

**DOING
BUSINESS
IN**

Romania



HLB Romania

Doing business in Romania

Foreword

This booklet has been prepared for the use of clients, partners and staff of HLB International member firms.

It is designed to give some general information to those contemplating doing business in Romania and it is not intended to be a comprehensive document.

You should consult us, therefore, before taking any further action.

HLB FREEMARKONSULT Ltd., HLB FREEMARK AUDIT Ltd. and HLB International cannot be held liable for any action or business decision taken on the basis of information in this booklet.

HLB FREEMARKONSULT Ltd. & HLB FREEMARK AUDIT Ltd. is a member of HLB International.

The information contented in this booklet is believed to be correct at the time of going to print.

Telephone: 0040-31-4025346

Fax: 0040-21-3277057

E-mail: hlbfreemark@xnet.ro

Contact persons: Dr. Ion Anton, Elena Antonaru

HLB FREEMARKONSULT Ltd., HLB FREEMARK AUDIT Ltd. - Bucharest

Date of issue – May 2006

ABOUT HLB INTERNATIONAL

HLB International is a worldwide organization of professional accounting firms and business advisors, each providing clients with a comprehensive and personal service relating to auditing, taxation, accounting and general and financial management advice.

Formed in 1969, HLB can assist clients to do business in over 100 countries, with more than 1,800 partners, and 11,600 staff in over 450 offices.

Up-to-date information and general assistance on international matters can be obtained from any of the partners of HLB Freemark Audit LTD- Romania listed in this booklet or from the Executive Office in London.

*HLB International
Executive Office
21 Ebury Street
London SW1W 0 LD
UK
Telephone: + 44 (0) 20 7881 1100
Fax: + 44 (0) 20 7881 1109
Website: www.hlbi.com*

A world-wide organization of accounting firms and business advisers. HLB International Limited registered in England No. 2181222 Limited by Guarantee. The information contained in this communication is confidential and may be legally privileged. It is intended solely for the use of the individual or entity to whom it is addressed and others authorised to receive it. If you are not the intended recipient, please notify the sender immediately and you are hereby notified that any disclosures, copying, distribution or taking of any action in reliance on the contents of this information is strictly prohibited and may be unlawful. HLB International is neither liable for the proper and complete transmission of the information contained in this communication nor for any delay in its receipt. Any views or opinions expressed are those of the author and may not necessarily reflect those of HLB International. HLB International is a world-wide organisation of professional.

Accounting firms and business advisers, each of which is a separate and Independent legal entity and as such has no liability for the acts and omissions of any other member. HLB International Limited is an English company limited by guarantee which co-ordinates the international activities of the HLB International organization but provides no professional services to clients. Accordingly, HLB International Limited has no liability for the acts and omissions of any member of the HLB International organization, and vice versa.

CONTENTS PAGE

Page

1. GENERAL INFORMATION

- 1.1. *Location and Climate*
- 1.2. *Constitution and Population*
- 1.3. *Currency and Language*
- 1.4. *Legal System*
- 1.5. *Economy and Economic Arrangements*
- 1.6. *Standard Time, Weights and Measures*

2. INVESTMENT FACTORS

- 2.1. *Foreign Investments*
- 2.2. *Source of Finance*
- 2.3. *Foreign Exchange Controls*
- 2.4. *Employment Regulations*
- 2.5. *Work Permits for Non-Residents*

3. TYPES OF BUSINESS ORGANISATIONS

- 3.1. *Principal Forms of Business*
- 3.2. *Formation procedure and balance date*
- 3.3. *Legal, Accounting and Audit Requirements*

4. TAXATION

- 4.1. *Fiscal Year*
- 4.2. *General Structure*
 - 4 4.2.1. *Profit tax*
 - 5 4.2.2. *Income tax*
 - 6 4.2.3. *Tax on incomes of micro-enterprises*
 - 4.2.4. *Tax on the income obtained from Romania by non-residents*
 - 4.2.5. *Tax on representative offices*
 - 4.2.6. *Value added tax*
 - 4.2.7. *Duties*

1. GENERAL INFORMATION

1.1. Location and Climate

Located in the Southern Eastern part of the Central Europe, covering 238,391 square kilometers, Romania lies between 43°37'07" and 48°15'06" Latitude North and 20°15'44" and 29°41'24" Longitude East.

The country shares common borders to the East and North with Ukraine and Moldavia, to the West with Hungary, to the Southwest with Serbia-Montenegro, to the South with Bulgaria and to the Southeast with the Black Sea. Two thirds of the frontiers follow the courses of rivers (the Danube, the Prut, and Tisza) and the seashore (the Black Sea) and one third is traced on the land.

Romania enjoys a temperate-continental climate, specific to Central Europe, with four defined seasons. Local differences are caused by altitude and by slight oceanic (to the West), Mediterranean (to the Southwest) and continental (to the East) influences.

1.2. Constitution and Population

Romania is a constitutional republic and according with the 18 March 2002 Census, has a population of 21,680,974 (the same as Venezuela or Malaysia) and ranks 43rd in the world and 13th in Europe in this respect. From an administrative point of view, the country is divided in 40 counties headed by prefects and Ilfov district. The capital of Romania is Bucharest.

The main cities, by number of inhabitants are: Bucharest (2,032,000), Iasi (349,000), Constanta (344,000), Cluj-Napoca (333,000), Galati (332,000), Timisoara (327,000), Brasov (316,000), Craiova (314,000), Ploiesti (253,000) and Braila (234,000).

Today around eight million Romanians live outside the country's boundaries.

52.7% of the country's population lives in the urban area, and 47.3% live in the rural areas.

According to the statistics, 89.5% are Romanians, 6.6% of total population, are Hungarians; 2.5% Roma; 0.3% Germans; 0.3% Ukrainians; 0.08% other ethnic minorities, etc.

The Romania's religious population pattern is: Orthodox 87%, Roman-Catholic 5%; other denominations 8%;

Legal holidays

- January, 1 and 2 -The New Year
- Easter- Monday
- Labour Day (May, 1)
- December 1 – National Day- the anniversary of the great Union of 1918
- December 25 and 26 December (Christmas).

