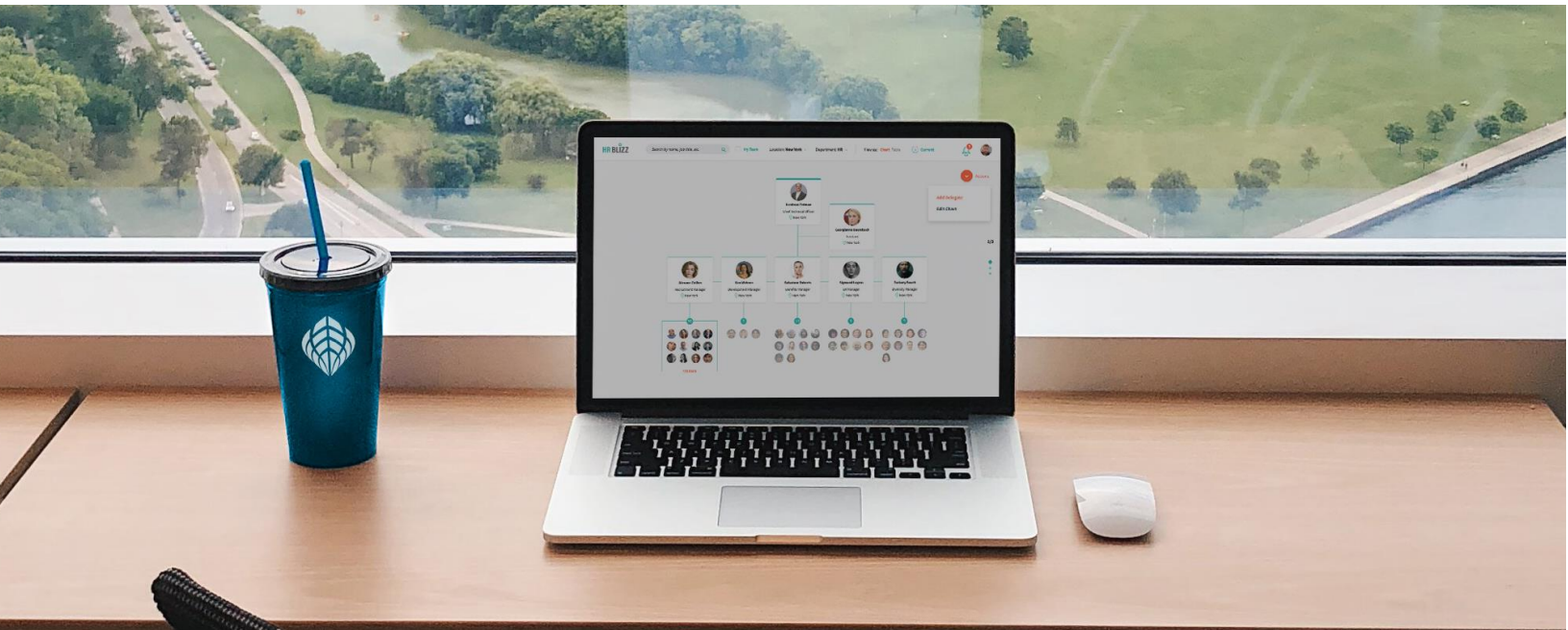




Simplifying Employment
Tasks Worldwide

Payroll & Tax Highlights

2020 Global Payroll Country Guide for Romania



ROMANIA



April 2, 2020



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Mercans at a Glance

140+

Countries

20

Years of Success

500+

Specialists

5k+

Customers Worldwide

97%

Client Retention Rate

1.5X

Annual Revenue Growth

25k+

Largest Single Payroll

2.5M+

Pay Slips per Annum

0

Security Breaches

Number one for outsourced payroll services, we are endorsed by international authorities.



Mercans has the highest industry quality and IT security certifications.





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Romania – projected to have second-highest economic growth in EU during 2020.

The economy of Romania is a fast developing, upper middle income mixed economy with a very high Human Development Index and a skilled labor force, ranked 15th in the European Union by total nominal GDP and 10th largest when adjusted by purchasing power parity.

Romania is a leading destination in Central and Eastern Europe for foreign direct investment: the cumulative inward FDI in the country since 1989 totals more than \$170 billion. Romania is the largest electronics producer in Central and Eastern Europe. In the past 20 years Romania has also grown into a major center for mobile technology, information security, and related hardware research. The country is a regional leader in fields such as IT and motor vehicle production. Bucharest, the capital city, is one of the leading financial and industrial centers in Eastern Europe.

Romania has a labor force of 8.9 million people out of its 19.5 million population, but this number has been decreasing over the last decade due to the massive migration of Romanian workers to Western European countries. Agriculture represents around 4.3% of Romania's GDP and employs 22% of the country's active population (World Bank, 2019). The main resources and agricultural production in Romania are cereals, sugar beets and potatoes. However, production remains very low in comparison with the country's potential capacity (more than one-third of the land is arable).

The European Commission increased its growth estimates for Romania's economy to 3.8% in 2020 and 3.5% in 2021, according to the Winter 2020 Economic Forecast.

Real GDP growth is forecast to remain robust at 3.8% in 2020 and 3.5% in 2021. The significant fiscal stimulus planned in 2020 and 2021 is expected to give a new boost to private consumption while also stimulating imports. Investment is expected to remain strong in 2020, supported by construction and greater use of EU investment funds.

Salary growths in Romania is expected to slow. The minimum wage was recently increased by the Government with only 7.2%; therefore companies will no longer be under pressure to increase wages by more than that. The IT sector, where employees benefit of the highest earnings in Romania, will continue to see increases of wages, although smaller than before.

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Doing Business in Romania

Romania is located in south east Europe at the strategic crossroads of the European Union (EU), the Commonwealth of Independent States (CIS) and the Middle East. With 19.46 million inhabitants, the country is the seventh most populous EU member state, and its capital and largest city, Bucharest, is the sixth largest city in the EU.

