



2019

TAX GUIDE



Contact



Ramona Jurubiță
Country Managing
Partner
E: rjurubita@kpmg.com



René Schöb
Tax Partner
Head of Tax & Legal
E: rschob@kpmg.com



Mădălina Racovițan
Tax Partner
E: mracovitan@kpmg.com



Dragoș Doros
Tax Partner
E: dragosdoros@kpmg.com



Alin Negrescu
Tax Partner
E: vnegrescu@kpmg.com

Corporate income tax

Corporate income tax rate	16%
Taxpayers	<ul style="list-style-type: none"> • Romanian legal entities, except for taxpayers subject to the micro-enterprises tax or specific tax, tax-transparent entities and certain institutions specifically defined in the Fiscal Code (Law no. 227/2015 as further amended). • Non-Romanian legal entities that carry out activities through one or more permanent establishments in Romania. • Non-Romanian legal entities which have their place of effective management in Romania. • Non-Romanian legal entities which obtain income from the transfer of ownership or any other rights related to immovable property located in Romania. • Legal entities established according to European legislation that have their registered office in Romania.
Fiscal year	<p>The fiscal year generally follows the calendar year.</p> <p>Taxpayers which have opted for a financial year that is different from the calendar year, according to accounting legislation, may also choose to have a tax year which corresponds to the financial year.</p>

¹ Since 1 January 2017, companies carrying out hospitality activities (e.g. hotels, restaurants, catering companies) have been subject to a "specific tax", determined based on the size and location of their activities, in accordance with Law no. 170/2016.

Returns / payment	<ul style="list-style-type: none"> • Quarterly (for quarters I-III) – by the 25th of the month following the relevant quarter. • Annually: In general, by the 25th of the third month after the end of the tax year (25 March of the following year, if the fiscal year follows the calendar year). By the 25th of the second month after the end of the tax year (25 February of the following year, if the fiscal year follows the calendar year), for not-for-profit organisations that record taxable income and for taxpayers that obtain the majority of their income from growing cereals, technical plants and potatoes, orchards and viticulture.
Advance payments	<ul style="list-style-type: none"> • Banks are required to make quarterly advance payments based on the previous year's results. • For regular taxpayers, the advance payment system is optional.
Tax losses	<ul style="list-style-type: none"> • Losses may be carried forward for 7 years. • There is no carry back of losses. • Changes in ownership do not affect carrying forward tax losses. • Tax losses recorded by taxpayers which cease to exist as a result of reorganisations are transferred to the taxpayers which are the beneficiaries of these reorganisations. • Taxpayers which have been subject to the micro-enterprises tax, having previously been corporate tax payers and recorded tax losses, and which subsequently become corporate tax payers once again, may carry forward their losses from the previous period as corporate tax payers starting from the date at which they have begun again to be subject to corporate tax. This loss may be carried forward for up to 7 years.
Deductibility of expenses	<p>As a general rule, expenses are deductible only if they are incurred for the purpose of carrying out economic activity.</p> <p>Certain types of expenses are specifically provided under the Fiscal Code as being non-deductible or having limited deductibility.</p>

Expenses with limited deductibility (examples)

Social expenses	Up to 5% of total salary expenses.
Protocol expenses	Up to 2% of the gross accounting profit to which protocol expenses are added.
Vehicle expenditure	50% for expenditure related to acquisition, functioning, maintenance and repairs of vehicles (including leasing and rental), if the vehicles are not used exclusively for business purposes.
Expenses recorded in relation to the sale of receivables	30% of the net loss from the sold receivables.

Provisions and reserves

Legal reserves	Deductible up to 5% of the gross accounting profit of the period (calculated and recorded until the reserves reach one fifth of the share capital).
Provisions for guarantees granted to clients	Deductible, only for deliveries of goods and services within the relevant tax period, as provided in contracts concluded with clients.
Allowances for doubtful debts	For receivables that are not guaranteed by a third party and are not due by related parties, allowances are deductible up to: <ul style="list-style-type: none"> • 30% of the receivables, if the due date has been exceeded by more than 270 days. • 100%, if the debtor is subject to bankruptcy (companies) or insolvency (individuals).
Allowances for impairment of tangible assets	Impairment allowances are deductible if: <ol style="list-style-type: none"> 1. The tangible assets have been destroyed as a result of a natural disaster or <i>force majeure</i>, as detailed in application norms. 2. An insurance contract has been concluded for the event.

Specific provisions and reserves	Provision expenses and reserves recorded in accordance with legislation specific to certain activities are deductible, e.g. credit institutions, non-banking financial institutions, insurance and reinsurance companies, private pension funds and private pension funds' administrators, airlines, companies in the natural resources or waste storage sectors etc.
----------------------------------	---

Depreciation and amortisation

Calculation methods	<ul style="list-style-type: none"> • Straight-line. • Reducing-balance. • Accelerated depreciation (up to 50% in the first year).
Tangible assets	<ul style="list-style-type: none"> • Buildings – only the straight-line method. • Technological equipment and computers – accelerated, straight-line or reducing-balance method. • Any other fixed asset – straight-line or reducing-balance method. • Deductibility of depreciation expenses incurred for vehicles with a maximum of 9 seats, which are not used exclusively for business purposes, is limited to 1,500 RON/month.
Intangible assets	<ul style="list-style-type: none"> • Intangible assets (e.g. patents, licenses, copyrights, trademarks) – straight-line method over the period of the contract or the period of use, as appropriate. • Patents may be amortised through the accelerated or the reducing-balance method.
	<ul style="list-style-type: none"> • Software acquisition or production – straight-line method, over a period of 3 years. • Goodwill is not a depreciable asset (amortisation is not tax deductible).

