



Smart decisions. Lasting value.

Doing business in Romania

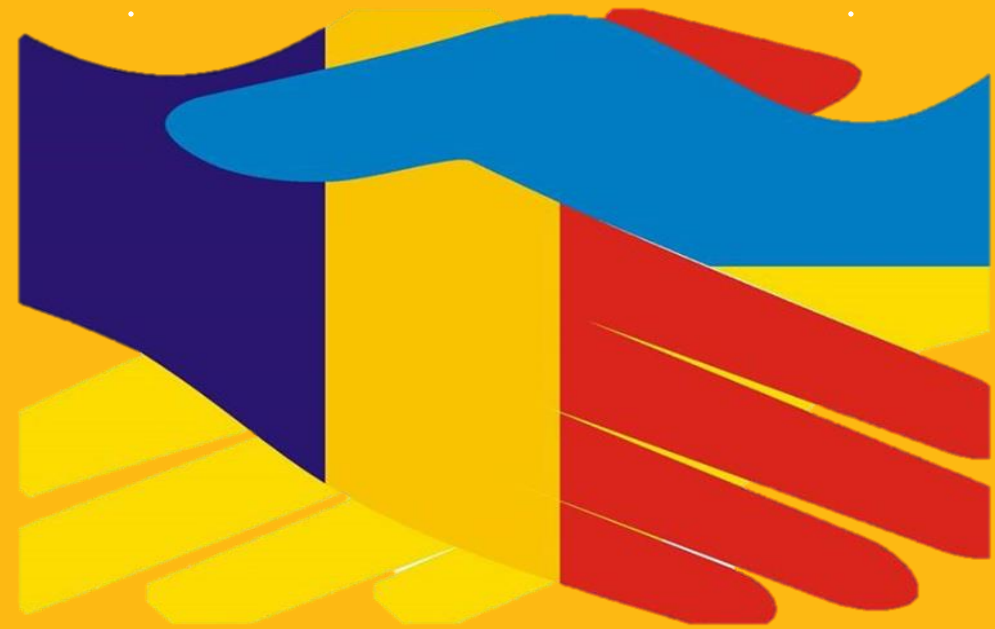
May, 2022

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Relocation opportunities for Ukraine businesses to:

Romania



Setting up a business in Romania



UNIUNEA
EUROPEANĂ



GUVERNUL
ROMÂNIEI

- Registering branch of existing foreign entity
- Incorporation new legal entity



Ministerul Justiției

Oficiul National al Registrului Comertului

Registering branch of existing foreign entity

- Foreign entity;
- The branches are dismembered without legal personality of the companies – usually used by foreign companies who do not wish to establish their corporate presence in Romania;
- Liability extends to the whole company;
- Registered with Romanian law;
- The branch is represented by legal representative of the foreign entity;
- Decisions are made by the foreign entity;
- Separated accounting books in Romania;
- For the registration of the branch to the National Trade Register Office is not required the physical presence in Romania within 3 days from the submission of the documents, the branch is registered. We will provide you a checklist of necessary documents;
- For the registration for VAT purposes is not required the physical presence in Romania. We will provide you a checklist of necessary documents;
- For the opening accounts in local banks, is required the physical presence in Romania of the legal representative of the Romanian branch.

branch



Registering Limited Liability Company – S.R.L.

- **S.R.L. – limited liability – is one of the most usually form of organization**
- The company is constituted by one or more natural or legal persons;
- The management of the company is ensured by one or more directors. The directors can work individually or in joint meetings;
- The general assembly of the associates is the decisional body;
- There's no minimum share capital;
- For the registration of the S.R.L. to the National Trade Register Office is not required the physical presence in Romania - within 3 days from the submission of the documents, the S.R.L. is registered. We will provide you a checklist of necessary documents;
- For the registration for VAT purposes is not required the physical presence in Romania. We will provide you a checklist of necessary documents;
- For the opening accounts in local banks, is required the physical presence in Romania of the Director;
- Full accounting in Romania.



