European Union with non-EU states.

In determining the amount of a tax or social security contribution, tax authorities may disregard a transaction that has no economic purpose, adjusting its tax effects, or re-classify the form of a transaction / activity to reflect the economic content of the transaction / activity.

Transaction without business purposes means any transaction / activity that is not intended to produce economic benefits or profits, and which produces, artificially, a more favourable tax situation.

If a transaction or activity is reclassified, for the adjustment of the tax effects, the specific rules for determination of the taxes, taxes and compulsory social contributions governed by the Fiscal Code are applied.

The tax authority is in fact required to give reasons for disregarding a transaction or reclassifying the form of a transaction, by indicating the relevant elements in relation to the purpose and content of the transaction des-consideration / reclassification, as well as all the means of evidence considered for that purpose.

Cross-border transactions or a series of cross-border transactions qualifying as artificial by the competent tax authorities will be no longer protected by double tax treaties.

Artificial cross-border transactions mean cross-border transactions that do not have an economic content and cannot normally be used in ordinary economic practices, the essential aim of which is to avoid taxation or to obtain tax benefits that could otherwise not be granted. Cross-border transactions are those transactions between two or more persons, at least one of which is outside Romania.

Interest costs and other costs equivalent with interest from economic perspective

The following rules apply to the interest costs and other costs equivalent with interest from economic perspective incurred by associated enterprises:

- Exceeding borrowing costs will be deducted up to **1.000.000 Euro / tax period.**
- The amount that exceeds this deductible cap will be deducted up to **30%** / tax period applied to the following computation basis:

  Income recorded under the applicable accounting regulations
  – Expenses recorded under the applicable accounting regulations
  – Non-taxable income
  + Profit tax expenses
  + Exceeding borrowing costs
  + Deductible tax depreciation expenses

➢ If the computation basis concerned has a negative value or is equal with zero, the exceeding borrowing costs are non-deductible in the fiscal period and may be carried forward, without limitation, in the next fiscal years in the same deduction conditions, until they full deductibility.

Exclusions from the scope of the rule exceeding borrowing costs

If the taxpayer is an independent entity in the sense that it is not part of a consolidated group for financial accounting purposes and has no associate and no permanent establishment, it fully deducts the exceeding borrowing costs in the tax period in which they are supported.

There are fully deductible exceeding borrowing costs resulting from loans used to finances a long-term public infrastructure project that is intended to provide, improve, operate and/or maintain a large asset, considered to be of general public interest if project operators are registered in the EU, and borrowing costs, assets used for the project and project operator income come from / are in the EU.

The rules in question are also applicable to the net interest and losses on foreign exchange differences, carried forward according to the provisions of Fiscal Code in force until the date of 31 December 2017 inclusive.

Hybrid mismatches

Hybrid mismatch arrangements are used in aggressive tax planning to exploit differences in the tax treatment of an entity or instrument under the laws of two or more tax jurisdictions to achieve double non-taxation, including long-term taxation deferral.

The latest amendments brought to the Fiscal regulate the imported mismatches and hybrid mismatches that arise, both between Member States, and with third countries.

Mismatch outcome means a double deduction or a deduction without inclusion.

Double deduction means a deduction of the same payment, expenses or losses in the jurisdiction in which the payment has its source, the expenses are incurred, or the losses are suffered (payer jurisdiction) and in another jurisdiction (investor jurisdiction).

Deduction without inclusion means the deduction of a payment in any jurisdiction in which that payment is made (payer jurisdiction) without a corresponding inclusion for tax purposes of that payment in the payee jurisdiction.

Depending on the situation resulting from the uneven treatment of some hybrid elements, the Romanian taxpayer applies one of the following adjustment rules:

- failure to deduct a payment/expense/loss, or
- including payments in its taxable income.

Transfer pricing

The transactions between related parties must respect the arm's length principle.

As a rule, two companies are considered related (affiliated) if one of them holds, directly or indirectly, at least 25% of the shares in the other company or it effectively controls it, or if a third party holds, directly or indirectly, at least 25% of the shares in the two companies.

Comparison interval

Transactions between affiliated persons are based on the market value principle if the transaction's financial indicator / transaction value (margin / result / price) falls within the comparison interval.

Transfer pricing files

Taxpayers must prepare transfer pricing files if their transactions exceed certain values in a financial year or are requested by the Romanian tax authorities during tax inspections.

In the case of failure to submit the file within the time limits provided by the tax authority / presentation of incomplete file requested during a tax inspection, the tax inspection bodies will estimate the transfer prices.

The estimation will result in an adjustment of the amount of income or expense, if any, related to the tax outcome of any of the related parties, based on the level of the central market trend.

Adjustment / estimation of transfer prices

Adjustment / estimation of transfer prices to reflect the market value principle of the goods or services provided in the transaction are carried out by the tax authorities at the value set by the central market trend.

In such case the identification of comparable transactions or companies will be made according to the general data on similar transactions or financial indicators related to the activities to be adjusted / estimated and to which both the tax inspection body and the taxpayer can have access.

Corporate income tax payment and reporting

Profit tax is computed in real system involving actual computation and reporting of quarterly profit tax: by 25th of the month following the quarters I - III.
The final profit tax due for the entire fiscal year shall be paid and reported by 25th March of the year following the previous year.

Taxpayers may opt between payment and reporting of the profit tax in real system and based on quarterly advance payments equal to a quarter of the previous year's profit tax, increased by the inflation rate.

The advance payments shall be realised by 25th of the month following the quarters I – IV. The final profit tax due for the entire fiscal year shall be paid and reported by 25th March of the year following the previous year.

External fiscal credit

Company may deduct from profit tax the profit tax computed by foreign permanent establishments and withholding tax paid abroad, which cannot exceed the profit tax computed by applying the Romanian profit tax rate (i.e. 16%).

The taxes paid abroad may be deducted if the provisions of double tax treaties apply.

The Romanian company shall have available documentation attesting that the taxes were paid abroad.

Fiscal losses

Companies may carry forward fiscal losses as declared in their annual profit tax returns for a period of seven years based on a FIFO method. It is not allowed to perform an inflation adjustment.

There is no profit tax group consolidation in Romania. Members of group of companies must file separate tax returns. Losses incurred by members of a group may not be offset against profits made by other group members.

However, there is a draft proposal to introduce rules on tax consolidation: computation and payment of profit tax a group by set-up and registration of a fiscal group.

Right to carry forward losses of the taxpayers that cease their existence as an effect of merger or spin-off is transferred to new se-up taxpayer, respectively to those that take over the patrimony of the absorbed or divided company, proportionally with the assets transferred to the beneficial legal persons, in accordance with the merger / spin-off project.

Right to carry forward losses of the taxpayers that do not cease their existence as an effect of removal a part of their patrimony, transferred as a whole, is divided between these taxpayers and those who partially take over the assets of the transferor company, as the case may be, in proportion to the assets transferred to the beneficiaries legal entities, according to the spin-off project, respectively with those maintained by the transferring legal person.

Withholding tax on dividends paid to Romanian shareholders

Romanian companies are required to withhold tax from dividends paid to resident shareholders by applying the following tax rates:

- **0%** for dividends paid to companies which have minimum **10%** in the share capital of the company paying dividends for uninterrupted period of at least **one year** ending at the dividend payment date.
- **5%** in all the other cases.

As a rule, dividends are paid out of profits reflected in the annual financial statements, which must be approved by the shareholders and submitted to the tax authorities.

Starting 15 July 2018, quarterly dividends may be paid by Romanian companies, based on interim financial statements. Thus, quarterly distribution of profit towards shareholders may be realised in the limit of net accounting profits obtained quarterly, plus any reported profits and amounts withdrawn from reserves available to this end, from which shall be deducted reported losses and amounts deposited in legal or statutory reserves, based on interim financial statements approved by the general decision of shareholders.

Settlement of amounts distributed during the financial year must take place after the approval of annual financial statements, and dividends distributed and paid in excess during the financial tear must be reimbursed in 60 days from the approval of annual financial statements.

Interim financial statements shall be audited if the persons that prepare them have a legal obligation to audit their annual financial statements or opt to audit them.

Interim financial statements shall be verified by censors in case the annual financial statements of the companies are subject to such verification under the law.

Taxation of income from immovable properties or from the sale-assignment of participation titles

As a rule, foreign legal entities that obtain income from immovable properties (sale, lease) located in Romanian or from the sale-assignment of participation titles in a Romanian legal entity shall pay 16% profit tax.

Income from the sale-assignment of participation titles is taxable in Romania in one of the following cases:

- Between Romania and residency state of the seller there is no double tax treaty in place.

- Between Romania and residency state of the seller there is a double tax treaty in place, the double tax treaty gives the taxation right to the other state, but the beneficial owner does not provide for its tax residency certificate.

- Between Romania and residency state of the seller there is a double tax treaty in place, but the treaty gives the taxation right to Romania, no matter if the beneficial owner provides for its tax residency certificate.
  Romania has the taxation right if the shares sold are held in a company whose assets are formed in principal, directly or indirectly, of immovable properties located in Romania.

Non-taxable income

Income from sale of equity securities held at a Romanian legal person or a foreign legal person situated in state with which Romania has concluded a double tax treaty is non-taxable if at the selling date including the taxpayer holds for an uninterrupted period of one year minimum **10%** of the share capital of the legal person at which it held the equity securities.

These provisions are not applicable to the income from sale of equity securities held a Romanian legal person by a foreign legal person resident in state with which Romania has not concluded a double tax treaty.

3.1.2. Specific tax for the hospitality field

Starting 1 January 2017, Romanian companies exceeding the annual turnover of **1.000.000 Euro** must pay specific tax if, on 31 December of the previous year, met the following cumulative conditions:

- Had as main activity or secondary activity one the activities mentioned below and perform work in those areas, as follows:
  - 5510 "Hotels and similar accommodation facilities"
  - 5520 "Accommodation facilities for holidays and short-term periods"
  - 5530 " Parks for caravans, camps and camps"
  - 5590 "Other accommodation services"
  - 5610 "Restaurants"
  - 5621 "Food (catering) activities for events"
  - 5629 "Other food services not classified elsewhere"
  - 5630 "Bars and other beverage service activities"

- Do not undergo liquidation.

