



# TAXES IN EUROPE

**2022**

30<sup>th</sup> EDITION

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# Romania



 **Capital city:**  
Bucharest

 **Language:**  
Romanian

 **GDP/capita**  
2019:  
USD 11,510

 **Telephone code:**  
+40

 **Area:**  
238,397 km<sup>2</sup>

 **Political system:**  
Semi presidential  
republic

 **Currency:**  
New Lei

 **National day:**  
1 December

 **Population:**  
19,157,099

 **ISO Code:**  
ROM



## 1. Corporate taxation

### 1.1 Taxes on entities

The following entities pay corporate income tax:

- 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);
- foreign legal persons that carry on activity through a permanent establishment in Romania/several permanent establishments in Romania;
- foreign legal persons having the place of effective management in Romania;
- 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;
- legal persons having the registered office in Romania, established according to European legislation.

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 EUR 1,000,000 per year;
- 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.

## 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 25<sup>th</sup> inclusively of the first month following the end of quarters I-III (25<sup>th</sup> April, 25<sup>th</sup> July, 25<sup>th</sup> October). An annual corporate income tax return is filed on the 25<sup>th</sup> 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 income tax return (25<sup>th</sup> March).

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

## 1.4 Types of income

Corporate income tax = 16% x (Total income – Total expenses – Non-taxable income + Non-deductible expenses).

For companies which obtained incomes from activities as casino, night bars and clubs, disco, the calculation is as follow:

- if the corporate income tax calculated is less than 5% of total revenues, the taxpayer shall pay this last amount.

Micro-enterprise tax = \* x Total incomes

- \* - 3% for micro-enterprises with no employees
- 1% for micro-enterprises which have minimum one employee.  
Employee means total time of work per day = 8h.
- The micro-enterprise tax prevail over the provisions Law no. 170/2016 (HoReCa Law).

## 1.5 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.

The tax on dividends that are distributed but unpaid by the end of the year in which the distribution was approved (previously the year in which the annual financial statements were approved), is to be declared and paid by 25 January of the following year.

### 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.

As of 1 January 2022, the deductibility limit for expenses with bad allowances will increase from 30% to 50%.

## 1.6 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.

## 1.7 Exemptions

### Research and development and innovation activities

Tax payers which conduct exclusively innovation, research and development activities regarding scientific activity as technological development as well as related activities are exempted from corporate income tax in the first 10 years of activity.

### Construction activities

The rules for determining the minimum threshold of 80% of turnover derived from construction activities are amended as follows:

- Companies incorporated after 1 January 2019 must determine the amount of turnover derived from the beginning of the year. In order to apply the tax incentives, at least 80% of the turnover should come from construction activities.
- Companies incorporated before 1 January 2019 should only take into account the amount of turnover recorded during the previous fiscal year. If at least 80% of this turnover is derived from construction activities, then the company will be entitled to apply the tax incentives throughout the current year. If, however, this annual threshold is not met, then the company must apply the same methodology as newly established companies.

## 1.8 Rates

16% for corporate income tax and  
3/1% for micro-enterprise income tax

## 1.9 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:

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

The salary income tax is 10%.

### 2.2 Residence and non-residence

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

- the person has his or her domicile in Romania;
- the center of vital interests of the person is located in Romania;
- 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;
- 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 25<sup>th</sup> 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, deadline is 25 May.

## 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:

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

### 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 minimum brut wage per country starting with 1 January 2022 will be:

- RON 2,550 the base;
- RON 3,000 for employees in constructions.

Incentives granted for the income obtained from construction field and for the mandatory social contributions are extended. Thus, all individuals who obtain income from salaries and assimilated to salaries for the period up to 31 December, 2028, including, from employers working in the construction field, regardless of the legal relationship that are generating their income, the following tax incentives are granted:

- reducing the social security contributions rates by 3.75% ;
- exemption from paying the health insurance contribution.

For the period starting 1 January 2019 until 31 December 2028, under certain conditions, for employers who carry out activities in the construction sector, the level of the insurance contribution for work is reduced to the level of the share that is being made income to the Guarantee Fund for the payment of wages.