1.3. Currency and Language

The currency in Romania is the Leu and the domestic convertibility of the national currency was introduced in November 1991. The National Bank of Romania has decided that starting on 1 July 2005, Romania's legal tender, is subject to a denomination process, so that 10,000 old lei, in circulation on that date, is exchanged for 1 new leu (RON).

Existing banknotes and coins, i.e. the old lei, will be legal tender until the end of December 2006.

By 31 December 2006, existing banknotes and coins, i.e. the old lei, are to be replaced gradually by the new banknote and coins.

1 leu (RON) = 100 bani (division of leu).

From January 1, 2007, the exchange may be made only at the NBR branches or at the offices of the credit institutions authorized by the NBR Governor's order to perform the exchange, during a three-year period, at most, until 31 December 2009.

Official language – Romanian language is the mother tongue of around 90% of the country's population. The language has direct roots in the Latin language. Citizens belonging to ethnic minorities may freely use their mother tongue in schools, administration, justice, media, and culture.

Foreign languages-The main foreign languages used in Romania are: English, French, German.

1.4. Legal System

Romania is a sovereign, independent, unitary and indivisible National State. The form of government of the Romanian State is a Republic. The Constitution stipulates the separation of the three public authorities (the legislative, the executive and the judiciary).

The two-chamber Parliament (the Deputies Chamber and the Senate), elected by universal vote for a 4 years term, is the people's supreme representative body and the sole law-making authority.

The President of Romania, elected by direct universal vote, for a 5 year term, representing the Romanian State, watches over the activity of public authorities, fulfils the office of Supreme Commander of the Armed Forces and Chairman of the Supreme Defence Council. He nominates a candidate for the office of the Prime Minister and appoints the Government on the basis of a confidence vote received from Parliament.

No one may hold the office of President of Romania for more than two terms at the most, which can be consecutive.

The Government ensures the fulfilment of the country's domestic and foreign policies and provides general management of public administration. Public administration in territorial administrative units is grounded on the principles of local autonomy and decentralization of public services.

Local councils and mayors, elected by direct vote, are the public administration authorities in communes and cities. The county council is the public administration authority that co-ordinates the activities of all commune and city councils in county. The Government appoints a prefect at the head of each county and of Bucharest municipality.

The judicial authority comprises the law courts, the Public Ministry and the Higher Council of Magistracy. The judiciary is made up of the Supreme Court of justice, the county courts and the other law courts and military tribunals. Judges are independent and obey only the law. In judicial activity the Public Ministry (which exercises its right through prosecutors making up the prosecuting magistracy) represents the general interests of the society and protects order under the law, as well as citizens' rights and freedoms.

1.5. Economy and economic arrangements

Romania is a candidate country to the European Union and aims to join the EU in the year 2007. During 1990-2004, Romania has recorded major progresses in its efforts to build a free market economy. The last report of the European Union Commission recognizes that Romania is approaching the status of a functioning market economy and hopefully, it will be soon able to cope with competitive pressures within the European Union.

According to the study realized by a very well known bank, in 2004, Romania attracted more than 50% of the total foreign investments made in the Southern Eastern part of Europe.

The privatization of the largest fuel supplier companies and of some of the major utilities companies (power distributors) played an important role in the evolution of foreign investments in Romania.

Despite the growing investment, the level of investment per capita is still very low in comparison with those recorded by the new member states of the European Union.

The perspective of the integration in the European Union represents a strong stimulation for continuing economic reforms, that will favour the growing flow of the foreign investments.

Romania is a member of international organizations such as: the United Nations (**UN**), the International Monetary Fund (**IMF**), the World Bank (**WB**), the International Bank for Reconstruction and Development (**IBRD**), the European Bank for Reconstruction and Development (**EBRD**), the International Financial Corporation (**IFC**). The country is also taking part in different agreements, such as: the General Agreement for Trade and Tariffs (**GATT**), the Central European Free Trade Agreement (**CEFTA**), etc.

1.6. Standard Time, Weights and Measures

The time zone in Romania is 2 hours ahead (GMT + 2 hours) but from the last Sunday in March to the last Sunday in September, Daylight Saving Time is 3 hours ahead GMT. Romania is in the same time zone as the Republic of Moldavia, Finland, Greece, Israel, Egypt and the Republic of South Africa.

The Romanians use the metric system, the weight unit is the kilogram, and driving is on the right.

2. INVESTMENT FACTORS

2.1. Foreign Investments

In Romania, the general legal regime regarding direct investment, is the same, for both Romanian and foreign investors. According to the law, an investor is a natural or juridical person, resident or non-resident, located or having permanent headquarter in Romania or abroad, which is investing in Romania, in one of the following ways:

DIRECT INVESTMENT

- Participating in the establishment or development of any legal type of company
- Purchasing shares in a company (except portfolio investments)
- Setting up or developing a branch or subsidiary of a foreign company in Romania

PORTFOLIO INVESTMENT

- Buying stocks on the organized and regulated capital markets, with the purpose of earning dividends, interest, or favourable difference on the shares' selling price

Direct investments have the following meaning:

- Financial contribution either in national currency or free currency
- By contribution in fixed assets, tangible or intangible
- Participation in increasing of a company's assets, by any legal financing method

According to a survey initiated by the National Bank of Romania and The National Institute of Statistics, in 2003, Foreign Direct Investments (FDI) revealed the fact that foreign direct investments comprised the following:

- Direct participation of the foreign investors in new companies that were incorporated in 2003 (35.5% of the value of the foreign direct investments)
- The net profit that was reinvested –representing 29.5% of the foreign direct investments
- Other invested capital –like loans received by the companies from the foreign investors, representing 35% of the total amount

Foreign direct investments were oriented towards the following economic activities

The Economic Activities	% from the total
Total of which	100
• Processing industry including:	51.6
- metallurgy	11.8
- food, beverage and tobacco	9.7
- chemical industry	8.7
- transport	5.3
- machines , equipment	4.6
- textile, ready made cloths, leader	4.3
- furniture and woods objects	2.6
- IT, appliances, radio TV	2.2
- Other branches of the processing industry	2.4
• Telecommunications	14.9

• Trade	11.4
• Financial intermediary activities and insurance	9.2
• Services rendered to companies	6.6
• Other activities	6.3

GUARANTEES

In Romania, direct investments benefit from the following guarantees:

A. Ordinary guarantees for all the investors

- Investing in Romania can not be subject to any discriminatory measures
- Administration, maintaining, exploiting, expansion or liquidation of the investment, can not be subject to any discrimination either
- Equal treatment - fair and equal - for Romanian or foreign investors, resident or non-resident in Romania
- Investors also, benefit from the right of choosing a competitive Trial or Arbitration Courts for solving disputes
- Investors have the right to convert, the profit obtained from an investment, in to the same currency that the investment was made. They also have the right to transfer the currency to the country of origin
- Any investor, resident or non-resident juridical person, can enjoy rights upon fixed assets and movable assets
- Investors also benefit from the rights granted to entrepreneurs, by the laws in force
- Investment cannot be nationalized, expropriated, or subject to other similar measures, excepting some special situations. In such situations the owners are receiving compensation that will be equivalent to the real market value of the expropriated investment.