Micro-companies are not obliged to pay specific tax.

Specific tax is computed according to certain formulas provided by the law.

If companies – profit taxpayers – have as main activity or secondary activity one of the activities concerned, but do not actually perform the activity in those fields, do not have to pay specific tax.

Taxpayers which, during the year, also earn income from activities other than those covered by the specific activities and which apply to this income the system of declaring and paying the corporate income tax, are obliged to determine and pay at the same time:

- The specific tax for income from hospitality activities.
- Corporate income tax under related rules for income from activities other than hospitality activities, with all the obligations arising under this title and the methodological rules for its application.

Specific tax is payable in two equal instalments:
by 25 July and 25 January that follows the previous semester.

3.1.3. Micro-companies' income tax

Romanian companies whose annual turnover does not exceed **1.000.000 EUR** must pay micro-companies' income tax (instead of profit tax).

Taxation rates are differentiated as follows:

- 1% for micro-companies having at least employee or one administrator / director whose monthly gross income equals with at least the minimum gross salary per economy.
- 3% micro-companies having no employees or in case the administrator / director does not obtain income.

The tax rate applies on the turnover (adjusted with certain income and expenses for taxation purposes). **Any income received by micro-company from another state is not taxable if the income is obtained from a state with which Romania has concluded a double tax treaty and the income was taxed in the other state, based on a payment proof.**

The exchange rates used to determine the equivalent in euro is that valid for the last business day of the year in which the income was recorded.

Micro-companies having a subscribed share capital of at least 45.000 RON and at least two employees may opt only once to apply profit tax starting with the quarter in which they cumulatively meet these conditions, the option being final.

Micro-companies' income tax shall be paid and reported on a quarterly basis, by 25th of the month following the previous quarter.

Starting 1st April 2019, micro-companies that perform sponsorships may deduct the related expenses from the tax only if at the singing date of the sponsorship contract the beneficiaries are registered in the Registry of entities for which tax deductions are granted.

3.2. Individual income tax

Starting 1 January 2018, **10% flat tax** is due for the majority types of income realized by individuals (including for salaries) (being reduced from 16%).

Starting with 1 January 2016, the dividend is taxed at **5% income tax rate.**

The fiscal year is the calendar year.

Double tax treaties concluded between Romania with other countries prevail over domestic legislation if more favourable. The prevalence may be invoked based on a valid tax residency certificate of the non-resident.

Taxpayers

Romanian tax residents are liable to Romanian tax on their worldwide income, whereas non-Romanian tax residents are liable to Romanian tax on their Romanian source income.

Tax residence

An individual is a Romanian tax resident if he/she meets at least one of the following conditions:

- The individual has his/her domicile in Romania (as proved by a valid ID card).
- The individual has his/her centre of vital interests in Romania.
- The individual is present in Romania for a period (periods) exceeding 183 days during any 12-month period, ending in the fiscal year concerned.

Romania has concluded Double Tax Treaties with 87 countries around the world. Most of these treaties are based on the OECD Model Tax Convention on Income and on Capital. If an individual qualifies as a resident of one of the two states, the relevant treaty may be applied.

Income tax is applied to the following income:

a. In case of Romanians domiciled in Romania, on their worldwide income (except for salaries received from abroad for activities performed abroad).
b. In case of resident individuals, other than those mentioned at letter a), only on their income sourced in Romania, starting with date when they become residents in Romania.
c. In case of non-resident individuals performing independent activities through a permanent establishment in Romania, to the net income of this permanent establishment.
d. In case of non-residents individuals performing dependent activities in Romania, to the net salary derived from this dependent activity.

Individuals who meet one of the following residency criteria – have their centre of vital interests in Romania or are physically present in Romania for more than 183 days in 12-consecutive months ending in the calendar year concerned – for three consecutive years are taxable on their worldwide income as of their fourth year.

Taxable income

The 10% tax rate applies to the following types of income:

- Salary income
- Income from independent activities
- Income from intellectual property rights
- Income from granting the use of goods (rent)
- Income from investments (**except for dividends – 5% rate**)
- Pension income over 2.000 RON per month
- Income from agricultural, silvicultural and pisciculture activities
- Income from prizes and gambling
- Income from real estate transactions (special rates)
- Income from other sources

Employment income

Taxpayers

The following persons are considered taxpayers:

- Employees of Romanian companies, administrators and directors remunerated under constitutive acts and/or mandate contracts.
  The employer is obliged to compute, pay and declare the salary tax monthly.
- Foreign individuals performing activities in Romania based on a foreign employment contract. They are obliged to submit o monthly income return and to pay the salary tax monthly for the salaries obtained from Romania.

Taxable income

The gross income from salary is comprised from salary and taxable benefits.
Gross income from salaries are all revenues in cash and/or in kind, derived by an individual conducting an activity under an individual employment contract or under a special status / statutory regulation under the law, irrespective of the period to which they refer, the name of revenues or the form in which they are granted, including allowances for temporary work disability.

Remuneration of the administrators and net profit derived by them from Romanian companies under constitutive act or general meetings of the shareholders are deemed as salary income.

Salary taxation rules apply to any other amounts or benefits of salary nature or assimilated to salaries.

Taxable benefits include, without limitation, the following:

- The use of any good, including a vehicle of any type, from the company's patrimony, for personal purposes, save for the domicile – workplace round trip.
- Housing, food, clothing, personnel for household activities, and other goods or services provided free of charge or for a fee lower than the market price.
- Non-reimbursable loans.
- Cancellation of a receivable of the employer against the employee.
- Telephone subscriptions and the cost of telephone calls, including phone cards, for personal purposes.
- Travel permits for any transport means, used for personal purposes.
- Insurance premiums paid by the bearer for own employees or another beneficiary of income from salaries, upon payment of such premium, other than the mandatory ones.
- Meal, gift and holiday vouchers.

Benefits in kind granted by employers or third parties are taxable at their market value. This value is added to the monthly gross salary income received by the individual and, because it is treated as salary income, is subject to individual income tax and social security contributions.

Non-taxable income

Non-taxable incomes include, without limitation:

- Contributions of the employer to private pension fund of **400 EUR/year/employee.**
- Contributions of the employer to private health insurance schemes of **400 EUR/ year/employee.**
- Value of the technical equipment, personal and work protective equipment, protection food, medicines and sanitary materials, other protection labour rights, mandatory and uniforms, that are granted according to the legislation.
- Amounts received by the employees for covering the transport and accommodation expenses during business trips in Romania and abroad.
- Daily allowances for business trips in Romania and abroad.
- Expenses performed by the employer for professional training and improvement of the employee related to the activity performed for the employer.
- Cost of telephone subscriptions and of the telephone conversations, including telephone cards, performed for business purposes.
- Use of the company car, which used both for business and personal purposes in case vehicle expenses are deducted at **50%.**

- Gifts in cash or in kind or gift vouchers in the limit of **150 lei** offered by the employer to employees, as well as in the benefit of their minor children, with the occasion of Easter, 1 June, Christmas and similar holidays of other religious denominations, and the gifts offered to female employees on 8 March.

Special provisions for individuals qualifying as IT specialists

Individuals that qualify as IT specialists according to the Romanian legislation and who receive salary income related to the design and creation of software are exempted from paying income tax in Romania (please note some criteria need to be observed).

However, all the social security contributions (i.e. pension, health and work insurance contributions), both employee's and employer's contributions, are due by/for them, as is the case of all other employees.

Employee Incentive Plans

Incentive plans (stock options) are now specifically regulated by current individual income tax legislation. As per the Romanian Fiscal Code, stock options benefits are not taxable at grant or exercise; the moment of taxation arises upon disposal of the shares.

Reporting and payment obligations

Local employment contracts

For the primary job, the salary tax is applied on the net income computed as the difference between the gross income and the following:

- Mandatory social security contributions
- Personal deduction
- Union fee
- Contribution to the private pension fund up to the annual limit of **400 EUR.**
- Contribution to the private health insurance schemes up to the annual limit of **400 EUR.**

For each of the secondary jobs, salary tax applies on the difference between gross income and mandatory social security contributions.

Personal deduction is granted to employees whose gross monthly income is up to the amount of **3.600 RON** including.

Individuals earning only salary income under a local Romanian contract do not have to file a tax return.

The employer withholds, pays and reports all salary taxes and social contributions to the state budget, as a rule, by 25th including of the month following that the income refers.

However, salary taxes and social contributions may be paid and reported quarterly, by 25th of the month following the previous quarter in certain cases including:

- Profit taxpayers which, in the previous year, registered total income of maximum 100.000 Euro and had an average number of up to 3 employees exclusively.
- Micro-companies which, in the previous year, had an average number of up to 3 employees exclusively.

Salary income earned by the employees whose activity consists of computer software development is tax exempt, subject to certain conditions stipulated in the ministerial order.

The taxpayer may decide for directing to charitable purposes up to **3.5% of the annual salary tax due.**

Non-profit entities and worship units benefit from the redirected amounts if at the time of their payment by the fiscal body or the employer / income payer is listed in the Register of entities for which tax deductions are granted.
The employer is obliged to issue at the employee request a document including at least the following information: identification data of the employee, income realised during the year, personal deductions granted, tax computed and withheld.
This document does not have a standard form.

Taxation of employment income from abroad

Foreign individuals working in Romania can conclude local employment agreements with Romanian companies, or they can work in Romania based on foreign employment agreements concluded with a foreign employer (i.e. as secondees).

If the foreign individual has a local employment agreement, he will be liable to pay Romanian income tax on the income earned in Romania.

Foreign individuals employed abroad are obliged to submit a monthly income return and to pay the salary tax monthly for the salaries obtained from Romania,

by 25th of the month following that the salary relates to.

If an individual receives salary from abroad for work performed in Romania, he will be liable to pay Romanian income tax on the income earned as a result of his activity in Romania (unless the applicable Double Tax Treaty exempts the expatriate from such liability).

If an individual receives salary from abroad for work performed outside Romania, then this type of income is not taxable in Romania.

Directors' fees

Directors' fees are treated as employment related income and are taxed at the applicable individual income tax rate.