Labor contract conditions – specific elements of the employment relation



Labor contract conditions – specific elements of the employment relation

The employment contract is concluded:



- in writing, in Romanian language and is registered to the competent authorities (Revisal) at least one working day before the start of the activity;
- usually for indefinite periods of time and, exceptionally, for determined periods;
- respecting certain essential clauses, expressly provided by law.

Labor contract conditions – specific elements of the employment relation

Other important elements:



- probation period: not more than 90 calendar days for executive positions and not more than 120 calendar days for management positions. These terms are reduced in the case of fixed-term contracts
- the notice period in case of dismissal for reasons not attributable to the employee is at least 20 working days;
- the notice period in case of resignation can't be more than 20 working days for employees with executive positions, respectively more than 45 working days for employees with management positions;
- the minimum duration of annual leave is 20 working days;

Labor contract conditions – specific elements of the employment relation

The dismissal, respectively the termination of the employment contract at the initiative of the employer, may be disposed for:

- reasons related to the employee (disciplinary sanctions, penal measures, physical incapacity, professional incapacity)
- reasons not related the employee (cancelling the position from the organizational chart of the company)

The provisions of the individual employment contract are completed with the provisions provided in the internal regulations of the company, as well as those provided in the collective labor contract. The conclusion of a collective labor agreement is not mandatory for the employer, but it has the obligation to initiate the collective negotiations if the company has at least 21 employees.

Global Mobility



Immigration procedures

Normal procedure for employment

- The normal procedure for NON-EU citizens consists of the following steps:
 1. Obtaining an work permit by the employer - the deadline for issuing the notice is of 30 calendar days from the date of submission of the complete file;
 2. After obtaining the work permit, it will be sent in original to the future employee and he/she will have to obtain the work visa from the Romanian Consulate in the country of origin;
 3. After entering Romania, the future employee will sign the employment documents and then the file for the residence permit will be submitted (initially online and then in original). The deadline for issuing the permit is of 30 calendar days from the date of submission of the complete file.

Special conditions

- According to the treaty signed with the European Union, the Ukrainian citizens can travel visa-free to Romania, and also are allowed to work in Romania without an work permit.
- They have the right to stay for work, without the obligation to obtain a long-stay visa for employment;
- Ukrainian citizens who do not have the documents proving the professional qualification or work experience required for employment may be employed on the basis of a declaration on their own responsibility that they meet the conditions of professional qualification and work experience required for employment and do not have a criminal record that is incompatible with the activity in question. The employment can be done in these conditions only for a period of 12 months, with the possibility of further extension with periods of 6 months, for a maximum of one year. However, this exception does not apply to regulated professions, such as doctors, dentists, pharmacists, architects and another like.

Special conditions

- These special rules will apply only to Ukrainian citizens who have legally entered the territory of Romania and who do not request a form of protection according to Law no. 122/2006 on asylum in Romania (respectively refugee status or status conferred by subsidiary protection).
- Obtaining asylum (or subsidiary protection) guarantees Ukrainian citizens access to the Romanian labor market under the same conditions as those applicable to Romanian citizens. The usual deadline for resolving asylum applications is 30 days, which can be extended. The law also provides for the possibility for asylum applications filed at the border to be resolved with priority by the Romanian Immigration Office, respectively within 3 days of receipt.

Stay permit

- In case that the Ukrainian citizens will not opt to become an employee in Romania and will intend to work as a self-employed individual, will be applied the normal procedure within the Immigration Office, which implies:
- Obtaining visa for another scope than work (for example the business visa);
- Recognition in Romania of their diplomas by the Ministry of Education;
- Obtaining the stay permit, which will be issued within 30 days since the submission of the documents.
- The normal procedure can take around 3-4 months or more.

Taxation in Romania



Individual taxation

Tax residency status



A. Why is it important to have the tax residency status clarified?

A Romanian tax resident is taxable herein for the **worldwide income** obtained.



