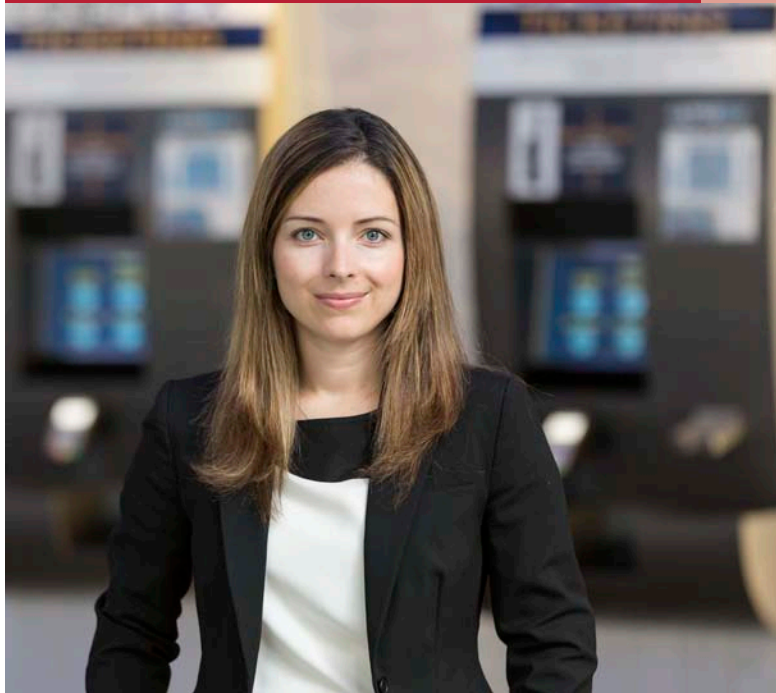


The Romanian Tax Pocket Book 2014

2014 Edition



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This publication aims to provide a general description of the tax system in Romania. The information contained is based on tax legislation and practice as at 20 April 2014.

Overview of the Tax Legislation

Taxation of Individuals

- Most types of income earned by individuals are taxed at a flat rate of 16%.
- Romanians domiciled in Romania are subject to taxation on their worldwide income (except for salaries received abroad for activities performed abroad, if certain conditions are met).
- Foreign individuals (including Romanians without a Romanian domicile) are taxable in Romania on Romania sourced income. Foreign individuals might become taxable in Romania on their worldwide income, however, if certain criteria are met.
- Individuals employed abroad and performing employment activities in Romania are required each month to calculate, declare and pay individual income taxes as well as contributions to the Romanian Social Security System for salaries obtained from their foreign employers, at the level of the income tax rates and social security contributions provided by the Romanian legislation.
- Certain tax exemptions may be applicable to employees working on software development.
- Dividend income, income from prizes and some other specific sources of income are subject to a final 16% withholding tax at source.
- Capital gains from transfers of securities are taxed at a 16% rate, irrespective of the securities' holding period.
- Income from the transfer of immovable property is taxed based on the holding period and value. The tax may vary between 1% and 3%.
- Interest income earned from deposit accounts held in Romania (including demand deposits / current accounts) is subject to a 16% withholding tax.

Taxation of Companies

- The standard corporate income tax rate is 16%.
- Micro-companies are required to pay a 3% tax on revenue.
- The dividend tax rate is 16% on dividends paid to Romanian companies and to non-resident companies. Non-residents may be eligible for a reduced rate under double tax treaties, allowing them to opt for the lowest rate. The tax is reduced to nil if the beneficiary is a company resident in an EU (including Romania) or EEA member state and holds, for at least one year, a minimum of 10% of the shares of the company distributing the dividends. In order to benefit from the relief offered by the Directive on the common system of taxation applicable for parent companies and subsidiaries of different Member States, the non-resident beneficiary has to provide to the Romanian company, at the moment the dividend payments are made, a valid tax residency certificate issued by the competent authority from its state of residency and, also, a statement on own responsibility attesting the fulfilment of the beneficiary criterion.
- Standard withholding tax on interest and royalties paid to non-residents is 16%, which can be reduced under favourable double tax treaty provisions. As of January 2011 these payments are also exempt from withholding tax if the beneficiary of the income is a company resident in the EU or EEA and holds at least 25% of the shares of the Romanian company for a minimum uninterrupted period of two years. In order to benefit from the relief offered by the Directive on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States, the non-resident beneficiary has to provide to the Romanian company, at the moment the interest and royalty payments are made, a valid tax residency certificate issued by the competent authority from its state of residency and, also, a statement on own responsibility attesting the fulfilment of the beneficiary criterion.
- As of 1 January 2012, credit institutions are required to apply International Financial Reporting Standards (IFRS). In connection with this, there are some specific transitional and ongoing rules for tax purposes. In addition, companies whose securities are admitted to trading on a regulated market are required to apply IFRS on individual annual financial statements starting with financial year 2012.

Local taxes

- Local taxes include building tax, land tax, tax on means of transportation, registration taxes, taxes for the issuance of certifications and authorisations, tax on means of promotion and advertising, tax on public performances, hotel occupancy taxes and other taxes.
- These are due to the local budgets of villages, towns and municipalities, Bucharest districts or counties, depending on the case, by any individual or legal person.
- In addition, as of 1 January 2014, legal persons are subject to a tax on constructions included in the first group of the Catalogue for classification and normal useful life of fixed assets, except for those which are subject to building tax. This tax is calculated by applying 1.5% to the gross value of existing buildings in tax payer registers as at 31 December of the previous year.

Value Added Tax (VAT)

- The standard VAT rate is 24%. Reduced VAT rates of 9% and 5% apply for certain goods and services.
- Rules determining the place of supply for goods and services (and hence the place for VAT taxation) are fully harmonised with EU Directive 112/2006 and EU Directive 8/2008 regarding VAT.
- Invoicing deadline is the fifteenth day of the month following that in which the supply was performed.
- VAT refund is available for EU and non-EU businesses.

Customs and International Trade

- Romania applies the EU Common Customs Tariff & EU customs regulations.
- Romania applies all EU free trade agreements concluded with third countries.
- Import licences are required for commodities such as oil, certain chemical products and weapons.
- No customs formalities are applied for goods with community status (goods produced in the EU or goods released for free circulation in the EU).
- Compensatory interest is due for Inward Processing & Temporary Admission regime goods released for free circulation in the EU.
- Security required for suspension customs regimes, with a few exceptions.

Excise Duties

- Romania applies the provisions of EU legislation on “harmonised” excise goods. Under Romanian tax legislation, the “non-harmonised” excise group includes coffee, cars with a cylindric capacity greater or equal to 3,000 cm³, yachts, ships and motor boats for leisure, with or without engine, motors with a power greater than 100 HP for boats for leisure, gold and / or platinum jewellery, natural fur garments, hunting and personal weapons, and ammunition for them.
- Excise goods can be produced, transformed, stored and received under excise duties suspension arrangements only in a tax warehouse, which should have prior approval from the tax authorities. Excise goods dispatched from other EU Member States can be received in Romania under duty suspension arrangements by registered consignees.

Environmental Fund Contributions

- Romania follows the European Environmental Law and applies the “Polluter Pays” and “Producer Responsibility” principles.
- Contributions to the Environmental Fund depend on the environmental impact of “polluting” activities carried out by companies.
- The main environmental contributions depend on compliance with the waste management obligations for packaging, tyres, oils, hazardous substances and also for air-pollutant emissions from fixed sources, sale of ferrous and non-ferrous waste, etc.
- Producers / importers / exporters of electrical and electronic equipment (“EEE”) batteries and accumulators (“B/A”) are required to register with the National Agency for Environmental Protection.

Fiscal Procedural Code

- Ordinance. No. 92/2003 regarding the Fiscal Procedural Code (“Tax Procedure Code”) regulates the major institutions of fiscal procedures governing the establishment, collection and refund procedure of taxes and any other contributions due by taxpayers to the state / local budget or vice versa;
- The Fiscal Procedural Code establishes general principles and special procedures applicable to tax administration;
- The Fiscal Procedural Code regulates the procedure for challenging typical administrative fiscal acts and documents deemed to have a similar status, and specific rules regarding the debt enforcement suspension of tax claims and the enforcement suspension of administrative fiscal acts.

Chapter I: **Taxation of Individuals**

1. 1 Personal Income Tax

1.1 General Principles

The flat income tax rate is 16%.

The fiscal year is the calendar year.

A resident is a person who:

- a. is domiciled in Romania, or
- b. has his / her centre of vital interests in Romania, or
- c. is present in Romania for more than 183 days in any 12 consecutive months interval ending in the concerned calendar year.

Romanian citizens who are residents for tax purposes in Romania are taxed on their worldwide income (except for salary income derived from work performed abroad, if certain conditions are met).

Romanian individuals with domicile in Romania who become residents of another State which has not signed a Double Tax Treaty with Romania continue to be taxable in Romania on their worldwide income for the calendar year in which the change of residence occurs, as well as for the next three calendar years.

All non-resident individuals who have been staying for less than 12 months in Romania are only taxed on the income they derive from Romania. Starting with the second year of presence, if they met one of the conditions b. or c. in the first year, they will be deemed residents, for tax purposes, in Romania and liable to worldwide taxation. Nonetheless, the provisions of the Double Tax Treaties must be observed, where applicable.

Individuals who enter or leave Romania for more than 183 days are required to fill in and file a Romanian tax questionnaire for the purpose of establishing their fiscal residency.

1.2 Taxation of Residents

Types of income and corresponding tax rates

Salary income

Salary is defined as income in cash and / or in kind received by individuals as a result of an employment contract and is taxed at a flat rate of 16%.

Other types of income, such as remuneration paid according to non-competition clauses, amounts representing compensatory payments, are also treated and taxed similar to income from salaries, etc. Furthermore, benefits in kind, such as meal tickets, gift tickets, nursery tickets, holiday tickets, the private use of company cars and telephones as well as administrator compensation, fees received by members of the General Meeting of Shareholders, the Management Council, the Board of Directors and the Supervision Council are treated as income from salaries and taxed accordingly.

The compliance obligations with respect to salary income are that:

- employers are liable to calculate, withhold and transfer income taxes on a monthly basis for employees (and directors remuneration based on mandate agreements) of Romanian companies, branches and representative offices of foreign companies.
- foreign individuals performing activities in Romania on the basis of an employment contract concluded in another State must submit a monthly income statement and pay monthly income tax.

Income from independent activities

Income from independent activities is taxed at a flat rate of 16% (mandatory social charges are deductible) and covers, among other sources:

- income from freelance activities (authorisation needed), including income from liberal professions;
- income from intellectual property rights.

Freelance activities

Income from freelance activities is assessed on the basis of the entries in single entry bookkeeping ledgers, which providers of independent activities are obliged to keep. Net income is calculated as gross income minus deductible expenses.

The following expenses are non-deductible: fines, late-payment penalties (other than contractual penalties), donations; and other expenses exceeding limits provided by current law.

Alternatively, specific categories of freelancers are taxed on the basis of a fixed income annual allowance, as communicated yearly by the local tax authorities.

Freelancers earning income from independent activities have to make quarterly advance tax payments for the tax due during the fiscal year (up to and including the twenty-fifth day of the last month of each quarter). However, an exception from this rule pertains to freelancers who derive income from agency contracts. The exception provides that the payer must retain the income so derived.

Intellectual property rights

Royalty payers (licensees) must calculate, withhold and pay 10% advance tax.

Licensors include the income, derived from royalty payments, in their annual tax declaration. The declaration is the basis on which the tax authority determines the amount on which the 16% tax rate is imposed.

The taxable base for income earned from intellectual property rights can be calculated as follows: the gross income minus any mandatory social contributions paid (withheld by the licensee) and minus a lump sum equal to 20% of the gross income. For the building of artistic monuments, a lump sum of 25% of the gross income derived from such construction is deductible.

There is also a possibility to opt for a final 16% withholding tax on the gross income. Such an option can be exercised as soon as the contract has been signed.

Rental income

Gross annual income represents the income earned by the owner during the year as stipulated in the rental agreement registered with the Romanian tax authorities.

Net taxable income is determined by deducting expenses incurred in connection with income from rent, with 25% of the gross income being eligible as deductible expenses. The net taxable income is then taxed at a flat rate of 16%.

Individuals earning such income have to make quarterly advance tax payments during the fiscal year. There is an exception for individuals obtaining income from the renting out of rooms in their own homes for tourism purposes.

Income earned by individuals from five or more rental contracts and income from renting out of more than five rooms for tourism purposes is considered income from independent activities and taxed accordingly. Homeowners who derive income from the renting out of up to five rooms for tourism purposes owe income tax calculated on the basis of an annual income allowance. The payment of this tax is made in two annual instalments (by 25 July and 25 November, respectively) and the tax is deemed final. Another option is also available, whereby homeowners can opt to have their income tax determined in real-time. In such cases, the taxes paid throughout the year are deemed advance payment towards the annual income tax due.

Individuals obtaining income from renting out more than five rooms for tourism purposes will determine, in real-time, the net annual income on the basis of the data available in the single entry books and make advance payments in two instalments. These individuals must subsequently submit a statement concerning their realised income, based on which a tax regularisation will be used to determine the annual tax due.

Income from pensions

Pensions are taxable at a flat tax rate of 16% for the amount in excess of RON 1,000 per month.

Mandatory social contributions are deductible for Romanian tax purposes.

Income from agricultural activities, forestry and fishery

The following activities are considered agricultural activities:

- horticulture;
- exploitation of vineyards, tree nurseries and the like;
- growth and exploitation of livestock, including the selling of unprocessed products.

Income from forestry is obtained by harvesting and selling products specific to the national forest fund. Income from fishery is obtained by exploiting fisheries and selling products.

Income from agricultural activities obtained through the exploitation of products in their natural state is determined on a fixed income allowance basis, by applying a flat rate of 16% to the taxable income; the payment deadlines are 25 October and 15 December, respectively.

Income obtained from the exploitation of processed products, as well as income

derived from forestry and fishery, is deemed to be obtained from independent activities.

Within certain thresholds set by the Romanian legislation, the income from agricultural activities is tax exempt.

Income from prizes

Tax on income from prizes is withheld at source and determined by levying 16% on the amounts exceeding RON 600 paid for each prize.

Income from investments

Dividends are taxed at a 16% flat tax rate.

Interest income is subject to a 16% flat tax rate, with the income tax withheld being final.

Capital gains in Romania are generally taxed at 16%, however, the following rules apply:

- for capital gains derived from the transfer of securities held in listed companies, the obligation to declare the income by means of an annual tax return and to settle the income tax due lies with the tax payer;
- income from forward operations of sale-purchase of foreign currency, based on a contract, is subject to 16% income tax at each transaction, with the income tax withheld representing advance tax payment for the annual income tax due;
- any net annual loss resulting from the transfer of securities, other than shares and transferable securities in non-listed companies, can be carried forward for up to seven consecutive tax years;
- for capital gains derived from the transfer of securities held in non-listed companies, the obligation of calculating, withholding and paying the income tax lies with the buyer, at the moment of acquisition;
- a 16% tax is applied on gains obtained by shareholders from the liquidation of a company. The legal person is required to calculate, withhold and pay the income tax.

Income from real estate transactions

Income from the transfer of real estate owned for less than three years is taxed as follows:

- for values up to (and including) RON 200,000, the tax is 3%;
- for values exceeding RON 200,000, the tax is RON 6,000 + 2% of the amount exceeding

RON 200,000.

Income from the transfer of real estate owned for more than three years is taxed as follows:

- for values up to RON 200,000, the tax is 2%;
- for values exceeding RON 200,000, the tax is RON 4,000 + 1% of the amount exceeding RON 200,000.

No income tax is due for ownership of real estate acquired under special laws, for donation deeds between relatives up to the third degree, between spouses and in cases of inheritance, provided the procedure is finalised within two years (an income tax of 1% is levied if the procedure is not completed within those two years).

Income tax paid for the transfer of ownership is withheld by the public notary and calculated at the value declared by the parties in the transfer documents. If the value declared by the parties is lower than the estimated value determined as a result of an appraisal conducted by the Chamber of Notaries Public, the income tax is calculated at the reference value, with certain exceptions. The tax is to be remitted by the twenty-fifth of the month following that in which the income was withheld.

Income from gambling

Tax on income from gambling is determined by levying a 25% tax rate on the net income.

The tax calculated and withheld upon disbursement is final. The net income is the amount exceeding RON 600 paid by the same organiser or payer of income during a single day.

Access to authorised locations is only allowed upon payment of an admission ticket valid for 24 hours from 8 am to 8 am. The access fee is RON 20 for casino-type gambling and RON 5 for slot-machine type games.

Other income

The obligation to calculate, withhold and pay income tax (16%) lies with the income payer, the tax being final.

The following types of taxable income are included in this category (NB. The list is not exhaustive):

- insurance premiums incurred by a company for the benefit of individuals with whom they have no employment relationship;

- gains on depreciation withdrawals, received from insurance companies as a result of insurance contracts concluded between the parties;
- income granted to retired former employees, in the form of discounts for goods, services and other entitlements, according to clauses in employment agreements or under special laws;
- income derived by individual taxpayers in the form of fees from commercial arbitration, etc.