Interest expenses and other economically equivalent expenses

Deductibility of excess debt related costs.	<ul style="list-style-type: none"> • Wholly deductible in the fiscal period when they are incurred by a taxpayer which is an independent entity, in the sense that it is not part of a consolidated group for financial accounting purposes, and has no associated companies and no permanent establishment. Likewise, for these taxpayers, interest and net foreign exchange losses are also wholly deductible.
Exceeding borrowing costs with limited deductibility	<ul style="list-style-type: none"> • Threshold for unlimited deductibility of excess debt related costs –1.000.000 euros • Limited deductibility within the limit of 30% of the following calculation base: gross profit plus corporate income tax payable, plus excess debt related costs and tax depreciation, minus non-taxable income. • If the tax base described above is 0 or negative, the difference between the excess debt-related costs and the deductible limit are treated as non-deductible for corporate income tax purposes during the current tax period, but can be carried forward indefinitely, under the same deductibility conditions. • Excess debt related costs are exempted from applying these limits if they arise from loans used to finance a long-term public infrastructure project for the purpose of providing, improving, operating and / or maintaining a large asset, considered to be of general public interest, and if the project operators are registered in the European Union. • The right to carry forward for taxpayers which cease to exist as a result of a merger or division is transferred to the newly established taxpayers, i.e. those who take over the assets of the absorbed or divided company, as appropriate, proportional to the assets transferred to the beneficiary legal entities under the draft merger /division. • The right to carry forward for taxpayers which do not cease to exist as a result of a transfer of a part of their patrimony, as a whole will be shared proportionally between those taxpayers and the ones that took over these assets.

Transfer of assets, tax residency or of economic activity carried out through a permanent establishment for which Romania loses the right to tax

Gains derived from the transfer of assets, of tax residency or of the economic activity of a permanent establishment for which Romania loses the right to tax, calculated as the difference between the market value and the tax value of assets transferred, are subject to a 16% tax.

If, upon the transfer of assets, of tax residency or of economic activity a loss is incurred, the taxpayer can offset this against gains derived from operations of the same nature during the next 7 years.

Taxpayers that apply the provisions described above can pay the tax in installments, provided that they fulfill the provisions of the Fiscal Procedure Code on the payment of tax in installments and that the transfer is made to an EU or EEA member state.

Anti-abuse general rule

For the purposes of calculating tax liabilities, the tax authorities may ignore arrangements which are, given the relevant facts and circumstances, not genuine and have been put into place with the main aim of, or having as one of their aims, obtaining tax advantages that contravene the object or purpose pursued by the applicable tax provisions.

Rules on controlled foreign companies

An entity or a permanent establishment, which is considered a controlled foreign company (owns directly or indirectly more than 50% of the voting rights or owns directly or indirectly more than 50% of the share capital or is entitled to receive more than 50% of the profits of that entity), must apply the rules on controlled foreign companies if the income tax paid on its profits by the entity or the permanent establishment is lower than the difference between the corporate income tax that would have been charged on the entity or on the permanent establishment under the provisions of title II and the actual corporate income tax paid on its profits by the entity or the permanent establishment.

If the entity or the permanent establishment is considered a controlled foreign company, the payer of corporate income tax that controls it should include in the tax base for its tax period (during which the tax period of the foreign controlled entity/permanent establishment closes) in proportion to the ownership of the taxpayer in the entity, the following undistributed revenues of the entity:

- a) Interest or any other income generated by financial assets.
- b) Royalties or any other income generated by intellectual property rights.
- c) Dividends and income from the transfer of units.
- d) Financial lease income.
- e) Income from insurance activities, banking or other financial activities.
- f) Income from companies that obtain it from goods and services purchased from associated companies and sold to them without any added value or with low added value.

Tax losses registered by a permanent establishment as a controlled foreign company are deducted only from the income earned by the permanent establishment, separately, on each source of income. Uncovered losses are carried forward and may be recovered over the next 5 consecutive fiscal years.

For the avoidance of double taxation, if the entity distributes profit to the taxpayer and this distributed profit is already included in the taxable income of the taxpayer, the amount of the income previously included in the taxpayer's tax base is deducted in the tax period in which the amount of tax due for the profit distributed is calculated.

For the avoidance of double taxation, if the taxpayer surrenders its holding of a controlled entity or the economic activity carried out through a permanent establishment and part of the proceeds of the disposal was previously included in the tax base of the taxpayer, that amount is deducted in the tax period in which the amount of tax due for the receipts is calculated.

The taxpayer deducts the tax paid to a foreign state by the controlled entity/ permanent establishment from the income tax owed, in accordance with double taxation conventions.

Participation exemption rules

The following types of income are non-taxable for corporate tax purposes:

- **Dividends** received from a Romanian company.
- **Dividends** received from foreign subsidiaries which are subject to corporate income tax or a similar tax, located in a state with which Romania has concluded a Double Tax Treaty, provided that the receiving company has had a minimum holding of 10% in the share capital of the distributing company, for an uninterrupted period of at least 1 year.
- **Income from valuation/revaluation/sale/transfer of shares and liquidation proceeds**, whether the legal entities in which the company holds shares are Romanian or foreign entities from states with which Romania has concluded Double Tax Treaties (including those outside the EU). In order for this income to be non-taxable, the company receiving the income must have owned at least 10% of the share capital of the company in which a participation is held, for an uninterrupted period of 1 year on the date of the valuation/revaluation/sale/transfer or on the date when the liquidation process starts.
- **Income registered through a permanent establishment in a foreign state**, under the conditions in which the provisions of the double taxation convention concluded between Romania and the foreign state apply, and the convention provides as a method of avoiding double taxation the method of exemption.

Micro-enterprises

Turnover tax is compulsory, instead of corporate income tax, for Romanian legal entities with a turnover of up to 1,000,000 euros.

However, any company that has a minimum registered capital of 45,000 RON and at least 2 employees, may choose to apply profit tax in any quarter after 1 April 2018, even if its turnover is less than 1,000,000 euros.

Tax rates are:

- 1% for companies that have at least 1 employee.
- 3% for companies with no employees.

Withholding tax

Withholding tax is generally applicable on income earned by non-residents from Romania, such as:

- Dividends
- Interest
- Royalties
- Commission fees
- Management or consulting fees (irrespective of where the services are supplied)
- Income from services supplied in Romania, except for international transport and related services
- Income earned from the supply of professional services in Romania, other than through a permanent establishment (e.g. by lawyers, engineers, doctors, dentists, architects, auditors)
- Income earned from sports or entertainment activities carried out in Romania²

- Prizes granted as a result of competitions organized in Romania
- Gambling income
- Income earned by non-residents from the liquidation of a Romanian legal entity
- Income representing the remuneration received by foreign legal entities acting as administrators, founders or members of the administration board of a Romanian legal entity

Tax rates

- 16% - the standard tax rate.
- 5% for dividends.
- 1% for gambling income, with certain exceptions.
- 50% - special tax rate³.