Ethnic Romanians constitute about 89% of the population. The largest minority groups are Hungarians (7% of the population, settled chiefly in Transylvania); Roma (2%) and Germans, who make up less than 1% of the population. Romania also has communities of Ukrainians, Rusyns, Russians, Serbs, Croats, Turks, Bulgarians, Tatars, and Slovaks.

Romania acceded to the European Union on 1 January 2007.

Basic Facts

Official State Name	Republic of Romania
Population	19.46 million
Capital	Bucharest
Major Languages	Romanian
Currency	Romanian leu (RON)
Main Industries & Export Articles	Cars, software, clothing and textiles, industrial machinery, electrical and electronic equipment, metallurgic products, raw materials, military equipment, pharmaceuticals, fine chemicals, and agricultural products
GDP Growth	4.3%
Internet Domain	.ro
International Dialing Code	+40
Dates & Numbers	dd.mm.yyyy. A full stop (period) is used for the decimal comma, and long numbers are written with a point (999,999,999.00)



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Entity Registration & Incorporation Requirements

Three laws constitute the main legal framework for businesses in Romania:

- The Company Law governs certain forms of business organization. The law covers registration procedures and documentation, capital and shares, administration, mergers and liquidation
- The Commercial Register Law stipulates the procedures required to bring an entry into operation and any subsequent changes
- Competition Law stipulates the rules for maintaining a competitive market.

The following incorporation forms are available in Romania:

- Limited liability company (societate cu raspundere limitata – SRL)
- Joint stock company (societate pe actiuni – SA)
- General partnership (societate in nume colectiv – SNC)
- Limited partnership (societate in comandita simpla – SCS)
- Limited partnership on shares (societate in comandita pe actiuni – SCA)
- Branches and subsidiaries of a foreign company.

General Rules

Registration procedures are similar for SA and SRL. The deed of association must be signed by the shareholders. In the case of an SRL, the subscribed capital must be paid upon submission of the incorporation documents. In the case of an SA, the shareholders have to pay at least 30% of the subscribed capital upon submission of the incorporation documents. The Trade Register provides a registration certificate and a registration code. A separate VAT registration is then required.

During the registration procedure, the company has a limited legal capacity, only for registration purposes.

The registration procedure takes between five and seven days from the day when the relevant file was submitted to the Trade Register.

The minimum capital required for an SRL is RON 200 (about 50 EUR) divided into shares, with at least RON 10 for each share. The minimum capital required for an SA is the equivalent of RON 90,000 (approx. 25,000 EUR) divided into shares, with at least RON 0.1 for each share.

Limited companies require at least one shareholder, while a joint stock company requires at least two shareholders.

Administration

Both SRLs and SAs must have one or more administrator(s) (Romanian and foreign citizens), who are appointed by the general meeting of the shareholders.

For the administration of SAs, the law stipulates two different administration systems:



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- A unitary system (the management is entrusted to a single corporate body – a sole director or a board of directors), or
- A dual system (the management is entrusted to a directorate and to a supervisory board).

The appointment of auditors is mandatory for joint stock companies which have implemented the dual system of administration.

Limited Liability Company

The shareholders' liability of a limited liability company in Romania is limited to the amount they have subscribed to the company's share capital. The share capital of an SRL must be at least RON 200, divided into shares with a minimum face value of RON 10 each. An SRL may be formed by a minimum of one shareholder and a maximum of fifty. These shareholders may include individuals and/or legal entities.

A person, either natural or legal, cannot be the sole shareholder of more than one SRL at any one time. If a person intends to form several companies, it is necessary for a minimum of one share to be held by another person or entity. Moreover, an SRL cannot have, as sole shareholder, another limited-liability company that is also owned by a single shareholder.

An SRL is managed by one or more directors who may have full or limited powers and who may be Romanian or foreign nationals. There is no distinction between companies operating with or without foreign share capital.

Joint-Stock Company

The minimum statutory capital for a joint-stock company is RON 90 000.

Shares must be held by a minimum of two shareholders, individuals and/or legal entities (there is no maximum limit), and can be open to either public or private participation. The minimum face value of one share is RON 0.1.

Two options have been provided for the management of joint-stock companies: the unitary system and the dual system.

Under the unitary system, the company is managed by one or several directors, always in an odd number, organized as a Board. The Board can assign management of the company to one or several managers. For those companies whose financial statements are subject to audit, such an assignment is compulsory and the minimum number of managers is three.

Under the dual (two-tier) system, the management of the company is carried out by an executive board and a supervisory board. The executive board carries out the day-to-day management of the company and reports to the supervisory board, which exerts permanent control over the executive board and reports to the General Meeting of Shareholders. Directors and other members of the executive board and the supervisory board may not conclude an employment agreement with the company; a management agreement is required instead.



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Partnerships

Partnerships as a legal form are seldom used in Romania. The three kinds of partnerships provided by law that lead to the creation of an entity with legal personality are:

- General partnership (societate în nume colectiv)
- Limited partnership (societate în comandită simplă)
- Partnership limited by shares (societate în comandită pe acțiuni)

The partners in a general partnership and the active partners in a limited partnership have unlimited liability with respect to the liabilities of the partnership toward third parties. Among themselves, each partner is individually and collectively responsible for these obligations.

A minimum capital is prescribed only for a partnership limited by shares (to wit, RON 90 000). No capital requirements are provided for the other forms of partnership.

Joint-Venture

Romanian legislation allows for the conclusion of a joint-venture agreement (contract de asociațiune în participațiune).

Under such an agreement, parties act together for the accomplishment of a common business goal. This form of doing business in Romania does not create a legal entity. Generally, one party is in charge of the bookkeeping for the joint-venture.

Representative Office

A representative office is usually set up by foreign companies in Romania to carry out non-commercial activities, such as advertising and market research, on behalf of the parent company. Representative offices cannot carry out commercial activities in Romania. In order to register a representative office, company officials should apply to the Ministry of Economy, Commerce and Business Environment and pay an annual fee of the RON equivalent of USD 1,200 for the license. Upon authorization, the representative office must be also registered with the Ministry of Public Finances, and with the Romanian Chamber of Commerce and pay an annual business tax of RON 18 000.