Tax-exempt income

The main categories of tax-exempt income are:

- allowances for maternity leave, maternity risk and for child care leave paid from the health fund;
- incentives granted as aid to families for child care leave;
- salaries obtained by seriously disabled individuals;
- salary income obtained from employment activities rendered abroad, irrespective of the tax treatment of the income in that foreign country; however, if the remuneration is paid by, or on behalf of, an employer resident in Romania or is borne by a permanent establishment which the employer has in Romania, such income may be taxed in Romania only if a taxing right exists;
- stock option plan advantages, at the moment of being granted and exercised;
- allowances and any other amounts of the same nature, received by employees during delegation / secondment, limited to 2.5 times the level set for employees of public institutions, as well as amounts received to cover transport and accommodation expenses incurred;
- salary income derived from software development and design (some criteria need to be met, both by the employer and the employee);
- sponsorship and donations;
- inheritance;
- income from the sale of movable assets from personal patrimony (with the exception of those described as “capital gains”).

Deductions from income tax

When calculating the taxable income on salary from the primary workplace, the following amounts are to be deducted from the gross income:

- mandatory state social security contributions, due according to the law, in compliance with the provisions of European Union or other conventions / agreements regarding the coordination of social security systems to which Romania is a party;
- personal deductions calculated in accordance with the relevant laws;
- contributions to facultative pension funds, according to the relevant legislation, to facultative pension funds classified as such under the legislation regarding facultative pension by the Financial Surveillance Authority, made to authorised entities established in Member States of the European Union or the European Economic Area, up to the RON equivalent of EUR 400 annually;
- trade union membership fees.

For salary income obtained in other cases, the taxable income is assessed as the difference between the gross income and the social security contributions, due according to the law, in compliance with the provisions of European Union or other conventions / agreements regarding the coordination of social security systems to which Romania is a party; no personal deductions or family member deductions are applicable.

Taxpayers may redirect up to 2% of their annual income tax to charitable purposes (sponsorship).

1.3 Taxation of Non-residents

Income earned by non-resident individuals from activities performed in Romania or from income sources in Romania is generally subject to 16% tax, with certain exceptions (exceptions also appear if the tax is reduced or eliminated under an applicable double tax treaty).

Income sourced in Romania includes, among others, the following:

- income derived from conducting independent activities through a permanent establishment in Romania;
- income from dependent activities in Romania;
- some other specific types of income derived in Romania.

Withholding tax (16% flat tax rate) is levied on the following types of income sourced in Romania:

- dividends, interest, royalties and commissions received from a resident;
- interest, royalties or commissions paid by non-residents if they have permanent establishments in Romania and the interest / royalty / commission is an expense of those permanent establishments;
- income derived from sports and entertainment activities performed in Romania;
- income and fees representing remuneration received by administrators, founders or members of the Board of Directors, of a Romanian company;
- income from services rendered in Romania and abroad, excluding international transport and related services;
- income from independent professions performed in Romania;
- pension income higher than the monthly cap (RON 1,000);
- prize income from contests organised in Romania; Income obtained from liquidation of Romanian companies;
- non-residents' income attributed to a permanent establishment in Romania;
- a foreign legal persons' income derived from real estate situated in Romania or from the sale of shares;
- from dependent activities;
- income from the transfer of shares held in a Romanian legal entity;
- income from a partnership set up in Romania, including a partnership of a non-resident individual with a micro-enterprise;
- income from the transfer of the patrimony from the fiduciary to the non-resident beneficiary.

Gambling income obtained by non-residents in Romania is taxed at a 25% rate.

Regarding capital gains, non-resident individuals are generally subject to the same tax treatment as residents. Depending on the details of the transaction, the buyer or the seller may have the obligation to calculate, withhold and pay the capital gains tax from the sale of shares. To fulfil this requirement, non-residents may appoint a Romanian fiscal representative or a tax agent.

Income from real estate transactions is taxed at the same specific rates as in the case of residents.

Where foreigners can claim treaty protection, the more favourable rates / provisions under the relevant tax treaty can be applied by Romanian disbursers of income, if the beneficiaries have produced the required tax residency certificate.

2. Social Security System

2.1 General Principles

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

2.2 Contributions

Social contributions due on employment income

Employment income is generally subject to Romanian social contributions unless exemptions apply under the provisions of the EU regulations on the coordination of social security systems or of the social security agreements Romania concluded with non-EEA countries.

The social contributions rates paid by employers and employees apply on certain computation bases that may be capped as provided by the Romanian Fiscal Code. The contribution rates may be modified by the State Social Insurance Budget Law or by the State Budget Law. For 2014, the contribution rates are established as follows:

Employee contributions

- Social Security (pension) contribution: 10.5%
- Unemployment insurance fund: 0.5%
- Health insurance fund: 5.5%

For 2014, out of the total rate of the individual social security (pension insurance) contribution, 4.5% is automatically directed towards the private pension funds. The monthly assessment base is the gross income derived from dependent activities (in Romania and abroad).

Ceiling: the assessment base for the individual monthly social security (pension) contribution is capped at five times the average gross salary for each place of

revenue gain; for 2014 the national average gross salary is RON 2,298/month.

Employer contributions

- Social Security (pension) contribution: 20.8%; 25.8%; 30.8% depending on working conditions (capped);
- Health insurance fund: 5.2%;
- Medical leave: 0.85% (capped);
- Guarantee Fund: 0.25% of the salary fund;
- Unemployment insurance fund: 0.5%;
- Work accidents, risk insurance and occupational disease fund: 0.15% to 0.85%, depending on working conditions.

The monthly assessment base is the amount of gross income gained by individuals, resident and non-resident, based on an employment contract (or a service report or special status), also taking into account the exceptions provided by law, as well as the income treated as salary income (administrator remuneration / director on mandate contract, etc.).

Ceiling: the assessment base for the monthly social security (pension) contribution is capped at five average gross salaries multiplied by the number of insured individuals within the company.

The individual and employer health and unemployment insurance contributions remain uncapped and are calculated by reference to the relevant assessment bases stipulated by the Fiscal Code.

The monthly base for calculating medical leave contributions due by employers is capped at 12 minimum gross salaries multiplied by the monthly number of individuals covered by this contribution (the minimum gross salary applicable as of January 2014 is RON 850/month and will be increased to RON 900/month as of 1 July 2014).

The contribution to the work accident insurance fund varies between 0.15% and 0.85%, depending on the risk category. The criteria for establishing risk categories were established by Government decision.

A single tax return (Form 112) was introduced in 2011 for social contributions and income tax liabilities and the name list of insured subscribers. The obligation to

submit this return lies with companies and individuals with employer status or entities similar to employers, as described by the Fiscal Code.

To ensure the reporting of social contributions, Form 112 must also be filed by individuals deriving income from abroad for employment activities performed in Romania (provided a social security agreement was concluded between the individuals concerned and their non-resident employer). If such a social security agreement is not in place, the obligation to file the single tax return is with the non-resident employers.

The above requirement does not apply in cases where social contributions are not due in Romania pursuant to the EU regulations on the coordination of social security systems or to the social security agreements Romania concluded with non-EEA countries.

Employers calculate and withhold salary contributions when paying salaries. State budget and state social security budget contributions are payable by the twenty-fifth of the month following the one to which the salary relates. Deliberate failure to pay these withheld contributions within 30 days from this date is deemed a criminal offence and sanctioned accordingly.

Contributions due on income derived from independent activities

The taxable income derived from independent activities (other than those for which the income tax is withheld at source) is subject to social security (pension) contributions of 31.3% as well as to individual health insurance contributions of 5.5%. These contributions should be settled by the freelancers themselves. An exception is made in the case of freelancers who derive their income from agency contracts. In such cases, the obligation to withhold and settle the social security contributions rests with the payer of the income.

The calculation base for social security contributions (pension) can be freely chosen by the individual within the minimum and maximum limits provided by the Romanian tax legislation. Nonetheless, the insured amount cannot be lower than 35% of the average gross salary or higher than five times the average gross salary per month that applies in the year concerned.

Social security (pension) contributions are not due on this type of income if the individuals concerned already derive other income (e.g. employment) that is subject to social security contributions or they receive pensions or unemployment benefits.

The calculation base for health insurance contributions is the gross income derived

from self-employed activities minus the expenses incurred. The base cannot be lower than the applicable national gross minimum wage if the income derived from self-employed activities is the only income on which health insurance contributions apply.

Both social security and health insurance contributions are payable quarterly, in four equal instalments, by the twenty-fifth of the last month of each quarter.

Contributions due on income from intellectual property rights

For such income subject to withholding of tax at source (other than income from intellectual property rights, for which the income tax is determined based on the simple entry accounting), individual social security (pension) and individual health insurance contributions are due.

The monthly calculation base for individual social security (pension) contributions is capped at five times the average gross salary used to substantiate the state social insurance budget, which is approved on an annual basis by the state social insurance budget law.

The individual social security (pension) and health insurance contributions are calculated, withheld and paid by the payer of the income by the twenty-fifth of the month following that in which the income was paid.

The method for establishing the assessment base for individual social security contributions is the gross amount minus the expense allowance (20% or 25%) for income gained from any exploitation of intellectual property rights.

Individuals who already contribute to the health insurance fund (e.g. individuals deriving income from individual activities, salaries, pensions) and the social security fund (e.g. based on employment contracts) are exempted from paying these types of contributions for the income received from intellectual property rights.

Individuals who gain income from intellectual property rights do not have to contribute to the unemployment insurance fund.

Contributions due on rental income

For such income, individual health fund contributions are due.

The monthly base for calculating health fund contributions is capped at the level of five national average gross salaries.

Social security contributions (pension) are not due on such income.

Health fund contribution due on other income

Individuals deriving income from other taxable sources (e.g. dividends, prizes and gambling, income from other sources) are required to pay individual health insurance contributions of 5.5% in respect of the entire income derived from these sources, unless they already derive income that is subject to health insurance contributions (e.g. salary income, income from independent activities obtained by a freelancer authorised to perform economic activities) or they receive pension or unemployment benefits. The calculation base for individual health insurance contributions cannot be lower than the applicable gross minimum salary.

The health insurance contribution due is calculated by the tax authorities based on the income declared by individuals or based on the declaration regarding the calculation and withholding of income tax, for each beneficiary, and is payable on an annual basis within 60 days from the date the tax decision is communicated to the individuals concerned.

Health fund contribution due by individuals who do not derive taxable income

Individuals who do not earn taxable income are required to pay individual health insurance contributions of 5.5% in respect of the applicable gross minimum salary, provided they have a Romanian domicile and are not subject to exemptions under the EU regulations on social security coordination and the social security agreements Romania concluded with non-EEA countries, or they do not qualify as insured individuals, without having to pay the contribution.

In 2012, the National Agency for Fiscal Administration took over the competency to manage the mandatory social contributions due by individuals who generate income from independent activities, agricultural activities, forestry, fishery, from associations without legal personality, rental income, as well as those due by individuals gaining other types of income and those not generating any income.

3. Work authorisations and residency documents of foreign citizens

Working rights for citizens of the EEA and Swiss Confederation

European Economic Area (EEA) and Swiss Confederation citizens working in Romania as employees with a local / secondment contract do not have to obtain a work authorisation; these individuals have free access to the local labour market.

For secondees, a procedure for notifying the competent labour authorities has been established as regards the secondment details and this is the responsibility of the foreign employer.

Work authorisations

As a general rule, foreign individuals working in Romania need to obtain work authorisation before starting their activity here.

A “foreign individual” is a person not holding Romanian EEA or Swiss Confederation citizenship.

The types of work authorisations which can be granted to foreign individuals are: authorisation for permanent workers, secondees, seasonal workers, trainee workers, cross-border workers, highly skilled workers, as well as nominal work permits.

In certain circumstances, some categories of foreign individuals can perform work activities in Romania without having previously obtained a work authorisation, such as: family members of Romanian citizens, those employed by companies established in the EEA or the Swiss Confederation and seconded to Romania.

A procedure for notifying the competent labour authorities in respect of the secondment details of a foreign individual is also in place. This procedure is the responsibility of the Romanian employer.

The type of employment relationship can significantly affect the tax and social security liabilities. Specifically, foreigners performing activities in Romania based on local employment contracts are liable to pay income tax and social contributions on their entire salary income received in Romania, with the exceptions provided by the law. Foreigners seconded to Romania may be entitled to certain secondment rights (some with favourable tax regime) while observing the limitations / exceptions provided by domestic law and / or the EU regulations for immigration and social security coordination.

Work authorisations for permanent workers

Unless exempted by the law, in order to obtain the right to work required to conclude a local employment contract with a Romanian company, a foreign individual has to first obtain a work authorisation and corresponding long-stay visa.

Work authorisation for highly skilled workers

This type of authorisation can be granted to foreign workers who can be employed based on a local employment contracts while respecting certain salary-related criteria, contract periods, proving high professional qualifications, etc. For the holder of such authorisation, the right of stay in Romania is granted on the basis of an EU Blue Card.

Work authorisation for secondment purposes

Foreign individuals can be seconded to Romania by companies with headquarters in third countries on the basis of service contracts or within the same group of companies. The secondment can be arranged for up to 12 months within a five-year period and only based on an employment contract concluded between the secondee and the sending company.

In order to obtain the right to work in Romania as secondee, the foreign individual has to first obtain a work authorisation for secondment purposes and corresponding long-term visa (except for certain cases provided by law).

Residency documents

The documents attesting the right to stay on the Romanian territory are: the registration certificate, the residency card, the residency permit and the EU Blue Card.

Fiscal Registration Number

Foreign individuals including citizens of the EEA and the Swiss Confederation, earning income sourced in Romania and who do not need to obtain a residency permit or a registration certificate have, nonetheless, a fiscal obligation to request to register in Romania through a fiscal agent or representative in order to obtain a fiscal registration number.

The personal numerical code issued by the competent General Immigration Inspectorate to foreign individuals together with the residency permit or registration certificate (for EEA and Swiss Confederation citizens) is used as their fiscal identification number upon registering with the Romanian Tax Authorities.

Citizens from the EEA and Swiss Confederation undertaking dependent activities in Romania may have:

- a foreign employment contract (secondment);
- a local employment contract.

Romanian legal residence for EEA and Swiss Confederation individuals and their family members who are not EEA / Swiss Confederation citizens

EEA and Swiss Confederation nationals can enter and reside in Romania for up to three months without obtaining any residency documents (registration certificates). After this period, in order to have a legal right of stay they have to obtain a “registration certificate”. This certificate is issued within 24 hours from the application date and is

valid for up to five years. Registration certificates are obtained in accordance with the purpose of stay in Romania of the foreign individual (e.g. employment, secondment, means of support, etc).

EEA and Swiss Confederation nationals' family members who are not EEA / Swiss Confederation citizens themselves are subject to different immigration compliance requirements, as follows:

- obtain Romanian entry visas if necessary; and
- obtain a residency card if their stay in Romania is longer than three months.

Romanian legal residence for foreign individuals

As a general rule, foreign individuals whose stay in Romania exceeds 90 days within a six-month period need to apply for a temporary residency permit (there are very limited exceptions to this rules).

Temporary residency permit applications can be made only if a corresponding long-stay visa has already been obtained from a Romanian Consulate abroad (usually, in the home country or country of residence). Foreign nationals from USA, Canada and Japan are exempted from obtaining Romanian long-term visas.

The documents required for obtaining Romanian long-term visas / residency permits depend on the purpose of the stay.

Foreign individuals employed by a Romanian company or seconded to a Romanian company can obtain the corresponding long-stay visa after obtaining the temporary residency permit, only if the corresponding work authorisation has already been issued (with certain exceptions).

One of the types of temporary residency permit issued by the Romanian authorities (for highly skilled employees) is the EU Blue Card.

Among the advantages of being an EU Blue Card holder is the possibility to cumulate residency periods in different Member States in order to meet the conditions for being granted the status of long-term resident.

Obtaining the status of long-term resident and the long-term residency permit depends on fulfilling certain legal conditions, generally related to the duration of the stay in Romania of the foreign national or to the value of their investment.

Chapter II:

Taxation of Companies

1. Special provisions for applying the Fiscal Code

The substance over form principle

According to the 'substance over form' principle, the tax authorities may disregard a transaction without economic purpose or may reclassify the form of a transaction in order to reflect its economic substance.

Artificial transactions

The concept of artificial transactions was introduced as of 1 February 2013. Artificial transactions are defined as transactions or a series of transactions that have no economic substance or that cannot be used regularly within ordinary business practices, with their main purpose being to avoid taxation or to obtain tax advantages that could not be gained otherwise.

Artificial transactions are not considered part of the scope of the conventions for the avoidance of double taxation.

2. Corporate Income Tax

2.1 General Principles

Territoriality

A company is considered tax resident in Romania if its head office is registered in Romania or has its place of effective management in Romania.