EU directives

The Interest & Royalties and the Parent-Subsidiary EU Directives are fully applicable in Romania:

² *Non-residents (companies or individuals) earning income from sports or entertainment activities carried out in Romania have the option of registering for corporate/personal income tax purposes in Romania and paying tax on a net basis, by deducting expenses related to the carrying out of activities; otherwise, withholding tax is applicable on the gross income from these activities.*

³ *If the income is paid in a state with which Romania has not concluded a treaty for the exchange of information and the payment is deemed to be related to an artificial transaction.*

Dividends	Exempt under the EU Parent-Subsidiary Directive, subject to the condition of ownership of at least 10% for an uninterrupted period of at least 1 year that ends before the payment of the dividend.
Interest / Royalties	Exempt under the EU Interest and Royalties Directive, subject to the condition of direct ownership of at least 25% for an uninterrupted period of at least 2 years.

Tax treaties

A wide network of Double Taxation Avoidance Treaties concluded by Romania may allow non-residents to be taxed at a reduced rate, or to be exempt, subject to certain conditions being fulfilled (e.g. presenting a certificate of tax residence). The following countries have concluded tax treaties with Romania:

Albania	Egypt	Italy	North Korea	Sweden
Algeria	Estonia	Japan	Norway	Switzerland
Armenia	Ethiopia	Jordan	Pakistan	Syria
Australia	Finland	Kazakhstan	Philippines	Tadjikistan
Austria	France	Kuwait	Poland	Thailand
Azerbaijan	Georgia	Latvia	Portugal	Tunisia
Bangladesh	Germany	Lebanon	Qatar	Turkey
Belarus	Great Britain	Lithuania	Russian Federation	Turkmenistan
Belgium	Greece	Luxembourg	F. R. Yugoslavia (applicable with Serbia and Montenegro)	Ukraine
Bosnia - Herzegovina ⁴	Holland	Macedonia	San Marino	United Arab Emirates
Bulgaria	Hong Kong	Malaysia	Saudi Arabia	United States of America
Canada	Hungary	Malta	Singapore	Uruguay
China	Iceland	Morocco	Slovakia	Uzbekistan
Croatia	India	Mexico	South Africa	Vietnam
Cyprus	Indonesia	Moldova	South Korea	Zambia
Czech Republic	Iran	Montenegro	Spain	
Denmark	Ireland	Namibia	Sri Lanka	
Ecuador	Israel	Nigeria	Sudan	

⁴ From 2019 the new convention with Bosnia and Herzegovina applies instead of the old one, signed with F.S.R Yugoslavia

⁵ Income from prizes under 600 RON and income from casinos, poker clubs, slot-machines and lottery tickets under 66,750 RON is non-taxable.

⁶ The income taxes are withheld at source by the income payer.

⁷ Certain amounts (e.g. per-diems, indemnities granted according to the law, business expenses, etc.) are not included in the gross income.

⁸ The personal deduction is granted to individuals with a gross monthly salary of up to 1,950 RON, depending on the number of dependents (between 510 RON if they have no dependents, and 1,310 RON for four or more dependents). If the monthly gross salary income is between 1,951 RON and 3,600 RON, personal deductions are established on a decreasing basis, by order of the Ministry of Public Finance

PERSONAL INCOME TAX

Type of income	Tax rate	Comments
Dividends	5%	Taxable income = gross income
Sale of real estate	3%	Non-taxable amount: 450,000 RON Taxable income = gross income - 450,000 RON
Gambling	Progressive rates	<ul style="list-style-type: none"> • 1% for income below 66,750 RON. • 6675 RON + 16% on income between RON 66,750 RON and 445,000 RON. • 61,1875 RON + 25% on income exceeding 445,000⁵ RON.
Prizes	10%	Taxable income = gross income - 600 RON
Independent activities (including agriculture, forestry and fisheries)	10%	Income from liberal professions is taxed based on gross income minus deductible expenses. Income from trade/services is taxed based on notional income quotas or, optionally, based on gross income minus deductible expenses.
Sporting activities		<ul style="list-style-type: none"> • Taxable income = gross income • The income is withheld at source by the income payer at the time of payment.
Intellectual property rights ⁶		Taxable income = gross income – 40% of gross income Taxable income = gross income – deductible expenses, if the taxpayer has opted for the actual expenses system

Salary income		Taxable income = gross income ⁷ , less: <ul style="list-style-type: none"> - Mandatory social security contributions. - Personal deduction granted for the respective month⁸. - Trade union fees paid for the respective month. - Contributions to private pension funds, paid according to the law, within the limit of 400 EUR/year/individual, paid by employees. - Voluntary medical insurance fees and expenses for subscriptions for medical services within the limit of 400 EUR/year/individual, paid by employees.
Rental income	10%	Taxable income = gross income - 40% of gross income ⁹ Taxable income = gross income – deductible expenses, if the taxpayer has opted for the actual expenses system
Pensions		Non-taxable amount: RON 2.000/month Taxable income = gross income - RON 2.000/month
Investments - interests		Taxable income = gross income
Investments – capital gains		Taxable income = net income ¹⁰
Other sources		Taxable income = gross/net income ¹¹

⁹ If the number of contracts/rooms exceeds 5, the income obtained falls under the category of income from independent activities and the taxable income is determined based on gross income minus deductible expenses.

¹⁰ For capital gains, bank/broker charges may be deducted if supported by documents.

¹¹ The income tax due is calculated by the taxpayer, on the basis of the single tax return by applying the 10% tax rate to the taxable income, determined as the difference between the gross income (the amounts received and the equivalent in RON of the income obtained) and actual expenses incurred (payments made during the relevant fiscal year from all transactions concerned, as demonstrated by supporting documents), related to all operations carried out during the fiscal year.