B. Guarantees for the non-resident investors

- If a bilateral agreement for mutual guarantee of investments or another law entitles an investor to a more favourable treatment, the investor shall enjoy that treatment
- Non-resident investors enjoy the right to transfer abroad the following income, in free currency, without any restrictions, after the payment of taxes:
 - the dividends or profit obtained by a company, if they are shareholders
 - the profit from a branch of a company
 - the incomes obtained by a partnership type of association
 - the incomes from selling shares or stocks
 - the amounts obtained from a company liquidation
 - the amounts obtained as compensation against expropriation or any equivalent measures
- Any litigation between non-resident investors and the Romanian State, at the investors' choice, can be solved according to the procedures provided by:
 - Law of Disputed Claims No.29/1990 and Law No. 105/1992 regulating international private law relations
 - Convention for regulating the investment related conflicts between states and citizens, concluded in Washington, 18th March 1965
 - The arbitration rules

2.3. Source of Finance

The National Bank of Romania is the country's Central bank. The National Bank is **the sole institution vested with the power to issue notes and coins** to be used as legal tender on the territory of Romania. Its primary goal is to define and implement monetary policy and without bringing any prejudice to its primary objective of ensuring and maintaining price stability, the National Bank of Romania supports the general economic policy of the Government

By law, the Central bank is solely accountable to Parliament and is not subordinated to Government; its relationship with the latter is co-operation on a regular basis. The territorial network of the NBR comprises its headquarters and 19 branches.

- **Banks**

Beside the Central Bank, a large number of national and foreign banks operate in Romania. The law that sets the rules for the banks' activities is Law 58/1998.

The commercial banks offer a wide range of products and services. Among these an important role is played by loans that are offered for different periods of time, rates of interest or grace periods, etc.

- **Bucharest Stock Exchange**

Beside the banks another option is the Bucharest Stock Exchange that can be a source for raising capital. A National Commission oversees the Stock Exchange activity.

Complementary institution is the Romanian Guarantee Fund for supporting entrepreneurs.

- **Leasing companies and insurance companies**

A large number of national and foreign companies offer support in leasing goods (either as financial or operational leasing) and concluding insurance. Leasing and insurance companies have to comply with special requirements in order to be incorporated.

- **Financial aids from European Union**

Small and medium sized companies carrying their activity in specific fields of activity and fulfilling some requirements can take benefit of financial aids through some pre-accession financial tools, available from European Union, such as the PHARE and SAPARD Programmes.

- **Financial aids from Romanian Government**

In order to stimulate competitiveness, quality, or the export activity, some national programmes are available for the small and medium sized companies. The projects submitted by the eligible companies are assessed in a competing environment.

2.4. Foreign Exchange Controls

The National Bank of Romania decided that, starting from 11, April, 2005, commercial companies are free to exchange their liquidity sources in any currency they wish. Foreign persons either natural or legal persons can deposit cash either in Romanian currency or in any other currency they want.

2.5. Employment Regulations

The labour force regulations are comprised in the Labour Code that stipulates all the rights and obligations for both employers and employees. For companies that record more than 50 employees, a collective labour contract between the management and the employees' representatives must be concluded. The collective labour contract sets the work relations between management and personnel concerning mutual obligations, working time and free time, salaries and other rights, working conditions and safety measures, concluding, executing, changing, suspending and ending an individual labour contract.

Usually, the working day is eight hours a day, five days in a week. According with the law a minimum salary is set for a full working programme, meaning 170 hours/month. A labour contract can be concluded for an unlimited period of time or for a determined period of time.

The following contributions must be paid both by company and employees:

Contributions	Employee	Employer
Unemployment fund	1,0	2,5
Health insurance contribution	6,5	7,75
Social security contribution	9,5	19,75
Industrial accident and occupational illness fund	-	0,5-4
Commission paid to the Labour Office	-	0,75
	17%	30,75-34,75 %

The employee can be hired for a full time job (eight hours a day) or for a part time job. In the case of a part time job, the working hours can not be less than 10 hours per week, respectively 2 hours a day.

In the case of a temporary employment assignment, the agreement will not exceed 12 months and only due to exceptional conditions can be extended to 18 months but no more than that.

Teenagers (under 18 years) can not be hired without their parents' written consent, given in front of a Public Notary.

Ending an individual labour contract can be done, complying with the conditions laid down by the law (Labour Code), as follows:

- a) Common agreement of the parties at a convenient time set by both
- b) One's party initiative, respecting the conditions of the law

For breaking the rules concerning specific issues such as: work safety measures, preventing fires, stilling goods from the company, bringing alcohol or drinking alcohol during the working time, and so on, the sanction is ending immediately the individual labour contract without any prior warning. The employee's guilt must be sustained by proofs.

2.6. Work Permits for Non-Residents

The Law 203 of 28 December 1999 sets the rules and conditions for foreigners working on Romanian territory and the conditions for issuing work permits. The law defines a **foreigner** as a person who does not have a Romanian citizenship and a work permit as - an official document, issued under the terms of the law, which grants the holder the right to be employed in Romania; A work permit may be issued, on request, to foreigners who fulfil the conditions provided by the Romanian legislation and who have a long staying visa.

A work permit may be issued, subject to the observance of the regulations in force, without being necessary the obtaining of the long staying visa for employment, to foreigners that are in some specific situations such as:

- Temporary staying right for reuniting the family
- They benefit from the right of temporary staying for study purposes
 - They are family members - husband, wife, children - of Romanian citizens with their domicile in Romania
- They come from states with which Romania has concluded agreements, conventions or understandings for the cancellation of the visas for crossing the border for this purpose or for which Romania unilaterally gave up the obligatory character of the visas.