Entities subject to corporate income tax

- Legal persons tax resident in Romania (generally meaning a Romanian company, a company managed and controlled in Romania, or legal persons set up in accordance with European legislation with the registered head office in Romania);
- Foreign legal persons doing business in Romania through permanent establishments;
- Foreign legal persons which derive revenue from or in connection with real estate located in Romania or from sale-transfer of shares held in Romanian companies;

- Foreign legal persons and individuals doing business in Romania in partnerships with or without legal personality;
- Resident individuals associated with Romanian companies for revenues derived in or outside Romania from partnerships without legal personality;
- Legal persons with their registered head office in Romania, established in accordance with EU legislation.

Corporate income tax rate

The standard corporate income tax rate is 16%.

The tax due for nightclubs and gambling activities is either 5% of the revenues obtained or 16% of the taxable profit, whichever is higher.

Micro-companies are subject to a special revenue tax rate of 3%.

2.2 Taxation of Resident Companies

Accounting and fiscal period

The fiscal year is the calendar year or the period during which the company existed, if it was set up or ceased to exist during that calendar year.

The accounting year is also usually the calendar year. Certain categories of entities (i.e. Romanian branches of foreign companies, Romanian consolidated subsidiaries and subsidiaries of the subsidiaries of foreign companies) are allowed to set an accounting year other than the calendar year, however, if the financial year of the parent company is different from the calendar year. Credit institutions, non-banking financial institutions, entities authorised, regulated and supervised by the Romanian National Securities Commission, insurance companies and private pension authorised entities are an exception from the previous rule. Their accounting year has to be the same as the calendar year.

As of 2014, companies can opt for a fiscal year different from the calendar year. The first amended fiscal year also includes the previous period of the calendar (i.e. 1 January - the day preceeding the first day of the amended fiscal year), representing a single fiscal year. Taxpayers have to communicate to the territorial fiscal authorities the change in the fiscal year at least 30 calendar days before the start of the amended fiscal year.

Tax base

The taxable profit of a company is calculated as the difference between the revenue derived from any source, throughout the tax year, and the expenses incurred in obtaining that taxable revenue, adjusted for fiscal purposes by deducting non-taxable

revenue and adding non-deductible expenses. Other elements, similar to revenue and expenses, are also to be taken into account when calculating the taxable profit.

Specific rules, in relation to fiscal value assessment, adjustments for step-down in value, amortisation, fiscal treatment of deferred profit tax and advanced payments, are in place for taxpayers applying the International Financial Reporting Standards.

Non-taxable revenues

The most relevant types of non-taxable revenue stipulated by the Romanian Fiscal Code are:

- Dividends received from a Romanian legal person or from a foreign legal person paying profit tax or a similar tax, located in a third country with which Romania has a convention for the avoidance of double taxation, if the Romanian legal person receiving the dividends holds at the date of their distribution at least 10% of the share capital of the Romanian or foreign legal person distributing the dividends, for a continuous period of one year;
- Dividends received by a Romanian company from a subsidiary situated in an EU Member State, provided the Romanian company pays corporate income tax and has held at least 10% of the subsidiary's shares for a continuous period of at least one year prior to the dividends being distributed;
- Favourable fluctuations in the price of shares and long-term bonds, registered by the company in which the shares and long-term bonds are held, as a result of capitalisation of reserves, benefits or share premiums;
- Revenue from reversal or cancellation of provisions / expenses that were previously non-deductible, recovery of expenses that were previously non-deductible and revenues from reversal or cancellation of interest and late payment penalties that were previously non-deductible;
- Revenue from the annulment of a reserve registered as a result of a participation in kind in the capital of other legal entities;
- Revenue from deferred income tax;
- Revenue resulting from the change in the fair value of real estate investments / biological assets owned by the taxpayers applying the International Financial Reporting Standards;
- Revenue from the liquidation of another Romanian legal person or of a foreign legal person located in another state with which Romania has a convention for the avoidance of double taxation if, on the date of the liquidation procedure commencement, the taxpayer has held for an uninterrupted one-year period at least

10% of the share capital of the legal person subject to the liquidation procedure;

- Revenue from the sale / transfer of participation titles held in a Romanian legal person or a foreign person located in a third country with which Romania has a convention for the avoidance of double taxation if, at the date of their sale / transfer, the seller has held for a continuous one-year period a minimum of 10% of the share capital of the legal person whose participation titles are held;
- Non-taxable revenue expressly provided for under agreements and memoranda, enforced by regulatory documents.

Deductibility of expenses

Expenses fall into three categories: deductible expenses, limited deductibility expenses and non-deductible expenses.

Deductible expenses

As a general rule, expenses are deductible only if incurred for the purpose of generating taxable income.

Some of the expenses specifically mentioned by the Fiscal Code include:

- marketing and advertising expenses;
- research and development expenses that are not recognised as intangible assets for accounting purposes;
- expenses incurred for environmental protection and resource conservation;
- expenses incurred for management improvements, IT system updates, quality management system implementation, maintenance and development and obtaining quality compliance confirmation;
- losses incurred when writing off client receivables in any of the following cases: the bankruptcy procedure of the debtor was closed due to a court ruling; if a reorganisation plan is accepted by a court of law and confirmed by means of a judicial ruling in accordance with Law no 85/2006 on insolvency procedure; if the debtor is deceased and the receivable cannot be recovered from the heirs; the debtor is dissolved or liquidated; the debtor has major financial difficulties affecting its entire patrimony; expenses resulting from the adjustment of acquired receivables, for the difference between the nominal value and the acquisition cost;
- transport and accommodation expenses incurred in connection with business travel in Romania or abroad, for employees and management as well as other individuals treated as such (mandate administrators and detached individuals for whom the costs are borne by the Romanian company);

- expenses incurred in connection with transportation of personnel to and from the workplace;
- expenses incurred in connection with professional training and development of employees;
- expenses related to benefits granted to employees as equity instruments settled with cash, at the moment they are granted, if the benefits are subject to personal income tax;
- expenses incurred in connection with work safety, prevention of work accidents and occupational diseases, related insurance contributions and professional risk insurance premiums;
- expenses incurred in connection with the acquisition of packaging materials, during the useful life set by the taxpayer;
- fines, interest, penalties and other increased payments due under commercial contracts.

Beneficiaries that acquire goods and / or services from inactive taxpayers (while they are inactive) cannot deduct the expenses related to such acquisitions, except for purchases made during enforcement proceedings and / or purchases of goods / services from taxpayers under bankruptcy procedure according to Law. 85/2006 on insolvency procedure.

Limited deductibility expenses

The deductibility of the following expenses is limited:

- Interest expenses and foreign exchange losses (see details below);
- Provision and reserve expenses (see details below);
- Depreciation and reduction in value of fixed assets according to the rules presented below;
- Perishable goods capped by the relevant specialist bodies;
- Protocol expenses are deductible up to the limit of 2% of the difference between the total taxable revenue and the total expenses related to the taxable revenue (except for protocol and profit tax expenses); as of 1 April 2013, output VAT related to gifts of at least RON 100 offered by taxpayers fall under the protocol expenses category;
- Daily allowances for expenses incurred by employees in connection with domestic and foreign travel are deductible up to the level of 2.5 times the ceiling set for public institutions;

- Social expenses are deductible up to 2% of salary expenses. Social expenses can include, among other items, maternity allowances, expenses for nursery tickets, funeral benefits and allowances for serious or incurable diseases and prostheses, as well as expenses for the proper operation of certain activities or units under taxpayers' administration (i.e. kindergarten, nurseries, health services related to occupational diseases and work accidents prior to admission to health establishments, canteens, sports clubs, clubs, etc). Expenses incurred for benefits granted under a collective labour agreement are also deductible within this limit;
- Health insurance premiums are deductible for employers up to the limit of EUR 250 per employee per year; private pension insurance premiums are deductible up to the limit of EUR 400 per person per year;
- Taxes and fees paid to non-government organisations or professional associations related to the taxpayer's activity are deductible up to the limit of EUR 4,000 per year.
- Expenses incurred with company vehicles weighing under 3,500 kg and with fewer than nine passenger seats (including the driver's seat) that are not used exclusively for business purposes are deductible up to 50%. These expenses are fully deductible for vehicles used for the following activities:
 - Emergency, protection, courier services;
 - Vehicles used by sales and acquisitions agents;
 - Paid transportation services and taxi activities;
 - Rental and driving schools;
 - Vehicles used as merchandise for sales purposes.

Non-deductible expenses

Expenses deemed non-deductible include, among other items:

- Domestic profit tax and profit tax paid in foreign countries;
- Profit tax expenses;
- Expenses related to non-taxable revenues;
- Expenses related to non-resident income tax borne by Romanian taxpayers on behalf of non-residents;
- Interest, fines and penalties due to Romanian or foreign authorities;
- Expenses incurred for management, consultancy, assistance or other supply of services if no written contracts or any other lawful agreements are entered into and the beneficiary cannot justify the supply of such services for the activities performed and their necessity;

- Sponsorship and patronage expenses and those related to private scholarships. Taxpayers are, however, granted a fiscal credit up to 0.3% of turnover or 20% of the profit tax due, whichever is lower; as of 1 January 2014, taxpayers who do not benefit from fiscal credit in the year when they grant sponsorship according to the law may carry forward the fiscal credit for the next seven consecutive years;
- Other salary and / or assimilated expenses (if not taxed at the level of the individual), except for those specifically exempted from individual income taxation;
- Expenses related to benefits granted to employees as equity instruments settled with shares, unless subjected to personal income tax;
- Expenses incurred from insurance premiums unrelated to company assets or business, save for those regarding goods which are bank collateral on loans used in the business or those used under rental or leasing contracts;
- Expenses recorded without justifying documents;
- Expenses in favour of shareholders, other than those related to goods or service provided by the shareholders at market value;
- Expenses representing fixed assets impairment, when as a result of a revaluation, a step-down in value is recorded;
- Expenses incurred from deferred profit tax and changes in fair value of real estate investments by taxpayers applying the International Financial Reporting Standards;
- Expenses resulting from the change in the fair value of biological assets owned by the taxpayers applying the International Financial Reporting Standards;
- Interest expenses, in line with the International Financial Reporting Standards, arising in relation to the acquisition of fixed assets / intangible assets / inventory based on deferred payment contracts;
- Expenses registered in the accounting records, based on documents issued by an inactive taxpayer whose fiscal registration certificate was suspended;
- Expenses relating to missing or damaged non-imputable inventories or tangible assets, for which no insurance contracts have been concluded;
- Losses incurred from writing off doubtful or unsettled liabilities, for the part which is not covered by a bad debt provision;
- Expenses reflected in accounting records, irrespective of their nature, which later prove to be related to acts of corruption as defined under the law.

Provisions and reserves

As a general rule, provisions and reserves are non-deductible for profit tax purposes.

There are certain provisions and reserves which are deductible, however, such as:

- Setting up or increasing the legal reserve fund up to 5% of the adjusted accounting gross profit (before profit tax) and until it reaches 20% of the share capital;
- Provisions related to guarantees for proper execution granted to the clients;
- Provisions for doubtful debts are deductible up to the limit of 30%, if the related receivables meet the following conditions simultaneously:
 - Booked after 1 January 2004;
 - Not collected for a period exceeding 270 days from the due date;
 - Not guaranteed by another person;
 - Due by a person not affiliated with the taxpayer;
 - Included in the taxable income of the taxpayer.
- Bad debt provisions are fully tax deductible if all the following conditions are met:
 - Receivables are booked after 1 January 2007;
 - The debtor is a company for which bankruptcy proceedings are declared by a court ruling;
 - Receivables are not guaranteed by another person;
 - The debtor is not a related party;
 - Receivables were included in the taxable income of the taxpayer.
- Specific provisions established by non-banking financial institutions and other legal persons according to their incorporation law;
- Adjustments for impairment set up by credit institutions that apply the International Financial Reporting Standards and prudential filters set up according to regulations issued by the National Bank of Romania;
- Technical reserves set up by insurance and reinsurance companies, in accordance with their regulatory legal framework except for the equalisation reserve;
- Risk provisions for transactions carried out on financial markets, set up in accordance with the rules issued by the Romanian National Securities Commission;
- Provisions and adjustments for impairment of receivables that were acquired by legal persons from credit institutions in order to be collected, for the difference

between the receivables value and the amount due to the assignee, provided several conditions are met;

- Reserves from revaluation of fixed assets and land, made after 1 January 2004, which are deductible through depreciation or through expenses triggered by assets sold or written off, are taxable at the same time and for the same amount as the tax depreciation deduction, i.e. when the assets are sold or written off.

The reduction or cancellation of any provision or reserve deducted from the taxable profit, due to changing the destination of the provision or reserve, distribution towards shareholders in any form, liquidation, spin off, merger or any other reason is included in the taxable revenue and taxed accordingly.

Accounting and fiscal depreciation

The Fiscal Code makes an explicit distinction between accounting and fiscal depreciation. For fixed assets, fiscal depreciation is calculated based on the rules set out by the Fiscal Code. Fiscal depreciation is treated as an expense deductible from the tax base while accounting depreciation is treated as non-deductible expense.

Expenses related to all fixed and intangible assets recognised for accounting purposes, with certain exceptions, are considered depreciable expenses.

According to the Fiscal Code, the following assets are deemed non-depreciable:

- a. land, including land with forests;
- b. goodwill;
- c. lakes, pools and ponds which do not result from an investment;
- d. any fixed asset which does not lose its value over time due to use, as provided by norms;
- e. intangible assets with an undetermined useful life, considered as such based on accounting rules.

The calculation of depreciation of fixed assets for tax purposes is based on the fiscal value, and may need to be adjusted for revaluations according to accounting rules.

If the fair value determined upon the revaluation of the fixed assets drops below the fiscal value (i.e. equal to acquisition cost, production cost, market value of the fixed assets acquired for free or contributed to the share capital, adjusted with accounting re-evaluations), the non-depreciated fiscal value of the fixed assets is recalculated on the basis of the entry value.

The same rule applies for the revaluation of land, should it result in a decrease below the

entry value. Thus, the new value recognised for fiscal purposes would be the fiscal entry value.

For fixed assets subject to depreciation and intangible assets where components are replaced the non-depreciated fiscal value is recalculated by subtracting the non-depreciated fiscal value of the replaced components and adding the fiscal value of the new components. This new fiscal value is depreciable for the normal remaining useful life. Expenses representing the non-depreciated fiscal value of the replaced components are also deductible.

Fiscal depreciation should be calculated based on the asset's fiscal value and useful life for tax purposes, by applying one of the permitted depreciation methods:

- straight-line method;
- accelerated depreciation; and
- degressive method.

Technical equipment, computers and their peripherals can be depreciated by using any of the above depreciation methods.

For any other fixed assets only the straight line or digressive method can be used (except for buildings, for which only the straight-line method can be applied).

As of 2009, the accelerated depreciation method may also be applied to equipment used in research and development activities, as part of the tax incentives provided for such activities. For more details please see Chapter 5/ Section 5.1.

For vehicles with up to nine seats, the depreciation is limited to a maximum of RON 1,500 per month for each vehicle.

Expenses incurred in connection with the purchase of patent rights, copyrights, trademarks or other intangible assets recognised in accounting records may be recovered through linear depreciation deduction for the duration of the contract or the utilisation period, as the case may be.

Thin capitalisation rules

The deductibility of interest expenses and net foreign exchange losses related to loans is limited as described below. However, such limitations do not apply to interest and forex related to loans contracted from credit institutions, non-banking financial institutions or other entities that grant credit according to the law, and also to those related to bonds traded on a regulated market:

The safe harbour rule

The Fiscal Code limits the deductibility of interest on such loans to a maximum of 6% for loans denominated in foreign currency* and to the National Bank of Romania's reference interest rate for RON loans. Interest expenses recorded over this limit is tax non-deductible and cannot be carried forward in future periods.

* This upper limit for interest rates is to be updated by Government Decisions. The rate stated above is valid since fiscal year 2010.

Thin capitalisation rule

The deductibility of interest expenses and net foreign exchange losses related to long-term loans (with a maturity period of over one year) is further subject to the debt-to-equity ratio test. Debt included in the calculation of the debt-to-equity ratio is represented by all such (non-financial institution) loans with a maturity period of over one year.

The equity includes share capital, share / merger premiums, reserves, retained earnings, current year earnings and other equity elements. Both debt and equity are calculated as the average of values existing at the beginning and at the end of the period for which profit tax is calculated.

If the debt-to-equity ratio is higher than 3:1 or if the company's equity is negative, expenses incurred from interest charges and net losses related to foreign exchange differences on long term loans are fully non-deductible. The mentioned expenses may, however, be carried forward to subsequent fiscal years and become fully tax deductible in the year the debt-to-equity ratio becomes lower than or equal to 3:1.

In the case of taxpayers which cease to exist due to a merger or a spin-off, the right to carry forward expenses with the interest and net forex loss is transferred to the newly-established taxpayers, namely those taking over the patrimony of the acquired or spinned-off company, depending on the case, in proportion to the assets and liabilities transferred to the beneficiary legal persons under the merger / spin-off project.