SOCIAL SECURITY CONTRIBUTIONS

Salary income

Social Security Contributions

Employee		Employer
Health contribution	Pension contribution	Work insurance contribution
10%	25%	2.25%

Other types of income

	Health insurance	Pension insurance
Independent activities (including agriculture, sport activities, forestry and fisheries)	10% ¹⁴	25% ¹²

When determining the taxable income/expenses incurred due to sale of receivables relating to a loan or when realizing the income from this receivable, the revenues or the payments made during the fiscal year should not be included in the calculation. In the case of income obtained from the transfer of virtual currency, the taxable amount is determined as the positive difference between the sale price and the purchase price, including the transaction related costs. Capital gains below 200 RON/transaction are not taxable, provided that the total capital gain derived during the fiscal year does not exceed 600 RON. (N.B. applies for the income tax due for income earned during 2019).

¹² The pension insurance contribution is payable at the level of income chosen by the taxpayer, which cannot be less than the national minimum monthly wage applicable for the month for which the contribution is due, regardless of the actual income realized.

¹³ The pension insurance contribution is payable at the level of income chosen by the taxpayer, which cannot be less than the national minimum monthly wage applicable for the month for which the contribution is due.

¹⁴ The health insurance contribution is due at a basis capped at the level of 12 minimum wages (i.e. 2,080 RON as from January 2019) by individuals who obtain annual cumulated incomes at the level of at least 12 gross minimum wages, from one or more sources of income such as rent, investment, other income, etc. Thus, irrespective of the amount of non-salary income realized, the health insurance contribution cannot exceed 2496 RON (i.e. 10% X 24,960 RON)

Intellectual property rights ¹³	10% ¹⁴	25% ¹²
Rental income	10% ¹⁴	-
Investment (including dividends)	10% ¹⁴	-
Sale of real estate	-	-
Gambling and prizes	-	-
Pensions	-	-
Other sources	10% ¹⁴	-

VALUE ADDED TAX

VAT rates

- 19% - standard rate.
- 9% - rate for food, medicines for human and veterinary use, orthopaedic products, water for irrigation in agriculture, water supply and sewerage, fertilizers and pesticides supply used in agriculture, seeds and other agricultural products for sowing or planting, as well as specific categories of services in connection with agriculture;
- 5% - rate for accommodation, restaurant and catering services¹⁵, right to use sport facilities, transport¹⁶, supplies of school books, magazines, admission to castles, museums, zoos and botanical gardens, theatres, fairs, exhibitions and cultural events, as well as supplies of real estate as part of social policy¹⁷.

Tax period	<ul style="list-style-type: none"> • Monthly, if the annual turnover is higher than 100,000 euros¹⁸ or if intra-community acquisitions of goods have taken place. • Quarterly, if the annual turnover is lower than 100,000 euros or if intra-community acquisitions of goods have not taken place. • Twice per year/annually, with the approval of the tax authority
Submission of VAT return (300)	Submission by the 25 th of the month following the reporting period. Nil returns are required if no transactions.
Submission of Recapitulative return (390)	Submission by the 25 th of the month following the reporting period. No returns if no transactions.
Submission of informative return (394)	Submission by the 30 th of the month following the reporting period. Nil returns are required if no transactions.
Intrastat	Monthly, by 15 th of the month following the month when the movement of goods took place. Submission is required if the volume of intra-Community arrivals of goods exceeds 900,000 RON and/or the volume of intra-Community dispatches of goods exceeds 900,000 RON.
Small enterprises	VAT registration is optional for entities with a turnover lower than 300,000 RON (88,500 euros based on the exchange rate on the date of Romania's accession to the EU).

Distance selling	Annual threshold of 118,000 RON (35,000 euros based on the exchange rate on the date of Romania's accession to the EU).
Limitation of deduction right	The VAT deduction right is limited to 50% for expenditure related to acquisition, functioning, maintenance and repair of vehicles (including leasing and rental), if the vehicles are not exclusively used for business purposes.
Non-deductible VAT	Alcohol and tobacco products.
Cash accounting	Resident companies which obtain a turnover lower than 2,250,000 RON during the calendar year may opt for the application of the VAT cash accounting system (i.e. deduction/collection of input/output VAT at the time of payment/cashing of consideration to/from suppliers/customers).
Invoicing	Invoicing elements as provided by Directive 2006/112/EC.

¹⁵ With certain exceptions

¹⁶ Transport of persons for tourist purposes

¹⁷ The threshold for applying the 5% VAT rate is 450,000 RON (excluding VAT). The surface area cannot exceed 120 sqm.

¹⁸ Calculated in RON based on the exchange rate as at 31 December of the previous year

Other aspects:

Transfer of assets	Transfers of assets fall outside the scope of VAT. The recipient of the assets must also be established in Romania. In the case of spin-offs, payable/refundable VAT amounts or the related VAT refund right are taken over, as per the quotas allocated from the divided entity's assets and liabilities.
Deduction in relation to inactive taxpayers	Taxpayers acquiring goods/services from inactive taxpayers may exercise the VAT deduction right after the supplier re-activates its registration. Inactive taxpayers carrying-out economic activities during their inactivity period may exercise their deduction right for the incurred VAT upon their reactivation.
Adjustment for capital goods	Input VAT adjustments related to capital goods should be made annually within the period of adjustment, for 1/5 or 1/20 of the input VAT deducted on the purchase / construction of the goods, for each year when there is a change of purpose for which the goods are used. However, in cases where capital goods are supplied under VAT exemption, the adjustment should be made one-off for the full remaining adjustment period.
Adjustment of the taxable base	The taxable base may be reduced if the invoiced value cannot be recovered due to: - the opening of bankruptcy procedures against the client OR - due to the implementation of a reorganization plan permitted and confirmed by a court order, through which the claim of the creditor has been changed or eliminated.

Payment of import VAT

As a general rule, VAT on imports is paid to the customs authorities¹⁹ and deducted through the VAT return.