A work permit is granted for a 6 month-period with the possibility of extension, at the request of the holder, for new intervals of 6 months. A work permit is issued by the Office for the Migration of Labour Force.

Litigation related to the refusal to grant a work permit, is settled according to the Law on administrative disputed claims No. 29/1990.

A work permit grants the holder the right to be employed, by concluding an individual contract by a natural or a legal person in Romania or an authorised representation from Romania of a legal person with its head office abroad.

The Ministry of Labour and Social Solidarity, in accordance with the policy regarding the migration of the labour force establishes the number of work permits that can be issued to foreigners shall be established annually.

At the issuing of a work permit the holder shall pay a fee in lei, equal to the equivalent of 200 USD depending on the official rate of exchange of the National Bank of Romania on the date of the payment.

For the extension of a work permit the holder shall pay a fee in lei, equal to the equivalent of 100 USD, at the official rate of exchange of the National Bank of Romania on the date of payment.

To cover the expenditure related to the issuing and extension of the work permits the Ministry of Labour and Social Solidarity shall charge the holder a commission of 2% that shall apply to the amounts mentioned above.

The employment without a work permit or the maintaining of the employment of a foreigner who does not have a valid work permit, shall constitute a contravention and shall be sanctioned with fine from 5,000 RON to 10,000 RON.

The procedure of issuing and cancelling of work permits is established by methodological norms issued by the Ministry of Labour and Social Solidarity, the Ministry of Foreign Affairs and the Ministry of the Interior.

3. TYPES OF BUSINESS ORGANISATIONS

3.1. Principal Forms of Business

Legal form of companies

In Romania the 2 most used forms for settings up businesses are:

- Limited liability company
- Stock joint company

The legal requirements are different between these 2 forms and are as follows:

Limited Liability Company (Srl) has

- Legal personality of its own
- Number of shareholders from 1-49
- Minimum share capital –200 RON

The owners are responsible for the company's obligations up to the subscribed capital of the company. The owners do not necessarily run the company. One person can be a sole owner just in a single limited liability company, but he can be shareholder in other limited companies. In case of a sole owner, the person can not hire himself as an employee of the company.

Stock Joint Company (S.A) has

- Legal personality of its own
- Number of shareholders minimum 5- unlimited
- Minimum share capital – 25,000 Euros

The incorporation of a new company is published in the "Monitorul Oficial" (Official Gazette of Romania). Also the incorporation of a new company is announced to the local Tax Administration Office.

Foreign trading companies may set up branches in Romania, according to the provisions of Romanian laws, as well as subsidiaries, agencies, representations or other secondary centres, providing this represents a right recognized as such by law.

Branches

Represent trading companies **with a legal personality** and they are set up in one of the forms (Limited Liability Company, stock joint company, so on) and under the conditions prescribed for that form. They follow the legal status of the form in which they were set up.

Subsidiaries

Represent parts **without legal personality** of the trading companies that are incorporated with the trade register.

For carrying out some specific activities such as: bank operations, real estate companies, insurance companies, leasing companies some specific requirements must be fulfilled and also

some specific permits for carrying these activities. A certain level of a minimum capital is needed in order to incorporate these types of companies.

3.2. Formation procedure and balance date

Whatever the form, running a legal business is not possible without registration in the Trade Register. The following steps are the minimum requirements for starting a business:

- Setting up the activities that the company will carry on
- Selecting the type of the company (limited liability company, stock exchange company, etc);
- Choosing the company's name
- Checking the company's name, to see whether any other company has chosen it
- Drawing up the company's by-laws
- Depositing the capital in the company's bank account
- Filing the documents for authorization at the Trade Register Office
- Publishing the judge's decision in the Official Gazette
- Receiving the legal documents for the company

The estimated time needed to incorporate a company is usually 5 days. The estimated cost depending on certain aspects (number of the activities that will be carried out, subsidiaries, and branches, etc) is around 600 RON~ 170 Euros. The share capital is not included. There are some exemptions, like setting up a bank, when some other requirements must be fulfilled (for setting up a bank, approval from National Bank of Romania needs to be obtained- the time limit for this approval is usually 4 months).

3.3. Legal, Accounting and Audit Requirements

It is compulsory that commercial companies organize and maintain their own accountancy records, according to the provisions of the Accountancy law. Accountancy for a company is an "accrual basis accountancy", both incomes and expenses are recognized at the date when they were incurred regardless of the moment of payment.

The bookkeeping is meant to reflect and measure the assets, the liabilities, the capital as well as the results obtained from activities.

Records are kept in Romanian using the national currency unit. At a special request, these records can also be kept in another currency. The official documents that reflect the financial situation of a company are the annual financial statements, including the balance sheet, the profit and loss account statement, explanatory notes. The financial statements must offer a clear view of the financial position of the financial performance and all the information relevant to the activity of the company.

In case of a group of companies, the holding company has to submit beside its own statements also a financial statement for the entire group.

The documents can be processed by using computers on condition that the accountancy software program is recognized by the Ministry of Public Finance. The responsibility for bookkeeping is of the company's administrators. The books can be maintained either through a distinct department of the company, led by a graduated accountant or can be subcontracted to an authorized-chartered accountant or a specialized accountancy company.

Possessing goods of any kind, bonds, shares, and cash or other assets and liabilities, and carrying, on economic activities without recording them in the bookkeeping records are forbidden.

The following accountancy records are compulsory:

- Journal – records the chronological order of all the operations carried out by the company
- Counting Register- records the assets and the liabilities of the company
- General Ledger- based on which the monthly Balance sheet is drawn-up

The accountancy law requires that all these documents are stored for 10 years whilst payrolls must be stored for 50 years.

Entries in these journals are made in accordance with the rules set by the Ministry of Public Finance.

The financial year begins on January 1 and it ends on December 31. For companies that are set up or companies that ceased to exist, the financial year starts with the date of the incorporation and in the second case, ends at the date the company ceased to exist.