B. How can a person become a Romanian tax resident?

1. The individual has the domicile in Romania, evidenced through a valid Romanian ID card **OR**
2. The center of vital interests of the individual is located in Romania **OR**
3. Period of presence in Romania exceeds more than 183 days in any 12 consecutive months.



C. Who is in charge of establishing the tax residency status in Romania?

The Romanian tax authorities assess if an individual is **Romanian tax resident** or **NOT** upon receiving the tax residency questionnaire (“TRQ”).

Tax residency questionnaire (“TRQ”) upon arrival/departure



Any individual who spends more than 183 days of presence in any 12 consecutive months in Romania need to submit the “TRQ” upon arrival together with justifying documents.



Deadline of submission – 30 days since the 183 days threshold.



Romanian tax authorities will issue a tax residency notification (Romanian tax resident or NOT).



If you estimate to spend more than 183 days in any 12 consecutive months outside Romania, a “TRQ” upon departure will have to be submitted. Deadline: 30 days before the date of departure.

Tax residency status

A. Romanian tax resident:

- As a general rule, starting with the first day of arrival;
- The individual is passible of taxation for the worldwide income obtained: rental income, dividends, interest, administrator indemnity, etc;
- For the private income obtained (other than salary), an annual tax return is due from the individual.

Deadline of submission: 25th of May next year the income has been obtained

Deadline of payment of the income tax due: 25th of May next year the income has been obtained

B. NOT a Romanian tax resident:

- As a general rule, a tax residency certificate should be submitted;
- The individual will be taxed in Romania only for the Romanian sourced income.

Personal Income Tax

Personal income tax rate in Romania is only 10% (for salary income and self-employed activities).

A. Employed individual at a Romanian company

The taxable basis for the income tax represents the gross income, from which the following are deducted:

- Pension contribution;
- Health contribution;
- Personal deduction (if the case);
- Contributions to private pension fund in the limit of 400 EUR/year;
- Contributions to private health insurance in the limit of 400 EUR/year;
- Etc.

The Romanian company is responsible for computing, declaring and paying the income tax monthly, by the 25th the next month the income has been obtained.

Personal Income Tax

B. Self-employed individual (freelancer)

Net annual income from self-employment is established based on the accounting data, as the difference between gross income and the deductible expenses.

As an exception, taxpayers that obtain self-employment income, for activities other than liberal professions and if the gross income is lower than 100.000 EUR, establish the net annual income based on lump sums/allowances.

The income is computed and declared by the individual, via an annual tax return, which is due until the 25th of May next year the income has been obtained.

The deadline of payment is the same.

Social security contributions

A. Employment activity – Employer's responsibility of computing, reporting and performing the payments

Pension Contribution

- 25% out of the gross income;
- Due from the employee.

Health fund Contribution

- 10% out of the gross income;
- Due from the employee.

Work Insurance Contribution

- 2.25% out of the gross income;
- Due from the employer.

Social security contributions

A. Self-employment activity

1. Pension contribution – 25%;

- They obtain/estimate for the current year net income at least equal with 12 minimum gross salaries (for 2021 is RON 2,550 RON/month);
- Individuals that do not meet this threshold can opt for paying;
- In both cases, individuals can choose the annual basis of computation of pension contribution, however it cannot be lower than 12 minimum gross salaries;
- The pension contribution is declared through the annual tax return;
- Deadline of payment and reporting: 25 May next year the income has been obtained.

2. Health fund contribution – 10% out of 12 minimum wage salaries in Romania (for 2022, RON 3,060);

- They obtain/estimate for the current year cumulated income greater than 12 gross minimum salaries;
- Individuals that do not meet this threshold can opt for paying;
- The health contribution is declared through the annual tax return;
- Deadline of payment and reporting: 25 May next year the income has been obtained.