The taxation rules specific to salary income shall also apply to the following types

of income deemed similar to salaries:

- allowances from activities carried out as a result of a public official position, under the law;
- allowances from activities carried out as a result of an elected position within non-profit legal persons;
- monthly military pay, granted under the law;
- 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;
- amounts representing employees' profit sharing, under the law;
- 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;
- remuneration received by the president of the owners' associations or by other persons, under a mandate contract, on the setup, organization and operation of owners' associations, as subsequently amended and completed;
- the amounts received by founding members of companies established by public subscription;
- 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;
- amounts received by representatives of tripartite bodies, under the law;
- 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; beginning 1 January, the non-taxable amount is 50 RON / day;
- 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;
- 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 council, 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;

- 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;
- 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;
- 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;
- monthly allowances paid under the law by employers during the non-competition period, established under the individual employment contract;
- gross remuneration received for the work performed by day laborers, under the law;
- any other amounts or benefits in cash (above RON 300) and in kind.

## **Investment income**

Investment income includes:

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

## Other income

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 10% 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:

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

ment activities.

## 2.8 Social security

Social security contribution: 25% employee; employer: only in the case of particular and special work conditions, 4% and respectively 8%.

Health and insurance social security contribution: 10% employee

Insurance contribution for work: 2.25% employer

## 2.9 Expatriates

For the revenues derived from activities performed in Romania, expats are taxed with 10%.

## 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

Pensions from which the amount of RON 2,000 is deducted are taxed with 10%.

From 1 January 2022, when establishing the monthly taxable income from pensions, the deduction of health insurance contributions may be added to the deduction of the non-taxable monthly amount of RON 2,000, where applicable.

The age of retirement is presently 65 years for men and 63 years for women. Normally employees will pay into a pension scheme.

## 3. Value Added Tax

### 3.1 Rates

VAT exemption threshold: EUR 88,500.

The standard VAT rate is 19%.

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

- The 9% rate applies for the following:
  - supplies of prostheses and accessories,
  - supplies of orthopedic products;
  - supplies of medicines for human and veterinarian use;
  - accommodation provided by hotels and similar establishments including the letting of camping sites and caravan parks;
  - 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;
  - restaurant and catering services, except for alcoholic beverages, other than beer which falls under code CN 22 03 00 10.
  - supply of drinking water and water for agricultural irrigation;
  - 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:
  - school books, books, newspapers and magazines will apply if the goods in question are supplied in hardcopy format and/or electronically. 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;
  - 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.
  - accommodation within the hotel or similar sectors, including rental of camp- sites
  - restaurant and catering services, except alcoholic beverages other than beer

- services consisting of access to amusement and recreational parks with activities classified under NACE codes 9321 and 9329, and fairs.
- right to use sports facilities for activities classified under NACE codes 9311 and 9313, for the purpose of practicing sports and physical education - other than similar services exempt from VAT.
- supply of high-quality goods such as mountain, bio and traditional foods. In order to apply for 5% reduced rate the products must be authorized by the Ministry of Agriculture and Rural Development.
- supply of homes with an usable area of maximum 120m<sup>2</sup> and the value of these homes must not exceed the amount of RON 700,000 (excluding VAT). From January 2022, any natural person may purchase, individually or together with one or more other natural persons, a single residential property using the 5% VAT rate.
- In addition, as of this same date, the lower rate of VAT (5%) will also apply to supplies of heat made during the cold season to the population and other categories of consumer (i.e. public and private hospitals, non-governmental organisations and suppliers of social services). The cold season is defined as the 5-month period running from 1 November of the current year until 31 March of the following year.

There are also VAT exempt operations:

- hospitalization, medical care and closely connected operations;
- Services supplied by dentists and dental technicians; supplies of dental prostheses<sup>12</sup>;
- provision of medical care and supervision in the exercise of the medical and paramedical professions as defined by the legal provisions applicable;
- transport of sick or injured persons in vehicles specially designed for that purpose by duly authorized bodies;
- supplies of human organs, blood and milk<sup>12</sup>;
- educational activities<sup>12</sup>;
- Supplies of services or goods by homes and canteens within public institutions<sup>1</sup>;
- private lessons by elementary and secondary school teachers or university professors<sup>1</sup>;
- 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<sup>1</sup>;
- 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;
- supply of services and/or goods to members for their joint benefit, in re-

turn for a subscription fixed in accordance with their by-law, by non-profit organizations 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;