For the companies that at the end of the previous year, complied with at least two of the following three criteria:

- The annual turnover recorded was more than 7.3 million Euros
- The company had more than 50 employees
- The net value of the total assets exceeded 3.65 million Euro, financial statements drawn up in accordance with IAS must be submitted and audited

In such cases, the legal entity in question will present an annual Balance Sheet, a Profit and Loss Account Statement, a statement of changes in capital, a cash flow statement, accounting policies and explanatory notes.

Legal entities that conduct their accounting activity based on double-entry bookkeeping are obliged to go public with their financial situation.

Breaking the provisions of the Accountancy law is subject to penalties and sanctions set by the law.

4. Taxation

4.1. Fiscal Year

The fiscal year is the calendar year. In case of a taxpayer that is set up or ceases to exist during a fiscal year, the taxable period shall be the period of the calendar year for which the taxpayer existed.

4.2. General Structure

Taxes and duties are governed by the Romanian Fiscal Code which sets the legal framework for the taxes, which are income to the state budget and to local budgets. The Code also specifies the payers of the taxes and duties, as well as the manner of calculating and paying such taxes and duties. Taxes are governed by the Fiscal Code.

The taxes and duties governed by the present code shall be the following:

- 4.2.1. Profit tax;
- 4.2.2. Income tax;
- 4.2.3. Tax on the income of micro-enterprises;
- 4.2.4. Tax on income obtained from Romania by non-residents;
- 4.2.5. Tax on representative offices;
- 4.2.6. Value-added tax;
- 4.2.7. Duties
- 4.2.8. Local taxes.

4.2.1. Profit tax

According to the law, the following persons are obliged to pay profit tax:

1. Romanian legal persons;
2. Foreign legal persons that carry on an activity through a permanent head office in Romania;
3. Foreign legal persons and non-resident natural persons that carry on an activity in Romania;
4. Foreign legal persons obtaining income from/or in connection with real estate located in Romania or from the sale of shares to a Romanian legal person;
5. Resident natural persons associated with Romanian legal persons, for income obtained both in Romania and abroad. In this case, the tax payable by the natural person shall be calculated, withheld and paid by the Romanian legal person.

Standard tax rate on profit is 16%.

International fiscal aspects

Income of a permanent head office

Foreign legal entities that carry on activity through a permanent head office in Romania shall be obliged to pay profit tax on the taxable profit made by the permanent head office.

Payment of the tax

The taxpayers are obliged to pay profit tax on a quarterly basis, by the 25th of the month following the quarter for which the tax is calculated. (Exemptions- Non government

organizations, legal entities carrying their activities in agriculture pay tax on profit on an annual basis while banks pay the tax on profit, on a monthly basis).

4.2.2. Income tax

Taxpayers

According with the law, the following persons shall be considered taxpayers:

- a) Resident natural persons;
- b) Non-resident natural persons who carry on an independent activity through a permanent head office in Romania;
- c) Non-resident natural persons who carry on a dependent activity in Romania;
- d) Non-resident natural persons who obtain income from investment activities, intellectual property rights, prizes, grants from the use of goods, gambling wins.

Scope of application of the tax

The tax shall apply to the following income:

- a) In case of Romanian resident natural persons, with domicile in Romania, to income obtained from any source, both from Romania and from outside Romania;
- b) In case of resident natural persons, other than those provided in a), only to income obtained from Romania, which is taxed at the level of each source in the categories of incomes listed below;
- c) In case of non-resident natural persons who carry on an independent activity through a permanent head office in Romania, the net income attributable to the permanent head office;
- d) In case of non-resident natural persons who carry on a dependent activity in Romania, the net wage income from such dependent activity;

Natural persons who satisfy the conditions of residence for a period of three consecutive years shall be subject to income tax on the income obtained from any source, both from Romania and from outside Romania beginning with the fourth fiscal year.

Categories of incomes that are subject to income tax

The categories of incomes which are subject to income tax, according to the provisions of the current legislation, shall be the following:

- a) Income from independent activities;
- b) Income from wages;
- c) Income from the grant of the use of goods;
- d) Income from investments;
- e) Income from pensions;
- f) Income from agricultural activities;
- g) Income from prizes and gambling;
- h) Income from other sources;
- l) income from the transfer of properties (starting from June , 01, 2005)

Taxation schedule

The standard rate is 16% on:

a) Income from independent activities- free professions such as lawyer, notary, financial auditor, fiscal consultant, chartered accountant, authorised accountant, consultant for investments in transferable securities, architect, carried out in an independent manner, in accordance with the legal conditions.

b) Income from wages- all incomes in money and/or in kind obtained by a natural person who carries on an activity based on an individual labour contract or a special statute provided by the law;

c) Income from the grant of the use of goods income, in money and/or in kind, resulting from the grant of the use of movable and immovable, obtained by the owner, the "usufruct" or other legal holder, other than income from independent activities;

d) Income from investments shall include -

- Dividends;
- Taxable income from interest;
- Gains from the transfer of securities;
- Income from forward operations in the sale-purchase of foreign currency based on a contract, as well as any other similar operations.
- Income from the liquidation or dissolution of a legal entity;

e) Income from pensions shall be the amounts received as pensions from funds established from the mandatory social contributions paid to a social insurance system, including those from optional occupational pension schemes and those financed by the state budget;

f) Income from agricultural activities- the income from the following activities:

- the cultivation and sale of flowers and vegetables, in greenhouses and solaria specially designed for such purposes and/or in an irrigated system;
- the cultivation and sale of shrubs, decorative plants and mushrooms;
- the operation of viticulture nurseries and other similar activities;

g) Income from prizes and gambling- income from prizes and from gambling shall include income from contests and gambling, other than those obtained as a result of participating in casino-type gambling, electronic machines;

h) Income from other sources- in this category shall be included the following:

- insurance premiums borne by an independent natural person or by any other entity, within an activity for a natural person with which the bearer does not have a relationship which generates incomes from wages according to Chapter III of the present legislation;
- gains received from insurance companies, as a result of the insurance contract concluded between the parties;
- income received by natural persons who are pensioners in the form of the differences of price for certain goods, services and other rights, former employees, according to clauses of labour contracts or on the basis of special laws;
- Income received by the natural persons representing fees from activities of commercial arbitration.