Facilities for the IT industry / construction industry

Income Tax exemption IT industry (10%)

- Company specific CAEN code (5821, 5829, 6201, 6202, 6209);
- The working activity is performed in Romania;
- The position of the employees is specifically detailed in the Romanian legislation (10 positions);
- Specialized computer department implemented;
- **The employee is a graduate of a specialized faculty / studying at the same time at the faculty in the field (EU or EEA);**
- Separate recording in the company's accounting of these revenues.

Tax exemptions applicable in construction industry

- Company specific CAEN code specified in the Romanian Tax Code;
- The constructions are carried out in Romania;
- Turnover is 80% of these activities;
- Gross monthly income of at least RON RON 3,000, corresponding to 8 hours / day, maximum monthly income of RON 30,000;
- It also applies to administrators / directors.

Income tax exemption and health fund contribution

Pension contribution is reduced at 21.5%

Micro-enterprise tax on turnover

Micro-enterprise tax on turnover

A company newly founded must pay micro-enterprise tax on turnover starting with the first tax year. Exception - micro-enterprises with a **share capital of at least RON 45,000** AND at least **two full-time employees**.

Employee

- any person employed full time with an individual employment contract;
- part-time employees if the norm fractions cumulated are 8 hours;
- individual with management agreement (Rom. contract de administrare) remunerated at least at the level of the gross minimum salary;
- individual with power assignment agreement (Rom. contract de mandat), remunerated at least at the level of the gross minimum salary.

Micro-enterprise tax on turnover

Tax rate	1% for micro-enterprises that have one or more employees 3% for micro-enterprises that have no employees.
Taxable basis	Income from any sources - certain categories of income + elements like commercial discounts = Taxable income
Tax credit	For sponsorship, up to 20% of the tax due; For the cost of acquiring electronic cash registers.
Tax computation, payment and statement	Quarterly, until the 25th of the month following the quarter for which the tax is due; quarter IV 25 th June for the years 2021-2025; Informative statement for the beneficiaries of sponsorship until 25 January of the following year.
Others	For income > 1.000.000 EUR, profit tax is due

Tax incentives in respect to military conflict in Ukraine (until 31.12.2022)

Cash donations

- Cash donations granted to the **General Inspectorate for Emergency Situations** for humanitarian assistance to citizens from the area of military conflict in Ukraine, are subtracted from the taxable basis.

Expenses for goods and services

- Expenses for goods and services provided on the basis of a request from the **Department of Emergency Situations**, as well as expenses for goods, funds and services provided to **UNICEF** and other international organizations, are treated as sponsorship expenses and may be deducted from the tax due, up to a limit of 20% of the tax.

Reductions adjusted annual equity 2022-2025

Microenterprise taxpayers benefit from tax reductions as follows:

- 2%, in case the accounting equity for the year in which the tax is due, is positive + accounting equity must be at least ½ of the subscribed equity

AND

- a tax reduction applied depending on the growth of the annual adjusted equity of the year for which tax is due (ex. 2023) compared with the adjusted equity recorded in the previous year (ex. 2022), as follows:

Tax reduction percentage	Adjusted annual equity growth intervals
5%	up to and including 5%
6%	over 5% and up to and including 10%
7%	over 10% and up to and including 15%
8%	over 15% and up to 20% inclusive
9%	over 20% and up to 25% inclusive
10%	over 25%

- 3%, if they register a growth above the level mentioned below of the adjusted annual equity compared with the adjusted annual equity registered in the year of founding:

Year for which the tax is due	Percentage of adjusted annual equity growth
2023	10%
2024	15%
2025	20%

Profit tax

Profit tax

Tax rate	16%
Taxable basis	<p>Total income - Total expenses = Accounting result - Non-taxable income + Non-deductible expenses - Tax deductions = Tax result - Tax Losses = Taxable income/ loss</p>
Tax losses	Reported for 7 years
Tax credit	Sponsorship/ private scholarship, in the limits provided by the law (minimum between 0.75 turnover and 20% profit tax due)
Tax computation, payment and statement	<p>Quarters I-III- quarterly, until the 25th of the month following the quarter for which the tax is due; Annually- until the 25th of March of the year following the year for which the tax is due; 25th June for the tax years 2021-2025; Informative statement for the beneficiaries of sponsorship until the date of submission of the annual statement.</p>
Others	Profit tax payers can opt for computing, declaring and paying the profit tax annually, with anticipated payments , made quarterly.