The standard legal entity incorporation steps for Romania have been summarized below:

No.	Procedures	Time To Complete
1	Company Name Reservation	1 day

Agency : Commercial Registry of the Trade Register Office

The requirements for a company name reservation process are the following:

- The reservation of a company name is requested at the trade register office by application and is checked and made at national level so that company names are protected at national level as well.



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- A company name shall not include words like: "științific", "academie", "academic", "universitate", "universitar", "școală", "școlar" or their derivatives.
- A company name including words like "național", "român", "institut" or their derivatives or words or phrases characteristic of the central or local public institutions or authorities may be used only with the approval of the General Secretariat of the Government or the Prefect. Such certificate is valid for a period of 3 months. Foreign translation of the words listed above (e.g. "National", "Institute", "National") can be used without approval; however, the General Secretariat of the Government needs to be notified and will issue a confirmation that approval is not necessary in 7 to 10 days.

While the name application can be submitted online at <https://portal.onrc.ro>, the approval documents must be obtained in a physical form from the Trade Registry or sent by mail directly to the applicant. Name reservation can also be made via e-mail. However, the clerk designated to handle the incorporation might request that the document in physical form be first picked up from/delivered by the Trade Registry.

2 Deposit Capital Contribution

1 day

Agency : Bank

The company's administrator or an authorized person must deliver certified copies of:

- the name availability certificate,
- Articles of Incorporation,
- proof of the registered offices and
- the statement of the legal representative(s) and founder(s), and
- the power of attorney (if applicable).

Some banks, depending on their policy, may request originals of the documents mentioned above. Additionally, according to the specific internal rules of each bank, the bank may request a corporate excerpt evidencing the shareholder, headquarters and director(s) of the new company's shareholder, as well as other documents attesting the beneficiary. After the documents are being reviewed by a bank's representative, the deposit is granted and the administrator/authorized person will receive a document confirming the deposit of sufficient funds.

The bank may charge the solicitant a commission, which may range from zero to 0.5% of the capital, in accordance to the internal regulations of each bank.

The share capital payments will be made within a share capital account. No payments can be made from the share capital account, thus, upon completion of the incorporation formalities, an operational account will need to be opened; alternatively, the share capital account can be converted into an operational bank account.

3 Company Registration with the Commercial Registry

3 days

Agency : Commercial Registry of the Trade Register Office



In order to register at the Commercial Registry, the founders of the company shall have to prepare the articles of incorporation. Within 15 days from the establishment of the articles of incorporation, the founders or their delegates must complete the registration of the company at the trade register in the area of the company's registered office. The articles of incorporation shall include, inter alia, the amount of the capital, which shall be fully subscribed by the founders.

The trade register office also obtains electronically the fiscal record certificates. Registration at the trade register office is finalized by issuance of the certificate of incorporation ensures the following:

- company incorporation
- fiscal registration (for profit, wages, health, pensions, unemployment taxes) by obtaining the unique registration code from the Ministry of Public Finance
- authorization, based on statements of own responsibility, in the field of food safety and sanitary-veterinary protection, environment protection and labor protection
- publication in the Official Gazette of Romania as legal publicity (publication fee in amount of RON122 per page applies).

VAT registration is completed at the Fiscal Administration Authority.

4 VAT Registration

15 days

Agency : National Agency of Tax Administration

Starting with the day following the registration of a company, the VAT registration procedure can be initiated. The first step involves the company's representative filling in an affidavit with the details ascertaining that the company meets the relevant criteria for VAT registration. The affidavit is filled in by using a software available on the National Agency for Tax Administration's website, the same being generated in PDF format, which the representative must sign with a valid certified electronic signature. In the end, the electronically signed affidavit is sent to the National Agency for Tax Administration online, along with a separate hand signed version of the affidavit, which is scanned, archived in zip format and attached to the electronically signed version. After completing this procedure, the company's representative or proxy must submit the 010 form, along with the proof of submitting the aforementioned affidavit, in person, before the competent Tax authority.

The VAT certificate is issued within 1 day of such submission. Following the issue of the VAT certificate, the Tax authority will then verify, within a 15 days, whether the company actually meets the relevant criteria for VAT registration, as declared under the affidavit. If concluded that such criteria is met, the issued VAT certificate remains valid. However, if the company does not actually meet the relevant criteria, the Antifraud directorate of the Tax authority will begin an inspection at the company's headquarters in order to determine the relevant issues. If a company's turnover exceeds the threshold of RON 300,000, it is mandatory to request the VAT registration, within 10 days from the end of the month during which the relevant threshold has been exceeded.



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5 Obtain Unique Registry for Controls 1 day

Agency : National Agency of Tax Administration (local office)

All legal must purchase such a Registry for each of their registered offices (primary or secondary offices). The Registry must be purchased within 30 days from the company registration with the Trade Registry.

The company's tax registration certificate is needed for the acquisition of the Registry and a copy of the lease for the space in which it operates. In addition, in order to purchase such a Registry it is necessary to fill in an application in this respect and present a power of attorney for the person requesting the Registry accompanied by a copy of the identity card of the respective person.

The Registry is used to record all inspections carried out by different control bodies: financial, consumer protection, urban planning, labor, fire protection etc. The Unique Registry for Controls is numbered, sealed and kept by the legal representative of the verified company or by its replacement. The Registry shall be kept at the registered office and at each secondary office for which there have been issued permits/licenses and/or operating agreements.

6 Registration of Employment Contracts with Territorial Labor Inspectorate (TLI) 1 day

Agency : Territorial Labor Inspectorate

Employers must register electronically the employment agreements of their employees with the office of the Territorial Labor Inspectorate in the jurisdiction the employer has its registered office. The registration of the employees' labor contract can be done online, after a representative of the employer obtains a password for operating the online registry from the Territorial Labor inspectorate.

Audit Requirements

Annual financial statements prepared by legal entities that meet at least one of the thresholds are required to undergo statutory independent audit:

- Total assets: RON 16 000 000
- Net turnover: RON 32 000 000
- Average number of employees during the year: 50

Annual financial statements prepared by companies whose securities are admitted to trading on a regulated market as defined by the Capital Markets Act are also subject to statutory audit, regardless of their total assets, net turnover or average number of employees.