Income from intellectual property rights

Net income from intellectual property rights is computed by the income payer (legal persons or any other entities obliged to conduct accounting) as follows:

Gross income – minus notional amount of **40% applied to the gross income**
Income tax = 10% x net income

Income payer must compute, withheld and pay income tax to state budget by 25th of the month following the month the income refers. Income tax shall be reported by the same deadline by submitting to the tax authority the Tax return 112.

Rental income

Rental income is subject to the 10% tax rate. **40% notional deduction is available.**

Income from prizes and gambling

Income from gambling is taxed as follows:

Income	**Tax**
Up to 66.750 RON, including	1%
Over 66.750 RON – 445.000 RON including	667,5 RON + 16% for the amount exceeding 66.750 RON
Over 445.000 RON	61.187,5 RON + 25% for the amount exceeding 445.000 RON

Investment income

Capital gains from transfer of securities (including shares in limited liability companies) are taxed **at 10%. Dividends are taxed at 5%.**

Romanian resident legal entities paying dividends to individuals (residents or non-residents) are required to withhold the tax.

Income derived from foreign exchange / interest rate transactions (e.g. forward on exchange rate, swaps, options, any combination thereof and margin transactions) is taxed at 10%. Losses from these transactions may be offset against similar gains.

Income from transfer of immovable property form personal patrimony

Taxpayers who obtain income from transfer of the ownership right over the constructions and land are liable to pay income tax.
The transfer deed must be in authentic form.

Tax = 3% x (transaction value – non-taxable cap of 450.000 RON)

If the transaction value is lower than the minimum value established by the market study carried out by the chambers of the notaries public, the notary public notifies the tax authorities of the respective transaction.

The income tax is due by the transferor.
Income tax is computed and collected by the public notary.
The registration of transfer deed into the land book is conditional by the payment of income tax.

The tax is not due in the following cases:

- The ownership right over the land and constructions was acquired by restoring the property right based on special legislation.
- The ownership right was acquired by means of donations between relatives and affinities up to 3rd degree including, as well as between spouses.
- In case of cancellation with retroactive effect of transfer deeds.

Notary fees linked to the execution of the transfer deed and costs for registration of the deed into the land book are generally borne by the buyer. These are not included in the income tax.

Income for other sources

Revenue from virtual currency transfer is taxed as revenue from other sources.
The gain from the transfer of virtual currency is determined as a positive difference between the sale price and the purchase price, including the direct costs related to the transaction.

For these incomes the beneficiary must submit the single declaration
(the tax is not withheld at source).

Earning below the level of 200 lei / transaction is not taxed provided that the total earnings in a fiscal year does not exceed the level of 600 lei.

Taxation of non-residents

Foreign citizens earning salary income for activities performed in Romania and who are liable to Romanian income tax must register with the tax authorities and they receive a fiscal registration number.

EU nationals can legally stay in Romania for up to 3 months from their entry in Romania. In order to extend the legal stay in Romania beyond 90 days, an EU-national is required to obtain a certificate of registration from the Romanian Immigration Office (ORI), in accordance with the purpose of stay. When the certificate of registration is issued, the individual is also allocated with a personal numerical code that is required to pay monthly taxes.

Foreign individuals liable to Romanian income tax must submit monthly income tax returns and pay **10%** income tax by 25th of each month for the previous month.

In terms of social contributions, for EU/EEA individuals, the EU social security regulations apply. For non- EU/EEA individuals, where no bilateral social security convention in place, Romanian law applies.

The Questionnaires for establishing the fiscal residence of the individuals

The individual arriving in Romania whose stay in Romania exceeds 183 days, during any interval of 12-consecutive months, ending in the calendar year concerned, shall submit to the Romanian tax authority the Questionnaire for establishing the fiscal residence of the individual upon arrival in Romania, within 30 days from fulfilling the 183 days of presence in Romania.

The individual leaving the country for a period exceeding 183 days, during any 12-consecutive months, shall submit to the Romanian tax authority the Questionnaire for establishing the fiscal residence upon departure from Romania, within 30 days from fulfilling the 183 days of presence abroad.

3.3. Social security contributions

Employment income

In Romania, all employers and employees, as well as other categories of taxpayers, must contribute to the health and social security state system.

Rates of the social security contributions are provided by the Fiscal Code. These can be changed by the annual Law of the State Social Insurance Budget and the State Social law.

Currently, the rates are:

- Employees' contributions:
  - Social security contribution: **25%** (applied to the gross income)
  - Health insurance contribution: **10%** (applied to the gross income)
- Employer's contributions:
  - Social security contribution:
    - 4% for special working conditions
    - 8% for particular working conditions and other working conditions
  - The insurance contribution for work: **2.25%** (applied to the gross income)

Local employment contracts

Employers are obliged to compute, withheld and pay monthly mandatory social security contributions.

Individuals earning only salary income under a local Romanian contract do not have to file a tax return.

The employer withholds, pays and reports all salary taxes and social contributions to the state budget, as a rule, by 25th including of the month following that the income refers.

Tax incentives for construction sector applicable in the period 1 January 2019 – 31 December 2028

Gross monthly salaries ranging between 3.000 RON and 30.000 RON inclusive obtained by individuals based on individual employment contracts benefit from the following tax incentives:		
Tax	**Employee**	**Employer**
Income tax	Exemption	N/A
Social security contribution	21.25%	Exemption
Health insurance contribution	Exemption	N/A
Work insurance contribution	N/A	0.3375% (reduction from 2.25%)

Income assimilated to salaries (such as remuneration obtained by administrators and directors) benefit only from salary tax exemption.

Taxation of employment income from Romania

While it is not compulsory for foreign individuals to have a local employment contract, those who do must pay individual income tax and social security contributions.
Foreign nationals may benefit from social security payment privileges based on the EC Social Security Regulations or a bi-lateral Social Security Agreements (signed by Romania).

Thus, EU citizens employed by an EU company and seconded to work in Romania are exempted from paying all social security contributions in Romania (including health fund contribution) if they can make available an A1 certificate from their home country's authorities, proving that they continue to contribute to the home country's mandatory social security scheme. Similarly, individuals who fall within the scope of one of the bi-lateral social security agreements Romania has are exempted from paying all social security contributions in Romania if they can make available a Certificate of Coverage from their home country.

Contributions for disabled unemployed persons

Companies having at least **50** employees are obliged to employ disabled persons in a percentage of at least **4%** from the total number of employees.
Companies that do not employ disabled persons in the afore-mentioned conditions must pay to the state budget monthly an amount computed by applying the **4% rate** to the minimum gross salary per economy multiplied with the number of the working places for which the company did not employ disabled persons.

Income from independent activities

Social security contribution

Individuals that obtain income from independent activities shall compute and pay social security contribution if their estimated annual income is as at least 12 minimum gross salaries per economy (annual threshold), in force in the year for which the contribution is due.
Social security contribution rate is **25%** and is applied to the annual threshold.

For 2020 year the threshold is 26.760 RON = 2.230 RON x 12 months.

Individuals shall submit the single declaration by 15 March of year following that for which the contribution is due.

The social contributions shall be paid by 15 March of year following that for which the contribution is due.

An individual that starts an activity during the year must submit the single declaration in 30 calendar days.

In 2020-year, the deadline of 15th March for submission of the Single Declaration and for payment of the individual income tax and social contributions is extended to 25th May 2020 including.

Income from intellectual property rights

The income payer is required to withheld social security contribution and health insurance contribution if the individual obtains an estimated income from intellectual property rights equal with at least 12 minimum gross salaries per economy (annual threshold), in force in the year for which the contribution is due.

The rates are:

- social security contribution: **25%**
- health insurance contribution: **10%**

The rates are applied to the annual threshold, the taxes being limited to this threshold.

The income payer is required to pay and the report contributions monthly by 25th of the following month. Reporting must be made using the Tax return 112.

The social security contribution rate shall be applied to income chosen by the individual that shall not be less than the above threshold.

In establishing the annual threshold there are considered income obtained by the individuals for the entire year.

Health insurance contribution for all types of income (except for employment income)

Individuals that obtain income from one or several categories of income must pay health insurance contributions if they estimate for the current year income whose cumulated value is at least equal with 12 minimum gross salaries per economy (annual threshold), in force in the year for which the contribution is due.

The income includes:

- Income from independent activities
- Income from rent of immovable properties
- Income from agricultural, forestry and fish farming activities
- Investment income (interest, dividend, capital gains)
- Income from other sources

Health insurance contribution rate is 10% and is applied to the annual threshold, being limited to this threshold.

Individuals shall submit the single declaration by 15 March of year following that for which the contribution is due. The health insurance contributions shall be paid by the same deadline.

In 2020-year, the deadline of 15th March for submission of the Single Declaration and for payment of the individual income tax and social contributions is extended to 25th May 2020 including.

3.4. Withholding tax due by non-residents for Romania derived income

Romanian tax law

Under the Romanian Fiscal Code, non-residents are subject to withholding tax ("WHT") on their envisaged gross taxable income derived from Romania if there are **no** overriding provisions in international treaties.

Currently, the WHT owed by a non-resident for taxable income derived from Romania should be calculated, withheld, remitted and reported to the state budget by the resident income payer by the 25th including of the month following the one in which the income was paid.

Dividend tax is reported and paid by 25th including of the month following the one in which dividend is distributed/paid. If dividends distributed were not paid until the end of the year in which the annual financial statements were approved (N+1), the tax must be paid by 25th January including of the following year (N+2).

Therefore, it is advisable that dividends shall not be distributed if there is no real intention or available cash to effectively pay them. As a rule, dividends may be distributed from profits included in approved annual financial statements, submitted to the Romanian tax authorities. However, starting 15 July 2017, quarterly dividends may be paid based on interim financial statements.

WHT due on payments in foreign currency must be computed, withheld and paid in Romanian lei (RON), using the exchange rate published by the National Bank of Romania, valid on the payment date of the income.