However, provided that a "VAT Deferment Certificate" is obtained, companies will not be required to pay the import VAT (reverse charge). The certificate is issued to taxable persons registered for VAT purposes which meet any of the following conditions:

- Holding an AEO certificate - Authorized Economic Operator
- Holding an authorization for the home customs clearance procedure²⁰.
- They have carried out imports with a value of at least 100 million RON within the last 12 calendar months.

VAT Group

The VAT grouping system rules do not exclude from the scope of VAT transactions carried out between the members of the group. Instead, the system simply allows the consolidation of the VAT returns of all members, possibly leading to an optimization of cash-flow.

Taxpayers entitled to claim interest for late VAT refunds

If a VAT refund is delayed by the tax authorities, taxpayers are entitled to apply for late payment interest.

¹⁹ Order of the Minister of Finance no. 4121/2015 for the approval of the Norms on the procedure for granting the deferred certificate of value added tax and the release of the guarantee for the import of goods.

²⁰ With effect from 1 May 2016, the "home clearance procedure" was replaced by "entry in the declarant's records".

Domestic Reverse charge

As long as both the supplier and the client are VAT registered in Romania, the reverse charge mechanism is applicable for supplies of:

- Ferrous or non-ferrous waste, waste from paper, textiles, rubber, plastic, glass and broken glass
 - Raw wood
 - Buildings, parts thereof and any type of land, if taxable, either by law or by option
 - Cereals and technical plants (certain categories)
 - Transfers of emissions of greenhouse gases
 - Supplies of energy made to Romanian traders
 - Transfers of green certificates
 - Mobile phones, integrated circuit devices, games consoles, PC tablets and laptops²¹
-

²¹ *Certain conditions apply*

EXCISES

Harmonised excisable goods:

- Alcohol and alcoholic beverages
- Processed tobacco
- Energy products (e.g. leaded and unleaded gasoline, diesel, kerosene, liquefied petroleum gas, natural gas, etc.) and electricity

Excisable products are subject to excise duties at the time of their production/extraction on EU territory or at the time of their import into the EU. The chargeability of the excise duties occurs at the time of their release for consumption.

Production of excisable goods is subject to fiscal warehouse authorisation. No retail sales are allowed in the fiscal warehouse for production (except in cases permitted by law).

Establishment of storage tax warehouses is possible for energy products, processed tobacco as well as for ethyl alcohol and alcoholic beverages.

Traders which sell, either in the wholesale or retail system, energy products – gasoline, diesel, kerosene, Liquefied Petroleum Gas and biofuels – as well as those which distribute and sell alcoholic beverages and/or manufactured tobacco, in wholesale, but which are not tax warehouse keepers, may carry out these operations only after obtaining a certificate for distribution and sale in the wholesale/retail system for the products mentioned above.

In addition to the harmonised excise duties mentioned above, Romania also applies excise duties on liquids containing nicotine for inhalation by means of an electronic device (“electronic cigarettes”) and heated tobacco products which, by heat, release an aerosol that can be inhaled, without the combustion of tobacco blend.

Excise duties are generally payable by the 25th of the month following that when they become chargeable. However, the supply of energy products like diesel gas, gasoline, kerosene and liquefied petroleum gas can only be made if the supplier holds a document confirming the payment (by the supplier or by the buyer on the supplier's behalf) of the excise duties related to the goods that will be dispatched.

Exceptions/exemptions from excise duties are available for specific excisable products intended for particular uses, for instance energy products used in mineralogical processes or used to produce, in cogeneration, combined heat and electricity.

CUSTOMS DUTIES

There are no customs controls, no formalities and no customs charges inside the EU, so Union goods may be moved freely between Romania and other EU member states.

As an EU member state, Romania applies Union Customs Legislation, as well as the Common Customs Tariff and EU commercial measures on imports and exports.

Except for certain agricultural products, for which specific duties apply, customs duties are established as a percentage, generally ranging between 0 and 22%.

The customs value is determined according to the principles set out in the Community Regulations, the main method used being the "transaction value method" (i.e. the price paid or payable for the goods).

Special customs regimes applicable within the European Union (such as inward processing relief, outward processing, internal transit, external transit, free trade zones, customs warehousing, end-use or temporary admission) are also available in Romania.

At present, the applicable legislation on customs duties is the Union Customs Code

("UCC" - Regulation (EU) No. 952/2013 of the European Parliament and of the Council), which entered into force on 1 May 2016 along with related acts: the Delegated Act (Regulation (EU) No. 2015/2446 of the Commission), the Implementing Act (Regulation (EU) No. 2015/2447 of the Commission), and the UCC Transitional Delegated Act establishing the transitional rules for operators and customs authorities pending the upgrading or the development of the relevant IT systems to create a fully electronic customs environment (Regulation (EU) No. 2016/341 of the Commission).

They include important amendments such as:

- Introducing new concepts and definitions such as permanent establishment, holder of the goods, self-assessment procedure consisting of the possibility for the customs authorities to transfer some of their attributes to importers or exporters, for example certain verifications/checks or the calculation of customs duties, the definition of the exporter of record, etc.
- The customs regimes are as follows: release for free circulation, export and special regimes such as transit, storage (bonded warehouses and free zones), special usage (temporary admission and end use) and processing (inward processing and outward processing).
- Even though AEO authorisation is not mandatory, for specific situations, in order to obtain certain facilities, the fulfilment of the criteria/conditions for obtaining AEO authorisation is required.

In addition to the EU regulations mentioned above, Romanian legislation is still applicable, e.g. Law No. 86/2006 on the Romanian Customs Code, Government Decision No. 707/2006 approving the Implementing Norms of the Romanian Customs Code.

PROPERTY TAXES

Local taxes

The most common property taxes payable to the local authorities are on buildings, land and vehicles. These are owed annually for assets held as at 31 December of the previous year and must be paid in two equal instalments per year, by 31 March and 30 September. If paid in advance before 31 March, a reduction of up to 10% may be granted on the annual tax payable (the exact percentage is established by each local council).