The applied auditing standards are issued by CAFR (the Romanian Chamber of Auditors – Camera Auditorilor Financiari din România) and reflect the International Standards on Auditing issued by the International Federation of Accountants (IFAC).



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New Hires

In Romania, there are no registration requirements for local employees in terms of social security or for income tax purposes.

Tax Office Registration

Each company shall be registered with the Romanian Trade Register, once their legal entity is established in Romania. Registration with the appropriate Tax Office is not necessary if the company (local employer) was registered as a paying payroll taxpayer upon its establishment and incorporation with the Romanian Trade Register.

As a general rule, a company (employer) is administered by the territorial Tax Office where its headquarters is located. For large and medium taxpayers as well as representative offices of foreign companies, the Tax Offices are defined by law.

Documents to be submitted to the appropriate Tax Office for registration of the company as a payroll taxpayer (applicable if the company was not registered as a payer of payroll taxes upon its incorporation with the Romanian Trade Registry) are:

- Tax registration declaration
- Copy of the individual employment agreement (IEA) concluded with the first employee or an extract from the General Registry of Employees

Documents must be submitted within 30 days of hiring the first employee. If the employer fails complete submission on time, it may trigger a fine of RON 500 to RON1,000 (approximately EUR 110 – EUR 220).

Registration with the Territorial Labor Chamber

In accordance with the Romanian Labor Law, employers must prepare and submit information to the Territorial Labor Chamber electronic General Registry of Employees. Employers have two potential approaches for filing the required information with the Registry:

1. Nominating, in writing, an employee of the company for filing the information with the Registry
2. Appointing a service provider to perform the necessary filings with the Registry. The employer must inform the labor authority in writing regarding the appointment of a service provider.

Deadlines for filing information with the General Registry of Employees through the Labor Chamber website are the following:

- New employment contract - one working day prior to the first day of employment.
- Contract termination - no later than the date of termination.
- Contract suspension - one working day prior to the first day of the suspension.
- Amendment of employment contract (e.g., new position, type and duration of the IEA, duration of working time, time distribution in case of part-time labor) - at least one working day before the effective day of the change. Gross salary changes shall be recorded in the register no later than 20 working days from the date of change.

The following fines apply in case of late filings:



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- RON 10,000 to RON 20,000 (EUR 2,200 to UER 4,400) for each person identified (by the labor inspector during a labor audit) as carrying out an activity without notification by the employer to the Registry of the Labor Chamber, within the established deadline.
- RON 5,000 to RON 8,000 (EUR 1,100 to EUR 1,700) is imposed for failure to submit information on new employees to the Registry within the applicable deadlines.



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Banking

The normal banking hours in Romania are from 9 am to 5 pm, Monday through Friday.

Working Week

The standard working week is five days, eight hours per day. The maximum working time, including overtime, cannot exceed 48 hours per week. Overtime can be remunerated by free time or extra pay – at 75% of the gross salary.

The standard working week Romania is from Monday through Friday and from 9 am to 6 pm. If the daily length of the working time exceed six hours, the employees shall have the right to a meal break and other breaks, which are not included in the normal working hours.

Labour Law and Employment in Romania

The Romanian labor legislation is primarily regulated by the Labor Code (Codul muncii). The employment relationship must be governed by a contract of employment, which is generally concluded for an indefinite period, but there are also fixed-term and day-laborer contracts. In most cases, employers must also conclude a collective employment agreement, which is a written agreement concluded between the employer and the trade union representing the employees. These agreements contain clauses regarding working conditions, wages and other rights and obligations arising from employment relations. A collective employment agreement at company level is mandatory unless the employer has fewer than 21 employees. Employees have the right to join trade unions containing at least 15 members.

Romania has an extensive social security system, providing health insurance, maternity benefits, death grants, unemployment allowance, pension rights, insurance against accidents at work and occupational diseases. Non-contributory benefits include disability and orphan allowances, war widows' and war veterans' benefits, benefits for former political prisoners, war heroes etc.



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Tax & Social Security

Overview

Tax in Romania is administered by the National Agency for Fiscal Administration (Agenția Națională de Administrare Fiscală – ANAF), which is responsible to the Ministry of Public Finances.

The principal taxes imposed in Romania are:

- Corporate income tax (impozitul pe profit)
- Micro-enterprise tax (impozitul pe veniturile microîntreprinderilor)
- Personal income tax (impozitul pe venit)
- Value added tax (taxă pe valoarea adăugată)
- Land tax (impozitul pe teren)
- Customs duty (taxă vamală)
- Excise duties (accize)

Corporate Income Tax

Corporate income tax is charged on the worldwide income and gains of Romanian-resident companies and on the Romanian-source profits of non-resident companies.

Partnerships are taxed at partner level. However, in a partnership between individuals and legal entities, each partner is liable to corporate income tax on the profit share attributable to that partner.

The following entities are subject to corporate income tax:

- Resident companies
- Foreign companies doing business in Romania through a Romanian permanent establishment
- Foreign companies that have their effective place of management in Romania.
- Foreign companies deriving income from or in connection with transactions in Romanian immovable property or from share transactions in Romanian companies.

The taxable profit of a company is calculated as the difference between the income realized from any source and the expenditure incurred in obtaining taxable income throughout the tax year, adjusted for fiscal purposes by deducting non-taxable income and adding non-deductible expenditure. Other elements similar to income and expenditure are also to be taken into account when calculating the taxable profit. As from 1 July 2013, consolidation of revenue and expenses pertaining to permanent establishments in Romania of the same foreign legal entity is allowed. One of the permanent establishments must be designated to fulfil reporting obligations to the National Agency for Fiscal Administration.

Transfer-pricing rules must be used to establish the market price for a transfer made between the foreign legal entity and its permanent establishment.



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Personal Income Tax

Individuals who are resident in Romania for tax purposes are liable to income tax on their worldwide income, whereas non-residents are taxable only on their Romanian-source income. Individuals who arrive in Romania from abroad have to complete a residence questionnaire within 30 days once their stay in the country has exceeded 183 days. The answers on the questionnaire will assist the tax authorities to determine the individual's residence status.