- supply of services closely linked to practicing sports or physical education by non-profit organizations to persons practicing sports or physical education;
- 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;
- the supply of services and/or goods by persons whose activities are exempt under the provisions of points follow by<sup>1</sup> above in connection with fund-raising events organized exclusively for their own benefit provided that exemption is not likely to cause distortion of competition;
- activities of public radio and television bodies, other than commercial activities;
- public postal services and the supply of goods incidental thereto;
- 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;
- supply of personnel by religious or philosophic institutions for purposes of the activities under points follow by<sup>2</sup>.
- In order to align with the European provisions, namely with a view to respect the firm recommendation of the European Commission, it is provided that until 31 December 2022, the supplies of COVID-19 in vitro diagnostic medical devices and of COVID-19 vaccines and the related vaccination and testing services benefit of the VAT exemption with deduction right.
- Both devices and vaccines must comply with certain European requirements / must be authorised by the European Union or by Member States.
- Also, until 31 December 2022, the intra-Community acquisitions of Remdesivir will benefit of the VAT exemption.

### 3.2 Distance selling to an individual located in Romania by a company located in the European Union.

Place of intra-Community purchase of goods:

1. The place of the intra-Community purchase is considered to be the place where the goods are located at the moment when the shipping and transport of goods ends.
2. In the case of intra-Community purchase of goods, if the buyer communicates to supplier a valid registration code for VAT purposes, issued by the authorities of another Member State, other than the state where the intra-Community purchase takes place, the place of respective intra-Community purchase is considered to be within the Member State which issued the registration code for VAT purposes.
3. In an intra-Community purchase was subject to taxation in another Member State, according to par. (1), and in Romania, according to par. (2), the taxation base is reduced accordingly in Romania.
4. Provisions of par. (2) shall not apply if the buyer proves that the intra-Community purchase was subject to value-added tax in the Member State where the intra-Community purchase, according to par. (1).
5. Provisions of par. (2) shall not apply within a triangular operation when the buyer reseller subject to value-added tax in Romania makes proof of conducting an intra-community purchase not subject to VAT in other Member State, with the intention of conducting a supply of goods later in that Member State.

Additions:

Starting with 3<sup>rd</sup> February 2020, the VAT exemption for intra-community supplies of goods can be rejected by the tax authorities if the supply was not reported in the recapitulative statement (D390) within the deadline or reported incorrectly.

### 3.3 VAT cash accounting system

In accordance with the amendments brought previously to the Tax Code by Law no. 296/2020, which provided the increase of the turnover threshold for the application of VAT cash accounting system, starting with January 1st, 2021, the amendments brought by this GEO have the role of uniformly establishing that the threshold for VAT accounting system is RON 4.500.000 in all cases.

In addition, Romanian resident companies which opt for the application of the system, after the registration for VAT purposes, during the year of registration,

became eligible for the application of the VAT cash accounting system. In this case, the system becomes applicable from the first day of the tax period following the one in which they exercised their option.

## 4. Other taxes

### **Law 170/2016 on taxation of activities in the HoReCa industry.**

#### **To whom do the law's provisions apply?**

The provisions of Law no. 170/2016 apply to Romanian legal entities that perform activities corresponding to the following CAEN codes:

- 5510 - "Hotels and other similar accommodation "
- 5520 - "Accommodation facilities for holidays and short periods of time"
- 5530 - "Caravan parks, campgrounds and camps"
- 5590 - "Other accommodation services"
- 5610 - "Restaurants"
- 5621 - "Catering activities"
- 5629 - "Other food services"
- 5630 - "Bars and other beverage serving activities".

#### **Computation principles**

This specific tax is computed based on a standard tax and on certain coefficients that depend on: the class of the city/village where the activity is performed, usable commercial surface and seasonality. The value of these items differ depending on the type of activity performed.

#### **Declaration and payment rules**

The declaration and payment of this specific tax is performed biannually, until the 25<sup>th</sup> of the following month. The amount to be paid is half of the annual specific tax.

#### **Emergency Ordinance no. 114/2018**

Starting 1 January 2019, online gambling organizers are required to pay a monthly tax of 2%, calculated on the total participating taxes that are monthly collected. The tax is calculated, declared and paid to the state budget until the 25 of the month following the one in which the participation tax were collected.

A new tax beginning 1 January is levied on banking institutions' assets, in the

case ROBOR quarterly exceeds the 2% threshold. The tax is 0.1% to 0.5% of the financial assets, depending on the threshold exceedance.

Bank institutions are required to calculate, declare and pay quarterly the asset tax, until 25 of the month following the quarter for which the tax is due. The asset tax expense is a deductible expense when determining the fiscal result.

*Luisa Dragoman*

## Contact

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