Tax on buildings (for legal entities)	<ul style="list-style-type: none"> • Residential buildings - 0.08% - 0.2% of the taxable value. • Non-residential buildings -0.2% - 1.3%, of the taxable value. • Mixed use – sum of the tax calculated for the area that is used for residential purposes and the tax calculated for the area used for non-residential buildings.
For buildings used in agriculture, the tax rate is 0.4% of the taxable value.	
The taxable value is generally determined by valuation for tax purposes (carried out by an authorised valuator, at the owner's expense).	
If the taxable value of buildings has not been updated in the 3 previous years, the building tax rate is 5%.	
Tax on land	Fixed amount per sqm, depending on factors such as: type of settlement; the land's location within the settlement (downtown / uptown / out of town); the land's use (e.g. for constructions, agriculture, fields, orchards, forests).
Tax on vehicles	Taxed on a rising scale for every 200cc with varying rates depending on the vehicle type.

Transfer duties

According to Romanian legislation, transfer of real estate properties by legal entities (e.g. land and buildings) is not subject to transfer taxes, except for notary fees and taxes for registration with the Real Estate Book. These fees are approximately 1% of the value of the property.

ENVIRONMENTAL TAXES

The most common environmental contributions payable in Romania are in relation to:

- Packaging related to packed goods and tires placed on the Romanian market (i.e. produced, acquired from another EU Member State or imported), for the difference between the annual recycling/recovery targets set by law and the quantities of packaging waste entrusted for recycling/recovery. At the start of 2019, several legislative amendments took effect, including an increase in annual recycling/recovery targets. Companies will also be able to fulfill these targets individually, solely by recycling/recycling packaging waste for their own products
- Environmentally hazardous substances (2% of the value of the environmentally hazardous substances placed on the Romanian market)
- Semi-synthetic and synthetic mineral-based oils introduced on to the Romanian market (0.3 RON per Kg)
- Emissions of pollutants from fixed sources (e.g. factories, energy plants), depending on the type of pollutant
- Shopping bags made from non-renewable materials - 0.1 RON per bag. Since the start of 2019, the commercialization of thin and very thin plastic shopping bags made from non-renewable materials has been prohibited
- The sale of scrap metal (3% of the income obtained from sales, by withholding) – no tax is payable for the sale of goods designated for dismantling

- Contribution to the circular economy payable by owners or, as appropriate, administrators of municipal waste storage facilities, and facilities for construction waste and dismantling, which are destined for disposal by storage (30 RON/ton in 2019 and, starting from 2020, 80 RON/ton).
- Electrical and electronic equipment ("WEEE") and for batteries and portable accumulators ("WB&A") placed on the national market (4 RON/kg and 20 RON/kg for certain categories of WEEE) - in the period 2017-2019, the contribution is payable for the difference between the quantities of EEE/B&A declared and the quantities found by the authorities as being placed on the national market. Starting from 2020, the contribution will be due for the difference between the quantities corresponding to the minimum WEEE/WB&A collection legal targets and the quantities actually collected.

TAX INCENTIVES FOR COMPANIES

Sponsorship & private scholarships

Corporate income tax

Corporate income tax credit for sponsorship expenses (including private scholarships) may be granted, up to the lesser of:

- 0.5% of net turnover; or
- 20% of the corporate income tax due.

If the sponsorships are granted to non-profit legal entities including religious organizations, the amounts relating to them are deducted from the income tax due, within the limits provided by law, only if the beneficiary is signed up, at the date of conclusion of the contract, in the Register of Entities / religious organizations for which tax deductions are granted. The register is organized by A.N.A.F, is public and can be found on A.N.A.F's website.

When the sponsorship expenses exceed these limits, the unused tax credit can be carried forward over the next 7 consecutive years and recovered under the same conditions.

Microenterprises tax

For sponsorship expenses, companies can benefit from a tax credit (deduction from the income tax on micro-enterprises) of 20% of the micro-enterprise income tax due for the quarter in which they incurred these expenses. Micro-enterprises which are involved in sponsorship activities to support non-profit entities and religious organizations, which at the date of conclusion of the contract are signed up in the Register of entities / religious organizations for which tax deductions are granted, will be able to deduct the corresponding amounts from the income tax of micro-enterprises to the value of 20% of the micro-enterprise income tax due for the quarter when those expenses were incurred.

Incentives for supporting vocational and technical education

Expenses incurred in relation to theoretical and/or practical training of students in vocational and technical education, including depreciation of fixed assets or investments used for this purpose, are specifically defined as being deductible for corporate tax purposes.

Corporate tax relief on reinvested profit

Corporate tax relief is available for profit reinvested in technical equipment (subgroup 2.1 or class 2.2.9 of the Catalogue of the Classification and the Normal Useful Life of Fixed Assets) and software property or license rights produced/acquired and commissioned during the relevant tax period. The accelerated depreciation method cannot be applied for these assets. Equipment must also be kept for at least half its normal useful economic life in accordance with the applicable accounting rules, but for no more than 5 years. Otherwise, corporate tax is recalculated accordingly and late payment interest and penalties are imposed.

<p>Innovation, research and development– personal income tax exemption for salary income</p>	<p>Employees who are part of teams which carry out research & development and innovation projects as defined under Ordinance 57/2002 are exempt from paying personal income tax for the salary income earned from carrying out research & development and innovation activities in the above mentioned projects. The incentive is granted subject to meeting certain conditions set out by law.</p>	<p>Salary income exemption for seasonal activities</p>	<p>Exemption from personal income tax may be granted for salary income earned under a 12-month employment contract concluded with an employer carrying out seasonal activities as set out under Article 1 of Law no. 170/2016 on the tax specific to certain activities (e.g. hotels, restaurants).</p>
<p>Incentives for supporting vocational and technical education</p>	<p>Additional deduction of 50% of the eligible expenditure for these activities; the additional deduction is calculated quarterly / yearly.</p> <p>Fiscal incentives are granted, in compliance with the state aid law, for research and development activities carried out in order to obtain research results that can be capitalized by the taxpayer. The activities can be carried out both in Romania and in other Member States of the European Union; or in countries belonging to the European Economic Area.</p> <p>R & D activities eligible for additional deduction in determining the tax result should fall within the categories of applied research and / or technological research activities relevant to the work carried out by the taxpayer.</p> <p>Tax incentives are granted separately from the R & D activities of each project.</p>	<p>Software development income</p>	<p>Exemption from personal income tax for employees involved in software development activities. The incentive is granted subject to meeting certain conditions set out by law.</p>
		<p>Construction industry</p>	<p>In the period 1 January 2019 – 31 December 2028, individuals who meet the conditions mentioned in the Tax Code benefit from exemption from income tax, exemption from individual health insurance contributions and a 3.75% reduction in the level of the individual pension contribution.</p>
		<p>Newly established microenterprises</p>	<p>Newly established micro-enterprises may benefit from a reduced 1% tax rate in the first 24 months of their operations, subject to certain conditions, such as:</p> <ul style="list-style-type: none"> • Shareholders must not have previously owned shares in other companies. • The company must have at least one full-time employee. • The company must function for a period of at least 48 months, during which none of the following events should have occurred: liquidation, dissolution, inactivity, contributions to share capital by new shareholders or its shareholders transferring/selling their shares.