The following tax rates apply to the gross income obtained by non-residents from Romania:

- **16% general withholding tax rate applicable to the payments made to non-residents in respect of:**
  - management and consultancy services in any field of activity, irrespective of the place of supply
  - services supplied in Romania, e.g. technical assistance, marketing, advertising, construction works, assemblage services (services supplied outside Romania (other than consultancy and management) are excluded from withholding tax scope)
  - interest
  - royalties
  - brokerage commissions from economic operations
  - liquidation proceeds, etc.

Income is taxed at 16% withholding tax if this is paid in a state with which Romania has concluded a double tax treaty, but the beneficiary of the amounts does not present to the Romanian income payer a valid tax residency certificate at the income payment date.

- **5% for dividends.**

- **50%** for interest, royalties, brokerage commissions, management and consultancy services in any field of activity, irrespective of the place of supply, services supplied in Romania, income from exercising a liberal profession, if this is paid to a non-resident from a state with which Romania has not concluded a double tax treaty or treaty for exchange of information and if the income paid relates to "artificial transactions" as defined under the Fiscal Code.

Avoidance of double taxation

The more favourable provisions apply if there are different rates in the domestic legislation (Romanian Fiscal Code), Double Tax Treaties concluded by Romania with other states (DTTs) and the European legislation.

The European legislation applies in the relationship of Romania with the EU Member States.

In case a taxpayer is a resident of country of the EU or Switzerland, tax rate applied to the taxable income obtained by a taxpayer from Romania is the more favourable rate from the internal legislation, the EU legislation and double tax treaties, if the income beneficiary proves its residency in a state with which Romania has concluded a double tax treaty and, as applicable, meets the condition of the beneficial owner of the EU legislation.

DTTs may reduce the rates or exempt from WHT some categories of income.

The more favourable provisions of Double Tax Treaties may be applied if the Romanian income payer holds in his possession, at the date of payment, a valid tax residency certificate issued of the non-resident beneficiary.

Thus, non-residents that are beneficiaries of income from Romania must deposit to the income payer the original or legalised copy of the tax residency certificate, accompanied by an authorised translation in Romanian language.

The electronic or online format issued by the foreign tax authorities represents the original certificate and accepted for applying the double tax treaties.

The tax residency certificate is valid for the year in which the payments are made and in the first 60 days of the following year provided that the residency criteria have not changed. The Romanian income payer is responsible, for receiving the tax residency certificate and for applying the provisions from double tax treaties.

To apply the tax exemptions under the European legislation, non-resident shall provide to the income payer, on the income payment date, its tax residency certificate and statement of the beneficial owner.

Withholding tax exempt income

Dividends are withholding tax exempt if they are paid by a Romanian company to an EU company in the following conditions:

a. The EU Company, beneficiary of dividends, meets cumulatively the following conditions:
   - It has a certain legal form provided in the Romanian Fiscal Code
   - It is resident of a state from the EU under the tax legislation of this state
   - It pays profit tax / a similar tax, with no exemption or option
   - It holds at least **10%** from the share capital of the Romanian company for an interrupt period of **one year** ending at the payment date of dividends

The conditions listed above are included in the statement of beneficial owner, which shall be prepared and signed by the EU company.

b. Romanian company meets cumulatively the following conditions:
   - It is a company set up under the Romanian law and it has the legal form of a joint-stock company (SA), limited liability company (SRL) or limited partnership by shares (SCA)
   - It pays profit tax, with no exemption or option
   - It holds a valid tax residency certificate of the beneficial owner at the dividend payment date and an affidavit of the beneficial owner indicating that he meets this status. Issuance date of tax residency certificate and of the statement shall precede or almost be equal with the first payment date.

Interest and royalties are withholding tax exempt if the Romanian company pays income the associated companies' resident in the EU and a holding of at least 25% of the share capital of the Romanian company is met for a continuous period of at least two years prior to the date of payment of interest and royalties.

A company is associated with another company if, at least:

- first company has a minimum direct participation of 25% in the share capital of the second company; or
- the second company has a minimum direct participation of 25% in the share capital of the first company; or
- a third company has a minimum direct participation of 25% both in the share capital of the first company and of the second company.

WHT Refund

If the tax residency certificate and, if the case, the statement on beneficial owner are not presented on the income payment date, the domestic WHT rate must be applied.

After presentation of these documents, WHT refund must be made by the income payer at the non-resident request within the legal statute of limitation (5 years).

Double taxation relief

For the tax paid by a non-resident in Romania, the non-resident may benefit from taxation relief granted by its residency state under the conditions of the applicable Double Tax Treaty. To this end, non-resident may submit, personally or via tax agent, an application to the Romanian tax authority, accompanied by its valid tax residency certificate and other justifying documents, requiring the issuance of a tax payment ascertaining certificate.

Romania has concluded Double Taxation Treaties with 87 countries around the world, including with all EU Member States. Most of these treaties are based upon the OECD Model Tax Convention on Income and Capital.

Both the tax credit and the tax exemption methods may be used for double taxation relief, in the conditions provided in the relevant double taxation avoidance treaty.

Double tax treaties concluded by Romania with other states include:		
South Africa	France	Poland
Albania	Georgia	Portugal
Algeria	Greece	Qatar
South Arabia	Hong-Kong	Germany
Armenia	India	Serbia
Australia	Indonesia	Montenegro
Austria	Iran	San Marino
Azerbaijan	Ireland	USA
Bangladesh	Island	Singapore
Belarus	Israel	Syria
Belgium	Italy	Slovakia
Bosnia-Herzegovina	Lithonia	Slovenia
Bulgaria	Lebanon	Spain
Canada	Lithuania	Sri Lanka
Czech Republic	Luxembourg	Sudan
China	Japan	Sweden
Cyprus	Kazakhstan	Tajikistan
South Korea	Kuwait	Thailand
North Korea	Malaysia	Tunis
Croatia	Malta	Turkey
Denmark	Macedonia	Turkmenistan
Ecuador	Great Britain	Ukraine
Egypt	Morocco	Hungary
Switzerland	Mexico	Uruguay
United Arabian Emirates	Moldova	Uzbekistan
Estonia	Namibia	Vietnam
Ethiopia	Nigeria	Zambia
Russia	Norway	
Philippines	Netherlands	
Finland	Pakistan	

The content in Romanian language of the double tax treaties is published on the link below.

http://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Conventii/Conventii.htm

Income	Withholding tax rates	
	RO Fiscal Code	The EU Legislation
Brokerage commissions	16%	—
Management and consultancy services, irrespective of the place of supply	16%	—
Services supplied in Romania	16%	—
Dividends	5%	**0%** Dividends are WHT exempt if these are paid by a Romanian company to an EU company in the following conditions: ➢ The EU Company, beneficiary of dividends: • Has a certain legal form provided in the Fiscal Code • Is resident of a state from EU under the tax legislation of this state • Pays profit tax / a similar tax, with no exemption or option • Holds at least 10% from the share capital of the Romanian company for an interrupt period of one year ending at the payment date of dividends
Dividends	5%	➢ The Romanian company: • Is a company set up under the Romanian legislation and it has the legal form of a joint-stock company (SA), limited liability company (SRL) or limited partnership by shares (SCA) • Pays profit tax, with no exemption or option • Holds the tax residency certificate and statement of beneficial owner ***Tax Treatment in the hands of the recipient EU company.*** Under the Parent-Subsidiary Directive, dividends received by an EU Company shall be profit tax exempt and WHT exempt in the recipient EU Member State.
Interest	16%	**0%** Interest and royalties are WHT exempt if the Romanian company pays income to the associated companies' resident in EU and a holding at least 25% of the share capital of the Romanian company is met for a continuous period of at least two years prior to the date of payment of interest and royalties.
Royalties	16%	

Representative Offices

Authorised representative offices of foreign legal entities must pay an annual tax of **18.000 RON.** The tax must be paid by the last day of February for the previous year.

3.5. Value-added tax

VAT provisions from the Romanian Fiscal Code are generally in line with the EU Directive 2006/112/EC.

Scope of VAT

The operations falling within the VAT scope are those that cumulatively meet the following conditions:

- They represent a supply of goods/services in return for a consideration or an operation treated as such.
- The place of supply is deemed to be Romania.
- They are performed by taxable persons.
- They result from economic activities.

Taxable regimes

Taxable operations subject to VAT rates

These include local supply of goods and services. The VAT is charged by the supplier.

VAT exempt operations with deduction right

For such operations no VAT is charged by the supplier, while the deduction right of the input VAT incurred for the related acquisitions is preserved.

Examples of VAT exempt operations with deduction right include:

- Export of goods, transport and related services.
- Intra-community supply of goods.
- Certain operations performed in free trade zones and free warehouses.
- Supply of goods to a bonded warehouse, a VAT warehouse and related services.

Exports of goods

The supply of goods which are dispatched/transported outside the EU by the supplier/the buyer or by any other party on their behalf is VAT exempt.

VAT exemption must be justified with the invoice, the document proving the export (e.g. export customs declaration) and the transport document proving that the goods left the Community.

There are also VAT exempt the supply of services, including the transport and the services ancillary to transport, which are directly linked to export of goods.

Intra-community supplies of goods

Intra-community supply of goods represents the transfer of ownership from the supplier to the beneficiary when these goods are dispatched or transported from Romania to another Member State of the EU.

Intra-community supplies from Romania are VAT-exempt, provided that certain conditions are fulfilled (i.e. the beneficiary provides the supplier with its valid VAT registration number and the supplier holds the invoice and the transport document).

Starting 3rd February 2020, it is introduced, as condition to apply VAT exemption for intra-community deliveries, correct preparation and submission of the recapitulative statement (VIES), unless the supplier can properly justify the deficiency, in a manner considered satisfactory by the tax authorities.

Call-off stock arrangements

Starting 3rd February 2020, it is considered that when shipping or transporting the goods to the warehouse located in another Member State, there is no intra-Community delivery in the Member State of departure of the goods, respectively an intra-Community acquisition in the Member State in which the goods arrive in stock.

It is considered that only when the transfer of the right to dispose of goods to the buyer takes place an exempted intra-Community delivery in the Member State of departure of the goods and a taxable intra-Community acquisition in the Member State where the stock of goods is located.

Thus, it is avoided the situation in which the supplier must be registered in each Member State in which he shipped / transported goods under the call-off stock regime.

