



DOING BUSINESS IN ROMANIA

Preface

Considering Romania as a possible location for developing their businesses, the foreign investors might benefit from the advantages offered by Romania:

- | | |
|--|--|
| Market & Location Advantage | <ul style="list-style-type: none"> • One of the largest markets in Central and Eastern Europe (over 21 million inhabitants) • Attractive location: allowing an easy access to the countries of the former CIS countries, Balkans, the Middle East and Northern Africa |
| Resource Advantage | <ul style="list-style-type: none"> • Attractive location: at the junction of three prospective European transportation corridors nor. 4, 7 & 9 • Skilled labor force, with solid knowledge in technology, IT and engineering • Rich natural resources, including fertile agricultural land, oil and gas |
| Political Advantage | <ul style="list-style-type: none"> • An important potential for tourism • Stable executive power • Stability factor in the Area -NATO member • Stability Guarantee in South Eastern Europe |
| IR Advantage | <ul style="list-style-type: none"> • EU membership since January 2007 • Bilateral agreements between Romania and other countries for investments promotion and protection • Bilateral diplomatic relations with 177 out of 191 UN member states, plus the Holy See, the Sovereign Military Order of Malta and the Palestinian National Authority • Member of the UN and other international organizations, like: OSCE, Council of Europe and International Organization of La Francophonie • Free trade agreements with EU, EFTA countries, CEFTA countries |
| Economical Advantage | <ul style="list-style-type: none"> • Sustainable economic growth • Functional Market Economy status • Decreasing inflation • Permanent financial assistance for SME's Development • Increasing interest of Foreign Investors |

Improving Infrastructure Advantage

- Well-developed networks of mobile telecommunications in GSM systems
- A highly developed industrial infrastructure, including oil and petrochemicals
- The presence of branch offices and representatives of various well-known international banks
- A newly developed highway infrastructure
- Commitment to improve the highway infrastructure to EU standards

Social Advantage

- Extensive maritime and river navigation facilities
- Agreement between Government and Major Unions
- No major Union Movements
- Permanent dialogue with the employees associations

Legislative Advantage

- Labor relations regulated by the Labor Code
- Legislation compatible with Acquis Communautaire
- Similar legal provisions as in UE
- Healthy fiscal policy regulated by the Fiscal Code
- Competitive tax policy: 16% flat tax

Investors are advised to ask for professional assistance, since this booklet is not intended to be comprehensive. Our Firm will be happy to assist you in any way.

This publication reflects rules current at January 2008.

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Introduction

Geography

With a surface area of 238,391 square kilometres (92,043 sq mi), Romania is the largest country in southeastern Europe and the twelfth-largest in Europe. A large part of Romania's border with Serbia and Bulgaria is formed by the Danube. The Danube is joined by the Prut River, which forms the border with the Republic of Moldova. The Danube flows into the Black Sea within Romania's territory forming the Danube Delta, the second largest and the best preserved delta in Europe, and a biosphere reserve and a biodiversity World Heritage Site. Other important rivers are the Siret, running north-south through Moldavia, the Olt, running from the oriental Carpathian Mountains to Oltenia, and the Mureş, running through Transylvania from East to West.

Romania's terrain is distributed roughly equally between mountainous, hilly and lowland territories. The Carpathian Mountains dominate the center of Romania, with fourteen of its mountain ranges reaching above the altitude of 2,000 meters. The highest mountain in Romania is Moldoveanu Peak (2,544 m/8,350 ft). In south-central Romania, the Carpathians sweeten into hills, towards the Bărăgan Plains. Romania's geographical diversity has led to an accompanying diversity of flora and fauna.

Climate

The climate is continental. The average temperature in summer is 23° Celsius, although on some days it may exceed 40° C. In winter, the weather is usually frosty, with considerable snowfall. The temperature averages -3° C, but it may occasionally fall below -25° C.

Population

Romania's population accounts about 21.7 million, according to the latest statistics information (July 2004). Ethnic Romanians represent about 89% of the population. The main minority groups are Hungarians (7%), a community of Roma, and smaller numbers of Germans, Russians, and Serbs.

Government

The Constitution, passed by Parliament on 21 November 1991, proclaims Romania a republic and a parliamentary democracy. The President is elected for five-year terms (according to the Constitution amendment in 2003) while the bicameral Parliament is elected for four-year terms.