In the case of taxpayers which do not cease to exist as a result of a partial spin-off, the right to carry forward expenses with interest and net forex losses is split between those taxpayers and those that take over part of the company acting as transferor, depending on the case, in proportion to the transferred assets and liabilities under the spin-off project.

Foreign fiscal credit

If a Romanian resident taxpayer obtains income taxed in a foreign state, relief is offered by way of a credit. The tax paid abroad can be deducted from the tax due in Romania,

which cannot exceed the profit tax that would have been due in Romania for the respective income obtained abroad.

The fiscal credit applies to both withholding taxes and corporate income taxes paid abroad by permanent establishments of Romanian residents.

The fiscal credit is granted only as a deduction from the corporate income tax calculated for the year in which the tax has been paid abroad.

Fiscal credits for taxes paid to a foreign state may be obtained in Romania only if the Double Tax Treaty concluded between Romania and the foreign state applies and only if documentation is available proving that the taxes were paid in the foreign state concerned.

A permanent establishment of a foreign legal person resident in a member state of the European Union (EU) or in a state of the European Economic Area (EEA) that derives income from another EU Member State or another EEA state and is taxed both in Romania and in the income source state may benefit from fiscal credit in Romania according to the provisions of the law.

Fiscal losses

Companies are allowed to carry forward fiscal losses declared in the annual profit tax returns for a period of up to seven years, on the basis of the FIFO method.

As of 1 October 2012, losses incurred by a company may be transferred within a merger / spin-off operation and may be used by the successors, in the chronological order in which they were recorded by the transferor company. The fiscal losses of the transferor company, recorded in the year when the merger or spin-off takes place until the effective date of that operation are used with priority, before the fiscal losses obtained in previous years.

Any loss incurred by a permanent establishment of a Romanian company located in an EU, EEA Member State or a state that has a Double Tax Treaty in place with Romania is deductible for tax purposes from the company's revenues.

For foreign legal persons, carry forward of losses applies only to revenues and expenses attributable to their permanent establishment in Romania

As of 1 July 2013, foreign legal entities which perform economic activities in Romania through several permanent establishments must register one of them as their permanent establishment designated to fulfil the fiscal obligations for all the permanent establishments owned. As such, the fiscal losses incurred by 30 June 2013 by permanent establishments belonging to the same foreign legal entity are passed on to the designated permanent establishment.

Fiscal losses incurred by Romanian legal persons which apply the revenue tax system for micro-enterprises as of 1 February 2013 are used starting with the date the taxpayer applies the profit tax system. In this respect, the year 2014 will be the first year of loss recovery in the sense of seven-consecutive-year carry-forward period.

Dividends, interest, royalties paid to resident companies

Dividends paid by a Romanian company to another Romanian company are subject to 16% tax. Those payments are non-taxable if the shareholder held, at the time of distribution, a minimum of 10% of the shares in the other company for an uninterrupted period of at least two years.

The provisions of the Directive on the common system for taxation applicable in the case of parent companies and their subsidiaries have been applicable in Romania since 1 January 2007. Consequently, dividends distributed by a company resident in another EU Member State to a Romanian company are tax exempt if the Romanian company held, at the time of distribution, a minimum of 10% of the shares in the respective non-resident company for an uninterrupted period of at least one year.

As of 2014, dividends received from a Romanian legal person or from a company resident in a EU member state are non-taxable, if the beneficiary has held at least 10% of the shares of the company for a period of one year at the payment date.

Fiscal consolidation

There is no tax consolidation or group taxation in Romania. Members of a group must file separate tax returns. Losses incurred by members of a group cannot be offset against profits made by other group members.

Capital gains

As a general rule, capital gains obtained by Romanian resident companies are included in their ordinary profits and taxed at 16%. An exception to this rule was introduced as of 2014, with revenues derived by companies holding at least 10% of the sold company share capital for an uninterrupted period of at least one year being non-taxable, while the fiscal value of the shares sold represents a non-deductible expense.

Mergers, spin-offs, transfers of assets and exchanges of shares between two Romanian companies, as well as between a Romanian company and a foreign company, should not trigger capital gains tax.

In the case of a relocation of the registered office of a European Company (“SE”) and European Cooperative Society (“SCE”) from Romania to another EU Member State, if certain conditions are met, there is no tax on the difference between the market value of

the transferred assets and liabilities, and their fiscal value. There is also no tax on such movements at the shareholder level. In the case of Romanian shareholders, therefore, a tax basis step-up may be achieved.

Fiduciary contracts

Provisions regarding the fiscal treatment applicable to income realised from fiduciary contracts entered into force on the 1 October 2011. As a result, if the settlor is also the beneficiary:

- The transfer of the patrimony from the settlor to the fiduciary is not considered a taxable transfer;
- The fiduciary will keep separate bookkeeping entry for the fiduciary patrimony and communicate to the settlor, on a quarterly basis, the income and expenses resulting from the administration of the patrimony.

If the beneficiary is the fiduciary or a third party, the expenses recorded from the transfer of the patrimony from the settlor to the fiduciary are considered non-deductible.

Tax treatment applicable to micro-companies

As of 1 February 2013, a mandatory revenue tax system is applicable for micro-companies which meet all the following criteria at the end of the previous year:

- derive income from activities other than banking, capital markets, insurance and reinsurance, gambling, consultancy and management;
- their annual turnover is lower than the RON equivalent of EUR 65,000*;
- their shares are held by entities other than the state or local authorities.

*According to the Fiscal Code, the exchange rate, used for converting EUR 65,000 into RON, is that at the closing of the previous financial period.

As of 1 January 2014, a maximum threshold has been established of 20% for revenues derived from management and consultancy activities for applying the micro-company tax regime. If the revenues from such activities do not exceed the threshold, the company may apply the micro-company tax regime.

Newly established companies are required to follow the micro-companies tax regime starting with the first fiscal year.

The tax rate applicable to micro-company revenue is 3%. Payment of the tax and filing of the returns is made quarterly, by the twenty-fifth of the month following the end of the quarter for which the tax is calculated.

The taxable base for a micro-company comprises the revenue derived from any source, with several exceptions (e.g. revenue related to the cost of inventories, revenue associated with the production cost of work in progress, revenue related to capitalised costs of intangible and tangible non-current assets, subsidies for operating activities, income from commissions, income from compensation received under insurance contracts, forex income, commercial discounts granted after invoicing, financial income registered as a result of the settlement of claims and debts in RON by using a foreign currency rate different from the rate they were originally registered in, etc.).

Micro-companies have the obligation to communicate, to the tax authorities, the change in their tax system by the 31 January of the year in which the tax is due (for 2013 the deadline is 25 March 2013).

If, during a fiscal year, a micro-company registers a turnover of more than EUR 65,000 or derives revenues from management and consultancy activities exceeding 20% of its total revenues, that company will pay profit tax starting with the quarter in which the limit was exceeded. The tax will be calculated based on expenses and revenues registered from the beginning of the fiscal year, followed by a reduction of the profit tax due by the value of the revenue tax due by the micro-enterprise in that year. If during a fiscal year one of the other eligibility conditions is no longer met, the micro-company is required to switch to the profit tax system starting with the following year.

2.3 Taxation of Non-resident Companies

As a general rule, foreign entities are subject to Romanian tax on the income derived in Romania.

The extent to which a foreign entity is subject to Romanian taxation depends on the activities undertaken in Romanian and / or with Romanian residents.

A foreign entity can become subject to taxation by establishing a branch, a permanent establishment, a representative office or by becoming subject to withholding tax on the income obtained in Romania.

Branch of a foreign entity

Branches have to be registered with the Romanian Tax Authorities. The registration, taxation (taxable profits are taxed at 16%) filing and payment requirements are similar to those for a Romanian company.

A branch is considered to have the same legal personality as the parent company and, therefore, is not a separate legal entity (no own share capital, no separate name, etc.).

The branch's object of activity cannot be more extensive than that of the parent company.

Funds distribution to the head office country are not regarded as dividend distribution, therefore, no withholding tax liability arises. As with limited liability companies, however, profits are transferred at year-end, after the head office approves the branch's financial statements.

Permanent establishment

A Permanent Establishment has no legal personality, but is subject to tax in Romania (the taxable profits are taxed at 16%). The registration, filing and payment requirements are similar to those for a Romanian company.

Thus, a Permanent Establishment is generally defined as being the place through which the activity of a non-resident is conducted, fully or partially, directly or through a dependent agent. Once a Permanent Establishment is created, Romania has the right to tax the profits of the non-resident parent company derived from the activities performed through the Permanent Establishment.

The Romanian legislation explicitly states the conditions which trigger a Permanent Establishment:

- Fixed base Permanent Establishment – created through a place of business with a certain degree of permanency through which business is conducted in Romania (with some exceptions);
- Agency Permanent Establishment – created through agents with a dependent status which operate in Romania on behalf of the foreign company.

As of 1 July 2013, foreign legal entities which perform economic activities in Romania through several permanent establishments must register one of them as their permanent establishment designated to fulfil the fiscal obligations for all the permanent establishments owned.

At the level of the designated permanent establishment the income or expenses of the permanent establishments belonging to the same foreign person must be cumulated at the level of the designated permanent establishment.

If a fixed establishment fulfilling the fiscal obligations from a VAT perspective also qualifies as a permanent establishment from a corporate income tax perspective, the fixed establishment is the designated permanent establishment.

Representative offices

A Representative Office can only undertake auxiliary or preparatory activities. A Representative Office cannot trade in its own name and cannot engage in any commercial activities.

There is a flat annual tax of EUR 4,000 on representative offices, payable in RON using the exchange rate valid on the payment date. The tax is payable in two equal instalments, by 25 June and by 25 December. Any foreign entity with a Representative Office in Romania, should submit to the competent tax authorities an annual statement by 28 or 29 February of the fiscal year.

In situations where a Representative Office is set up or closed down during the year, the tax due for that year is pro-rated for the months in which the Representative Office was operational.

Withholding tax

Non-resident companies not operating through a Permanent Establishment are subject to tax in Romania on income from sources in Romania. The following types of income, derived from Romania, are subject to 16% withholding taxes (unless an applicable double tax treaty applies):

- Interest;
- Royalties;
- Revenues from services;
- Dividends;
- Commissions;
- Revenues derived from liquidation of a Romanian legal entity.

There are certain specific provisions and exceptions to the above rates, as follows:

- A 50% withholding tax on the payments made by Romanian residents for income obtained in Romania (e.g. dividends, interest, royalties, services) by non-residents from countries which do not have an exchange of information agreement concluded with Romania. This increased withholding rate would apply only in the situation where the transaction is deemed artificial.
- As Romania is an EU member state (as of 1 January 2007), the provisions of the Parent Subsidiary Directive apply. Consequently, dividends distributed by Romanian companies to companies resident in an EU or EEA Member State are exempt from withholding tax if the recipient company has held, at the time of distribution, a minimum of 10% of the shares of the Romanian company for a continuous period of at least one year;

- As of 1 January 2010, dividend and interest income obtained from Romania by EEA registered pension funds is exempt from withholding tax;
- Romania has fully implemented the Interest and Royalties Directive as of 1 January 2011. As a result, interest and royalties paid by a Romanian company to a company resident in another EU or EEA Member State are exempt from withholding tax provided that the non-resident company held, prior to the time of payment of the interest / royalty, at least 25% of the share capital of the Romanian company for a continuous period of at least two years.

In order to apply European legislation, non-residents are required to present a certificate of tax residence and a declaration attesting compliance with the necessary requirements provided by the European Directives.

Revenue not covered by withholding tax

The following categories of income derived from Romania by non-residents are exempt from withholding tax:

- Interest income and income derived from the sale of debt instruments issued by the Romanian authorities;
- Revenues from international transportation and accessory services;
- Prizes obtained by individual non-residents from artistic, cultural, sport festivals / competitions paid from public funds;
- Income obtained from a partnership constituted in Romania by a non-resident company (the related profits are subject to corporate income tax).

Capital gains

Capital gains obtained by non-residents from the sale of real estate located in Romania or from the sale of shares held in Romanian companies are taxable in Romania at 16%. The more favourable provisions of the Double Tax Treaty apply in certain conditions, however.

The following income is not taxable in Romania:

- Income of mutual investment funds without legal personality from the transfer of value titles owned directly or indirectly in a Romanian legal entity
- Income obtained on foreign capital markets from the transfer of value titles issued by Romanian residents.

As a general rule, mergers, spin-offs, transfers of assets and exchanges of shares between a Romanian company and a company resident in another EU Member State are neutral from a tax perspective, under certain conditions, and generally should not trigger capital gains tax.

Double Tax Treaties

For a more favourable tax treatment, the withholding tax rates provided by the Double Tax Treaty concluded between Romania and the country of residence of the recipient of the income could be applied. In order to apply the Double Tax Treaty, the non-resident is required to provide to the income payer a certificate of tax residence issued by the relevant authorities, valid for the period when the income was obtained. Please see Appendix 1, which lists the countries with which Romania has concluded Double Tax Treaties. Please see Appendix 2, which provides the withholding tax rates for companies resident in certain States with which Romania has concluded Double Tax Treaties.

In order to avoid withholding at source, the recipient should provide the payer with a valid tax residency certificate prior to payment of the income. The tax residency certificate should stipulate that the foreign beneficiary was tax resident during the year(s) the Romanian income was obtained. The tax residency certificate is valid for the year in which the payments are made and for the first 60 days of the following year, provided the residency conditions have not changed.

Otherwise, the withholding tax rates, provided by the domestic legislation, will be applicable. A refund can be claimed if the tax residence certificate is made available within five years following the payment.

3. Transfer Pricing

General Principles

Transactions between related parties should observe the arm's length principle. If transfer prices are not set at arm's length, the Romanian Tax Authorities have the right to adjust the taxpayer's revenues or expenses, so as to reflect the market value.

Transactions with Romanian affiliated companies and with non-resident related parties fall within the scope of the investigations regarding compliance with transfer pricing legislation.

Traditional transfer pricing methods (comparable uncontrolled prices, cost plus and resale price methods), as well as any other methods that are in line with the OECD Transfer Pricing Guidelines (i.e. transactional net margin and profit split methods) may be used for setting transfer prices.

Domestic legislation expressly stipulates that when applying transfer pricing rules, the Romanian tax authorities also consider the OECD Transfer Pricing Guidelines.

Documentation

Taxpayers engaged in related-party transactions have to prepare and make their transfer pricing documentation file available upon the written request of the Romanian Tax Authorities.

The content of the transfer pricing documentation file was approved by order of the president of the National Agency for Tax Administration. The Order is supplemented by the Transfer Pricing Guidelines issued by the OECD Transfer Pricing Guidelines and the Code of Conduct on transfer pricing documentation for associated enterprises in the European Union (EUTDP).

The deadline for presenting the transfer pricing documentation file will not exceed three calendar months, with the possibility of a single extension equal to the period initially established.

Failure to present the transfer pricing documentation file or presenting an incomplete file following two consecutive requests may trigger estimation of transfer prices by the tax authorities, based on generally available information, as the arithmetic mean of three transactions considered similar.

Transfer pricing inspection activity has significantly increased during the past year and requests for presenting the transfer pricing documentation file have started to become common practice.

Advance Pricing Agreement

Taxpayers engaged in transactions with related parties can request the issuance of an Advance Pricing Agreement (APA) from the National Agency for Tax Administration.

The term provided by the Fiscal Procedural Code for issuance of an APA is 12 months for unilateral APAs and 18 months for bilateral and multilateral APAs. The APA is issued for a period of up to five years. In exceptional cases, it may be issued for a longer period for long-term agreements.

APAs are applicable and binding on the tax authorities as long as there are no material changes in the critical assumptions. In this regard, the beneficiaries are obliged to submit an annual report on compliance with the terms and conditions of the agreement.

If taxpayers do not agree with the content of the APA, they can notify the National Agency for Tax Administration within 15 days. In this case, the agreement does not produce any legal effects.

Advance Tax Ruling

Companies may request an Advance Tax Ruling (ATR) be issued by the National Agency for Fiscal Administration, subject to a fee of EUR 1,000.

The taxpayer may propose the content of the ATR in the request submitted. If the taxpayer does not agree with the ATR, it may notify the issuing authority within 15 days; in this case, the tax ruling does not have legal effect.

ATRs are applicable and mandatory against tax authorities only if their terms and conditions have been observed by the taxpayers.

Possible adjustments of the VAT taxable base

As of 1 February 2013, Romanian legislation contains new provisions in respect of possible adjustments of the taxable base for VAT purposes based on the market value of a supply of goods / provision of services between related parties.

These provisions may affect the taxpayers operating mainly in the following domains: Banking, Leasing and other Financial Services, Real Estate etc.

4. Corporate tax compliance

4.1 General Principles

Taxpayers (except for banks, non-profit organisations, taxpayers deriving most of their income from agriculture) are required to declare and pay the quarterly profit tax by the twenty-fifth day of the first month following quarters I-III, provided they do not opt for the advance profit tax reporting and payment system. The annual profit tax has to be paid by 25 March of the following year.

Banking companies – Romanian legal entities and branches of foreign banks in Romania – are required to apply the annual profit tax system by making quarterly advance payments. Tax payment obligations have to be settled by 25 March of the following year.