Under the Romanian Fiscal Code, an individual is considered to be resident in Romania if any of the following four criteria is satisfied:

- Individual's permanent place of residency is in Romania
- Individual's center of vital interests is in Romania
- Individual is physically present for more than 183 days during any 12 consecutive months
- Individual is a Romanian national working abroad as a civil servant or otherwise on behalf of the Romanian government

For those individuals who have proof of residence in a treaty-partner country, the rules under that treaty will determine when and if that individual becomes resident in Romania. Those rules look to permanent place of residence, center of vital interests, habitual place of residence and nationality. All other individuals will become resident in Romania once their stay exceeds 183 days or their center of vital interests becomes or is located in Romania.

Individuals, who relocate to Romania, become liable to worldwide taxation from 1 January in the year following that in which they become resident.

Similar rules apply to individuals relocated from Romania, who must complete the questionnaire and submit it at least 30 days before departure. The tax authorities will then determine when and if the individual ceases to be resident in Romania. Residents moving to a jurisdiction without a tax treaty with Romania will remain taxable in Romania on their worldwide income for three years following their departure.

In Romania, there is no joint assessment of married couples. Each individual is assessed separately to income tax, regardless of his or her marital status. This applies equally to minor children. Family responsibilities and the existence of dependents is recognized in the system of personal allowances.

Employment Income

Taxable income from employment consists of salaries and wages, and most other forms of remuneration or benefits associated with employment. Salary is defined as income in cash and / or in kind received by individuals based on employment agreements.

Other types of remuneration treated as taxable include remuneration paid according to non-competition clauses and benefits such as meal vouchers, gift vouchers, childcare vouchers, holiday vouchers, amounts representing compensation payments (including termination payments), and the private use of company cars and telephones. Moreover, directors' and managers' remuneration is also normally treated as employment income.



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Foreign individuals performing activities in Romania based on foreign employment agreements; these individuals are liable to submit a monthly income statement and pay monthly income tax for salaries obtained from the employer established abroad for activities rendered in Romania.

The benefit of the private use of a motor vehicle provided by the employer is valued for tax purposes at 1.7% per month (equivalent to an annual rate of 20.4%) of the book value of the vehicle. In the case of leased vehicles, the benefit is valued at 1.7% per month of the rental payment. Travel from home to work is not regarded as private use.

Other benefits are generally valued at their cost to the employer or their market value.

An employee's gross salary is reduced by the following items before deduction of income tax:

- Mandatory state social-security contributions
- Personal allowances
- Contributions to voluntary pension funds administered by authorized entities established in EU Member States or the European Economic Area, up to the RON equivalent of EUR 400 annually
- Trade-union subscriptions

Individuals with more than one employment receive personal allowances in respect of the main employment only.

In the categories of non-taxable income, among others, the following types of income are included:

- Allowances for maternity leave, maternity risk, child care, and sick child care leave paid in accordance with the law's provisions.
- Salary income obtained from a foreign employer from employment activities rendered abroad, irrespective of the tax treatment of the income in that foreign country.
- Amounts granted by employers for covering transport and accommodation expenses incurred during delegation/secondment of employees.
- Sponsorship and donations, under certain conditions.

The following income is exempt from income tax:

- Income from independent activities, salaries, and pensions and income from agricultural, forestry, and fishery activities derived by seriously disabled individuals.
- Salary income and salary assimilated income related to the design and creation of software (specific conditions to be met by the employer and the employee).
- Salary income and salary assimilated income related to research and development (R&D) activities (specific conditions to be met by the employer and employee).
- Salary income and salary assimilated income derived based on employment contracts concluded for 12 months with Romanian employers carrying out seasonal activities in areas such as hotels, restaurants, and catering for events, as provided by the specific legislation in force.
- Salary income and salary assimilated income for the period 1 January 2019 through 31 December 2028 paid by the employers in the construction sector, under certain conditions.



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Personal Deduction

Individuals domiciled in Romania and individuals meeting the residence criteria for worldwide income taxation are entitled to personal deductions, which vary according to their gross monthly income and number of dependents.

Employees with a gross salary not greater than RON 1,950 per month are entitled to a personal allowance of a monthly maximum RON 510 plus RON 160 for each dependent. In case the number of dependents is at least four, the monthly allowance is of RON 800 for the dependents.

For gross monthly income between RON 1,950 and RON 3,600, an order of the Ministry of Economy and Finance sets the deductions. No deduction is allowed for gross monthly income greater than RON 3,600.

Dependents on an employee may be the spouse, children or other family members, or relatives of employee or spouse up to the second-degree relatives inclusively, whose monthly income, either taxable or nontaxable, does not exceed RON 300.

Employment Expenses

For the primary workplace, the following amounts are currently to be deducted from the gross salary income when calculating the taxable income:

- Individual mandatory social contributions due according to the provisions of the law and in line with the provisions of the European Union (EU) legislation or any social security agreement to which Romania is a party.
- Personal deductions corresponding to the respective month.
- Contributions to voluntary pension funds, according to the relevant legislation, to voluntary pension funds classified as such by the Financial Surveillance Authority, made to authorized entities established in the member states of the European Union or the European Economic Area (EEA), up to the Romanian leu equivalent of 400 euros (EUR)/year/employee.
- Voluntary health insurance premiums and subscriptions to private healthcare facilities borne by employees, up to the Romanian leu equivalent of EUR 400 annually.
- Trade union membership fees corresponding to the respective month.

For the salary income obtained in other cases, taxable income is assessed as the difference between the gross salary income and the individual mandatory social contributions, due according to the law, in line with the provisions of the European Union or other social security agreements to which Romania is a party.

Individual taxpayers may direct 2% or 3.5%, on a case-by-case basis (depending on the beneficiary of the income, as provided by the law), of their annual income tax to charitable purposes.

Foreign Tax Relief

A foreign tax credit may be granted, in accordance with the relevant double-taxation treaty, provided that the tax paid abroad for the income obtained abroad was actually paid directly by the natural person or by their legal representative. The payment of the tax abroad must be proved with justifying official documents, issued by the foreign country's tax authorities.



