

Romania



 **Capital city:**
Bucharest

 **Language:**
Romanian

 **GDP/capita**
2015:
USD 8 973

 **Telephone code:**
+40

 **Superficy:**
238 391 km²

 **Political system:**
Semi presidential
republic

 **Currency:**
New Lei

 **National day:**
December 1st

 **Population:**
21'730 M.

 **ISO Code:**
ROM

1. Corporate taxation

1.1 Taxes on entities

The following entities pay corporate income tax:

1. Romanian legal persons, with some exceptions (public institutions, National Bank of Romania, State Treasury etc.; these entities pay corporate income tax only if they carry out economic activities);
2. Foreign legal persons that carry on activity through a permanent establishment in Romania/several permanent establishments in Romania;
3. Foreign legal persons having the place of effective management in Romania;
4. Foreign legal persons that derive income from transfer of real estate properties located in Romania, including the rental or the demise of the use of goods pertaining to the real estate located in Romania, income from exploitation of natural resources located in Romania, as well as income from the sale-assignment of participating interest in a Romanian legal person.
5. Legal persons having the registered office in Romania, established according to European legislation.

As of 6 January 2017, the corporate income tax exemption has been introduced for taxpayers that exclusively perform innovation, research and development activities, as well as other closely related activities. This exemption from corporate income tax is applicable during the first 10 years of activity of newly established companies subject to state aid regulations. For already incorporated taxpayers, the exemption applies for 10 years as from the date of entry into force of the Ordinance.

Medical services provided on a subscription basis, which are borne by employees, are deductible for income tax purposes up to the threshold of EUR 400/year. This incentive applies as from 1 February 2017;

Revenues obtained by individuals from the sale of real estate properties are subject to 3% income tax on the amounts exceeding RON 450,000 (the revenues below this limit being non-taxable).

There is also a tax system for small companies (micro-enterprises income tax). There are several criteria for a company to be considered a micro-enterprise:

- It does not conduct business related to banking, insurance, capital markets except for entities that provide intermediation services in these sectors;
- It does not conduct business in the gambling industry;
- It does not perform activities for exploration, development, exploitation of oil and natural gas resources;
- Revenue is less than 500.000 euro per year;
- Revenue is obtained, in proportion of at least 80%, from other services than consultancy and management;
- It is not owned by the state or regional administrative units;
- It is not undergoing the dissolution procedure, followed by liquidation, registered with the Trade Register or courts of justice, under the law.

1.2 Residence and non-residence

Romanian entities, foreign entities having place of effective management in Romania, as well as entities having the registered office in Romania, set up according to the European legislation pay tax for profits sourced anywhere, be it in Romania and abroad.

Foreign entities that carry out activity through a permanent establishment in Romania, pay tax for the on profit attributable to that permanent establishment. Foreign legal persons that derive income from transfer of real estate properties located in Romania, including the rental or the demise of the use of goods pertaining to the real estate located in Romania, income from exploitation of natural resources located in Romania, as well as income from the sale-assignment of participating interest in a Romanian legal person pay tax for the taxable profit related to those activities.

In some cases the foreign company's business activities will not be deemed to constitute a permanent establishment even though the company is carried out from a permanent establishment. A common feature of these activities is that they have a preparatory or auxiliary character.

1.3 Tax year and filing

The tax year is the calendar year, except for companies that have the financial year different from the calendar year. In this case, the entities can choose to match the fiscal year with the financial year.

The calculation, reporting and payment of tax is done quarterly by 25th inclusively of the first month following the end of quarters I-III (25th April, 25th July, 25th October). An annual corporate income tax return is filed on the 25th March for the previous fiscal year; this is also the deadline for paying the rest of corporate income tax for the previous year.

Some taxpayers, may opt for assessing, reporting and payment the annual corporate income tax, by means of early payments made on a quarterly basis. The deadline for the annual tax payment is the deadline for filing the corporate inco-

me tax return (25th March).

There are other categories of taxpayers that have the reporting date of corporate income tax on 25th February or 25th of the second month following the end of the fiscal year (churches, education institutions, owners' associations, Red Cross Romania).

