

Setting up your Business in Romania

Issues to consider

Romania is a South-eastern European country, having a population of 19 million, the 7th in EU (member since 2007).

The main business developments are in Automotive (Renault, Ford, Daimler), IT (Oracle 4500 employees, Amazon 1000 employees), agriculture, petrol.

The main cities are: Bucharest, the capital – 2 million inhabitants, Cluj Napoca, Iasi, Timisoara, Sibiu, Constanta – 200 k – 400 k inhabitants).

The expected GDP Growth in 2018 is 5.1%.

The corporation tax is 1%-16%, while the employment taxes are up to 43.75%.

The regular VAT quota is 19%, with 5% for cheap houses.

This document takes you through some of the common questions we come across and gives you practical information about the issues you need to consider.

What type of Business Structure should we use?

There are advantages and disadvantages to all of them, and there is no one correct answer, it's all dependent on your specific business circumstances and needs. A brief overview of the main structures is below:

Establishment (a branch of your overseas business)

- Not a separate legal entity but an extension of the overseas parent company
- No limited liability or ring-fencing of the Romanian operations
- If have a permanent establishment in Romania then profits from this PE are liable to Romanian Corporation tax
- Must file parent company accounts, at Ministry of Finances even if these are not made publically available overseas

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Limited Company:

- Provides limited liability and ring-fencing to Romanian operations
- Gives a perception of a local business, with longevity
- Corporation tax to be paid on company profits
- Minimum share capital 200 RON (45 Euros)
- Files yearly Financial statements according to Romanian Standards (EU 4th and 7th Directives)
- Accounts require auditing if 2 of the following criteria are fulfilled 2 years in a row: Revenues > 6.9 million Euros, Gross Assets > 3.45 million Euros, employees > 50.

How much Corporation Tax will the business pay?

Current Corporation Tax rates in Romania are:

Micro companies*: Tax rate 1 – 3 %, taxable base – total revenues

Non Micro companies: Tax rate – flat, 16%, taxable base – fiscal profit

*micro company – all companies with total yearly turnover < 1 million euros.

What if we use Romania to set up our holding company?

Capital gains received by holding companies are tax exempted in certain circumstances.

Dividends received by non-micro companies are tax exempted.

Dividends paid to natural persons are subject to 5% withholding tax.

Romania has more than 60 Treaties to avoiding the double taxation signed with other countries.

What if we make cross-border transactions between group companies?

Romania follows internationally recognised Transfer Pricing (TP) rules where cross-border trading and financial transactions between affiliated entities have to be conducted on an arm's length basis. The price and terms should be the same as if the transactions had been between completely independent parties.

Large companies are required to fill TP files if certain circumstances (if certain thresholds are exceeded). Other companies may be required to submit TP files.

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Typical transactions between affiliated entities that are covered by TP regulations are:

- Sale and purchase of goods
- Provision of management services
- Property rental charges
- Transfer of intangible assets e.g. trademarks, patents
- Sharing of knowledge, expertise, business contacts etc.
- Provision of financial support e.g. inter-group loans and charging a “market” interest on loans

A business will need to prepare a Transfer Pricing Report proving the arm’s length basis of transactions. The report will include a functional and risk analysis, analysis of the adopted pricing model and benchmarking of the arm’s length basis.

What Employment Taxes and Social Security will need to be paid?

If an individual is resident in Romania then they are subject to Romanian tax laws. The residency criteria are the usual ones: the centre of vital interest, period of staying in Romania.

We would advise any new entrant to Romania or person who spends time working in Romania to take professional advice to determine whether they are Romanian tax resident. When entering Romania for a long period (more than 6 months) a questionnaire is due to be submitted to the tax office.

Current Personal Income Tax rate in Romania is 10% (flat)

Employers and employees also have to pay Romanian social security (public pension insurance and public health insurance).

Current Social Security rates are

Pension insurance 25%

Health insurance 10%

Revenues generated by Freelance activities, capital gains, dividends, rentals are subject to social securities within a limit of 1,700 Euros/year.

It is the employers’ legal responsibility to pay over employee’s tax and social security deductions to the Romanian tax authorities.

Romania has a Reciprocal Agreement with the EU countries whereby when an overseas national of those countries is seconded to Romania for a defined period and continues to pay social security in their home country, then the employer and employee are exempt from paying Romanian social security.

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What is Value Added Tax (VAT) and should the business be registered?

VAT is a “goods and services tax” on supplies made, the standard rate of which is 19%. If a business makes taxable supplies in excess of RON 300,000 (EUR 65,000) in any 12 months then it MUST be registered for VAT.

There are four types of supply

- Taxable – must charge VAT on supplies, can reclaim input VAT
- Exempt - cannot charge VAT but reclaim input VAT (e.g. – exports, supplies of goods or services to embassies).
- Exempt – cannot charge VAT nor reclaim input VAT
- Outside the scope – not in the Romanian VAT system

The supply of most types of goods and services in Romania would be classed as Taxable supplies. However, when these supplies are made to companies which are outside of the Romania advice needs to be sought as to what rate of VAT, if any, to use.

If a Romanian entity sells goods or provides services to its non-EU parent then there is no VAT chargeable on this overseas supply, however on the basis that the supply would be VAT’able if made in Romania then the entity will be able to reclaim all its input VAT.

Can we provide Share option plans to our staff?

Many companies see Share Option plans as being an important way of attracting, motivating and retaining key staff.

Romania approves share option plans which give tax benefits to employees and employers alike, however this is limited to shares (stocks) of the Romanian entity.

This is a very technically complex area and careful planning needs to be undertaken as soon as share option plans are being considered for implementation in Romania.

How else can we compensate our employees?

Romania has a very comprehensive range of compensation and benefit options available for companies to offer their employees: private pension or health insurance (non-taxable within EUR 400/year/person), lunch vouchers (outside de scope of social securities within a limit of EUR 3.2/day/person), holiday vouchers (outside the scope of social securities within a limit of EUR 1,500/year/person).

Salaries paid to programmers are tax exempted.

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