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The tax credit is granted at the level of the tax paid abroad, related to the income from the source from abroad, but it may not exceed the part of the income tax payable in Romania, related to the taxable income from abroad. In case the taxpayer in question obtains incomes from abroad from several states, then the external fiscal credit admitted to be deducted from the tax payable in Romania shall be calculated, according to the above-mentioned procedure, for each country and each category of income.

Reporting and Payment

Tax is withheld by the employer from gross salary as reduced above at the flat rate of 10%. The employer accounts for the tax and employee social security contributions deducted monthly, and pays these over monthly together with employer social security contributions.

With certain exceptions, taxpayers have to file an annual income tax return with the tax authorities by 15 March of the following year.

A single return for personal income tax and social security liabilities due by individuals has been implemented starting 2018. Taxpayers whose sole source of income throughout the entire tax year is from employment do not need to file returns, as their tax liabilities should have been settled by payroll deduction.

Expatriates employed abroad but performing an activity in Romania should file monthly tax returns and pay monthly tax in Romania by the 25th of the following month if certain conditions are met.

Non-filing of tax returns by the respective deadline may be subject to fines from RON 500 to RON 1,000 for individuals. The late-payment interest and penalties applicable for individuals are the same as for companies.

Additionally, for failure to withhold or failure to pay taxes withheld at source (taxes on salary income, dividend income and non-residents' income), a fine ranging between RON 1000 and RON 6000 may be applied.



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Social Security

Both employers and employees must contribute to the social security system.

Employees are required to pay the following monthly charges:

- Social security contribution (pension): 25% of monthly gross salary earnings
- Health fund contribution: 10% of monthly gross salary earnings

The payment of such taxes withheld from the gross salary is made by the employer to the state budget.

Additional employee contribution of 4% to pension fund insurance applies for special working conditions and another 8% contribution for particularly hard working conditions.

The social insurance contribution cannot be lower than the social insurance contribution calculated by applying the contribution rates to the applicable minimum gross salary, after prorating the salary by the number of working days in the period. This does not apply to the following categories of employees:

- Students younger than age 26 who are currently enrolled in a school
- Apprentices up to 18 years old
- People having disabilities and those who have the right to work fewer than eight hours a day by law
- Retired individuals in the public pension system, except retired persons who benefit from special laws and the ones who combine public pensions with private pensions
- Individuals who—during the same month—receive salary incomes from two or more labor contracts and the combined monthly base of calculation is at least equal with the minimum gross salary available at the moment of calculation

Employers are required to pay the following monthly charges:

- Work insurance contribution: 2.25% of total monthly gross salary income
- Contribution for disabled people: Companies with at least 50 employees are under the obligation to hire disabled people representing 4% from the total number of the employees. Entities that do not employ persons with disabilities as mentioned above, shall pay monthly to the state budget an amount representing the minimum gross national salary guaranteed multiplied by the number of jobs in which they have not employed persons with disabilities.

From January 2020, the national minimum gross salary is RON 2,230 per month.

Employers calculate and withhold income tax and social contributions when paying salaries. State budget contributions are payable by the 25th of the month following the month to which the salaries relate.



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Payroll

According to the Romanian Labor Law, employees must be paid monthly on the date established in the employees' individual employment or collective labor agreements.

Salaries can be paid through bank transfers or in cash. Payment method may also be defined the collective labor agreement. There are no legal restrictions regarding salary transfer — it can be paid into a Romanian bank account or a foreign bank account. Salary payments can be made from a Romanian or a foreign bank account number. However, it is recommended to use a Romanian bank account as this is easily recognized by the authorities.

The payment of the wage shall be proven by signing the payroll and by any other supporting documents proving the payment to the entitled employee. However, online payslips are also acceptable.

Payroll and other supporting documents shall be retained and archived by the employer under the same conditions and terms as the accounting documents. Payroll records must be retained for a period of 50 years.



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Employment Law

In order to hire an employee under Romanian law, the employer has to have a national legal entity. Employees of foreign companies can perform work in Romania based on their existing employment agreement, or can be dispatched to a Romanian company.

Employment Agreement

As a rule, the individual employment contract is an unlimited term contract. However, the individual employment contract may also be fixed term or part time. According to the Romanian Labor Code, any kind of individual employment contract must be concluded in writing, in the Romanian language and on the basis of both parties' consent (employer and employee). Before the beginning of the employment relationship, the employer has the obligation to conclude the individual employment contract and register it with the employees' electronic program (ReviSal).

Prior to the conclusion or amendment of the individual employment contract, the employer has the obligation to inform the person selected for employment or the employee, about the essential clauses to be introduced in the contract or to be amended.

A medical certificate upon hiring an applicant represents a mandatory requirement for concluding an individual employment contract, in order to determine whether the applicant is fit for the job. In case the medical certificate is missing, the contract is null and void.

The individual employment contract shall be concluded after the employer performs a preliminary check of the personal and professional abilities of the applicant. Information about the work performed and the duration of the work, from the former employer may be requested only after having first informed the applicant.

The individual employment contract must contain the following provisions:

- the identity of the parties
- the place of work
- the headquarters or domicile of the employer
- the position/occupation according to the Romanian Classification of Occupations or other regulatory documents and the job description
- the professional activity evaluation criteria applied by the employer
- the job-specific risks
- the employment start date
- the expiration date, in the case of a limited duration or temporary employment contract
- the annual entitlement to paid holiday leave
- the conditions and the length of the notice period (both dismissal and resignation)
- the compensation and the payment frequency
- the working time, expressed in hours per day and hours per week
- the reference to the collective Labor agreement governing the working conditions of the employee
- the length of the probationary period.



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Besides the essential clauses, the parties may also negotiate and include other specific clauses in the individual employment contract, such as: professional training, non-compete clause, mobility clause, confidentiality clause, etc.

In addition to the general requirements, part-time contracts must state the following: the working time and the working schedule, cases when the working schedule may be amended, overtime work prohibition, except for acts of God or other urgent works intended to prevent the accidents or to remove their consequences.