Both the supplier and the buyer must keep a register of the goods transferred in the call-off stock regime, to ensure the adequate monitoring by the tax administrations.

It is introduced the obligation for the supplier's recapitulative statement to mention the identity of the buyers to whom will be subsequently delivered the goods shipped under the call-off stock arrangement.

Chain transactions

Starting 3rd February 2020, it is provided that, if the same goods are delivered successively and are shipped or transported from one Member State to another Member State directly from the first supplier to the last customer in the chain, it will be considered that the shipment or transport is attributed to the delivery made to the intermediary operator.

By way of derogation, if the intermediary operator has communicated to his supplier the VAT registration number that has been issued to him by the Member State from which the goods are shipped or transported, the transport shall be considered to be attributed to the delivery of goods made by the operator intermediate.

VAT exempt operations without deduction right

For such operations, the supplier does not charge VAT, but in the same time it is not allowed to deduct the related input VAT incurred upon its acquisitions.

Examples of operations VAT exempt without deduction include:

- Banking, finance and insurance.
- Medical, welfare and educational activities, if performed by licensed entities.
- Rental and leasing operations involving immovable goods, as well as supply of old buildings and of non-building land. For these operations, the seller may opt for taxation, based on a written notification submitted to the tax authority.

A building is deemed old if it is supplied after 2 years from its first occupation or use or it has not been so transformed that its structure, nature or its destination have been modified, or in the absence of such changes, if the cost, exclusive of VAT, of the transformations is less than 50% of the building's market value, excluding the land value, after such transformation.

Import of goods

The VAT for imported goods is subject to VAT rates and must be paid at the customs authority in accordance with rules regarding import duties.

Intra-community acquisitions of goods

Intra-community acquisitions of goods represent the acquiring of ownership right by the buyer, for movable tangible goods which are transported from another Member State to Romania.

The place of supply for intra-community acquisitions of goods is Romania and the buyer applies VAT under the reverse charge mechanism.

VAT chargeability

As a rule, chargeable event occurs at the date of supply of goods or services.

The VAT chargeability (date when the VAT becomes due) correspond to the chargeable event date (general rule).

As an exception from the general rule, the VAT chargeability occurs:

- whenever an invoice is issued before the chargeable event occurs or
- whenever an advance payment is cashed.

Supplies of services that determine successive settlements, such as construction-assemblage works, consultancy, research, expertise and other similar services, are deemed as performed at the date when are issued work statements, time sheets, other similar documents stating the services supplied or, as applicable, based on contractual provisions, at the date when these documents are approved by the beneficiaries.

For services rendered on a continuous basis (e.g. renting out, right to uses a trade mark), the supply takes place at each date stipulated in the contract for payment or, in absence of such clause, at the issuance date of an invoice, but however the settlement period may not exceed one year.

Chargeability for intra-community supplies of goods occurs at the date when the invoice is issued, but no later than the 15th calendar day of the month following the one in which the supply has taken place.

Chargeability for intra-community acquisitions of goods occurs at the issuance date of the invoice provided in the legislation state of the other member state or at the issuance date of self-invoice or in the 15th date of the following month in which the chargeable event occurred if no invoice/self-invoice was issued by that date.

VAT cash system

Taxable persons registered for VAT purposes (with business seat in Romania) may opt for VAT cash system if their annual turnover is less than **2.250.000 lei.** This system is mandatory for the first year in which the persons opted for its application. VAT chargeability for these persons occurs at the receipt date of total or partial value of goods or services.

Territoriality rules

The place of supply in case of cross-border services supplied by a taxable person to another taxable person is where the beneficiary is established its business place (general rule).

In case of services provided by taxable persons to non-taxable persons, the place of taxation is the place where the supplier has established its business place.

For certain services (i.e. ancillary transport services, work/valuations of movable tangible goods) in case they are provided to a beneficiary taxable person established outside the EU, the place of supply is deemed to be Romania, if the services are effectively used and enjoyed in Romania.

The services provided by companies outside Romania to a Romanian taxable person are VAT-able in Romania. The Romanian taxable person applies VAT under the reverse charge mechanism.

The services provided by Romanian companies to non-EU taxable persons are not taxable in Romania. The Romanian supplier must demonstrate that the beneficiary is a taxable person and it is established outside Romania.

Intra-community services (i.e. between EU established entities), both performed and received by a Romanian entity, are subject to special reporting requirements (i.e. in the VAT Return and in the Recapitulative Statement for intra-community trade).

Taxable amount

Taxable amount comprises everything that constitutes a counterpart obtained by the supplier from the buyer to which are added taxes and ancillary expenses, such as commissions, transportation and insurance.

Taxable amount does not contain, for example, penalties, commercial and financial discounts, and value of the returned goods.

The initial output VAT charged may be adjusted in case of reduction or increase of the prices or in case of returns of goods, as well as in case the value of the goods or services supplied cannot be cashed due to the declared bankruptcy of the client in the case of implementing a reorganisation plan admitted and confirm by a court decision, through which the receivable of the creditor was modified or eliminated.

VAT rates

The standard VAT rate is 19% as of 1 January 2017 and applies to all goods and services.

The reduced 9% VAT rate applies for supply of certain goods and services, including for food and beverages, except for alcoholic beverages, supply of drinking water and water for irrigation in agriculture.

The reduced 5% VAT rate applies for supply of certain goods and services, including for:

- Accommodation in the hotel sector and similar-function sectors, including rental of camping grounds.
- Restaurant and catering services, except for alcoholic beverages, other than draft beer.
- Medicines, books, newspapers and periodicals (except for those designated solely or principally for advertising), accommodation in hotels or in areas with a similar function, cinema tickets, admission fees at museums, historical monuments, zoos and botanical gardens, fairs and exhibitions, supply of school manuals, supply of prostheses and orthopaedic products.
- Supply of housing delivered as part of welfare policy, including old people's homes, retirement homes, orphanages, rehabilitation centres for children with disabilities.
- Supply of housing with no more than **120** square metres and a value of maximum **450.000 RON**, subject to certain conditions regulated by the Fiscal Code. **Any individual may purchase a housing at reduced 5% VAT rate** if the housing having a utile surface of maximum 120 square meters, excluding the household annexes, whose value, including the land on which are built, does not exceed **450.000 RON.**

Deduction right

A taxable person is entitled to deduct the input VAT incurred on its acquisitions if these are designated to perform taxable operations.

Deduction right should be justified based on invoices, fiscal receipts that meet the conditions of simplified invoices (those that include the VAT code of the client and whose total value including VAT is lower than **100 EUR** including in RON equivalent) and import customs declaration, in case of imports.

These justifying documents must be in original.

The electronically issued invoices are also deemed as justifying documents for exercising the deduction right.

The invoice received by e-mail which is further printed and archived by the beneficiary is deemed as original invoice.

Input VAT related to acquisitions performed prior to the VAT registration may be retroactively deducted, within a maximum period of five years.

Invoice shall be issued no later than 15th calendar day of the month following that in which the supply was performed or downpayment was received.

Limitation of deduction right

The VAT related to acquisitions of goods and services which are not designated for business purposes, as well as the VAT on acquisitions of alcoholic beverages and cigarettes, is non-deductible.

50% limited deduction applies for VAT related to expenses connected to functioning, maintenance and repair of motor vehicles used for passenger transport with a maximum authorised weight of 3.5 tones and maximum 9 seats (including driver's seat) that are not used exclusively for business activities.

Also, 50% limited deduction applies for VAT related to purchase, intra-community acquisition, import, rent or lease of motor vehicles, that are not used exclusively for business activities.

This restriction does not apply to vehicles used exclusively for business activities and by special categories of individuals, for example, by sales and acquisition agents.

Investments

Taxable persons performing acquisitions for investments that are used both for operations with and without deduction right may deduct fully VAT during the investment process, after which the deducted VAT shall be adjusted accordingly.

Transfer of business

A transfer of assets which form a line of business performed during a division, merger, sale or as a capital infusion to company assets is outside the scope of VAT only if the receiver of the assets is a taxable person established in Romania.

Reverse charge for local supplies

Reverse charge applies for certain supplies between taxable persons registered for VAT purposes, having the place of supply in Romania.

Operations for which reverse charge apply are:

- Supply of ferrous and non-ferrous scrap, ferrous and non-ferrous waste, including semi-finished products resulting from their processing, manufacturing or melting.
- Residues and other recyclable materials consisting of ferrous and non-ferrous metals, their alloys, slag, ash and industrial residues containing metals or their alloys.
- Waste of recyclable materials and used recyclable materials consisting of paper, cardboard, textile, cables, rubber, plastic, glass and glass fragments.
- The materials mentioned above after their processing / transformation by means of cleaning, polishing, selection, cutting, fragmentation, pressing or casting into ingots, including ingots of non-ferrous metals for which other alloying elements have been added.
- Supply of wood and wood materials, as defined by Forest Code Law no. 46/2008.
- Supply of cereals and technical plants, including oilseeds and sugar beet, which are not in principle intended as such to end consumers.
- Transfer of greenhouse gas emission allowances, as defined in the art. (3) of Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading, transferable in accordance with art. 12 of the Directive, as well as the transfer of other establishments which may be used by operators in accordance with that Directive.
- Supply of electricity to a taxable dealer established in Romania, in certain conditions regulated by the Fiscal Code.
- Transfer of green certificates.

Starting 2016-year reverse charge has been extended to the following operations performed in the country between persons registered for VAT purposes:

- Supply of constructions, part of constructions and land of any type for which VAT applies (taxable by law or by option).
- Supply of mobile phones, integrated circuit devices (e.g. microprocessors, central processing units), game consoles, tablet PCs and laptops, if the value of the goods supplied, excluding VAT, is equal to or greater than **22.500 RON.**
  Reverse charge for such deliveries applies until **30 June 2022**.
- Supply of investment gold performed by taxable persons who have exercised their option for taxation and deliveries of raw materials or semi-fineness gold higher or equal to 325 per thousand, to purchasers of taxable persons.

VAT reporting

Fiscal period

The fiscal period is the calendar month (i.e. general rule).