The advance quarterly payments are calculated as a quarter of the previous year's profit tax increased by the consumer price index, with the payments due by the twenty-fifth of the month following the end of the quarter. The consumer price index is published by Order of the Ministry of Finance by 15 April of the year for which the advance payments are made. For 2014, the consumer price index used for calculating advance profit tax payments is 102.4%.

Newly-established banking companies – Romanian legal entities and branches of foreign banks in Romania – or those which incurred fiscal losses in the previous year must make

quarterly advance payments equal to the amount resulting from applying the profit tax rate on the accounting profit for the period for which the advance payment is made.

As of 1 January 2013, taxpayers (except those specifically mentioned by law) may opt to declare and pay the annual profit tax by making quarterly advance payments. The decision to take this option has to be communicated by 31 January of the fiscal year in which the taxpayer wants to apply the option and it has to be maintained for at least two consecutive years. If taxpayers incur fiscal losses in the first year of the application of the option, the advance profit tax payments are calculated by applying the profit tax rate to the accounting profit for the period in which tax payments are made in advance.

For taxpayers that opted for a fiscal year different from the calendar year, the one or two months of that calendar quarter qualify as a quarter for which the taxpayer must declare and pay the corporate income tax by the twenty-fifth of first month following the end of that calendar quarter. These provisions also apply if the fiscal year begins in the second or third month of the fourth quarter of the calendar year.

Moreover, taxpayers which declare and pay corporate income tax annually by means of advance quarterly payments continue paying them in the amended fiscal year in the same amount as that determined before the fiscal year change. Where the fiscal year starts in the second or third month of the calendar quarter, these months are considered a quarter for which the taxpayer has the obligation to declare and pay the anticipated payments. Such obligations have to be paid in an amount equal to 1/12 of the corporate income tax due for the previous year, for each month, by the twenty-fifth of the first month following the end of the respective calendar quarter. These provisions also apply if the fiscal year begins in the second or third month of the fourth quarter of the calendar year. Corporate income tax has to be paid by the twenty-fifth of the third month following the modified fiscal year close.

Large and medium-sized taxpayers have the obligation to submit tax returns online, using the www.e-guvernare.ro portal. The electronic signature of the tax returns can only be made using a qualified certificate issued by a legally-accredited certification services provider. Other categories of taxpayers may use the electronic submitting method as an alternative way of compliance.

Non-profit organisations and taxpayers that obtain income mainly from agricultural activities have to declare and pay annual profit tax by 25 February of the year following the reporting period.

The payers of income required to withhold tax, except for salary income, are required to submit to the tax authorities a statement regarding the calculation and withholding of tax for each beneficiary of income. This statement must be submitted for the previous year by the last day of February of the current fiscal year. This obligation refers to income

tax withheld and paid by Romanian residents on income obtained from Romania by non-resident beneficiaries, as detailed in the chapter regarding taxation of non-residents.

The interest rate for late payment of fiscal liabilities to the State Budget is set at 0.03% for each day of delay as of 1 March 2014 and late-payment penalties also apply in amount of 0.02% for each day of delay (for details see Chapter IV: Fiscal Procedural Code).

If a taxpayer has failed to submit the tax returns, a default assessment of the tax liabilities is made for every tax obligation found in the taxpayer's fiscal liability records and for each fiscal period in which tax returns were not submitted. This default assessment procedure has been provided through an order issued by the National Agency for Fiscal Administration.

4.2 Certification of tax returns filed with the tax authorities of the National Agency for Fiscal Administration

Taxpayers may opt for the certification of the tax return, including the rectifying tax returns, prior to their submission to the tax authorities, by a tax consultant qualified as such according to the provisions of the law.

The certification of the tax return by a tax consultant represents a criterion when the tax authorities evaluate the risk analysis to select taxpayers for a tax inspection.

4.3 Non-resident companies

Non-resident companies, deriving income from real estate property located in Romania or from sale of shares held in a Romanian company, are required to declare and pay a 16% profit tax. Non-residents may appoint a tax representative / empowered person to fulfil this requirement. If the buyer is a Romanian company or a Romanian permanent establishment of a non-resident company, however, the obligation to pay, withhold and declare the profit tax rests with the buyer. Nevertheless, the non-resident is liable to declare and pay the annual corporate income tax due.

For capital gains tax declaration and payment, the Romanian legislation requires the following tax returns to be submitted:

- Quarterly statements, starting with the twenty-fifth of the month following the quarter in which the non-resident first earned capital gains taxable in Romania;
- Annual profit tax return.

The quarterly statements and annual return have to be submitted during the entire period the non-resident is registered with the Romanian tax authorities, even if it no longer carries out transactions generating taxable revenues in Romania.

5. Investment Incentives

5.1 Tax Incentives for Companies

Accelerated depreciation

Under the Fiscal Code, machinery and equipment, computers and their peripherals, as well as patents, may be depreciated using the accelerated method, under which a maximum of 50% of the asset's fiscal value may be deducted during the first year of usage, while the rest of the asset's value can be depreciated using the straight line method over the remaining useful life.

Special incentives for expenses related to research and development activities

Companies can benefit from an additional deduction of 50% of the eligible expenses for research and development. Moreover, accelerated depreciation may be applied for devices and equipment used in research and development activity.

In order to benefit from this supplementary deduction, the eligible research and development activities must be applicative research and / or technological development relevant to the taxpayer's activity and must be performed in Romania or in the EU / EEA member states.

The above incentive is granted separately for each research and development project.

Reduced VAT rate of 5% for sale of buildings

Companies selling buildings can apply a reduced VAT rate of 5% in the following cases:

- If the buildings are part of a social policy, such as old people's homes, retirement homes, orphanages or rehabilitation centres for children with disabilities;
- The building is supplied as housing to an individual / family and has a maximum useful surface of 120 square metres and a value of less than RON 380,000 (exclusive of VAT).

Local tax exemptions for business located in industrial parks and science technology parks

No property tax is due for buildings and constructions located in an Industrial Park. Land within Industrial Parks is also exempt from land tax.

The incentives granted for the set up and development of industrial parks includes:

- Local tax exemptions / reductions for immovable assets and land related to the industrial park;

- Other incentives that may be granted by the local tax authorities;
- Development programmes for infrastructure, investments and equipment endowments granted by local and central public administration, companies and foreign financial assistance;
- Concessions and structural funds for development.

The companies operating within the industrial park benefit from:

- Various services offered by the park administrator free of charge or with reduced fees;
- Advantageous conditions with regard to location, use of the infrastructure and communications of the park, with payment in instalments.

Employment incentives for special categories

In order to stimulate the re-employment of unemployed people, employers may obtain for recent graduates a monthly grant, the value of which depends on the level of educational background. This grant is calculated for a period of 12 months, by multiplying a coefficient (set between 1 and 1.5) by the reference social indicator (currently set at RON 500) for each new graduate of a recognised institution. Employers benefiting from this incentive are obliged to maintain this employment relationship for a time period of at least three years. Moreover, employers may also be exempt for those 12 months from paying the unemployment contributions due for these graduates. In addition, grants amounting to the social security contributions for two years for recent graduates are available if they are still employed by the company for two additional years after the end of the employer's obligation period for employing the graduates.

The same incentives apply for the employment of recent graduates with disabilities, except that the period for which the exemption from contributions to the unemployment fund and the monthly grants apply is extended to 18 months.

As of 22 October 2013, for employed graduates - except those with disabilities - the exemption from the contribution to the unemployment fund is no longer in place. Moreover, the obligation to maintain the graduate employment relationships is reduced from three years to 18 months.

Employers can also apply for exemption from unemployment fund contributions and for a monthly grant equal to the reference social indicator for each unemployed person aged over 45 years, or for each such person who is the sole family supporter. This monthly grant is available for a period of 12 months. Employers benefiting from this incentive have the obligation to keep this employment relationship for at least two years. As of 22 October 2013, the aforementioned period of two years has been reduced to 18 months.

Employers running professional training programmes for their employees may apply for a refund of 50% of their expenses for up to 20% of their workforce, subject to certain conditions and limitations.

Other incentives

For justified claims of the taxpayers, the tax authorities could grant incentives for the payment of taxes, such as the rescheduling of tax payments due.

The rescheduling may be granted by the tax authorities to individuals and legal entities upon request. The time-frame for the rescheduling is seven years for taxpayers with tax liabilities over RON 300 million and no longer than five years for all other taxpayers. The time-frame is set after taking into consideration the taxpayer's financial situation and the total tax burden.

In order to benefit from the rescheduling of the tax payment obligations, taxpayers must meet certain conditions and also provide a guarantee which covers the rescheduled liabilities, interest and also a supplementary percentage of the rescheduled liabilities, depending on the duration of the rescheduling time-frame.

5.2 State Aid

State aid schemes available for initial investment projects

Until June 2014, the following types of investment incentives can be granted based on state aid schemes:

- non-refundable amounts for the acquisition of tangible or intangible assets;
- non-refundable amounts from the state budget for newly-created jobs;

The level of the regional state aid may not exceed 50% of the initial investment costs or of the labour costs for a period of two years, for the newly employed staff. For investments or jobs created in the Bucharest-Ilfov development region, the state aid intensity limit is 40%.

At the same time, depending on the specifics of each regulator bill, state aid schemes can be granted for the following objectives:

- Acquisition of tangible or intangible assets regarding the setting-up of a new unit, the extension of an existing unit, the production diversification or a fundamental change of the production process;
- Acquisition of fixed assets directly linked to a closed unit or to one that would have been closed;
- Creation of new jobs;

The main areas of activity which are eligible for this incentive include:

- Manufacturing industry;
- Production and supply of electricity and thermal power, gas, domestic hot water and air conditioning;
- Information Technology and Communications (IT&C);
- Research, development ;

I. State aid scheme for sustainable economic development

Of the normative acts which regulate the incentives stated above, we mention Government Decision (GD) no. 1680/10.12.2008 for instituting a state aid scheme for sustainable development (GD 1680 / 2008) applicable to companies which are registered in accordance with Company Law (Law no. 31 / 1990) investing in Romania and fall within one of the following categories:

- The value of the initial investment is the RON equivalent amount of between EUR 5 million and EUR 10 million inclusively, and at least 50 new jobs to be created as a result of the initial investment;
- The value of the initial investment is the RON equivalent amount of between EUR 10 million and EUR 20 million inclusively, and at least 100 new jobs to be created as a result of the initial investment;
- The value of the initial investment is the RON equivalent amount of between EUR 20 million and EUR 30 million inclusively, and at least 200 new jobs to be created as a result of the initial investment;
- The value of the initial investment is the RON equivalent amount of above EUR 30 million, and at least 300 new jobs to be created as a result of the initial investment.

GD 1680 / 2008 is not applicable to companies in any of the following situations:

- Deemed to be “in difficulty” as defined by the European Community Guidelines no. 800 / 2008 stipulating certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation);
- Subject to a state aid reimbursement decision, if this decision has not been executed yet, in accordance with the legislation in force.

In addition, in order to be eligible, the investment should not start prior to the issuance of the principle approval by the Ministry of Finance.

The deadline for the financing approvals is 30 June 2014. State aid allocated under funding approvals issued during the scheme will be disbursed by 31 December 2018, within the allotted budget.

II. Scheme for regional development by encouraging investments

This state aid scheme, regulated by Government Decision no. 753 / 16.07.2008 for constituting a state aid scheme regarding the regional development by encouraging investments (GD 753 / 2008) is applicable for large companies that meet all of the following requirements:

- they make an initial investment in excess of the RON equivalent amount of EUR 100 million; and
- eligible costs exceed the RON equivalent amount of EUR 50 million;
- they create at least 500 new jobs as a result of the initial investment.

The deadline for the financing approvals is 30 June 2014. State aid allocated under funding approvals issued during the scheme will be disbursed by 31 December 2018, within the allotted budget.

III. Scheme to support investments that promote regional development through the use of new technologies and jobs creation

This state aid scheme is regulated by Government Decision no. 797 / 31.07.2012 for instituting a state aid scheme to support investments that promote regional development through the use of new technologies and jobs creation (GD 797 / 2012).

Companies can benefit from this scheme if they meet certain conditions:

- are registered under Romanian Company Law;
- intend to accomplish an initial investment on the Romanian territory;
- do not have outstanding debts to the state budget nor to the local budget;
- have not been declared “in difficulty” as defined by the European Community Guidelines on state aid for rescuing and restructuring firms in difficulty;
- are not subject to an enforcement procedure, judicial reorganisation, bankruptcy, operational closing, dissolution, liquidation
- have not been subject to a state aid reimbursement decision or, if such decisions have been issued, they have been carried out in accordance with the laws in force;
- have not requested any state aid for the same eligible costs.

To qualify for the scheme, the investments must fulfil the following eligibility criteria:

- be considered initial investments;
- be innovative investments or investments which include an ITC component of a minimum of 20% of the investment plan value;

- create at least 200 new jobs;
- prove the viability of the investment project and the economic efficiency of the undertaking on the basis of the business plan;
- prove the contribution to the regional development.

The eligible fields of activity for investment grants expressly provided under this scheme are:

- manufacturing, except for manufacturing of beverages and manufacturing of tobacco products;
- production and supply of electricity, gas, thermal power, domestic hot water and air conditioning;
- software development;
- telecommunications;
- IT services and IT-specific activities;
- research and development.

The state aid is calculated on the basis of salary costs for newly-created jobs registered for two consecutive years, if the following criteria are met:

- the jobs are created further to the completion of the investment;
- the jobs are created within a maximum of three years from the date the investment is finalised.

The deadline for the financing approvals is 30 June 2014. State aid allocated under funding approvals issued during the scheme will be disbursed by 31 December 2018, within the allotted budget.

5.3 EU Funds

EU Funds – new State Aid Schemes yet to be implemented in Romania under the 2014 - 2020 State Aid Programming

A new programming period for State Aid was scheduled for 2014 – 2020, aiming to fund the objectives of the Europe 2020 strategy. Romania has yet to launch the actual State Aid schemes it endorses, however.

As at March 2014, we knew that the objectives in the following five areas were favoured: employment, research and development, climate change and environment, education and poverty.

In brief the 2014 - 2020 State Aid Policy aims to:

- reduce regional disparities and to promote economic and social cohesion;
- support projects which directly address locally identified needs (e.g. to help train people in new skills or help develop existing businesses);
- decrease the number of separate programmes and encourage groups of programmes;
- develop new research and innovation programmes (Horizon 2020);
- simplify the formalities;
- decentralise the management of funds (increasing the role of the executive agencies);
- not significantly change the Structural Funds (European Regional Development Fund, European Social Fund, European Agricultural Fund for Rural Development).

Romanian State Aid priorities are listed under a Partnership Agreement for 2014 - 2020 which states that only three ministries will now have responsibilities for the implementation of State Aid: the Ministry of Regional Development and Public Administration; the Ministry of Agriculture and Rural Development and the Ministry of European Funds.

Romania was allocated EUR 39.8 billion for the period 2014 - 2020, of which EUR 17.5 billion is for the Common Agricultural Policy, EUR 21.8 billion is for the Cohesion Policy and EUR 0.5 billion is for other measures (e.g. disadvantaged rural communities).

Current EU funded State Aid Schemes applicable in Romania

For companies, the most relevant operational programmes are:

- The Sectoral Operational Programme “Increase of Economic Competitiveness” (POS CCE);
- The Regional Operational Programme (POR);
- The “National Programme for Rural Development” (PNDR).

POS CCE

- managed by the Ministry of European Funds;
- main objective: to increase Romanian companies’ productivity.

The main types of investments funded are:

- **Productive capacity:** The target beneficiaries are existing enterprises especially

from the processing industry and construction sector, which need to modernise and develop their products and technological processes.

- **Research and development:** Companies could get EU funds for industrial research and precompetitive development activities that generate results of economic interest and support the transformation of the research results into new or improved products, technologies and services with high demand on the market. Different forms of collaboration between enterprises and R&D institutions are encouraged with the aim of enhancing their R&D activities and fostering the technology transfer. The procurement of instruments, equipment, computers, and software necessary for R&D activity is also financed.
- **Information and Communication Technology (ICT):** Financial support is directed towards ICT applications and their interoperability. Funding is also directed towards the adoption of integrated solutions for companies leading to long-term cost-cutting, thus facilitating the access to the internal and international market and sustaining more efficient management processes.
- **Energy:** The Programme also finances projects aimed at improving end-user energy efficiency and promotes specific types of investments in installations / equipment of industrial operators in order to achieve energy savings, based on energy balance. Investments in installations to reduce industrial users' energy consumption and investments in upgrading and building new power and heating production capacities by promoting renewable energy sources are also eligible for financing.

POR

- managed by the Ministry of Regional Development and Public Administration;
- main objective: to reduce the economic and social disparities between more developed and disadvantaged regions by improving the infrastructure conditions and the business environment.

Projects financed by POR are aimed, amongst other things, at the sustainable development of business support structures and entrepreneurship; the growth, development and modernisation of tourism and its infrastructure for the exploitation of natural resources and the improvement of touristic services; rehabilitation of unused polluted industrial sites and preparation for new activities.