Exemptions from these rules are:

- Income gained from selling real estate properties of any kind and the land belonging to any buildings, that are sold sooner than a three years term after they were bought, as well as income obtained from selling lands without buildings that were gained after January, 1, 1990 are subject for a 10% tax rate. (This rule is applicable from June, 01, 2005)
- For income gained from prizes, gambling and incomes from investments- different rates are applicable- for instance, income from dividends and bank interest are charged at 10%, on gambling 20-25%, while income from investments are charged at 1% in 2005, and 16% starting from 2006.

Taxable period

The taxable period shall be the fiscal year that corresponds to the calendar year.

4.2.3. Tax on the income of micro-enterprises;

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

- a) The object of activity is the production of material goods, the provision of services and/or trade;
- b) Its number of employees is from 1 to 9, inclusive;
- c) The income obtained did not exceed the equivalent in RON of 100,000 Euros;
- d) No state, local authorities and public institutions own the registered capital of the legal entity.

The taxation rate on the income of micro-enterprises is set up at 3%. The calculation and payment of tax on the income of micro-enterprises is made on a quarterly basis, by the 25th of the month following the quarter for which the tax is calculated.

4.2.4. Tax on the income obtained from Romania by non-residents

Non-residents that obtain taxable income from Romania are obliged to pay tax according to the current provisions. Taxable income obtained from Romania is:

- a) Dividends from a Romanian legal entity;
- b) Interest from a resident
- c) Interest from a non-resident that has a permanent head office in Romania, if the interest is an expense of the permanent head office
- d) Royalties from a resident
- e) Royalties from a non-resident that has a permanent head office in Romania, if the royalty is an expense of the permanent head office
- f) Commissions from a resident
- g) Commissions from a non-resident that has a permanent head office in Romania, if the commission is an expense of the permanent head office
- h) Income from sport or entertainment activities carried on in Romania, regardless if the incomes are received by the persons actually participating in these activities or by other persons
- i) Income from the performance of management, intermediate or consulting services in any field, if the income is obtained from a resident or if such earnings are expenses of a permanent head office in Romania
- j) Income representing remuneration received by non-residents that have the capacity of administrator, founder or member of the managing board of a Romanian legal person
- k) Income from services provided in Romania, excluding international transportation activity
- l) Income from independent professions carried out in Romania such as doctor, lawyer, engineer, dentist, architect, auditor and other similar professions, if the income is obtained occasionally, during a period of time that does exceed in total 183 days during any period of 12 consecutive months ending in the calendar year in question;
- m) Income from pensions received from the social insurance budget or from the state budget, to the extent that the monthly pension exceeds the annual threshold set by Ministry of Public Finance
- n) Income from international air, water, railway or road transport carried out between Romania and a foreign state
- o) Income from prizes granted at contests organised in Romania
- p) Income obtained from gambling practised in Romania. The tax that must be withheld will be final tax.

The tax is set at 10% for bank interest, 20% for incomes from gambling, while the tax on income from wages, pensions, or income from independent professions is set at 16%.

4.2.5. Tax on representative offices

Any foreign legal entity which has a representative office authorised to operate in Romania, according to the law, has the obligation to pay an annual tax. The tax on the representative office for a fiscal year is the equivalent of EUR 4, 000, using the rate of exchange of the currency communicated by the National Bank of Romania, on the day prior to the day when the tax is actually paid to the state.

Any foreign legal entity has the obligation to pay the tax on the representative office to the state in two equal instalments, before 20 June and 20 December. The foreign legal entity has to submit an annual statement to the competent fiscal authority by the last day of February, of the year of taxation. Representative offices are obliged to keep the accounting records requested by legislation in force in Romania.

4.2.6. Value-added tax

Value-added tax is an indirect tax that is payable to the state.

The operations included in the scope of application of value-added tax:

- a) A delivery of goods or a provision of services for a consideration;
- b) The place of delivery of goods or the provision of services is considered to be in Romania;
- c) The delivery of goods or the provision of services is made by a taxable person;
- d) The delivery of goods or the provision of services results from one of the economic activities (such as telecommunications, transport of goods and persons, etc).

The import of goods is also included in the scope of application of value-added tax. Operations that are included in the scope of application of the value-added tax are called taxable operations.

Taxable persons and economic activities

A taxable person shall be considered to be any person that carries out, in an independent manner and regardless of the place, economic activities, whatever the purpose or the result of such activities might be.

Economic activities shall include the activities of producers, traders or service providers, including extractive and agricultural activities and free profession activities or activities assimilated to them. An economic activity shall also include the exploitation of tangible or intangible assets for the purpose of the continuous obtaining incomes.

Delivery of goods

Delivery of goods means any transfer of the property right over the goods from the owner to another person, directly or by persons acting in their name.

Within the meaning of this chapter, goods mean tangible assets and immovable, by their nature or by destination. Electrical energy, thermal energy, natural gas, agents of refrigeration and others of this nature shall be considered tangible movables.

The following shall not be deliveries of goods:

- a) Goods destroyed as a result of natural catastrophes or other cases of force majeure.

- b) Goods in the nature of stocks that can no longer be used;

Provision of services

A provision of services shall be any operation that is not a delivery of goods.

The provision of services shall include operations such as:

- a) The rental of goods or the transmission of the use of goods under a leasing contract
- b) The transfer and/or transmission of the use of copyrights, patents, licenses, trademarks and other similar rights
- c) The commitment not to carry on an economic activity, not to compete with another person, or to tolerate an action or a situation
- d) Provision of services on the basis of an order issued by/or on behalf of a public authority or according to the law
- e) The activity carried out by mediator agent acting in the name of a principal.

Import of goods

An import of goods shall be the entry into Romania of goods that come from another state. Goods that are placed under customs suspension regimes after their entry into the country are not included in the scope of application of value-added tax.

Place of taxable operations

The following shall be considered the places of delivery of goods:

- a) The place where the goods are located at the moment when the dispatch or transport is initiated, in case of goods which are dispatched or transported by the supplier, the beneficiary or a third party;
- b) The place where installation or assembly is carried out, in case of goods which are subject to installation or assembly, regardless whether the commissioning is carried out by the supplier or by another person on his behalf;
- c) The place where the goods are located at the moment when the delivery takes place, in case of goods which are not dispatched or transported;
- d) The place of departure of the passenger transport, in case of the delivery of goods carried out on board of a ship or aircraft;
- e) The place of departure of the passenger transport, in case of the delivery of goods carried out by a car or a train, for the part of the trip performed within the country.