However, for taxable persons registered for VAT purposes whose previous year-end turnover did not exceed **100.000 EUR** the fiscal period is the calendar quarter.

Invoicing

The invoice must be issued at the latest by the 15th calendar day of the month following the month in which the chargeable event occurred or downpayment was received.

The invoice must comprise the following mandatory information:

- A sequential serial number based on one or more series of numbers, which helps to uniquely identify the invoice (the number is assigned internally).
- Issuance date of the invoice.
- Date when goods were supplied or the date of cashing an advance, if this date is different from the issuance date of the invoice.
- Name, address (at least locality, street and number) and fiscal registration number, Trade Registry Number and share capital of the supplier.
- Name, address (at least locality, street and number) and fiscal registration number of the purchaser / social security number in case of an individual.
- Name and quantity of the goods/services supplied.
- Taxable amount of the goods/services or the invoiced advances, for each VAT quota, exemption or non-taxable operation, the unitary price, exclusive of VAT and price reductions.
- VAT rate and the output VAT denominated in lei, depending of the VAT rates.
- In case the VAT is not due, a mention to the relevant legal provisions from the Romanian Fiscal Code - Title "VAT" – or from the Directive 112 or any other mention from which results that the supply of goods or services is subject to an exemption or reverse charge.
- A reference to other invoices or documents previously issued, in case more invoices or documents are issued for the same operation.

Signing and stamping of the invoice is not mandatory.

Fiscal Code provides for the possibility of issuing summary invoices or invoices on behalf of the supplier, as well as for e-invoicing and e-archiving.

Records and statements

Companies established in Romania must keep correct and complete records of all operations carried out during the economic activity.

The companies must keep sales and purchases journals reflecting the values of the transactions performed and the related VAT.

The VAT return (code 300) must be submitted to the tax authority by 25th including of the month following the fiscal period. The VAT payable should be paid until the same date.

The Recapitulative statement regarding the intra-community trade of goods and services (code 390) must be submitted until 25th including of the month following the month in which the VAT chargeability has occurred. Under this statement the companies must declare the following intra-community transactions:

- Intra-community supplies of goods.
- Intra-community acquisitions of goods.
- Supply of services to taxable persons established in the EU.
- Acquisitions of services from taxable persons established in the EU.

The operations which are VAT exempt should not be declared in this statement.

The companies are required to file monthly *the Statement on/supplies and acquisitions performed on the Romanian territory by VAT registered persons,* by 30th including of the month following the reporting month (28/28 February for January).

The companies must also file and submit *the Intrastat statement* reporting the intra-community transactions of goods if they value exceed the ceilings established by the National Institute of Statistics.

The following Intrastat ceilings have been established for 2020 year: 900.000 RON for intra-community supplies of goods and, respectively, 900.000 RON for intra-community acquisitions of goods.

VAT refund

VAT returns with a VAT option are settled according to the degree of tax risk they present, as follows:

- In the case of low-risk VAT returns – issuance of the VAT refund decision by the tax authority in one day after low tax risk has been assessed.
- In the case of VAT returns submitted by taxpayers, other than large taxpayers, medium-sized taxpayers or exporters, subject to medium tax risk – with documentary analysis.
- In the case of high-risk VAT returns – with anticipated tax inspection.
- As a rule, for VAT returns submitted by large and medium-sized taxpayers and exporters, refund is subject to subsequent tax inspection.

VAT Refund for EU-companies and non-EU companies (under reciprocity conditions).

The procedures allow electronic submission of the forms for claiming refunds of the VAT paid in others EU Member States, through the electronic portal provided by the National Agency for Fiscal Administration.

Romania concluded VAT Refund Reciprocity Declarations with Switzerland, Turkey, Norway and Serbia.

Starting 2017-year, a tax adjustment for capital goods is realised annually during the adjustment period for **1/5 or 1/20 of** the price for the purchase, manufacture and construction of those goods.

VAT registration

The companies exceeding the annual turnover threshold of **300.000 RON (i.e. 88.500 EUR)** must register for VAT purposes.

If the annual turnover is below 300.000 RON, the taxable person is not required to register for VAT purposes.
The taxable person may opt to apply the general VAT regime.

If the taxable person performs exclusively operations which are VAT exempt without deduction, it is not required to register for VAT purposes.

Foreign entities

Any foreign entity that is neither established nor VAT registered in Romania, which performs taxable operations with deduction right (except for the operations for which the client is liable to VAT), an intra-community acquisition or intra-community supply, must register for VAT purposes in Romania before performing these operations.

A taxable person is established in Romania if it has established its main business place in Romania or has a fixed establishment in Romania.

A fixed establishment is deemed to be created in Romania if the respective company has enough technical and human resources to perform taxable deliveries of goods and/or services on a regular basis.

If a foreign entity is not registered in Romania but sells and delivers goods from another EU Member State to clients in Romania, which are not registered for VAT purposes (distance sales), and the value of those sale exceeds the threshold of **35.000 EUR per year**, this entity is required to register for VAT purposes in Romania.

Any foreign entity that is neither established nor VAT registered in Romania may opt for VAT registration if it performs one of the following operations in Romania:

- Import of goods.
- Renting out of immovable properties, if the entity opts to tax these operations.
- Supplies of buildings and the land they are built on if the taxpayer opts to tax these operations.

Split VAT was repealed starting 1st February 2020.

3.6. Excise duties

Harmonized excisable duties apply to alcohol and alcoholic beverages, processed tobacco, energy products (e.g. leaded and unleaded petrol, diesel oil, gas, coal) and electricity.

Non-harmonized excisable duties apply to heated tobacco products which, by heating, emit an inhalable aerosol, without combustion of the tobacco mixture; nicotine-containing fluids intended for inhalation by means of an electronic "Electronic cigarette" device.

Excise duties are due when excise goods are released for consumption (e.g. imported into Romania, removed from an excise duty suspension regime).

Excisable products may be produced, transformed, stored and received under a duty suspension regime only in a tax warehouse. The tax warehouse must have prior approval from the relevant tax authorities.

3.7. Local taxes

The most relevant local taxes are:

- Land tax
- Building tax
- Means of transport tax
- Tax on means of promotion and advertising
- Registration, licensing, certifications, authorisations issuance taxes

The statutory caps of the local taxes are provided by the Fiscal Code. Local councils establish the level of local taxes on annual basis considering the statutory caps.

Local councils have the right to install a level of the local taxes that goes maximum **50%** beyond the statutory cap.

City halls may install taxes to promote the locality like a city tax.

Taxation manner and taxation rates in case of building tax are based on destination of the building – residential or non-residential – and not by the category of the owner individual or legal person).

Land tax

Any persons that owns a land situated in Romania shall pay an annual land tax.

Land tax is computed based on the land surface, rank of the locality where the land is situated, are and category of land use, in accordance with the classification made by the local council.

Lan tax is also due for the land related to a building, for the land surface covered by a building.

Building tax

Any persons that owns a building situated in Romania shall pay an annual building tax. Building tax is applied to the taxable value.

Building tax rates provided by the Fiscal Code	
Individual persons	**Legal persons**
0.08% – 0.2% for residential buildings (applicable to the amounts determined spreadsheet)	**0.08% – 0.2%** for residential buildings
0.2 – 1.3% for non-residential buildings for non-residential buildings for which a valuation report was submitted or any document attesting that the acquiring date is in the last 5 years	**0.2% – 1.3%** for non-residential buildings
0.4% used for activities from agricultural field	**0.4%** for non-residential buildings used for activities from agricultural field
2% if the taxable value of the non-residential building cannot be determined, this rate applies over the value of the taxable value determined for residential building	
2% for non-residential buildings that have not been revalued in the last 5 years	**5%** if the owner of the non-residential building did not update the taxable value of the building in the previous 3 years

Building tax rates established by Bucharest Local Council in 2020[2]	
Individual persons	**Legal persons**
0.1% for residential buildings (applicable to the amounts determined spreadsheet)	**0.2% for residential buildings**
0.2% for non-residential buildings for which a valuation report was submitted or any document attesting that the acquiring date is in the last 5 years	**1.5% for non-residential buildings**
2% for non-residential buildings that have not been revalued in the last 5 years	**5%** if the owner of the non-residential building did not update the taxable value of the building in the previous **3** years

Taxable value of buildings

The taxable value of buildings owned by legal persons is the value as of 31 December of the year preceding that for which the tax is due and may be:

- The last taxable amount recorded in the records of the fiscal body.
- Value resulting from an assessment report drawn up by an authorized valuator (attached to the declaration).
- The final value of construction works for new buildings built during the previous fiscal year (recorded in the minutes of reception at completion of the works).
- The value of the buildings resulting from the act transferring ownership of the buildings acquired during the previous fiscal year.
- In the case of buildings financed under a finance lease, the value resulting from an assessment report drawn up by an authorized valuer.

The taxable amount of the building shall be updated every **3 years** based on a building valuation report prepared by an authorized valuator in accordance with the valuation standards applicable at the valuation date submitted to the local tax authority up to the first payment deadline of the reference year. If the evaluation report is submitted after this deadline, the tax authority will take into consideration for the next fiscal year.

Tax on non-residential buildings

Valuation reports shall be drawn up by an approved valuator according to the valuation standards applicable at the valuation date and shall reflect the value of the building on 31 December of the year preceding the reference year and shall not be recorded in the accounting records.

Valuation reports for building tax purposes can be verified by local authorities in accordance with the valuation standards in force at the time of valuation.

In case of extension, improvement, partial dismantling or other modifications to an existing building, including the full or partial change of the use, as well as in case of a revaluation of a building, which causes the taxable value to increase or decrease by more than 25%, the owner must submit a new tax return to the local tax authority within the territorial jurisdiction of which the building is located within 30 days from the date of the change and owes the building tax determined under the new conditions starting 1 January of the following year.

[2] Equal with those valid in 2019-year

Payment

Building tax and land shall be paid in two equal instalments, by 31 March and 30 September including.

Local council may grant to individuals **10% discount** if the entire amount of building tax and land tax is paid by 31 March including.

Tax on vehicles

Any person who has in its property a vehicle that must be registered in Romania shall pay an annual tax for the vehicle.