PNDR

- managed by the Ministry of Agriculture and Rural Development;
- main objective: to support the restructuring and modernisation of the processing and marketing of agricultural and forestry products, while observing the principles of sustainable development.

The programme is also aimed at promoting investment in agricultural holdings, in new buildings and / or the modernisation of existent agricultural buildings, as well as in the acquisition of new equipment and machines and the setting-up of plantations.

PwC can offer comprehensive advisory services related to investment incentives, tax relief, EU grants and other forms of state aid and non-reimbursable funds. This advice and support is available to both new multinational investors and to established Romanian companies. Thanks to our many years of experience and the broad network of contacts at our disposal, we can offer you far-reaching analyses and knowledge of existing financing opportunities as well as important support with application preparation and project implementation.

6. Local Taxes and Other Taxes

Local taxes

Local taxes include building tax, land tax, registration, licensing, certifications, authorisations issuance taxes, tax on means of transport, tax on means of promotion and advertising, tax on revenues from public performances, hotel occupancy tax.

Local Councils can increase tax rates by up to 20% per year over the statutory cap (except for the subcategory of tax for large, heavy load transporter vehicles).

Building tax

For buildings owned by individuals, the tax rate is 0.1% and is levied on the taxable value of the building, determined depending on the structure, zoning and locality rankings. Various adjustments to the taxable base are provided for dwellings, older buildings, etc. The tax increases depend on the number of buildings owned by individuals, with the exception of those that obtained the buildings through legal succession.

For buildings owned by companies, the building tax rate is set by the Local Council and ranges between 0.25% and 1.5% of the entry value of the building, adjusted by the value of reconstruction, consolidation, modernisation, modification, extension works and the revaluation.

If a building has not been revaluated, the tax rate is set as follows:

- between 10% and 20% for buildings not revaluated within the last three years;
- between 30% and 40% for buildings not revaluated within the last five years.

The tax rate for buildings with touristic destination which do not operate during the calendar year is a minimum of 5% of the inventory value of the building.

The Local Council may grant an exemption from or a reduction of the building tax, for a period of a minimum of seven years, to owners which have performed energy rehabilitation work on their apartments or buildings at their own expense.

Exemptions from building tax can also be granted for a period of five consecutive years for owners performing architectural improvement work on their buildings.

The taxable value of fully depreciated buildings is reduced by 15%.

Building tax is paid annually, in two equal instalments, by 31 March and 30 September. As a general rule, if building tax is paid in full prior to 31 March, the Local Council may grant individuals a reduction of up to 10%.

As of 2014, legal persons which opt for a fiscal year different from the calendar year may face difficulties in determining the building tax, as the Fiscal Code provisions on buildings and the the possibility of performing revaluations every three or five consecutive years to avoid paying an increased tax rate have not been correlated with the changes regarding the fiscal year.

Tax on constructions

As of 1 January 2014, a new tax for constructions is included in the first group of the Catalogue for classification and normal useful life of fixed assets, except for those which are subject to building tax.

The tax on constructions is calculated by applying a 1.5% rate to the value of the constructions recorded in the taxpayer books as at 31 December of the previous year.

The taxpayers required to pay the tax on constructions are Romanian legal persons (except for public institutions, national research and development institutes, associations, foundations and other non-profit legal persons, according to the laws of organisation and operation), foreign legal persons operating through a permanent establishment in Romania and legal entities with registered offices in Romania established according to the European legislation.

Taxpayers are obliged to declare the tax on constructions by 25 May of the year for which the tax is due and pay it in two equal instalments, by 25 May and 25 September.

Land tax

Owners of land are subject to land tax set at a fixed amount per square metre, depending on the rank of the locality where the land is located and the area and / or category of land use, in accordance with the classifications made by the Local Council.

Companies are not subject to land tax on land where buildings are sited.

Similar to building tax, land tax is paid annually, in two equal instalments, by 31 March and 30 September. A tax reduction of up to 10% is granted to individuals for full advance payment of this tax by 31 March.

In the case of fiduciary contracts concluded by individuals and legal persons, local taxes related to the fiduciary patrimony are paid by the fiduciary.

Other Taxes

Other taxes include health tax, legal persons' contributions for disabled unemployed people, gambling tax, etc.

Health Tax

Providers of advertising services for tobacco products and alcohol pay a 12% health tax. The tax is levied on revenue derived from advertising.

A health tax is also due by producers and importers of tobacco products, as follows:

- Cigarettes: EUR 10/1,000 pieces
- Cigars: EUR 10/1,000 pieces
- Pieces tobacco: EUR 13/kg

Producers and importers of alcoholic drinks, other than beer, wine, other fermented drinks and intermediate products, are also liable to pay a health tax of EUR 200/hectolitre of alcohol or EUR 2/litre of pure alcohol.

Chapter III: Indirect Taxes

1. Value Added Tax (VAT)

General principles

Operations fall within the scope of VAT if:

- They represent a supply of goods / services in return for a consideration;
- The deemed place of supply is in Romania;
- They are performed by taxable persons;
- They result from economic activities.

The import of goods, intra-community acquisitions of goods and operations deemed as intra-community acquisitions of goods are also within the scope of VAT.

A taxable person is considered to be established from a VAT perspective where its centre of economic activity lies, meaning where essential managerial decisions are taken and where the central administration functions are performed. In addition, for non-residents the main criterion is the existence of a fixed establishment, meaning it has sufficient technical and human resources in Romania to perform taxable supplies of goods and services.

The place of supply for goods and services (and, therefore, the place of VAT taxation) is determined based on the same territoriality rules as those presented in the EU 112/2006 and EU 2008/8 Directives.

Intra-community trade

A delivery of goods transported from Romania to another EU member state represents an intra-community delivery which is VAT exempt under certain conditions; in the case of intra-community acquisitions in Romania, these are subject to VAT under the reverse charge mechanism.

Advance payments received / made for intra-community supplies / acquisitions do not have to be reported in the VAT return and the EC Sales and Acquisition List. The supplier is no longer required to issue invoices for advance payments received for intra-community supplies of goods. If, by option, however, invoices are issued for advance payments received / made for intra-community supplies / acquisitions, these are reported in the VAT return and the EC Sales and Acquisition List.

Special regimes apply for transactions with new means of transport, excisable products and for distance sales.

Persons not registered for VAT purposes in Romania (e.g. individuals, public institutions) and which perform an intra-community purchase of new transportation vehicles have to submit a special VAT return and pay the VAT before registering these vehicles in Romania.

The sale of goods delivered to non-taxable persons established in other EU Member States represents distance sales if the transport of the goods is supported by the seller. These are subject to VAT taxation in the destination Member State if the total value of the distance sales made by the supplier exceeds a threshold established by the destination Member State (in Romania this threshold is EUR 35,000) during the year in which a particular distance transaction takes place, including the value of that particular transaction or during the previous calendar year.

Import of goods

VAT on imported goods continues to be paid in customs until 31 December 2016, except for taxable persons registered for VAT purposes that obtain an import VAT deferment certificate from the customs authorities. For these, the VAT is not paid in customs, but shown in the VAT return as both input and output VAT. The ceiling regarding the minimum value of imports for obtaining the VAT deferment certificate is RON 100 million in the last 12 consecutive months or in the previous calendar year. In this case, VAT is not paid in customs, but it has to be reported in the VAT return both as input and output tax. As of 1 January 2017, this incentive is applicable to all the taxable persons registered for VAT purposes.

In addition, as of 25 November 2013, the import VAT deferment certificate can be also obtained by companies with the status of Approved Economic Operators (AEO) and those authorised to perform in-house customs clearance formalities.

VAT exemptions for imported goods can be applied to any goods which are VAT-exempt in the case of intra-community deliveries to Romania.

Importers holding a single customs authorisation for simplified customs procedures issued in another Member State or importing goods into Romania for which they do not have the obligation to submit custom declarations, pay the VAT due on imports of goods into Romania based on an import declaration for VAT and excise duties.

The taxable amount for VAT purposes for imported goods is the customs value, to which is added customs duties, excise duties (if any) and ancillary expenses, such as commissions, packing, transport and insurance costs occurring subsequent to the entry of goods into Romania until their first destination, as well as those incurred for the

transport to another destination place within the Community, if the place is known at the moment of the import.

Transfer of business does not fall within the scope of VAT

Any type of partial or total transfer of assets (i.e. transfer of a going concern, irrespective of its form) forming an independent autonomous business unit capable of carrying out an economic activity independently is not considered supply of goods if the beneficiary is a taxable person. In addition, the beneficiary is regarded as the assignor's successor for purposes of adjustment of the VAT deduction right.

Taxable person established in Romania

A taxable person is any person conducting economic activities anywhere in an independent manner, irrespective of the purpose or result of those activities, as well as any non-taxable legal person registered for VAT purposes.

In addition, any private individual who performs an intra-community supply of a new means of transport (i.e. no longer than six months after the date of first entry into service or has not travelled more than 6,000 kilometres) or a person who sells real-estate property (as a continuous economic activity) is also deemed a taxable person.

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

A taxable person with its main business place outside Romania has a fixed establishment in Romania if it has sufficient technical and human resources to perform / receive taxable deliveries of goods and / or services on a regular basis.

Services provided by offshore entities

For services provided by taxable persons to other taxable persons, the place of taxation is the place where the beneficiary has established its business place, has a fixed establishment, domicile or habitual residence.

For services provided by taxable persons to non-taxable persons, the place of taxation is the place where the provider has established its business place, has a fixed establishment, domicile or the habitual residence from where the services are provided.

There are also some exceptions from the basic rules. For these services, the place of taxation will be determined according to specific rules (e.g. the place where the immovable assets are located in the case of services related to immovable assets; the place where the means of transport is put at the client's disposal for short-term renting; the place of the effective provision of services in the case of catering services).

For certain services, such as ancillary transport services, work / valuations of movable

tangible goods, local transport of goods, when provided to a beneficiary taxable person outside the EU, the place of effective use and enjoyment of services is taken into account in determining the place where the VAT is due.

VAT consolidation

Companies which are legally independent but are closely related in terms of financial, economic and organisational purposes may choose to form a tax group as long as they are administered by the same competent fiscal body. The transactions between the members of the group fall within the scope of VAT, however.

VAT registration

Taxable persons wanting to register for VAT purposes can opt for one of the following:

- Standard VAT registration of companies established in Romania;
- Special VAT registration of Romanian companies for intra-community acquisitions (e.g. public institutions, insurance companies);
- VAT registration of taxable persons established / non-established in the EU through appointment of a VAT Fiscal Representative;
- Direct VAT registration of taxable persons resident in the EU.

A Romanian company may be required to register for VAT purposes in a number of other EU Member States where it performs certain operations (e.g. intra-community acquisition of goods, holding a stock of goods).

Taxable persons established in Romania which receive / send tangible goods to be processed from / to another Member State do not have the obligation to report the transactions and the owner from the other Member State does not have the obligation to register for VAT purposes in Romania, if, after the processing:

- Waste is generated (recoverable or not) which does not leave the territory of Romania / the other Member State;
- The goods are destroyed or if the resulting products are qualitatively degraded or do not meet quality standards imposed by the beneficiary and are destroyed on the territory of Romania / the other Member State by the owner's request.

Taxable persons not established nor VAT registered in Romania, are able to apply for VAT registration for import of goods, as well as for sales or rentals of immovable property (if they opt for taxation).

The tax authorities may cancel ex officio a taxpayer's VAT registration, if the taxpayer is in one of the following situations:

- it is declared inactive or it has entered into a temporary inactivity;

- administrators / shareholders which have the quality of main or sole shareholder have certain offences listed in the tax offence record;
- it did not submit any VAT returns during a semester;
- it did not report acquisitions or deliveries of goods / services in the VAT returns submitted during a semester.

VAT registration threshold for taxable persons established in Romania

The annual turnover threshold for VAT registration is the RON equivalent of EUR 65,000.

When calculating the turnover, revenues derived from VAT exempt without deductions right operations are also taken into consideration.

A taxable person registered for VAT purposes who during the course of a calendar year does not exceed the EUR 65,000 threshold can request to be removed from the VAT registered persons record between the first and tenth day of each month following the fiscal period used (month or quarter).

If, subsequent to the VAT deregistration, the taxable person exceeds the ceiling of EUR 65,000, the taxpayer has to apply for the VAT registration within 10 days of the end of the month in which it reached or exceeded this threshold.

VAT chargeability

VAT chargeability occurs on the date of the supply of goods / services, under certain conditions.

The chargeability for ICS occurs on the date of the issuance of the invoice or on the date of the issuance of the self-invoice or on the fifteenth of the month following that when the ICS is performed, if an invoice / a self-invoice has not been issued up to this date.

Cash accounting scheme for VAT

As of 1 January 2014, the cash accounting scheme for VAT (CAS) is optional; this entails the deferment of the VAT payment until the counter value of goods or services delivered is cashed in. Moreover, the right to deduct VAT by the beneficiaries is deferred until the date the payment is performed via the banking system.

The CAS may be applied by taxpayers with a turnover lower than RON 2,250,000 registered in the previous calendar year and for new companies. The system does not apply for taxpayers which are part of a fiscal group, for transactions performed between affiliated companies, for cash payments or for taxpayers whose turnover exceeds the aforementioned threshold.

The CAS does not apply for VAT exempted transactions, for transactions subject to

special regulations (e.g. regulations for travel agencies, second-hand goods, works of art, gold investments) or for those subject to reverse charge mechanism. Moreover, the system does not apply for intra-community operations, imports or exports.

Taxable amount

The VAT tax base includes every amount that represents trade-offs obtained from the supplier, to which taxes and other incidental expenses are added. Such expenses could be: commissions, packaging costs, transportation costs or insurance costs requested by the suppliers.

Not included in the VAT tax base are: rebates, draws, discounts and other price reductions, the amounts of damages determined by a court of law and late-payment interest.

The market value is used as the taxable amount for supplies of goods or services between related parties, where:

- the consideration is lower than the market value and the recipient of the supply does not have full VAT deduction right;
- the consideration is lower than the market value, the supplier does not have full VAT deduction right and the supply is VAT exempt without deduction right;
- the consideration is higher than the market value and the supplier does not have a full VAT deduction right.

Tax rates

Standard rate

The standard VAT rate is 24%, as of 1 July 2010. The rate is levied for all supplies of goods and services, including imports, which do not qualify for an exemption (with or without credit) or for VAT reduced rate. At the same time, the reduced VAT rates (5% and 9%) remain unchanged and apply for deliveries of goods or services, as provisioned before.

Reduced rates

The reduced VAT rate of 9% is levied on medicines for human and veterinarian use, books, newspapers and periodicals, 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 and supply of bread, bagels, some bakery specialities, wheat and flour.

The reduced VAT rate of 5% applies to housing delivered as part of welfare policy, including: old people's homes, retirement homes, orphanages, rehabilitation centres

for children with disabilities, including buildings and parts thereof supplied as housing, subject to certain conditions. Homes with no more than 120 square metres and a value of maximum RON 380,000 also qualify for the reduced 5% VAT rate.

VAT exemptions

Exemption with credit

There are also operations that are exempt with credit (i.e. deduction right) for input VAT:

- the supply of goods shipped or transported outside the EU and related services;
- intra-community supply of goods;
- international transport of passengers;
- goods placed in free trade zones and free warehouses;
- supply of goods to a bonded warehouse, a VAT warehouse and related services;
- supply of goods, which are placed under suspensive customs regimes;
- supply of services in connection with goods placed under customs suspensive regimes;
- supply of goods and services to diplomatic missions, international organisations;
- NATO forces.

Exemption without credit

VAT exemption without credit applies to a range of activities including banking, finance and insurance. Some financial services are also subject to 24% VAT (e.g. factoring, debt collection, managing and depositing certain equity papers), however.

The VAT exemption without credit also applies for medical, welfare and educational activities, if performed by licensed entities.

The subsequent delivery of vehicles for which the right to deduct the tax related to the acquisition has been subject to total limitation is performed under the VAT exemption regime.

Rental and leasing operations involving immovable goods, as well as the supply of old buildings, are VAT exempt without credit.

The delivery of a building refers to a delivery made by 31 December of the year following that in which the first occupation or use of the building took place. A new building includes any transformed construction or transformed part of a construction, in cases where the cost of the transformation, excluding the tax, is up to at least 50% of the market value of the construction or part of the construction, as set by an expert's report,

excluding the value of the land, following transformation.

The delivery of non-constructible land plots are also VAT exempt without credit.

The option to tax these operations is available, however. The option is exercised by submitting a written notification to the relevant tax office.

VAT deduction

Any taxable person has the right to deduct the VAT related to acquisitions, if these are destined to be used for generating taxable revenues.

Input VAT related to expenses incurred from transactions which are prior to the commencement of a taxable activity (setup costs, stock acquisitions, etc.), can be retroactively deducted when all requirements for VAT deductibility are fulfilled, within a maximum period of five years.