Place of provision of services

The place of provision of services shall be considered to be the place where the supplier has established the head office of the economic activity or permanent head office from where the services are provided or, in the absence of such a head office, its domicile or residence.

As an exception, for the following provision of services, the place of supply shall be considered to be the following:

- a) the place where the immovable asset is located, for the provision of services which are directly connected with an immovable asset, including the provision of services of the real estate and expertise agents, services relating to the preparation or co-ordination of real estate construction works, such as the provision of services by architects and supervision services;
- b) The place where the transport is actually carried out based on distances covered, in case of the transport of goods and passengers;
- c) The head office of the economic activity or permanent head office of the beneficiary for which the services are supplied, or, in the absence of such a head office, the domicile or residence of the beneficiary, in case of the following services:
 - 1. The rental of tangible movables;

2. Leasing operations, which have as object the use of tangible movables;
3. The transfer and/or transmission of the use of copyrights, patents, licenses, trademarks and other similar rights;
4. Advertising and marketing services;
5. Services of consulting, of engineering, legal services and services provided by lawyers, by accountants and chartered accountants, services of research bureau and other similar services;
6. Data processing and data supply;
7. Banking, financial and insurance operations, including reinsurance, with the exception of the rental of safe deposit boxes;
8. The supply of personnel;
9. Telecommunications.
10. Radio and television broadcasting services;
11. Electronically supplied services. When the service supplier and his customer only communicate through electronic mail, the service provided shall not be considered an electronic service;
12. The obligation to refrain from carrying on or exercising, in whole or in part, an economic activity or a right specified in the present letter;
13. The provision of services by intermediaries that intervene in the provision of services provided in the present letter;
 - d) The place where services are provided in case of the following services:
 1. Cultural, artistic, sporting, scientific, education, entertainment or similar, including auxiliary services and those supplied by the organisers of such activities;
 2. Supplies auxiliary to transport such as: loading, unloading, handling, protection and/or storage of goods and other similar services;
 3. Expert evaluations of tangible movables;
 4. Supplies provided on tangible movables.

Standard rate and reduced rate

The standard rate of value-added tax shall be 19% and shall apply to the base of taxation for any taxable operation which is not exempt from value-added tax or which is not subject to the reduced rate of value-added tax.

The reduced rate of value-added tax shall be 9% and shall apply to the base of taxation for the following provision of services and/or deliveries of goods:

- a) Rights to entrance to castles, museums, memorial houses, historical monuments, architectural and archaeological monuments, zoos, botanical gardens, fairs, exhibitions, cinema;
- b) Delivery of textbooks, newspapers and magazines, school manuals, with the exception of those intended exclusively for publicity;
- c) Deliveries of prostheses of any type and accessories to them, with the exception of dental prostheses;
- d) Deliveries of orthopaedic products;
- e) Medicines for human use and veterinary use;
- f) Accommodation within the hotel sector or within sectors with a similar function, including the rental of land arranged for camping.

Fiscal period

The fiscal period for value-added tax shall be the calendar month.

4.2.7. Duties

The following products from domestic production or from import are subject to duties at the moment of their production in Romania or at the moment of their import to the country:

- a) Beer;
- b) Wines;
- c) Fermented beverages, other than beer and wines;
- d) Intermediary products;
- e) Ethyl alcohol;
- f) Tobacco products;
- g) Mineral oils.
- h) Black oil
- i) Natural gas
- j) Electricity
- k) Yachts and pleasure boats with or without engines
- l) Cars
- m) Air conditioning appliances
- n) Perfumes

The duties are chargeable at the moment of the release for consumption or when losses or shortages of excisable products are discovered. The duties are payable on a monthly basis. Apart from importers the duties are paid also by natural persons who bring into Romania, yachts, cars and pleasure boats with or without engine.

4.2.8 Local taxes and duties

The local taxes and duties shall be the following:

- a) Tax on buildings;
- b) Tax on land;
- c) License fee on motor vehicles;
- d) Tax for the issuing of certificates, advisory opinions and authorisations;
- e) Tax for using means of advertising and publicity;
- f) Tax on performing activities;
- g) Hotel tax;
- h) Special Tax;
- i) Other local taxes

The most important local taxes are: tax on buildings, tax on land, and tax on vehicles;

Tax on buildings

Any person who owns a building located in Romania must pay an annual tax. The tax, shall be payable to the local treasury of the administrative-territorial unit where the building is located. In case of natural persons, the tax on buildings shall be calculated by applying the tax rate to the taxable value of the building.

The tax rate shall be 0.2% for buildings located in urban areas and 0.1% for buildings in rural areas.

In case of legal entities, the tax on buildings shall be calculated by applying a tax rate to the inventory value of the building.

The tax rate shall be established by a decision of the local council and it may be between 0.5% and 1%, inclusively.

The tax on buildings is paid on an annual basis, in four equal instalments, by 15 March, 15 June, 15 September and 15 November. For an anticipated payment of the tax on buildings, payable for the entire year by a natural person, by 15 March of such year, there shall be granted a reduction of up to **10%** as established by a decision of the local council.

Tax on land

Any person, who owns land located in Romania shall pay an annual tax for such land, except otherwise provided in the current legislation. The tax is paid to the local treasury of the administrative-territorial unit where the land is located. The amount that has to be paid is determined by taking into account the number of square metres, the rank of the locality where the land is located, and the zone and/or category of use of the land. The tax on land shall be paid on an annual basis, in four equal instalments, by 15 March, 15 June, 15 September and 15 November, inclusively. For an anticipated payment of the tax on land, payable for the entire year by natural persons, by 15 March of such year, there shall be granted a reduction of up to **10%**, established by a decision of the local council.

License duty on motor vehicles

Any person that owns a means of vehicle must be registered in Romania shall pay an annual license fee for the vehicles. The license fee shall be calculated depending on the type of the vehicle and its cylinder capacity and shall be paid to the local treasury of the administrative-territorial unit where the person has his domicile, head office, or place of work, as the case may be. The fee is payable, on an annual basis, in four equal instalments, by 15 March, 15 June, 15 September and 15 November.

Hotel tax

Is set by the local authorities and its level is related to the category of the hotel.

Note

Local communities can set different local taxes taking into consideration their specific interests.