Cars are taxed on a rising scale for every 200cc, with different rates depending on the type of vehicle. Tax on other types of vehicles varies depending on the type and weight of the vehicle.

Land tax, building tax and tax on vehicles are due for the entire fiscal year by the person that has the asset in its ownership at 31 December of the previous fiscal year.

The taxes are payable twice a year by 31 March and 30 September.

Any person that purchases / sell a land, a building or a means of transport, must notify its territorial city hall within **30** calendar days form the purchase/selling date.

Other local taxes include:

- **Tax on shows:**
  - Up to **2%** for the theatre, ballet, opera, operetta, philharmonic or other musical show, the presentation of a film at the cinema, circus show or any internal or international sports competition.
  - Up to **5%** in case of any other artistic event.

- **Advertising tax:**
  - For advertising services: **from 1% to 3%** of the value of services supplied. **The tax is not due for advertising services realised through newspapers and other prints, TV, radio and internet.**
  - For displaying advertising signs: up to 32 RON for signs displayed at the place where the person performs its business and up to 23 RON in all the other cases.

3.8. Custom duties

Inside the EU there are no customs controls and no customs charges, therefore the community goods may be freely moved between Romania and other EU Member States.

Romania, as any other EU Member State, applies the Community Customs Legislation, as well as the Common Customs Tarif and the EU commercial measures on imports and exports.

From 1 May 2016 Union Customs Code (Regulation EU no. 952/2013 of the European Parliament and of the Council) is applicable, together with the Implementing Act and the Delegated Act of the Union Customs Code.

Custom duties are provided in the EU Common Customs Tariff.

Custom duties charged in the EU to the import from third countries are:[3]

- Conventional custom duties established under community trade policies and/or international treaties to which the community is a signing party.
- Preferential custom duties that are subject to preferential treaties or arrangements, of the association treaties concluded by the EU with various countries or groups of countries.

By manner of denomination, custom duties used in the EU are:

- Ad valorem duties.
- Specific duties (a fixed amount per imported product).
- Compound duties (an ad valorem duty plus a special tax).
- Mixt or alternative duties (with a minimum and a maximum).
- Variable duties based on CIF entry price in the EU, used at the import of vegetables and fruits.
- Season fees.
- Taxes established based on a technical formula (used in case of „transformed agricultural products" obtained from primary agricultural products and/or transformed, e.g. products containing milk, sugar and flour, for which the tax is computed based on recipe).

[3] http://www.dce.gov.ro/poli-com/Regim_import.htm

Customs value

Under the Customs Code of the European Union, the most commonly used method for determining the customs value is the transaction value, i.e. the price actually paid or payable for the goods when sold for export to the customs territory of the Union and adjusted where necessary.[4]

The actual price paid or payable is the total payment made or to be made by the purchaser to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and includes all payments made or to be made as a condition of the sale of the imported goods.

The transaction value shall be determined at the time of acceptance of the customs declaration based on the sale which took place immediately before the goods are brought into the customs territory concerned.

The customs value of the goods shall be determined and declared by importers in accordance with the provisions of the Community customs legislation.

The declaration of the customs value may also be submitted by a customs representative.

Limitation of the customs debt[5]

No customs debt shall be notified to the debtor after the expiry of a period of **three years** from the date on which the customs debt was incurred.

If the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the three-year period shall be extended to a period of a minimum of five years and a maximum of 10 years in accordance with national law.

Right of representation[6]

Any person may designate a representative in its relationship with the customs authority to prepare the documents and to perform the formalities provided for in the customs regulations.

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[4] Customs Code of the European Union, art. 70 paragraphs (1) and (2)
[5] Customs Code of the European Union, art. 103
[6] Customs Code of the European Union, art. 18

Representation may be direct or indirect.

In the case of direct representation, the representative acts in the name and on behalf of another person.

In the case of indirect representation, the representative acts in his own name but on behalf of another person.

The representative may be a customs agent.

The representative has the obligation to declare that he acts for the person who empowered him / her, to specify whether the representation is direct or indirect and to be vested with representation power.

Authorised Economic Operator (AEO)[7]

Economic operators that obtain AEO certification benefit from simplifications on custom procedures, obtaining of customs authorisations and performance customs formalities.

Member States may grant, upon request, the status of authorized economic operator (AEO) to any economic operator established in the Community and fulfilling specified criteria at Community level for control systems, practical standards of competence or professional clarifications, financial solvency and past record of compliance with customs requirements.

Obtaining AEO status is not an obligation imposed on economic operators; on the contrary, the decision whether to request this status belongs to them, and the choice is made according to their specific situation.
Authorized economic operators are also not obliged to require their business partners to obtain the status of AEO in their turn.

Under the art. 38 of the Regulation 952/2013, there are two types of AEO authorisations: AEOC – customs simplifications and AEOS – security and safety. Both types of authorisations may be held in the same time, by issuance of a combined authorisation.

[7] Order of National Agfency for Fiscal Administration no. 1486/2016 for approval of Techinicial Norms on granting the status of authorised economic operator
https://www.customs.ro/e-customs/aeo

Main benefits to AEO holders depend on the type of authorization:

- Facilitating access to customs simplifications. Access to customs simplifications shall take place in accordance with the customs rules in force, without being conditional upon obtaining the AEO status. However, if the person applying for a simplification is the holder of an AEOC authorization, the customs authority will not re-examine those conditions that have already been verified when granting the AEO status.
- Reducing the number of physical and documentary checks.
- Priority treatment of shipments if these are selected for control.
- Possibility to choose the location for the controls. AEOs may request that the customs control be redirected to another location where it will either take the shortest time or will result in the lowest AEO costs. However, that decision shall be subject to the consent of the customs authority concerned.
- Ability to be notified in advance.
- Reducing the set of data to be included in summary declarations.

The company holding an AEO certification is recognized by the customs authorities as a trusted company, providing certainty about compliance with safety and security standards.

From a tax perspective, economic operators holding AEO certificates benefit from postponement of VAT on the release of the goods in free circulation / upon their import based on the VAT deferment certificate, and in case of imports followed by exempt intra-Community supplies, these operators are not required to constitute the guarantee provided by law.[8]

[8] Fiscal Code, art. 326 para (7) and art. 293 para (1) letter m), Order of the Ministry of Public Finance no. 4121/2015, art. 7 para (1)

3.9. Environmental fund contributions

For certain activities, economic operators shall declare and pay contributions to the Environmental fund.[9]

Air-pollutant emissions

The activities generating discharge of air-pollutant emissions from fixed sources triggers for the companies performing the obligation to pay contributions to the environmental fund. This contribution varies **between 0.02 RON/kg and 20 RON/kg.** Air-pollutant emissions from fixed sources include the following: powders, nitrogen oxides, sulphur oxides, persistent organic pollutants, heavy metal emissions such as lead, cadmium, mercury.

Packaging waste

In case of packaging waste**, a contribution of 2 RON/kg** is due to the environmental fund. This contribution is due for the difference between the recovery target stipulated by law and the quantities recovered by companies.

Hazardous substances

The economic traders who introduce on the Romanian market hazardous substances must pay to the Environmental Fund **a contribution of 2%** of the value of such substances.

Wood and wood materials

A contribution of 2% from income realised from sale of wood and/or wood materials obtained by the administrator or the owner of the forest, except for firewood, trees and ornamental shrubs, Christmas trees, wicker and saplings.

Ferrous and non-ferrous waste

For the sale of ferrous and non-ferrous waste a contribution of **3%** from the revenues thus obtained is due. The amounts are tax withheld by the economic operators that perform collection and/or recovery of waste, that are obliged to pay them to the Environmental Fund.

[9] Government Emergency Ordinance no. 196/2005, art. 9

New and / or worn tires

A contribution of 2 RON/kg tire is due by the economic operators that introduce on the national market new and/or worn tires intended for reuse, for the difference between the quantities of tires corresponding to the annual management obligations provided for in the legislation in force and the quantities actually managed.

Ecotax

Ecotax of 0.15 RON/piece, applied to shopping bags with an integrated or applied handle, made of materials obtained from non-renewable resources, collected from economic operators who place such sales packaging on the national market. Ecotaxes must be distinctly highlighted by the retailers on sales documents (i.e. fiscal receipts) and their value is visibly displayed at the point of sale to inform end-users.

Oils

A fee of 0.3 RON/kg applied only once to the quantities of mineral oils, semisynthetic, synthetic, with or without additives, due by the economic operators that place such products on the national market. The fee must be distinctly shown on the sales documents.

Electrical and electronic equipment

A contribution due to the economic operators that introduce on the national market electrical and electronic equipment, …., for the difference between the quantities of waste electrical and electronic equipment corresponding to the annual collection obligations.

Portable batteries and accumulators

A contribution of 4 lei / kg of portable batteries and accumulators, due by the economic operators that introduce portable batteries and accumulators on the national market, for the difference between the quantities of waste batteries and portable accumulators corresponding to the annual collection obligations.

Companies placing EEE (electrical and electronic equipment) and B&A (batteries and accumulators) on the Romanian market are required to register with the environment authorities and to finance collection and recovery of the related EEE / B&A waste.

3.10. Clawback tax for medical products

To control medicine consumption and to ensure financing for increased consumption, the Romanian Government imposed a special tax.

Persons liable to pay the tax

Holders of marketing authorizations of medicines – Romanian legal persons – and holders of marketing authorizations of medicines – that are not Romanian legal persons, through their legal representatives, are obliged to pay a quarterly contribution for:

- medicines included in the national health programs,
- medicines with or without personal contribution, used in the ambulatory treatment based on medical prescription through open circuit pharmacies,
- medicines used in hospital treatment and
- medicines used in medical services granted through the dialysis centres,

supported from public funds (the Unique National Fund for social Health Insurance – CNAS – and from the budget of the Ministry of Health).

Tax payment and reporting

The quarterly contribution is calculated by applying a "p" percentage on the value of the consumption of drugs supported from public funds, consumption related to sales of each contribution payer.

CNAS communicates to the payers the value of the "p" percentage and quarterly consumption.

Calculation and reporting of the quarterly contribution shall be made by the persons obliged to pay it, after deducting the VAT from the amount related to the quarterly consumption of medicines communicated by CNAS.