The bicameral parliament is composed of the Senate (137 seats) and the Chamber of Deputies (332 seats). The President nominates the Prime Minister. Cabinet ministers, selected by the Prime Minister, have to be approved by Parliament before taking up office. The territory of Romania is subdivided into 41 counties (judete) plus Bucharest; these are the administrative units of local government. Bucharest and its surrounding area form a unitary district with county status. Local councils and mayors are directly elected. Also, the government appoints its representatives (prefects) to each county.

Language

The official language of the country is Romanian. In addition, many Romanians speak English and/or French, and business is often conducted in one of the two languages.

Education

The Romanian state education system includes primary, secondary, and higher education institutions. The higher education sector consists of academic universities and polytechnic institutes. Romania has always had a reputation for strength in scientific fields. Recent years have seen an increase in the number of secondary and post-secondary establishments and private education has become more popular. Business administration and management studies have been introduced in cooperation with the US and Canada.

Economy

With a GDP of around \$264 billion and a GDP per capita (PPP) of \$12,285 estimated for 2008, Romania is considered an upper-middle income economy and has been part of the European Union since January 1, 2007.

Romania's main exports are clothing and textiles, industrial machinery, electrical and electronic equipment, metallurgic products, raw materials, cars, military equipment, software, pharmaceuticals, fine chemicals, and agricultural products (fruits, vegetables, and flowers).

Trade is mostly centered on the member states of the European Union, with Germany and Italy being the country's single largest trading partners. The country, however, maintains a large trade deficit, which increased sharply during 2007 by 50%, to 15 billion euros.

After a series of privatizations and reforms in the late 1990s and early 2000s, government intervention in the Romanian economy is somewhat lower than in other European economies.

In 2005, the government replaced Romania's progressive tax system with a flat tax of 16% for both personal income and corporate profit, resulting in the country having the lowest fiscal burden in the European Union, a factor which has contributed to the growth of the private sector. The economy is predominantly based on services, which account for 55% of GDP, even though industry and agriculture also have significant contributions, making up 35% and 10% of GDP, respectively. Additionally, 32% of the Romanian population is employed in agriculture and primary production, one of the highest rates in Europe. Since 2000, Romania has attracted increasing amounts of foreign investment, becoming the single largest investment destination in Southeastern and Central Europe.

Financial institutions

Financial institutions comprise local commercial banks, international banking units and specialized institutions.

Specialized financial institutions in Romania are still developing and, at present, the range of services offered is quite limited, especially in relation to factoring operations. Brokerage houses have been established and many of these are linked to banks. Also, mortgage companies may now operate in accordance with a new specific regulatory framework. Also, a new specific regulatory framework in line with EU legislation was introduced in 2004 to regulate consumer lending activities performed by entities other than banks and more recently by entities linked to banks.

Currency

The Romanian currency is the leu (plural lei), abbreviated as RON (after the denomination of the year 2005). The inter-bank foreign exchange market was established in 1994. Foreign currency can be bought or sold at spot or forward rates. Intermediaries authorized by the National Bank of Romania freely set the exchange rate. The National Bank of Romania also publishes daily official reference exchange rates.

Business Regulations and Accounting

Business entities

The most frequently used forms of enterprise in Romania are:

- a) Limited liability company (SRL) – the shareholders' liability is limited to the amount subscribed as participation in the company's share capital. The share capital of a SRL must be at least RON 200, divided into shares with a nominal value of at least of RON 10 each. A SRL may be formed by at least one shareholder, but no more than 50. 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. If a person intends to form several companies, it would be necessary for a minimum of one share to be held by another person or entity. Moreover, a SRL cannot have, as sole shareholder, another limited liability company that is also owned by a single shareholder.

- b) Joint stock company (SA) – the shareholders’ liability is limited to the amount subscribed in the company’s share capital. The minimum required capital is Euro 25,000. Shares must be held by a minimum of five shareholders, individuals and/or legal entities (there is no maximum limit), and can be open to either public or private participation.
- c) Representative office – usually set up by foreign companies in Romania to carry out non-income generating activities such as advertising and market research on behalf of the parent entity. A Representative Office can only undertake auxiliary or preparatory activities. A Representative Office cannot trade in its own name and cannot engage in any commercial activity. For obtaining the authorization of functioning, the representative office must pay 1,200 USD. During the year, there is a flat tax of EUR 4,000 per fiscal year on representative offices, payable in RON using the exchange rate valid on the payment date.
- d) Branch of foreign company – do not have their own legal identity or share capital. Being a unit of the parent company, branch activities cannot exceed the scope of activity of the parent company.
- e) Consortium or Silent partnership – Romanian legislation allows for the conclusion of a joint venture agreement (“*contract de asociere in participatiune*”). Under this 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 of the joint venture.