Tax incentives in respect to military conflict in Ukraine (until 31.12.2022)

Cash donations

- Cash donations granted to the **General Inspectorate for Emergency Situations** for humanitarian assistance to citizens from the area of military conflict in Ukraine, are deductible expenses.

Expenses for goods and services

- **Expenses for goods and services provided at the request of the Department of Emergency Situations** may be treated as social expenses or as sponsorship expenses.
- expenses relating to goods, financial means and services granted to **UNICEF** and other international organizations operating under the provisions of special agreements to which Romania is a party, are assimilated to sponsorship expenses and may be deducted from the corporate income tax due, within the limits mentioned above.

Reductions adjusted annual equity 2022-2025

Profit taxpayers benefit from annual profit tax reductions as follows:

- 2%, in case the accounting equity for the year in which the tax is due, is positive + accounting equity must be at least ½ of the subscribed equity

AND

- a tax reduction applied depending on the growth of the annual adjusted equity of the year for which tax is due (ex. 2023) compared with the adjusted equity recorded in the previous year (ex. 2022), as follows:

Tax reduction percentage	Adjusted annual equity growth intervals
5%	up to and including 5%
6%	over 5% and up to and including 10%
7%	over 10% and up to and including 15%
8%	over 15% and up to 20% inclusive
9%	over 20% and up to 25% inclusive
10%	over 25%

- 3%, if they register a growth above the level mentioned below of the adjusted annual equity compared with the adjusted annual equity registered in the year of founding:

Year for which the tax is due	Percentage of adjusted annual equity growth
2023	10%
2024	15%
2025	20%

Exemption of tax on reinvested profit

Profit invested in

Ex. technological equipment; electronic computers and peripheral equipment; computer programs; the right of using computer programs, produced and/ or acquired, including based on financial leasing contracts and put into operation, used for the purpose of performing economic activity; Supporting the dual vocational education.

Limitations

- Exemption in the limit of the quarter/ annual profit tax;
- The amount of profit corresponding to the profit tax exemption, less the amount corresponding to the legal reserve, is distributed at the end of the financial exercise or during the next year for constituting reserves, in the limit of the accounting profit registered at the end of the financial exercise.
- The assets must be kept for at least half of their economic use period, but no more than 5 years, with certain exceptions.
- Taxpayers cannot use accelerated depreciation for these assets.

R&D facilities

Deductions for expenses of R&D

- Additional deduction of 50% of the expenses eligible for these activities, at computing the tax result;
- Applying the accelerated depreciation method also for apparatus and equipment used in the activities of R&D.

Taxpayers that perform exclusively activity of innovation, R&D, according to the law, as well as related activities

- Tax exemption in the first 10 years of activity.

WHT

WHT – Taxable income

Income taxable in Romania, no matter if it is received from Romania or abroad

- **Dividends** from a resident;
- **Interest** from a Ro resident or from a foreign resident that has a PE in Ro, if the interest is the expense of the PE;
- **Royalties** from a Ro resident or from a foreign resident that has a PE in Ro, if the royalty is the expense of the PE;
- **Commissions** from a Ro resident or from a foreign resident that has a PE in Romania, if the commission is the expense of the PE;
- **Income from sport and entertainment activities performed in Romania**, no matter if the income is received by the individuals that participate at these activities or by other individuals;
- Income from rendering services of **management and consultancy** in any field, if the income is obtained from a resident or it is an expense of a PE in Ro;
- Income representing remuneration received by foreign legal entities that act as an **administrator, founder, member of the council of administration of a resident**;
- Income from **services rendered in Ro**, excluding international transportation and connex services
- Income from **liberal professions performed in Ro** - doctor, lawyer, engineer, dentist, architect, auditor and other similar professions - in case they are obtained in other conditions than through a PE or in a period/ periods that do not exceed in total 183 days in 12 consecutive months that end in the calendar year;
- **Income from awards/prizes** granted at competitions organised in Romania;
- **Income obtained by foreign residents from liquidating a Romanian resident**;
- Income obtained from the **transfer of the fiduciary patrimony mass from the fiduciary to the non-resident beneficiary within the fiduciary operation.**