A higher level of tax is applied for medicines included conditionally included in DCI list. The computation formula is based on certain data provided in the price-volume or price-volume-outcome arrangements.

The tax shall be paid and reported quarterly, by 25th of the second month following the end of the quarter for which this tax is due.

Romanian National Agency for Tax Administration is the entity responsible for administration of the quarterly contributions.

3.11. Construction taxes

Under Romanian legislation, there are various construction authorizations taxes and fees which must be paid upon real estate development.

1% tax for building permit, applied on the authorised value of the constructions works, including related installations. This is due to the local council.

Tax for prolongation of an urbanism certificate or of a building permit
is equal with 30% of the tax amount for issuance of initial certificate or authorization.

0.5% tax for construction quality

Investors or owners shall pay monthly **a tax of 0.5%** applied to the expenses for construction works, for which there are issued building permits. Computation and payment of the tax is made in instalments in line with the payment of related constructions expenses. This tax is payable to the State Construction Inspectorate.

0.1% tax for the state control

The investor is also liable to pay **0.1% tax** on the value of the authorized works.
The tax is paid to territorial construction inspectorate on the date when the notification regarding the start of the constructions works is sent.

0.5% contribution towards the Social House of Constructors

Companies owning/investing in buildings need to pay a tax of **0.5%** on the value of construction works.

0.05% Architects Union Tax

This tax is due by the beneficiary of the construction to the Architects Union from Romania, which is computed on the value of the construction (named "architecture stamp").

3.12. Fiscal procedure aspects

New Fiscal Procedure Code entered into force on 1 January 2016.

Status of limitation

General status of limitation **is five years;** it begins flowing from 1 July of the year following that for which the tax liability is due.

However, the right to establish tax receivables is prescribed in **10 years** if these result from acts of criminal law; it begins to run from the date of committing the crime punished as such by a final court decision.

The prescription periods interrupts:

- In the cases and under the conditions established by the law for the interruption of the limitation period of the right to action.
- At the date of submission by the taxpayer / payer of the tax return after the expiration of the legal deadline for its submission.
- On the date when the taxpayer / payer corrects the tax return or carries out another voluntary act to recognize the tax claim due.

The prescription periods shall be suspended:

- In the cases and under the conditions established by the law for the suspension of the limitation period of the right to action.
- During the period between the start of the tax inspection / verification of the personal tax situation and the date of issuing the tax decision as a result of the tax inspection / verification of the personal tax situation, subject to the observance of the legal duration of their execution.
- If the taxpayer / payer evades from the tax inspection / verification of the personal tax situation.
- For the period between the date when a taxpayer was declared as inactive payer and the date of its reactivation.

If the tax authority finds that the limitation period of the right to set the tax debts is fulfilled, it shall terminate the procedure of issuing the title of the tax claim.

Duration of tax inspection

Duration of tax inspection is set by the tax authority, based on the inspection objectives, and may not be greater than:

- 180 days for large taxpayers, as well as for taxpayers / payers having secondary office, irrespective of their size.
- 90 days for medium taxpayers.
- 45 days for all the other taxpayers.

If the tax inspection does not end in a period equal to twice the period mentioned above, the tax inspection shall cease without issuing a tax inspection report and a taxation decision or a decision for no-changing the tax amount.
In this case, the tax inspection authority may resume the inspection, with the approval of the hierarchically superior body to the one who approved the initial tax inspection, once for the same period and the same tax obligations, by compliance with provisions on prescription period.

Interest for late payment

Interest is **0.02%** per each day of delay.

In addition, there is a penalty of **0.01%** per each day of delay.

Delay penalty does not remove the obligation to pay interest.

Delay penalty does not apply for main tax obligations not declared by the taxpayer and computed by the tax authority through taxation decisions.

Delay increases for tax obligations due to the local budgets are of **1%,** computed for each month or month fraction.

Right to receive interest in the case of amounts to be reimbursed from the budget

For the outstanding amounts to be reimbursed from the budget, the taxpayer / payer is entitled to interest. Interest is granted at the taxpayer / payer' request.

Penalty for non-declaration

For main tax liabilities not reported or reported erroneously by the taxpayer and determined by the tax inspection authority by taxation decisions, the taxpayer owes a penalty of non-declaration of **0.8%** per each day of delay.

Penalty of non-declaration is reduced, at the taxpayers' request, with 75% if the main tax liabilities, are for example:

- settled by payment or offset,
- rescheduled.

The penalty of non-declaration is increased by 100% if the main tax obligations resulted from the committing of certain tax evasion events, ascertained by the judicial bodies.

The application of the penalty of non-declaration does not remove the obligation to pay the interest but removes the obligation to pay late penalties.

Penalty of non-declaration is limited to the level of main tax receivable to which it applies.

The anticipated individual tax solutions

The taxpayer may require issuance of an anticipated individual tax solution.

The anticipated individual tax solution is the administrative act issued by the central tax authority to solve a request of the taxpayer regarding settlement of future tax situations; these situations are determined based on the submission date of the request.

The issuance of anticipated individual tax solutions is subject to 5.000 Euro in case for large taxpayers and 3.000 Euro for all the other taxpayers.

The taxpayer has the right to disagree with the solution. In this case, it shall send a notification to issuing tax authority in **30** calendar days from its receipt.

Deadline for issuance of anticipated individual tax solutions is up to 3 months.

The advance transfer pricing agreements

The advance transfer pricing agreement is the administrative document issued by the central tax authority to solve a request of the taxpayer / payer, regarding the establishment of the conditions and the modalities in which, during a fixed period, the transfer prices will be determined, in the case of the transactions carried out with affiliates. Future transactions that are the subject of the price agreement in advance will be evaluated according to the date of submission of the request.

Prior to submitting an application for the issuance of an anticipated individual tax solution or for issuing / amending an advance transfer pricing agreement, the taxpayer/ payer may request in writing to the competent fiscal body for a preliminary discussion to establish the existence of the future factual status for issuing a fiscal solution, respectively for the conclusion of an agreement or, as the case may be, the conditions for modifying the agreement.

By request, the taxpayer / payer proposes the content of the anticipated individual tax solution or the advance price agreement.

Before issuing the anticipated individual tax solution or the advance price agreement the competent fiscal body presents to the taxpayer / payer the draft of the administrative act in question, giving him the possibility to express his point of view.

The anticipated individual tax solution or advance price agreement shall be communicated to the taxpayer / payer to whom it is intended, as well as to the competent tax body for administering the tax claims owed by the taxpayer / payer requesting.

The anticipated individual tax solution and advance price agreement are opposable and binding on the fiscal body, only if their terms and conditions have been respected by the taxpayer / payer.

The deadline for resolving the request for issuing an advance price agreement is 12 months in the case of a unilateral agreement, respectively 18 months in the case of a bilateral or multilateral agreement.

The taxpayer / Payer, holder of an advance price agreement, has the obligation to submit annually, to the issuing fiscal body of the agreement, a report on how to fulfil the terms and conditions of the agreement in the reporting year. The report is submitted by the deadline provided by law for the submission of annual financial statements, respectively of the annual accounting reports.

The issuance of a transfer pricing arrangement is subject to 20.000 Euro in case for large taxpayers and 10.000 Euro for all the other taxpayers (if the consolidated value of the transactions included in the agreement does not exceed 4.000.000 Euro; if this value is exceed, the other taxpayers shall pay the highest fee).

Appeal

The appeal against tax inspection reports/taxation decisions shall be filed within **45 days** from the communication date of the fiscal administrative act, under the penalty of forfeiture. If the appeal is not resolved within 6 months from its submission date, the contestant may address the competent administrative court for the annulment of the act.

The deadline for solving taxpayer / payer's requests

The applications filed by the taxpayer with the tax authority shall be solved within 45 days from the registration date.

If additional evidence is needed to enable the decision to be taken, this period shall be extended by the period between the request date of the additional proof and their receipt date, but not more than:

- Two months if additional evidence is requested from the applicant taxpayer / payer. In this case, the two-month period may be extended by the tax authority at the taxpayers' request.
- 3 months, if additional evidence is requested from public authorities or institutions or from third persons in Romania.
- 6 months, if additional evidence is requested from tax authorities in other states.

If, based on risk analysis, settlement of the request needs a tax inspection, the deadline for the settlement of the application is no more than 90 days from the submission date of the application. In this case, the taxpayer is notified of the applicable settlement term within 5 days of the completion of the risk analysis. The tax inspection is a partial tax inspection.

Virtual Private Space

Virtual Private Space (SPV) is an electronic distribution service that provides online correspondence between the Ministry of Public Finance (MFP) and the National Agency for Tax Administration (ANAF) and individuals, legal entities and entities without legal personality.

Thus, taxpayers can exchange / require information with/from tax authorities and will have direct access to the entire archive of communication.

SPV could represent a faster and more reliable option that communication by post or communication in person at the counter of tax authority.

SPV can be used to exchange information, to write letters, complaints, to challenge decisions, to require meetings.

Also, taxpayers may require/receive official documents, such as tax attesting certificates, tax records, to send and receive administrative tax documents and executive orders, such as taxation decisions.

SPV will also allow access to the archive of two years of the communication online history and to current information on the payment obligations of the taxpayer.

Documents communicated by SPV have the same legal status as those communicated by post or at the counter.

Documents communicated by SPV will be no longer sent also by other communication means (for example, by post).

If the taxpayer opts for SPV, we recommend checking periodically the communication received and sent to reduce the loss of an information or communication.

Certification of tax returns

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

DAC6

Romania transposed in national legislation the Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements – "DAC 6" for short.

DAC6 introduces a new reporting obligation to report to the tax authorities information on certain cross-border tax-planning arrangements that could be used to obtain certain tax advantages (e.g. transfer of profits to more favourable tax regimes, the reduction of the due tax).

The new reporting obligation will enter into force on 1st July 2020.

Certain economic indicators

- Mandatory minimum monthly gross salary in 2020 year is:
  - 2.230 RON
  - 2.350 RON for individuals with higher education
  - 3.000 RON for personnel in the construction field
- Gross average monthly gain in 2020: 5.429 RON