Companies with a single customs authorisation for simplified customs procedures issued in another Member State or that import goods into Romania for which they do not have the obligation to submit custom declarations, can deduct the VAT due on imports of goods based on an import declaration for VAT and excise duties.

VAT wrongly stated on an invoice cannot be deducted by the beneficiary if the transaction for which the invoice was issued is exempt from VAT without credit.

Beneficiaries purchasing goods / services from inactive taxpayers or from other taxable persons that have been de-registered for VAT purposes may deduct the VAT corresponding if the goods were purchased under an enforcement procedure or for goods / services purchased from suppliers in bankruptcy proceedings.

Taxable persons who do not have a valid VAT code, further to being declared inactive, can deduct the VAT on acquisition of goods and / or services for transactions to be made after their re-registration.

VAT payers with mixed regime

If a taxable person registered for VAT purposes performs both taxable and exempt operations without deduction right, the 'input VAT' can be recovered according to the following criteria:

- Directly attributable to VAT-able transactions - fully deductible directly;
- Attributable to exempt transactions - fully non-deductible related to both;
- VAT-able and exempt transactions - subject to pro- rata for determining deducted VAT.

The pro-rata is determined as a ratio between:

- The total amount, exclusive of VAT, of the goods and services supplied which qualify for the right to deduct, including subsidies directly related to price, as numerator; and
- The total amount, exclusive of VAT, of the operations included under point a) and supplies of goods and services which do not qualify for the right to deduct, as denominator. This also includes amounts received from the state or local budgets, granted for the financing of exempt operations without deductibility rights or operations outside the scope of VAT.

The pro-rata does not include the value of sales of capital goods, or the value of other operations performed on an occasional basis (e.g. leasing, rental of immovable goods). The pro-rata is rounded up to the next unit in favour of the taxable person (e.g. from 4.1% to 5%).

Non-deductible input VAT

VAT related to goods and services that are not purchased for business purposes is non-deductible, as is VAT related to the purchase of alcoholic beverages and cigarettes.

Beneficiaries who purchase goods and / or services from taxpayers declared inactive by the tax authorities (while they are inactive) do not have the right to deduct the input VAT on those purchases, except for purchases of goods performed during enforcement proceedings or for goods / services purchased from suppliers undergoing bankruptcy proceedings.

The deductibility of VAT on purchases of motor vehicles and / or the purchases of goods and services directly related to vehicles (i.e. fuel, repair services, etc.)

Full deductibility

The general VAT deductibility rule applies for vehicles exclusively used for economic activities and those used for the exempt categories specifically mentioned in the law (i.e. for emergency services, for rental, used by salespeople, etc.).

In order for the taxable person to exercise its deductibility right, it must prove with documents / information that the vehicles were exclusively used for the purpose of its economic activity, including the exempted categories provided by law (activity, road tolls).

Limited deductibility to 50%

For vehicles used both for economic activities and for personal use (mixed use) or for non-economic purposes, the VAT deductibility right is limited to 50%.

VAT deduction for capital goods

Changing the original destination of capital goods (e.g. a fixed asset or movable goods), by using this asset for operations entitled to deduction in a different proportion than that originally established, entails the adjustment of the deductible right during the fiscal period in which it occurs. The adjustments are carried out on a continuous basis during the adjustment period, for the same capital goods, each time such events take place.

The right of deduction is retained if a tax payer who owns a building cannot finalise it for reasons not depending on own will.

Assets whose normal useful life is less than five years are no longer be considered capital goods and, therefore, input VAT incurred on their acquisition no longer need to be adjusted.

Adjusting of the deductible VAT for services and goods (other than capital goods)

The rules regarding the self supply or input VAT adjustments for written-off tangible fixed assets, other than capital assets, are not applicable.

Taxpayers whose registration for VAT purposes has been cancelled have to adjust the VAT related to tangible fixed assets for the value which remained un-depreciated, or if the case, in proportion to the remaining period of the depreciation.

Missing goods

No adjustment of input VAT is required for missing, destroyed, stolen or perishable goods, if these situations can be duly proved or confirmed. For stolen goods, no VAT adjustment is necessary if the goods are considered stolen based on documentation issued by the judicial authorities.

Simplification measures

For sale-purchase transactions between taxable persons registered for VAT purposes in Romania that involve waste materials or wood materials, VAT is not actually paid, but only shown by the purchaser in the VAT return as both output and input tax.

The reverse charge mechanism applies for the following specific categories of products: wheat, spelt, rye, barley, corn, soybeans, rapeseed, sunflower and sugar beet. The measure applies until 31 May 2018. This period is likely to be extended, with the approval by the European Commission. The simplification measures are also applicable for supplies of energy to taxable persons and for green certificate transactions until 31 May 2018.

Simplification measures also apply for the transfer of greenhouse gas emission certificates. Consequently, for transactions with such certificates between taxable persons registered for VAT in Romania, the beneficiaries have the obligation to pay the VAT by applying the reverse-charge mechanism.

If the tax authorities determine that the simplification measures were not applied and the supplier and / or the recipient is / are in a state of insolvency, inactivity, suspension or liquidation from The Trade Register position, or in the event of the VAT number annulment, they maintain the normal VAT regime under the conditions provided by law.

VAT compliance

Fiscal period

As a general rule, the fiscal period is the calendar month. For taxable persons registered for VAT purposes whose previous year-end turnover did not exceed EUR 100,000 the fiscal period is the calendar quarter.

For those taxpayers whose fiscal period is the calendar quarter, the fiscal period becomes the calendar month if they perform during the previous calendar year a taxable intracommunity acquisition in Romania.

Invoicing

Invoices for the internal supply of goods and services must be issued no later than the fifteenth of the month following that in which the supply of goods or services occurs. The supply-related VAT must be reported in the month in which the delivery takes place.

The invoice must contain the minimum amount of information required by law and EU Directive 112/2006.

Taxable persons are also allowed to issue summary invoices or invoices on behalf of the supplier, and to issue and store invoices electronically. From a VAT perspective, the signing and stamping of invoices is no longer mandatory.

As of 1 January 2013, new rules regarding the procedure of billing are introduced, establishing equal treatment for paper or electronic invoices meeting the same requirements. Thus, any paper or electronic document is considered an original invoice if it meets the minimum mandatory billing requirements.

Invoices issued in Romania for taxable transactions have to comply with the applicable domestic VAT rules, while invoices issued for operations taxable in other Member States have to comply with the VAT rules applicable in those Member States.

New mandatory elements have been introduced for inclusion on invoices. For instance, if the beneficiary is the person liable to pay the tax, the invoice has to mention “reverse charge”.

In the case of electronic invoices, the authenticity of origin and the integrity of the content can also be guaranteed through an audit trail, if it ensures a direct connection between an operation, the corresponding invoice and other documents issued in connection with that transaction.

Operations record

Taxable persons must keep complete and detailed records for calculation of VAT liabilities.

VAT returns should be submitted to the tax authorities by the twenty-fifth of the month following the end of the fiscal period; the VAT is due by the same date. The VAT return should be submitted using an electronic carrier (CD).

Taxable persons not registered for VAT purposes are required to pay VAT and to submit a special VAT return on services rendered by non-residents with a deemed place of supply in Romania. These obligations must be fulfilled by the twenty-fifth of the month following that when the services are supplied.

The recapitulative statement is submitted monthly, not later than the fifteenth day of the month following that in which the intra-community supply / acquisition of goods or services has occurred, for all intra-community operations made with taxable persons established in other Member States, with some exceptions.

Large and medium-sized taxpayers, as well as their secondary headquarters, have the obligation to submit the VAT statement and recapitulative statement electronically. The electronic signature of the tax returns can only be made using a qualified certificate issued by a legally-accredited certification services provider.

Taxable persons are required to file statements for taxable acquisitions / supplies of goods and services performed on Romanian territory, based on the existence of invoices. The statements have to be submitted together with the VAT return by the twenty-fifth of the month following the period for which the reporting is made (i.e. month, quarter or year).

For the intra-community trade of goods, taxable persons also have to submit an Intrastat form.

Correcting documents

If a taxable person erroneously issued an invoice, for the supply of goods or services, without mentioning the VAT amount, and subsequent to a fiscal inspection the authorities have set additional VAT payment obligations, the taxable person can recover the VAT from the beneficiaries by issuing a corrective invoice, while the beneficiaries may exercise their right to deduct in line with legal provisions.

Other obligations

As of 1 August 2010, taxable persons and legal non-taxable persons who undertake intra-community goods and services trading activities must register in the “Registry of Intra-Community Operators”, otherwise their VAT registration number is not considered valid for intra-community operations.

VAT refund

If a company is in a VAT refundable position, it must tick the VAT refund box on the VAT return to claim the refund. Alternatively, the balance can be carried forward against VAT liabilities reported in future returns. The refund claims must be processed by the tax office within 45 days of being submitted.

Refundable VAT returns with negative amounts are settled only after the tax authorities classify the taxpayer in one of the fiscal risk categories (low, medium, high). Thus, VAT returns with a small fiscal risk are settled by issuing a refund decision, medium risk situations by a document analysis and high-risk situations by an advance fiscal inspection.

If the VAT is not reimbursed within the legal term (i.e. 45 days), taxable persons are entitled to claim interest currently set at 0.04% per day of delay.

The new VAT refund procedure for VAT paid in other Member States by taxable persons established in Romania for imports and acquisitions of goods or services, allows for the electronic submission of the forms. The forms are submitted via the electronic portal set up by the National Agency for Fiscal Administration and signed using a certified digital certificate issued by an accredited certification service provider

VAT refund to taxable persons established in the EU / outside the EU

Taxable persons not registered and which do not have the obligation to register for VAT purposes in Romania may request a VAT refund from Romania based on the refund request transmitted electronically to the authorities from the Member State where they are registered.

The requests are transmitted to the Member State in which the solicitor is registered, no later than 30 September of the year following the reimbursement period.

Non-residents may benefit from VAT reimbursement related to acquisitions performed in Romania, without proof of payment thereof.

The settlement period is four months from the date when the request is received by the Romanian authorities, with an option to be extended if the fiscal authorities request further information.

Taxable persons established outside the EU also have the right to claim a VAT refund from Romania, based on reciprocity agreements signed by Romania; this is currently the case for Switzerland, Turkey and Norway.

2. *Customs and International Trade*

Customs duties

The customs duties are those specified in the EU Common Customs Tariff. Customs duties are expressed as a percentage applied to the customs value (i.e. ad valorem taxes), or as a fixed amount applied to a specific quantity (i.e. specific taxes).

Agricultural products (i.e. products from chapters 1 - 24) are subject to specific taxation. There are cases (e.g. meat) where the customs duty rate is established with regard to the CIF or the entry price of the products. In other cases, the customs duty rate is established by adding to the ad valorem tax additional duties such as agricultural components (EA), for sugar (AD S/Z) and for flour (AD F/M).

Customs representation

Legal entities established in non-EU states can declare goods by indirect representation.

Moreover, legal entities established in non-EU states can occasionally declare goods on their own through direct representation, provided that the customs authorities consider this to be justified.

Legal entities established in the EU may declare goods on their own as well as by assigning a direct or indirect representative.

Customs value

The customs value is determined and declared by importers in accordance with the EU customs legislation which is similar to the provisions of the WTO Customs Valuation Agreement (i.e. the Agreement pertaining to the implementation of Article VII of the GATT Agreement).

For chain transactions with goods intended for import, the customs value may be determined, under certain conditions, based on the price in any of the transactions in the

chain (“first sale principle”). This way, the customs value can be determined based on a price lower than that paid / payable by the importer (e.g. based on the price of the first transaction in the chain).

The customs value can be modified within 12 months of the acceptance of the customs declaration for the release of the goods for free circulation, in specific cases (e.g. in the case of defective goods).

Under specific conditions, determining customs value upon import is possible, even if certain elements that need to be added to the customs value are not quantifiable on the importation date (e.g. licence fees, royalties) or are missing.

The customs authorities may inspect the customs value either during the customs clearance or during a post-import audit (the customs authorities are entitled to perform such an audit during a three-year period following the date of import).

It is also possible to amend or invalidate the customs declaration, as follows:

- Amendment of the customs declaration before the customs clearance is obtained;
- Invalidation of the customs declaration within 90 days of the customs clearance being obtained;
- Amendment after the customs clearance is obtained can be performed at the request of the traders within three years of the customs clearance date.

Authorised Economic Operator

Operators that obtain Authorised Economic Operator status benefit from simplifications regarding customs inspection, obtaining customs authorisations and performing customs formalities.

Moreover, through the AEO certificate the holder is recognised by the customs authorities as a reliable person, giving comfort as regards observance of the safety and security standards.

From a tax perspective, economic operators holding AEO certificates benefit from VAT deferment upon releasing into free circulation (import) of goods and, in the case of imports followed by exempted intra-Community supplies of goods, these operators are not obliged to lodge the guarantee provided by the law.

Binding Tariff Information (BTI) / Binding Origin Information (BOI)

Companies can obtain rulings from the Romanian customs authorities on the tariff classification of imported goods that are binding for the customs authorities for a six-year period, whenever goods identical to those described in the BTI are imported.

A similar type of ruling can also be obtained regarding the origin of goods. The BOI is valid for a three-year period.

Temporary Import Duty Relief

Inward Processing Relief (IPR)

If raw materials, components or accessories are imported into the EU (including Romania) for processing and the end products are subsequently re-exported out of the EU, customs duty relief is available through IPR. Processing covers the full assemblage and manufacturing process.

Under this regime, importers can opt either for a duty suspension system (no payment is due for the import duties) or for a duty drawback system (the import duties are to be paid upon the import of raw materials, but they can be reimbursed upon export of the end products). If the compensatory products are released for free circulation in the EU, compensatory interest is due.

Outward Processing Relief (OPR)

The OPR customs regime allows the exported raw materials to be processed outside the EU and the resulting end products re-imported with partial or full customs duty relief. This regime also applies for goods or equipment sent for repair and / or modernisation.

Bonded Warehouse (BWH)

The BWH customs regime allows the temporary suspension of payment of import duties on non-EU goods stored in warehouses until they are taken out of the warehouse. Goods owned by foreign entities and goods initially purchased by the Romanian titleholder of the BWH authorisation can be placed under BWH customs regime.

EU agricultural products intended for export can also be stored in a BWH before leaving Community territory.

Temporary Admission (TA)

Goods that are introduced into Romania for temporary use and subsequently returned to the non-EU owner are granted total or partial relief from customs import duties. Total relief means no payment is requested by the customs authorities in connection with the customs import duties, VAT and excise duties, if applicable. A guarantee is required to secure payment of the import debt, however. Partial relief means the customs authorities levy a monthly portion of 3% of the customs duty and the importer should provide a bond for the balance. If the goods are subsequently released for free circulation in the EU, compensatory interest is due.

Free warehouse (FWH)

Non-EU goods may be stored for an unlimited period of time in a FWH, with payment of the customs duties being suspended. Moreover, no guarantee is required to secure payment of the import debt and the customs formalities have been simplified.

Security required for suspensive / economic customs regimes

Suspensive / economic customs regimes require a guarantee to be lodged for the import debt that might arise. However, there are a few cases where exoneration from guaranteeing the import debt can be granted by the customs authorities, such as for goods placed under the IPR regime.

Trade measures

For some agricultural products, the EU generally imposes specific measures, for instance values or quantitative allowances on imports from other countries. It is mandatory to obtain an import licence before importing such products.

Moreover, import / export licences from relevant authorities are also required for commodities regarded as potentially hazardous to human health or to the environment (such as some chemical products, certain types of waste and scrap), for commodities the end-use of which is controlled (such as explosives) or for dual use (i.e. both civil and military) products.

3. Excise Duties

3.1 Harmonised Excise Goods

The following products are subject to harmonised excise duties:

- ethyl alcohol and alcoholic beverages;
- tobacco products;
- energy products (e.g. unleaded petrol, diesel, gas, coal);
- electricity.

Chargeability

Excise duties are due when excise goods are released for consumption (e.g. import, taken out of an excise duty suspension regime).

Excise duty suspension arrangements

Excise goods can be produced, transformed, held, received and dispatched under a duty suspension arrangement only by the authorised warehousekeeper, which should have

prior approval from the competent tax authorities.

Excise goods can also be received from suppliers within the EU under excise duty suspension arrangements by registered consignees, which should obtain prior approval from the competent tax authorities.

Excise goods can also be dispatched under duty suspension arrangements after being released for free circulation by the registered consignor.

The movement of these excisable products under a duty suspension arrangement has to be substantiated with the electronic accompanying administrative document (e-AD).

The production, holding and movement of excisable products under duty suspension arrangements are subject to a guarantee in order to ensure the payment of the excise duties which may become chargeable. The value of the guarantee cannot be lower than the minimum provided by the legislation in force. In the case of tax warehouses, the excise duties legislation provides for maximum guarantee thresholds depending on the type of produced / stored excisable products.

Exemptions

Ethyl alcohol and other alcoholic products are exempt from the payment of excise duties if they are denatured, or used for vinegar production, medicines or, under certain conditions, in food industry. There are also exemptions for ethyl alcohol and other alcoholic beverages when used in a manufacturing process provided that the final product does not contain alcohol or when used as samples for analysis, for necessary production tests, or for scientific purposes.