The fixed term contracts may be concluded only for the limited cases provided by the Labor Code and must contain the general imperative information plus the duration of the contract.

The Labor Code states that the same two parties cannot sign more than 3 consecutive fixed-term contracts. Also the fixed-term contracts and any extensions cannot exceed a period of 36 months. After this period the contract is to be considered an open-ended contract.

Employment contracts - concluded both for a fixed or open-ended term, may contain a probationary period clause. In order to verify the skills of the employee, the parties may agree upon a probationary period, mentioned within the individual employment contract, of a maximum 90 calendar days for standard positions and a maximum 120 calendar days for managerial positions. With respect to disabled persons, the probationary period will be of a maximum 30 calendar days. During or before the end of the probationary period, the individual employment contract may cease based on written notification, without motivation or prior notice, due to the initiative of the employer or employee.

The individual employment contract may be terminated by the employer or by the employee. In case the contract terminates due to the employer's decision, with the exception of the following

- dismissal for disciplinary reasons
- if the employee is arrested for more than 30 days, the employee is entitled to a notice period of no less than 20 working days.

In case the contract terminates due to the employee's decision to resign, he has the obligation to respect a notice period of no more than 20 working days for standard positions and no more than 45 working days for managerial positions. The employer has the right to waive the notice period and to agree to terminate the contract due to the employee's will, at any moment before the end of the notice period.

Working Conditions

Employers and employees are free to negotiate the terms and conditions of their employment relationship. However, employees have certain minimum rights granted by the law and the parties' negotiation cannot stipulate conditions or rights below the legal minimum provisions. Any contractual clauses that are meant to establish rights below the minimum ones are null. The minimum working conditions and rights are set forth in the Romanian Labor Code and the Collective Agreements, if applicable (in Romania the conclusion of a collective labor agreement is not mandatory).

The maximum average working time is established by the Labor Code and consists of 40 hours per week and 8 hours per day. Maximum legal working time is 48 hours per week, including overtime hours. By exception,



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the maximum working legal time, including overtime may be extended over 48 hours per week, under the condition that the average working hours calculated for a 4 month period, will not exceed 48 hours per week. For certain activities, the parties (the social partners, employees' representatives and employers' representatives) may negotiate a period of more than 4 months, but not longer than 12 months.

Overtime work is permitted only upon the employer's special demand and the employee's agreement, except for cases of acts of God or other urgent works intended to prevent or to eliminate the consequences of an accident. Overtime shall be compensated by paid off hours during the next 60 days. If compensation is not possible within the 60 days mentioned above, the overtime shall be paid to the employee by adding a bonus to the salary. The overtime addition will be established by negotiation through the collective labor agreement or individual employment contract and it cannot be lower than 75% of the base salary. Special regulations regarding working hours make the Romanian legislation stricter than the European one. Employees who are not 18 years old are prohibited from overtime work. The employee's total working hours for one month, including overtime is recorded in writing on the pay slip.

Leaves

Employees are entitled to an annual paid vacation leave of 20 working days. The leave period is prorated based on the actual period of employment and must be taken during the same year it is earned. The right to annual leave cannot be subject to any waiver, assignment, or limitation.

The official holidays, as well as the paid days off, stipulated in the applicable collective labor agreement are not included in the annual leave.

Additionally, according to the Labor Code, employees have the right to paid days off for certain family events or for other particular situations.

In the case of illness, the employer must pay the sick leave days, typically the working days from the first five calendar days of illness, depending on the illness category. The difference is paid by the FNUASS Fund. The payment rates are between 75-100% of the employee's base salary.

The total maternity leave amounts to 126 calendar days. One of the parents has the right to two years of leave for baby care, paid by the municipality with 85% of the average of the net salaries of the last 12 months, but not less than 1,250 Ron and not more than 8,500 Ron.

Employment Termination

Under the Romanian law, employment contracts may terminate by mutual consent or by notice given by one of the two parties. The grounds for dismissal must be real and serious and there are two types of valid grounds: Objective grounds and Economic grounds.

Objective Grounds

- the employee has committed a serious or repeated disciplinary offences related to the Labor discipline rules or the rules within the individual employment contract
- applicable collective labor agreement or rules of procedure, as a disciplinary sanction



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- the employee has been taken into preventive custody for more than 30 days, under the terms of the Code of Criminal Procedure
- by decision of the competent medical examination bodies, a physical and/or mental inability of the employee is found, not allowing him/her to fulfill the duties corresponding to the position held
- poor performance or unsatisfactory professional skills.

Economic Grounds

A dismissal for reasons not related to the person of the employee is the termination of the individual employment contract determined by the cancellation of the employee's position, for one or several reasons, which are not connected to the employee's person. The cancellation of the workplace must be effective and have a real and serious cause. The dismissal for economic grounds may be individual or collective.

For the objective grounds dismissal, the employer must respect the specific procedure stipulated by the Labor Code. In case of dismissal for disciplinary reasons, the employer must follow the preliminary investigation, in order to establish the breach of the employment contract's provisions or of the internal regulations. In case of dismissal for poor performance, the employer must first establish the grounds by the evaluation procedure. In all cases, the employer must issue the dismissal decision within 30 calendar days from the date the employer acknowledged the cause of the dismissal.



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Immigration

EEA and Swiss Confederation citizens working in Romania as employees with a local / secondment contract do not have to obtain a work permit; these individuals have free access to the local labor market. For secondees, a procedure for notifying the competent authorities in this respect has been established.

As a general rule, other foreign nationals working in Romania need to apply for a Romanian work permit (before obtaining their residence permit). A foreign national in this connection is a person not holding Romanian, other EU, other EEA or Swiss Confederation citizenship.

The types of work permit that can be granted to foreign nationals are: authorization for permanent workers, secondees, seasonal workers, probationary workers, cross-border workers, highly skilled workers, as well as nominal work permits.

In certain circumstances, some categories of foreign nationals can perform work activities without having previously obtained a work permit; these include family members of Romanian citizens and those employed by companies established in the EEA or the Swiss Confederation seconded to Romania.