Gift tickets	Exemption from personal income tax and social security contributions for gifts and gift tickets offered by employers to their employees and to their minor children for the Easter holidays, 1 June, Christmas, as well as gifts and gifts tickets offered to female employees on 8 March, up to RON 150 for each individual and occasion.
Meal tickets, holiday vouchers, nursery vouchers and cultural tickets	Exemption from social security contributions for meal tickets, holiday vouchers, nursery vouchers and cultural tickets granted in accordance with specific legislation.
Stock option plans (SOP)	Entitlements granted to employees under equity based compensation plans that qualify as Stock option plan as defined by Romanian law, are exempted from income tax and social contributions at the grant and exercise moment.
Tourist and/or medical treatment services during holidays	Payments made during holidays for tourist and/or medical treatment services, including transport, covered by an employer for its employees and their family members (as provided in the employment contract), are not taxable for personal income tax purposes and are not included in the taxable base for social security contributions. Expenses incurred by the employer are deductible for corporate tax purposes within the limit for social expenses (i.e. up to 5% of the total salary expenses).
Optional pension funds	Exemption from personal income tax and social security contributions for contributions to optional pension funds in accordance with Law no. 204/2006 paid by employers for their employees (or paid for the personal benefit of the taxpayer, in the case of independent activities), up to the limit of EUR 400 per year.

Voluntary health insurance premiums	Exemption from personal income tax and social security contributions for voluntary health insurance premiums and subscriptions to medical services providers paid by employers for their employees (or paid for the personal benefit of the taxpayer, in the case of independent activities), up to a limit of EUR 400 per year.
Employment	Unemployment contribution incentives for hiring unemployed people; specific incentives for hiring unemployed people from certain social categories (e.g. recent graduates, single parents, older people, disabled people and students hired during summer vacations). The incentives are granted subject to the fulfilment of certain conditions set out by law.
Local tax	Exemption from the payment of land and building tax can be granted by local councils, subject to state aid legislation.

Transfer pricing

- The criteria for companies to be considered related parties under Romanian legislation is a minimum 25% direct or indirect shareholding and/or economic control.
- Transactions which take place between related parties (including those between domestic group companies) are required to be carried out on arm's length (i.e. market) terms.
- Since January 2016, large taxpayers which carry out transactions with related parties over certain significance thresholds have been required to prepare their transfer pricing documentation files on an annual basis, no later than the legal deadline for submitting the annual corporate tax return, for each fiscal year. In this case, the deadline provided by law for presenting the transfer pricing documentation file to the Romanian tax authorities is a maximum of 10 days. Large taxpayers carrying out transactions with related parties below the thresholds mentioned above, and all other taxpayers which carry out transactions with related parties over certain (different) significance thresholds, are required to provide their transfer pricing documentation files to the Romanian tax authorities in the event of a tax audit. In this case, the deadline for presenting the transfer pricing documentation file to the Romanian tax authorities is between 30 and 60 days, with the possibility of extension by another 30 days maximum.
- Even though Romania is not part of the OECD yet, the OECD Transfer Pricing Guidelines are, in principle, recognised by Romanian transfer pricing legislation. Nevertheless, the Romanian legislation also contains a number of specific national elements related to transfer pricing, which prevail and which are carefully verified by the tax authorities during transfer pricing tax audits.
- In terms of documentation, the EU Masterfile and Countryfile concept has been broadly implemented into Romanian law.

- Advance Pricing Agreements (APAs) and the Mutual Agreement Procedure (MAP) are also possible under Romanian legislation. These aim to reduce the risk of transfer pricing adjustments. However, their implementation in practice is quite difficult.
- Romanian legislation provides specific requirements on the submission of the Country by Country report and notification obligations relating to the identity and fiscal residence of the reporting entity. These obligations result from the transposition of EU Directive 881/2016 on the mandatory automatic exchange of information on taxation, which follows the recommendations of BEPS Action 13 issued by the OECD.

Fiscal Procedures / Administration

Rulings

The legal deadline for the Romanian tax authorities to issue a non-binding ruling is within 45 days of the submission of documentation. This period can be extended to up to 6 months in special situations.

Advance Tax Rulings (ATRs) and Advance Pricing Agreements (APAs) are also available. The legal deadline for issuing an ATR is 3 months from the date of application, while the deadline for issuing an APA is 12 months for unilateral APAs and 18 months for bilateral or multilateral APAs.

Statute of limitations

The statute of limitations period is 5 years, starting from 1 July of the year following that to which the tax obligation is related. However, in the case of fraud, the statute of limitations can be extended to 10 years, starting from the date when the criminal offence occurred. The statute of limitations is suspended during a tax audit.

Interest and late-payment penalties

A combined system of late-payment interest and penalties is currently applicable:

- **Interest** of **0.02%** per day of late-payment.
- **Penalties** of **0.01%** per day of late-payment.

For tax obligations arising as from 1 January 2016, which were undeclared or under-declared by taxpayers and imposed by a decision resulting from a tax audit, **non-compliance penalties of 0.08% per day** are due, instead of the 0.01% late payment penalties and the potential fines for failure to file tax returns. (This does not eliminate late payment interest of 0.02% per day).