Some energy products subject to movement control are excepted from excise duty, provided that an end-user authorisation is obtained and the payment of excise duties is secured.

The excise duty exemption for ethyl alcohol and other alcohol products, as well as for energy products can, under certain conditions, be granted directly based on an end-user licence or indirectly – the excise duties are paid and subsequently reimbursed according to the reimbursement procedures.

Manufactured tobacco is also exempt from excise duties when exclusively intended for scientific and quality testing.

Excise duty guarantee

Companies carrying out transactions with excise goods and which are authorised as warehousekeepers, registered consignee, end-user, registered consignor or performing intra-community acquisitions of excise goods according to the procedure for the

intra-community movement of goods with excise duties paid are required to provide a guarantee in order to ensure the payment of the excise duties which may become chargeable.

The guarantee is submitted to the competent fiscal authority, either as a cash deposit or as a banking letter of guarantee. The level of the guarantee cannot be lower than the minimum level provided by Romanian excise duties legislation.

Excise duty reimbursement

In some cases and provided that certain conditions are met, traders can claim a refund of the excise duties paid (e.g. excise duty paid for goods released for consumption in Romania, but intended for consumption in other Member States; excise duties paid for goods released for consumption and then returned to the production tax warehouse for recycling, reprocessing or destruction; excise duties paid for goods acquired from the EU or imported and then returned to the suppliers).

Special legal requirements

Before being released for consumption in Romania, intermediary products, alcohol, still fermented beverages (other than beer and wines) and tobacco products have to be marked with duty stamps, except for the cases provided by law. The responsibility for such marking lies with the tax warehousekeepers, registered consignees and authorised importers releasing such goods for consumption.

For cigarettes, the excise duty owed is equal to the sum of the specific excise duty and the ad-valorem excise duty. The specific excise duty expressed in EUR/1,000 cigarettes is annually determined, based on the weighted average price, the legal percentage related to the ad-valorem excise duty and the total excise duty.

Companies selling fuel in gas stations have to register with the tax authorities.

3.2 Other Excise Goods

In Romania, the following products are subject to non-harmonised excise duties:

- green coffee, roasted coffee (including coffee with substitutes) and soluble coffee (including blends with soluble coffee);
- cars with a cylindric capacity greater or equal to 3,000 cm³;
- yachts, ships and motor boats for leisure with or without engine;
- motors with a power greater than 100 HP for yachts, ships and motor boats for leisure;
- gold and / or platinum jewellery;

- natural fur garments;
- hunting and personal use guns, and their ammunition

In addition, the following alcoholic beverages are subject to an additional excise duty:

- beer / beer-based (i.e. mixt with non-alcoholic drinks where the weight of Plato degrees resulting from malt, cereals that can be malted and/or unmalted is less than 30% of the total number of Plato degrees);
- fermented beverages, other than beer and wine, where the weight of absolute alcohol (100%) resulting from the exclusive fermentation of fruits, fruit juices and fruit juice concentrates is less than 50%.

Chargeability and excise duty payment

For the other excisable products from other Member States, the chargeability occurs when the products are received.

For products resulting from import operations carried out by an importer which holds a single authorisation for simplified customs procedures issued by another Member State, the importer is obliged to submit to the customs authority the import declaration for VAT and excise duties. The excise becomes chargeable on the date the import declaration for VAT and excise duties is recorded.

In the case of products produced in Romania, with the exception of coffee, the excise duties become chargeable when the products are sold on the internal market.

The payment of the excise duties due on goods subject to non-harmonised excise duties is performed as follows: (i) twenty-fifth of the month following that in which the excise duties become chargeable for products produced locally or for intra-community acquisitions; (ii) for import operations, on the date of the import.

Exemptions

Excise duty exemption applies if the products acquired from other Member States or from import are exported, supplied to other Member States, or returned to the supplier.

Economic operators and exporters of coffee may benefit from refund of excise duties paid for coffee used as raw material.

In addition, excise duties may be reimbursed for excisable products, if their condition or aging makes them unfit for consumption, or if they no longer satisfy the selling conditions.

4. Environmental contributions

Environmental Fund contribution

For certain activities (e.g. selling ferrous and non-ferrous waste, dangerous substances, activities which generate polluting emissions, releasing packaging materials / tyres on the market), companies have to pay contributions and taxes to the Environmental Fund.

In certain cases (e.g. packaging waste) the contribution to the Environmental Fund depends on the degree to which companies achieve the recovery / recycling targets stipulated by the relevant legislation on packaging waste management. Thus, for packaging waste, the contribution to the Environmental Fund is currently RON 2 / kg of packaging introduced onto the market and is owed for the difference between the recovery target stipulated by law and the percentage actually achieved by companies.

Companies conducting activities that result in the discharge of air-pollutant emissions from fixed sources (e.g. nitrogen oxides, sulphur oxides, persistent organic pollutants, heavy metal emissions, such as lead, cadmium, mercury) have to pay contributions to the Environmental Fund of between RON 0.02 / kg (about EUR 0.0046) and RON 20 / kg (about EUR 4.65).

A tax amounting of RON 0.3 / kg is levied (one time only) on industrial oils and lubricants placed on the market; the tax must be distinctly stipulated on the purchase documents.

Producers / importers / exporters (“producers”) of electrical and electronic equipment (“EEE”) batteries and accumulators (“B/A”) have to register with the National Agency for Environmental Protection.

Registration, Evaluation and Authorisation of Chemicals (REACH)

Chemical substances and preparations traded on the market must be registered with the European Agency for Chemical Products.

Registration is the only way for producers and importers of chemical substances to be allowed to continue production and import of chemical substances and preparations.

Environmental obligations

It is mandatory for companies to prepare a Programme for the Prevention and Reduction of Generated Waste Quantities, based on the results of a waste audit.

Companies which develop activities which generate a certain impact upon the environmental are required, according to the applicable legislation, to develop Environmental Site Assessments (level 0, I and/or II) in order to obtain the Environmental Authorisation.

The Environmental Impact Assessment study (EIA) assesses the environmental impact generated by new investments or by modernisation activities. The EIA is one of the items included in the file necessary to be submitted by a company to the environmental authority in order to obtain its Environmental Permit.

Chapter IV: **Fiscal Procedural Code**

1. General Principles

In force since 1 January 2004, the Fiscal Procedural Code unifies previous legislation regulating tax returns, tax assessments, tax registration, tax inspections, collection of budgetary receivables and tax jurisdictions. The main rules and principles of the tax procedure are presented below.

Interpretation of the law

The law is interpreted by the Fiscal Central Commission, whose interpretations of the law are mandatory for tax payers and tax authorities.

Liability of others

Shareholders, directors, managers and others may be held liable for the tax obligations of the taxpayer under certain circumstances (e.g. anyone causing the insolvency of the debtor by disposing of the debtor's assets or hiding such assets).

Fiscal administrative acts

Specific rules apply to the preparation and serving of acts, issued by the tax authorities, to the taxpayers:

- The taxpayer may apply for an advance ruling, which will be mandatory for the tax authorities to the extent that (i) the legal provisions based on which the ruling was issued are not amended / repealed and (ii) the taxpayer complies with the ruling. A similar application may be filed for an Advance Pricing Agreement (APA) setting out the transfer pricing rules applicable between affiliates.
- Under the law, the term for issuing an advance ruling can not exceed three months of the application being submitted, unless additional documents are required, in which case the period is extended by the amount of time necessary for the taxpayer to provide the requested documents. The term for issuing an APA is 12 or 18 months, as appropriate. In practice, however, the tax authorities process these applications very slowly.

Fiscal domicile

The concept of fiscal domicile is defined, with application to both individuals and legal persons. This concept is essential in defining both the tax jurisdiction and tax registration obligations.

Other rules

Any request by a taxpayer must be processed and answered by the tax authorities within 45 days, unless they require additional documents, in which case the period is extended by the amount of time necessary for the taxpayer to provide the requested documents.

2. *Specific Tax Procedures*

Tax registration

According to the Code, the groups required to perform tax registration are any persons or entities subject to a fiscal legal relationship. Registration with the tax authorities must be made within 30 days of the date the circumstances which gave rise to the obligation occurred.

Tax assessment statute of limitation

The limitation period within which the tax authorities are entitled to assess additional tax liabilities is five years, as of 1 January of the year following that in which the taxable event occurred or ten years, if the tax liabilities were imposed as a result of a tax evasion criminal offence.

Tax inspection

Tax inspections can be carried out in respect of all legal persons, irrespective of their organisational structure, which are bound to determine, withhold and pay taxes, duties, contributions and other amounts owed to the general consolidated budget.

Prior to the tax inspection commencing, the tax authorities must notify the taxpayer in writing, by sending a tax inspection notice, except for in the cases explicitly laid down in the Fiscal Procedural Code.

The tax authorities may not inspect the same taxes for a period previously inspected, unless additional data is obtained of which the tax inspectors were unaware when carrying the first inspection. In such a case, the tax authorities perform a re-inspection within the statute of limitation period.

Tax inspections are generally carried out at the taxpayer's business premises and may not exceed a six-month period in the case of large tax payers or three months for other taxpayers. For taxpayers that have secondary offices, the tax inspections may not exceed six months. The tax authorities may suspend the tax inspection if they deem it necessary for the clarification of the taxpayer's tax status, while respecting specific rules set by an order issued by the President of the National Agency for Tax Administration.

Before finalisation of the tax inspection, the tax authorities are required to inform the

taxpayer of their findings and the tax consequences and allow the taxpayer to express its point of view, within three days from the ending of the tax inspection. Upon finalisation of the tax inspection, the authorities conclude a tax inspection report, based on which the tax assessment is made, which in turn is to be communicated to the tax payer within 30 days from the ending of the tax inspection.

Collection of budgetary receivables

Detailed rules apply to payment methods, payment deadlines and treatment of partial payments.

The offsetting of the taxpayer's receivables against the state budget and the budgetary receivables prevails over reimbursements. Offsetting is allowed between certain, liquid, outstanding receivables pertaining to amounts owed by the state budget to the taxpayer and receivables pertaining to amounts owed by the taxpayer to the state budget, while respecting specific rules and offset orders set by the Tax Procedure Code.

The taxpayer's right to request a reimbursement is subject to a limitation period of five years from 1 January of the year following that in which the right to compensation or restitution arose.

Late-payment interest and penalties are imposed for failing to comply, in due time, with the tax obligations to the State Budget.

The late-payment interest rate is 0.03% for each day of delay and this rate may be adjusted by annual budget laws, with the penalty rate being 0.02% for each day of delay.

Late-payment interest for local taxes is 2% of the amount past due, calculated for each month or fraction thereof.

For amounts refundable from the state budget or local budgets to taxpayers, the latter are entitled to receive interest in an amount of 0.03% per month. Interest is also due for the amounts to be reimbursed from the state budget as a result of court decisions annulling tax assessment decisions by which such amounts were imposed by the tax authorities.

Enforcement of budgetary receivables

If the debtor fails to discharge its tax obligations, the tax authorities may proceed to enforcement actions to recover the outstanding receivable, using their own enforcement apparatus.

Any of the following enforcement procedures may be used:

- Enforcement by garnishment;

- Seizure of the taxpayer's movable assets;
- Seizure of the taxpayer's immovable assets.

Proceeds of the enforcement procedures are subject to distribution between creditors in accordance with a predetermined order set out in the Tax Procedure Code. Creditors with guarantees (rights "in rem") over the assets subject to enforcement are preferred to the tax authorities, provided that they registered their rights in the relevant public registrars before the tax authorities registered their receivable.

Any interested parties (including the taxpayer) may challenge an irregular act of enforcement (including the enforcement itself) or the tax executor's refusal to execute an act of enforcement within 15 days of the date the taxpayer received notice:

- The execution or enforcement act of communication notice or notice act received, or, in the absence of these, when conducting enforcement or in another manner;
- Refusal of the enforcement body to perform the enforcement act;
- Release or distribution of the amounts challenged.

The tax authorities' right to request the enforcement of fiscal claims is limited to five years commencing on the 1 January of the year following that in which the right arose.

Administrative complaints

Taxpayers are entitled to challenge, before the relevant bodies, either a fiscal administrative act or the tax authorities' failure to issue such an act.

The Code regulates the form and content of the challenges to be filed by taxpayers.

The challenge has to be submitted within 30 days of the date of communication of the administrative fiscal act, under the sanction of being dismissed due to the non-observance of the legal deadline. If the tax administrative deed challenged does not contain certain mandatory elements (e.g. deadline for filing the appeal or the tax authority where the challenge must be submitted), the challenge may be filed within three months of the date of the tax administrative act.

If the taxpayer is not satisfied with the solution of the tax authorities, it may file a court claim within six months as of the date the solution to the administrative complaint is delivered to it. The deadline may be extended on serious grounds for up to one year from the day the solution was issued.

Suspension of enforcement

There are several legal means for taxpayers to ask for the suspension of the enforcement of tax liabilities, either by submitting a bank letter of guarantee, or by filing a suspension claim before the courts of law.

The enforcement of tax liabilities is suspended or does not start if, after lodging a tax challenge against the tax administrative deed imposing tax liabilities, the taxpayer submits to the competent tax authority a bank letter of guarantee equal to the challenged tax liabilities. Conditions of validity of the bank letter of guarantee as well as the situation where the bank letter of guarantee can be executed or the cases where it is cancelled due to settlement of the related liabilities are expressly set in Fiscal Procedure Code.

For situations where the suspension of the enforcement of tax liabilities is requested before the courts of law, the taxpayer is ordered to provide a guarantee of up to 20% of the challenged amount.

Appendices

Appendix 1

List of Double Tax Treaties

Double Taxation Treaties in force to which Romania is a party:

Albania	Indonesia	Qatar
Algeria	Iran	Russian Federation
Armenia	Ireland	San Marino
Australia	Israel	Serbia*
Austria	Italy	Singapore
Azerbaijan	Japan	Slovakia
Bangladesh	Jordan	Slovenia
Belarus	Kazakhstan	South Korea
Belgium	Kuwait	South Africa
Bosnia-Herzegovina*	Latvia	Spain
Bulgaria	Lebanon	Sri Lanka
Canada	Lithuania	Sweden
China	Luxembourg	Switzerland
Croatia	Macedonia	Sudan
Cyprus	Malaysia	Syria
Czech Republic	Malta	Tajikistan
Denmark	Mexico	Thailand
Ecuador	Moldova	Tunisia
Egypt	Montenegro*	Turkey
Estonia	Morocco	Turkmenistan
Ethiopia	Namibia	Ukraine
Finland	Netherlands	United Arab Emirates
France	Nigeria	United Kingdom
Georgia	North Korea	United States
Germany	Norway	Uzbekistan
Greece	Pakistan	Vietnam
Hungary	Philippines	Zambia
Iceland	Poland	
India	Portugal	

* - Treaty concluded with F.S.R. Yugoslavia, in force since 1989, applies to Bosnia-Herzegovina, and the treaty concluded with F.R. Yugoslavia, in force since 1998, applies to Serbia and Montenegro.

Appendix 2

Withholding tax rates for companies under some representative double tax treaties

Country	Commissions (%)	Dividends (%)	Interest (%)	Royalties (%)
Non Treaty	16	16	16	16
EU - Parent-Subsidiary Directive	X	0*	X	X
EU - Interest and Royalties Directive	X	X	0*	0*
Australia	X	5/15	10	10
Austria	X	0/5	0/3	3
Belgium	5	5/15	10	5
Bulgaria	X	10/15	15	15
Canada	X	5/15	10	5/10
Cyprus	5	10	10	5
Czech Republic	X	10	7	10
Denmark	4	10/15	10	10
Estonia	2	10	10	10
Finland	X	5	5	2.5/5
France	X	10	10	10
Germany	X	5/15	0/3	3
Greece	5	25/45	10	5/7
Hungary	5	5/15	15	10
Ireland	X	3	0/3	3
Israel	X	15	5/10	10
Italy	5	10	10	10
Japan	X	10	10	10/15
South Korea	10	7/10	0/10	7/10
Lebanon	X	5	5	5
Luxembourg	5	5/15	0/10	10
Malta	10	5/30	5	5
Moldova	X	10	10	10/15
Netherlands	X	0/5/15	0/3	0/3
Norway	4	10	10	10
Poland	0/10	5/15	10	10
Portugal	X	10/15	10	10
Russia	X	15	15	10
Singapore	X	5	5	5
Slovakia	X	10	10	10/15
South Africa	X	15	15	15

X - not mentioned

* - if certain conditions are met

Țara	Comisioane (%)	Dividende (%)	Dobânzi (%)	Redevențe (%)
Spain	5	10/15	10	10
Sweden	10	10	10	10
Switzerland	X	0/15	0/5	10
Tadjikistan	X	5/10	10	10
Turkey	X	15	10	10
Ukraine	X	10/15	10	10/15
United Kingdom	12.5	10/15	10	10/15
United States	X	10	10	10/15

X - not mentioned

* - if certain conditions are met

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