EU/EEA and Swiss Confederation nationals residing in Romania for a period longer than three months should obtain an administrative document named a 'registration certificate'. Such document is issued by the competent immigration authority within one to two days from the date of filing the application.

The registration certificate is issued with a validity between one to five years, depending on the supporting documentation available.

Depending on the purpose of stay of the individual, different documents may be required to sustain the registration certificate application (i.e. secondment letter, employment contract, proof of family relationship, etc.).

The non-EU family members of EU/EEA/Swiss Confederation nationals/Romanian nationals may be subject to different immigration compliance requirements for entering and staying in Romania, such as:

- Obtaining Romanian entry visas, if necessary.
- Obtaining a residency card if their stay in Romania is intended to be longer than three months.

A Romanian permanent residency card could be obtained as well if certain conditions are fulfilled. Such document has a validity of five years, with the possibility of further extension.

Work Permits for Non-EU Nationals

A 'non-EU national' is an individual not holding Romanian, EU/EEA, or Swiss Confederation citizenship.

As a general rule, a non-EU national may perform working activities in Romania, as a local employee or a secondee, only if a work authorisation for employment or secondment is obtained in advance.

Any type of work authorisation is issued by the competent Romanian immigration authorities, based on the official request of the Romanian company, either as employer or beneficiary of the service.



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The work authorisation for employment is issued for several categories of workers: permanent workers, highly skilled employees, seasonal workers, trainee workers, cross-border workers, and au pair workers.

The work authorisation for secondment is issued for secondees performing activities in Romania based on a service agreement concluded between their employer and the Romanian beneficiary of their services or under an intra-corporate transfer (ICT).

As a matter of exception, in certain circumstances and subject to the fulfilment of certain specific conditions, some categories of non-EU nationals may perform working activities in Romania without having previously obtained a work authorisation for employment/secondment, such as: non-EU nationals having a right to reside in Romania as family members of Romanian citizens or non-EU nationals employed by companies based in the EU/EEA or Swiss Confederation and seconded to Romania, students concluding an employment contract with limited working time, etc.

The issuance of the work authorisation is conditioned by the fulfilment of certain general conditions (required for all type of work authorisations), as well as specific conditions applicable to each category of worker. Some of the specific conditions required for the most common work authorisations are listed below.

Work Authorization for Permanent Workers

Some of the main special conditions required for obtaining such work authorisation are:

- The Romanian employer intends to conclude a full-time employment contract for a defined or undefined period of time.
- The Romanian employer is conducting a selection process and no Romanian, EU/EEA/Swiss national, or non-EU national holder of a Romanian permanent residency permit is available to occupy the vacant position.
- The candidate fulfils all the conditions provided by the legislation in force for occupying the vacant position, including but not limited to the educational condition.

Work Authorization for Highly Skilled Workers

The main special conditions required to be proved for obtaining the work authorisation for highly skilled workers are:

- A minimum 12 months employment contract.
- The non-EU national should prove high professional qualifications sustaining the highly skilled vacant position.
- A minimum salary level is required (i.e. currently the minimum level is of two Romanian average salaries).

Work Authorization for Secondment Purposes

Such work authorisation could be obtained for non-EU nationals seconded to Romania by their employers headquartered outside the EU/EEA/Switzerland area if:

- there is a service agreement concluded between the foreign employer and the Romanian beneficiary of the service, and



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- the Romanian beneficiary of the service and the foreign employer are part of the same group of companies, or
- the Romanian beneficiary of the service is a representative office or a Romanian branch of the foreign employer in Romania, or
- the duration of the secondment is for maximum 12 months within a five-years period, and
- the non-EU national has the required qualifications required to perform the activity in Romania.

Work Authorization for Secondment Purposes for ICT Staff

Some of the main special conditions required to be fulfilled in order to obtain a work authorisation for an ICT worker are:

- The individual is subject to an ICT from an employer headquartered outside the EU/EEA/Swiss Confederation to a Romanian entity.
- The individual will perform work in Romania only as manager, specialist, or trainee.
- Duration of the transfer is up to three years (for managers and specialists) or up to one year (for trainees).
- The foreign employer and the Romanian company are part of the same group of companies.
- The secondment letter contains specific elements provided by the Romanian law.
- A certain level of education, experience, and qualification is required for managers and specialists.
- A minimum duration of foreign employment contract is needed.

Foreigners, holders of valid residency permits as ICT workers issued by other EU member states authorities, could be transferred to Romania:

- Under a short-term mobility structure, for a period up to 90 days in any 180 days.
- Under a long-term mobility structure, for a period longer than 90 days.

For both the above-mentioned structures, the Romanian beneficiary has the obligation to obtain a work authorisation. However, there are differences in the list of documents required for the applications and the moment when the non-EU national is allowed to start working as an ICT worker.

Additional obligations to inform the labour authorities about the secondment conditions are falling under the Romanian company's responsibility.



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Residency Permits

A non-EU national may travel to Romania and stay for a period up to a maximum of 90 days within a six-month period, with or without a short-term visa. However, based on such short-term visa, the non-EU national is not allowed to work in Romania but only to perform specific activities allowed under the visa granted.

Non-EU nationals staying in Romania more than 90 days within any six-month period need to apply for a long-term visa and subsequently for a temporary residency permit. Nationals of the United States (US), Canada, and Japan are exempted from obtaining Romanian long-term visas.

The documentation required for obtaining Romanian long-term visas/residency permits depends on the type of immigration document required (e.g. secondment, employment, family reunion).

The residency permit may have different names and validity, depending on the purpose for which issued.

Obtaining the status of a Romanian long-term resident and the long-term residency permit depends on fulfilling certain conditions provided by the law, generally related to the duration of the stay in Romania of the non-EU national, the value of one's investment, level of knowledge of Romanian language, etc.

Personal Code

A personal numerical code granted by the competent immigration authority to non-Romanian nationals, through their residency documents (i.e. registration certificate, single permit, EU Blue Card etc.), also represents their fiscal number.

Fiscal Registration Number

Individuals who are not required to obtain residency documents in Romania may fulfil their fiscal obligations here by registering with the fiscal authorities through a fiscal agent or a representative in order to obtain



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