Summary of the Tax Treaties concluded by ROMANIA and other states, in force at 31 December 2003

	COUNTRY	No and the Date of the Convention	Published in the Official Gazette	Date of coming into force	Validity date
1.	South Africa	59/1994	199/1994	29.10.1995	01.01.1996
2.	Albania	65/1994	302/1994	20.10.1995	01.01.1996
3.	Algeria	25/1995	69/1995	11.07.1996	01.01.1997
4.	United Kingdom	26/1976	13/1976	22.11.1976	01.04.1976
5.	Armenia	121/1997	156/1997	24.02.1997	01.01.1998
6.	Austria	254/1978	64/1978	10.01.1979	01.01.1979
7.	Australia	85/2001	150/2001	11.04.2001	01.01.2002
8.	Bangladesh	221/1987	37/1987	21.08.1988	01.01.1989

9.	Belarus	102/1998	200/1998	13.07.1998	01.01.1999
10.	Belgium	126/1996	262/1996	17.10.1998	01.01.1999
11.	Bulgaria	5/1995	7/1995	12.09.1995	01.01.1996
12.	Canada	418/1979	97/1979	29.12.1980	01.01.1978
13.	Czech Republic	37/1994	157/1994	10.08.1994	01.01.1995
14.	China	3/1992	10/1992	05.03.1992	01.01.1993
15.	Cyprus	261/1982	66/1982	08.11.1982	01.01.1983
16.	South Korea	18/1994	96/1994	06.10.1994	01.01.1995
17.	North Korea	104/2000	301/2000	25.08.2000	01.01.2001
18.	Croatia	127/1996	271/1996	28.11.1996	01.01.1997
19.	Denmark	389/1977	118/1977	28.12.1977	01.01.1974
20.	Ecuador	111/1992	294/1992	22.01.1996	01.01.1997
21.	Egypt	316/1980	84/1980	05.01.1981	01.01.1982
22.	Switzerland	60/1994	200/1994	27.12.1994	01.01.1994
23.	The United Arab Emirates	74/1993	262/1993	23.01.1996	01.01.1997
24.	The Russian Federation	38/1994	158/1994	11.08.1995	01.01.1996
25.	Finland	201/1999	642/1999	04.02.2000	01.01.2001
26.	The Philippines	238/1995	64/1995	27.11.1997	01.01.1998
27.	France	240/1974	171/1974	27.09.1975	01.01.1975
28.	Georgia	45/1999	132/1999	15.05.1999	01.01.2000
29.	Greece	23./1992	46/1992	07.04.1995	01.01.1996
30.	India	221/1987	37/1987	14.11.1987	01.01.1988
31.	Indonesia	50/1998	104/1998	13.01.1998	01.01.2000
32.	Ireland	208/2000	626/2000	29.12.2000	01.01.2001
33.	Israel	39/1998	86/1998	21.06.1998	01.01.1999
34.	The Kingdom of Jordan	215/1984	51/1984	02.08.1984	01.01.1985
35.	Italy	82/1977	34-35/1977	06.02.1979	01.01.1979
36.	Latvia	606/2002	841/2002	28.11.2002	01.01.2003
37.	Lebanon	10/1996	62/1996	06.04.1997	01.01.1998
38.	Lithuania	278/2002	393/25002	15.07.2002	01.01.2003
39.	Luxembourg	85/1994	299/1994	08.12.1995	01.01.1996
40.	Japan	213/1976	69/1976	09.04.1978	01.01.1978
41.	Kazakhstan	11/2000	109/2000	21.04.2000	01.01.2001
42.	Kuwait	5/1993	57/1993	05.10.1994	01.01.1992
43.	Malaysia	482/1983	106/1983	07.04.1984	01.01.1985
44.	Malta	61/1996	144/1996	16.08.1996	01.01.1997
45.	Macedonia	306/2002	473/2002	16.08.2002	01.01.2003
46.	Morocco	404/1982	99/1982	30.08.1987	01.01.1987
47.	Mexico	331/2001	372/2001	15.08.2001	01.01.2003
48.	Moldavia	60/1995	127/1995	10.04.1996	01.01.1997
49.	Namibia	61/1999	188/1999	05.08.1999	01.01.2000
50.	Niger	10/1993	58/1993	18.04.1993	01.01.1994
51.	Norway	67/1981	19/1981	27.09.1981	01.01.1982
52.	The Netherlands	85/1980	251/1999	29.07.1999	01.01.2000
53.	Pakistan	212/2000	632/2000	13.01.2001	01.01.2002

54.	Poland	6/1995	7/1995	15.09.1995	01.01.1996
55.	Portugal	63/1999	194/1999	14.07.1999	01.01.2000
56.	Germany	29/2002	73/2002	17.12.2003	01.01.2004
57.	Bosnia-Herzegovina	331/1986	61/1986	21.10.1988	01.01.1999
58.	United States of America	238/1974	168/1974	26.02.1976	01.01.1974
59.	Singapore	475/2002	580/2002	28.11.2002	01.01.2003 for Romania 01.01.2004 for Singapore
60.	Syria	40/1988	9/1988	07.11.1991	01.01.1992
61.	Slovakia	96/1994	315/1994	29.12.1995	01.01.1996
62.	Slovenia	55/2003	105/2003	28.03.2003	01.01.2004
63.	Spain	418/1979	97/1979	26.06.1980	01.01.1980
64.	Sri Lanka	149/1985	27/1985	28.02.1986	01.01.1986
65.	Sweden	432/1978	104/1978	08.12.1978	01.01.1978
66.	Thailand	3/1997	18/1997	03.04.1997	01.01.1998
67.	Tunisia	326/1987	60/1987	19.01.1989	01.01.1990
68.	Turkey	331/1986	61/1986	15.09.1988	01.01.1989
69.	Ukraine	128/1996	272/1996	17.11.1997	01.01.1998
70.	Hungary	91/1994	306/1994	14.12.1995	01.01.1996
71.	Uzbekistan	26/1997	46/1997	17.10.1997	01.01.1998
72.	Vietnam	6/1996	56/1996	24.04.1996	01.01.1997
73.	Zambia	215/1984	51/1984	29.10.1992	01.01.1993

Source of information for this booklet: the web sites of

The National Bank of Romania

The National Institute of Research and Development in Informatics

The National Institute of Statistics

The Romanian Legislation