Certification of tax returns

Certification of tax returns by a certified tax consultant (a member of the Romanian Chamber of Fiscal Consultants) is optional. However, certification can present some advantages for businesses, as it constitutes a criterion in the risk analysis carried out by the tax authorities when they select taxpayers for tax audits.

Classification of taxpayers based on risk levels

Tax administration procedures are carried out by A.N.A.F. based on a classification system, which divides taxpayers into specific fiscal risk classes / subclasses, based on a risk analysis carried out by the tax authorities.

Taxpayers fall into three main risk classes:

- Taxpayers with low fiscal risk.
- Taxpayers with medium fiscal risk.
- Taxpayers with high fiscal risk.

The general criteria according to which the fiscal risk class / subclass is determined are as follows:

- Criteria related to fiscal registration.
- Criteria related to filing tax returns.

- Criteria related to the level of declaration.
- Criteria related to the fulfilment of payment obligations to the general consolidated budget and to other creditors.

The risk analysis is carried out periodically, after which the tax authorities establish the taxpayer's risk class / subclass, which is published on the A.N.A.F. website. The taxpayer cannot appeal against the way in which the risk is determined nor against the fiscal risk class / subclass in which it is categorized.

Accounting regulations

Romanian accounting regulations are compliant with EU accounting and audit directives (regulations approved by Order of the Ministry of Public Finance no. 1802/2014 implementing the provisions of Directive 2013/34/EU). Romanian GAAP draws many of its principles and rules from International Financial Reporting Standards (IFRS). However, differences remain and their impact on the financial statements of companies varies from one industry to another.

Credit institutions carrying out activities in Romania, including Romanian branches of foreign credit institutions and foreign branches of Romanian credit institutions, as well as listed companies, are required to apply International Financial Reporting Standards (IFRS) as a basis for accounting and reporting of financial statements.

The financial year generally corresponds to the calendar year. However, both Romanian entities and branches of a foreign company (except for credit institutions, non-banking financial institutions, as well as entities operating under the supervision of the Authority for Financial Supervision) may opt for a different financial year. Entities opting for a financial year which is different from the calendar year are required to prepare and submit annual accounting reports as at 31 December to the local offices of the Ministry of Public Finance, as well as, separately, the annual financial statements concluded on the date set as per the modified financial year, in compliance with the provisions of the Accounting Law (no. 82/1991, with subsequent amendments).

Micro-entities are those that, at the date of the financial statements, do not exceed the limits of at least two out of the following three criteria:

- a) Total assets: 1,500,000 RON.
- b) Net turnover: 3,000,000 RON.
- c) Average number of employees during the financial year: 10.

These entities are required to submit only condensed financial statements. Micro-entities are not required to prepare explanatory notes to the annual financial statements, but are required to present information about the accounting policies adopted.

Small entities are those that, at the date of the financial statements, do not exceed the limits of at least two out of the following three criteria:

- a) Total assets: 17,500,000 RON.
- b) Net turnover: 35,000,000 RON.
- c) Average number of employees during the financial year: 50.

These entities are required to submit a condensed balance sheet, extended income statement and explanatory notes to the financial statements. The presentation of a statement of changes in equity and a statement of cash flows is optional.

Medium-sized and large entities are those that exceed the limits of at least two out of the following three criteria:

- a) Total assets: 17,500,000 RON.
- b) Net turnover: 35,000,000 RON.
- c) Average number of employees during the financial year: 50.

These entities and public interest entities are required to submit extended financial statements that also include information about payments to the Government and other specific information required by the Ministry of Public Finance.

Companies are required to have their financial statements audited (statutory audit) if they are public interest entities or if they meet at least two of the three size criteria below for two consecutive years:

- Total assets > RON 16,000,000;
- Net turnover > RON 32,000,000;
- Average number of employees during the financial year > 50.

Entities opting for a financial year different from the calendar year determine the above mentioned criteria considering the indicators from the annual financial statements of the previous financial year and the indicators calculated based on the accounting data and the Trial Balance at the end of the modified financial year, subsequent to 1 January 2019.

Moreover, entities with an average of more than 500 employees at the date of the annual financial statements are required to include in the Administrator's report a non-financial statement containing basic information about the entity's commitment to environmental protection, social responsibility, ethical employment policies, respect for human rights, and to combating corruption and bribery.

This card was prepared based on tax legislation applicable as at **29 January 2019**, as a quick-reference tool for the most common tax rates and rules.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that this information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

KPMG Romania SRL

Bucharest Office

Victoria Business Park,
DN1, Bucuresti - Ploiesti Road
no. 69-71, Sector 1, Bucharest
013685, Romania
P.O. Box 18-191

T: +40 (372) 377 800

F: +40 (372) 377 700

E: kpmgro@kpmg.ro

www.kpmg.ro

Cluj Napoca Office

Liberty Technology Park
Gării Street no 21, Cluj-Napoca,
Cluj, Romania

T: +40 (372) 377 900

F: +40 (753) 333 800

E: kpmgro@kpmg.ro

Constanta Office

Mamaia blv., no. 208,
4th Floor, Constanta,
900540, Romania

T: +40 (756) 070 044

F: +40 (752) 710 044

E: kpmgro@kpmg.ro

Iasi Office

Ideo Business Center,
Pacurari Road, no. 138,
1st Floor, Office B 105
Iasi, 700521, Romania

T: +40 (756) 070 048

F: +40 (752) 710 048

E: kpmgro@kpmg.ro

Timisoara Office

ISHO Offices
Take Ionescu blv. no. 46B
Building A, 7th floor
Timisoara, 300125

T: +40 (372) 377 999

F: +40 (372) 377 977

E: kpmgro@kpmg.ro

KPMG Moldova SRL

Chisinau Office

171/1 Stefan cel Mare blv.,
8th floor, MD-2004, Chisinau
Republic of Moldova

T: + 373 (22) 580 580

F: + 373 (22) 540 499

E: kpmg@kpmg.md

www.kpmg.md

kpmg.com/socialmedia



This card was prepared based on tax legislation applicable as at **29 January 2019**, as a quick-reference tool for the most common tax rates and rules.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that this information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2019 KPMG Romania S.R.L., a Romanian limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in Romania.