WHT – Tax rate

Tax rate

5% for dividends

10% if the income is obtained by individuals resident in an EU member state or in a state with which Romania concluded a DTT

16%, the general withholding tax rate

50% if the income is paid from an account with which Romania doesn't have a legal instrument for exchange of information and if the income is paid in relation to artificial transactions, as defined by the Fiscal Code

WHT –DTTs and EU legislation

80+ countries that have double taxation treaties with Romania;

Dividends - exempt according to the Parent-Subsidiary Directive, transposed in the Tax Code, if the conditions are met;

Interest and royalties - exempt according to the interest and royalties directive, transposed in the Tax Code, if the conditions are met.

Transfer pricing

Transfer pricing file

Mandatory to prepare the transfer pricing file annually

Large taxpayers that carry out transactions with affiliates, with an annual total value greater or equal with:

- EUR 350.000 for transactions in respect to acquisitions/ sells of **tangible or intangible assets**;
- EUR 250.000 for transactions in respect to **services** rendered/ received;
- EUR 200.000 for **interest** received/paid for financial services.

Mandatory to prepare and present the transfer pricing file at the specific request of the tax authorities during a tax audit

- Other large taxpayers;
- The small and medium-size taxpayers that carry out transactions with affiliates, with an annual total value greater or equal with:
 - EUR 100,000 for transactions concerning the acquisitions/sales of **tangible or intangible assets**;
 - EUR 50,000 for **services** rendered/received;
 - EUR 50,000 for **interests** received/paid in relation to financial services.

Other tax facilities

Payment rescheduling procedure

- Applies to main tax obligations and accessories, outstanding for maximum 12 months before submitting the request and not paid until the date of issuance of the fiscal ascertaining certificate.
- Payment rescheduling is granted by the tax authority, for a period of maximum 12 months, by issuing a notification of payment rescheduling of the tax obligations, at which it is annexed a payment schedule that includes monthly instalments, depending on the number of months approved.

VAT

Value Added Tax in Romania

VAT registration

- Mandatory if the annual turnover for taxable transactions of EUR 88,500 (RON 300,000) is exceeded;
- Optional before the threshold is exceeded – strict criteria to be fulfilled

Special VAT registration

- Taxable person not registered for normal VAT purposes in Romania and not required to register are liable to register as an identified person (special VAT registration) in the following situations:
 - Purchase of services from persons established outside Romania but **still in the EU**, having the place of supply in Romania
 - Supply of services with place of supply in **another EU Member State**
 - Intra-Community acquisitions of goods from **another EU Member State** cumulatively exceeding the annual threshold of EUR 10,000.

Value Added Tax in Romania

19%

VAT rate that applies to most goods and services.

9%

food, medicines for human and veterinary use, orthopaedical 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.

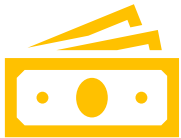
5%

accommodation, restaurant and catering services, the right to use sport facilities, transport, supplies of schoolbooks, 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 policy

Value Added Tax in Romania



Most services provided to non-Romanian companies are not subject to VAT in Romania – i.e. place of supply based on the general Business 2 Business rule



The refundable VAT (when input VAT is higher than output VAT) can be requested for refund or carried forward until the statute of limitation period expires (5 years).

Refund may be done with prior or subsequent tax audit. If a prior audit is performed, the refund process may last approx. 1 year.

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