1.4 Types of income

Corporate income tax = $16\% \times (\text{Total income} - \text{Total expenses} - \text{Non-taxable income} + \text{Non-deductible expenses})$

Micro-enterprise tax = $* \times \text{Total income}$

*-3% for micro-enterprises with no employees

- 1% for micro-enterprises which have at least one employee.

1.5 Group income and grouping arrangements

No case.

1.6 Capital gains

The capital gains tax rate is 16%.

National dividends

The dividend tax rate is 5%.

The dividend income received by a Romanian entity from another Romanian entity is tax exempt if there is a 10% minimum stake for at least one year until the date of payment.

Foreign dividends

Dividends received from a foreign entity are tax exempt if the Romanian entity holds minimum 10% of the foreign entity share capital for a minimum period of one year. The foreign entity must be a corporate income tax payer or any similar tax and a double tax avoidance treaty must exist between Romania and the country where the foreign entity is registered. Otherwise, depending on each country, the specific conditions of the double tax treaty avoidance apply (if available) or the 5% standard rate.

Deductible expenses

Deductible expenses are the ones which are incurred for the purpose of the firm's activity.

1.7 Losses

The annual fiscal loss, established through the corporate income tax return, can be recovered from the taxable revenues in the following consecutive seven years.

1.8 Exemptions

See 1.1

1.9 Rates

16% for corporate income tax and
3% for micro-enterprise income tax for those which are no employees
1% for micro-enterprise income tax in all other cases

1.10 Double tax relief

There are double tax avoidance treaties signed with most countries around the world.

2. Personal income taxation

2.1 Taxes on income

The following persons shall pay income tax:

1. resident natural persons;
2. non-resident natural persons who carry out independent activities through a permanent establishment in Romania;
3. non-resident natural persons who carry out dependent activities in Romania;

2.2 Residence and non-residence

A taxable person is considered resident if at least one of the following conditions is met:

1. the person has his or her domicile in Romania;
2. the center of vital interests of the person is located in Romania;
3. the person is present in Romania for a period or periods that exceed in aggregate 183 days during any period of 12 consecutive months ending in the calendar year in question;

4. the person is a Romanian citizen who is working abroad as an official or employee of Romania in a foreign state;

A non-resident taxable person is the one who does not meet at least one of the above criteria.

2.3 Tax year and filing

The tax year is the calendar year.

In case of salary income the filing obligations are monthly by the 25th fulfilled by the employer.

In case of independent activities income the taxpayer has to submit an estimate income return and will pay anticipated tax quarterly. In the following year when the effective realized income is calculated the taxpayer will pay/recover the difference between what was estimated and what is realized.

2.4 Types of income

Income from agriculture and forestry

Income from agricultural activities shall consist of income derived, individually or within a form of association, from:

1. growing agricultural plants;
2. operating a vineyard nursery, a tree nursery, a bearing tree nursery and others alike;
3. breeding and using animals, including trading products of animal origin, in their natural state.

Industrial and commercial income

Not applicable.

Non-commercial income

Not applicable.

Wage income

Salary income is all income in cash and/or in kind derived by a resident or a non-resident natural person who works under an individual employment contract, a work relationship, a secondment document or a special status as provided by law irrespective of the period to which it refers, the denomination of income or the manner they are granted, including allowances for temporary work incapacity granted to persons deriving salary income or income assigned to the salary category.

The taxation rules specific to salary income shall also apply to the following types of income deemed similar to salaries:

1. allowances from activities carried out as a result of a public official position, under the law;
2. allowances from activities carried out as a result of an elected position within non-profit legal persons;
3. monthly military pay, granted under the law;
4. amounts from net profit due to company directors, under the law or the articles of incorporation, as applicable, as well as profit sharing for managers under a management contract, under the law;
5. amounts representing employees' profit sharing, under the law;
6. remuneration earned by directors under a mandate contract and members of the steering committee of two tier companies and of the supervisory council, under the law, as well as the rights due to managers, under the management contract provided for in the law;
7. remuneration received by the president of the owners' associations or by other persons, under a mandate contract, on the setup, organisation and operation of owners' associations, as subsequently amended and completed;
8. the amounts received by founding members of companies established by public subscription;
9. amounts received by the members of the censors' commission or the audit committee, as applicable, as well as the amounts received for taking part in councils, commissions, committees and others alike;
10. amounts received by representatives of tripartite bodies, under the law;
11. allowances and any other similar amounts, other than those granted to cover transport and accommodation expenses, received by employees, under the law, throughout delegation/secondment, as applicable, in another town/city, in Romania and abroad, for business purposes, for the part exceeding non-taxable cap established;
12. allowances and any other similar amounts, other than those granted to cover transport and accommodation expenses, received by employees having a work relationship with non-resident employers, throughout delegation/secondment, as applicable, in Romania, for business purposes, for the part exceeding the non-taxable cap established at the legal level for the daily allowance granted to Romanian personnel sent abroad on temporary missions, by Government decision, according to the country of residence of the non-resident employer benefiting the personnel in Romanian public institutions if they were to travel in such country;
13. allowances and any other similar amounts, other than those granted to cover transport and accommodation expenses received throughout the trip to other town/city, in Romania and abroad, for business purposes, as provided for by the legal relationship, by the directors appointed according to the articles of incorporation, administration contract/mandate contract, by directors working based on a mandate contract under the law, by the members of the steering committee of two tier companies and of the supervisory coun-

- cil, under the law, as well as the managers, under the management contract provided for in the law, for the part exceeding the non-taxable cap;
14. allowances and any other similar amounts, other than those granted to cover transport and accommodation expenses received throughout the trip in Romania, for business purposes, by directors or managers, having work relationships with non-resident entities, as provided for in the said legal relationships, for the part exceeding the non-taxable cap established at legal level for the daily allowance granted to Romanian personnel sent abroad on temporary missions, by Government decision, according to the country of residence of the non-resident employer benefiting the personnel in Romanian public institutions if they were to travel in such country;
 15. remuneration derived by directors of companies, national companies/enterprises and autonomous administrations, appointed/designated under the law, as well as the amounts received by representatives in the general shareholders' meeting and the board of directors;
 16. amounts representing salary/military payments, differences of salary/military payments, interest related to such, as well as their discount by the inflation rate, determined based on court rulings remaining final and irrevocable/final and binding court rulings;
 17. monthly allowances paid under the law by employers during the non-competition period, established under the individual employment contract;
 18. gross remuneration received for the work performed by day labourers, under the law;
 19. any other amounts or benefits in cash and in kind.

Investment income

Investment income includes:

1. dividend income;
2. interest income;
3. earnings from the transfer of securities and any other operations involving financial instruments, including derivatives;
4. earnings from the transfer of financial gold, defined under the law;
5. income from liquidation of a legal person.

Other income

Pensions: The monthly taxable income is calculated by deducting the non-taxable amount of RON 2,000. The rate of 16% applies if the income from pensions is greater than RON 2,000.

Gambling:

Gross income instalments - RON -	Tax - RON -
up to 66,750, inclusively	1%
over 66,750 – 445,000, inclusively	667,5 + 16% for the amount exceeding 66,750
over 445,000	61,187.5 + 25% for the amount exceeding 445,000

Prizes: Income in the form of prizes shall be taxed, by withholding, at a 16% rate applicable to net income derived from each prize.

2.5 Capital gains

See 2.4

2.6 Losses

Fiscal losses are calculated separately for each type of income and can be recovered in the following seven years.

2.7 Exemptions

The following persons shall be exempt from the payment of income tax:

1. natural persons with a severe or pronounced disability, from income derived from:
 - a) independent activities, carried out individually and/or in a form of consortium;
 - b) salaries and income assigned to the salary category;
 - c) pensions;
 - d) agricultural activities, forestry and aquaculture carried out individually and/or in a form of consortium without legal personality (under certain thresholds);
2. natural persons, for income derived from salary income and income assigned to the salary category, further to carrying out software development activities.
3. natural persons, for income derived from salary income and income assigned to the salary category, further to carrying out research & development activities.

2.8 Social security

Social security contribution: 10.5%

Health and insurance social security contribution: 5.5%

Unemployment fund: 0.5%

For salary income earned as from February 2017, the cap of five gross average salaries, which serves as computation basis for the monthly pension contribution due by the employer and employees will be removed.

For salary income earned as from February 2017, the cap of five average gross wages, which serves as computation basis for the monthly health insurance contribution due by individuals will be removed; this also applies for investment income and income from other sources;

2.9 Expatriates

For the revenues derived from activities performed in Romania, expats are taxed with 16%.

2.10 Options

Partnerships

Net income from exploitation of goods and rights of any kind, held jointly, is considered as obtained by the owners, usufruct holders or other legal holders, mentioned in an official document, and shall be allocated proportionately to the share they own in that property or equally, if they are unknown.

2.11 Pensions

The age of retirement is presently 65 years for men and 63 years for women. Normally employees will pay into a pension scheme. The employer will usually pay 10,5% of the wage and the employee 15,8% of the wage.

3. Inheritance and gift tax

No.

4. Wealth Tax

No.

5. Value Added Tax

5.1 Rates

The standard VAT rate 19% at the moment.

There are two reduced VAT rates: 9% and 5%.

The 9% rate applies for the following:

1. Supplies of prostheses and accessories,
2. Supplies of orthopedic products;
3. Supplies of medicines for human and veterinarian use;
4. Accommodation provided by hotels and similar establishments including

- the letting of camping sites and caravan parks;
5. Supply of the following goods: food, including beverages, except for alcoholic beverages, intended for human and animal consumption, live animals and poultry of domesticated species, seeds, plants and ingredients used to prepare food, products used to complete or replace food. The implementing norms establish the CN codes for such goods;
 6. Restaurant and catering services, except for alcoholic beverages, other than beer which falls under code CN 22 03 00 10.
 7. Supply of drinking water and water for agricultural irrigation;
 8. Supply of fertilizers and pesticides used in agriculture, seeds and other related products, and also the provision of specific agricultural services.

The 5% rate applies for the following:

1. School books, books, newspapers and magazines, with the exception of those intended solely or mainly for publicity;
2. Services consisting of admission to castles, museums, memorial houses, historical, architectural and archaeological monuments, zoos, botanical gardens, fairs, exhibitions and similar cultural events, cinemas other than those exempt;
3. Supply of dwellings as part of social policies, including the land onto which they are erected. There are several conditions that need to be respected.

There are also VAT exempt operations:

1. Hospitalization, medical care and closely connected operations;
2. Services supplied by dentists and dental technicians; supplies of dental prostheses;
3. Provision of medical care and supervision in the exercise of the medical and paramedical professions as defined by the legal provisions applicable;
4. Transport of sick or injured persons in vehicles specially designed for that purpose by duly authorized bodies;
5. Supplies of human organs, blood and milk;
6. Educational activities;
7. Supplies of services or goods by homes and canteens within public institutions;
8. private lessons by elementary and secondary school teachers or university professors;
9. supply of services and/or goods closely linked to welfare and/or social security work by bodies governed by public law or by other organizations recognized as charitable, including those rendered by retirement homes;
10. supply of services and/or goods closely linked to the protection of children and young people by bodies governed by public law or by other organizations recognized as charitable;

11. supply of services and/or goods to members for their joint benefit, in return for a subscription fixed in accordance with their by-law, by non-profit organisations with aims of a political, trade-union, religious, patriotic, philosophical, philanthropic, owner-related, professional or civic nature or of representation of their members' interests, provided that this exemption is not likely to cause distortion of competition;
12. supply of services closely linked to practicing sports or physical education by non-profit organizations to persons practicing sports or physical education;
13. supply of cultural services and/or goods closely linked thereto supplied by public institutions or by other non-profit cultural bodies recognized as such by the Ministry of Culture;
14. the supply of services and/or goods by persons whose activities are exempt under the provisions of letters a), f) and i) to m) above in connection with fund-raising events organized exclusively for their own benefit provided that exemption is not likely to cause distortion of competition;
15. activities of public radio and television bodies, other than commercial activities;
16. public postal services and the supply of goods incidental thereto;
17. services supplied by independent groups of persons whose activities are exempt from or are not subject to value added tax, for the purpose of rendering to their members the services directly necessary for the exercise of their activity, where these groups merely claim from their members exact reimbursement of their share of the joint expenses, according to the limits and conditions set out in the norms, provided that such exemption is not likely to produce distortion of competition;
18. supply of personnel by religious or philosophic institutions for purposes of the activities under letters a), f), i) and j)

6. Other taxes

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