Investment and Tax incentives

Accelerated depreciation (i.e. up to 50% of the acquisition value shown as deductible depreciation in the first year, the remainder being equally spread over the remaining useful life) can be used for technical equipment, computers and peripherals without the need for approval from the local tax authority.

The incentive is also applicable for assets acquired under financial leasing agreements with ownership transfer clauses applicable at the end of the contract.

Taxpayers that benefit from the 20% deduction from the acquisition value of the assets cannot benefit from this incentive.

No property tax is due for buildings and constructions located in the Industrial Park. Also, land within Industrial Parks is exempt from land tax.

The Bucharest Stock Exchange

The Bucharest Stock Exchange role is to provide a marketplace for securities transactions, to enhance liquidity of securities by concentrating a large volume of supplies and demands to the market, to form fair prices that appropriately reflect such supply-demand relationship, and to distribute such prices to the public.

Auditing and Accounting requirements

Beginning with January 1, 2006, new accounting regulations have been adopted, in compliance with the 4th and 7th Norms of the European Economic Communities.

The new regulations establish 3 criteria determining the level of reporting required:

- overall assets of 3,65 million EUR;
- a net turnover of 7,36 million EUR;
- an average number of 50 employees during the accounting period.

Companies that meet at least two of the above criteria must submit an annual financial statement at the end of the fiscal year, which should include: 1) balance sheet; 2) a profit and loss statement; 3) statement of any capital changes; 4) cash flow statement; 5) supporting documents to the annual statements.

The full set of financial statements must be audited as at the year end.

Companies that do not meet at least two of the above criteria must submit a simplified annual financial statement at the end of the fiscal year, containing: 1) short version of the balance sheet; 2) profit and loss statement; 3) simplified supporting documents to the annual statements.

In both cases, a written letter of responsibility signed by the company's management must accompany the documents submitted. The new regulation also stipulates criteria for groups of companies required to compile consolidated annual balance sheets. All entities developing business in Romania are required to keep their accounts by calendar year. The Government can approve a financial year that is different to the calendar year. The fiscal year is considered to be the calendar year.

Taxation

Corporation tax

Basis:

Pursuant to the Romanian Fiscal Code, the following are considered as taxable subjects:

- i. Romanian legal entities, for the taxable profit obtained from any source, both in Romania and abroad; foreign legal entities that carry out activities through permanent establishment in Romania, for the related income;
- ii. foreign legal entities and non-resident individuals that carry out activity in Romania in an association without legal personality, for the portion of the taxable profit of the association attributable to each person;
- iii. foreign legal entities obtaining incomes from/or in connection with immovable property located in Romania or from the sale/assignment of shares of a Romanian legal entity for the taxable profit related to such incomes;
- iv. Romanian legal entities and resident individuals, for the income obtained both in Romania and abroad from associations without legal personality for the taxable profit of the association attributable to the resident individuals.

Rates:

The standard profit tax rate applicable to taxable profit amounts to 16%.

Taxpayers performing activities in the nature of night-bars, night-clubs, discotheques, casinos or sports betting and for which the profit tax owed is less than 5% of the respective incomes are required to pay a tax equal to 5% of the revenue realized from such activities.

Companies (so called micro-enterprises- paying tax as 2.5% from the total incomes) having:

- an annual turnover of up to EUR 100,000,
- having one to nine employees
- the shareholder (parent) not having more than 250 employees are taxed at 3% of their income
- the incomes from the management and consulting services are up to 50 % for the total incomes

The taxable profit of an enterprise is calculated as the difference between the revenues derived from any source and the expenses incurred in order to obtain these revenues, throughout the tax year, of which non-taxable revenues are deducted and to which non-deductible expenses are added. Other elements similar to revenues

and expenses are considered when computing the taxable profit. The annual accounts are used as the basis for calculating taxable profit.

Romanian companies are allowed to carry forward the fiscal losses as declared in the yearly profit tax returns for a period of five years based on a FIFO method. No adjustment for inflation is allowed in this respect. For foreign legal persons this rule applies only to revenues and expenses attributable to their permanent establishment in Romania.

Value-Added Tax

The operations included in the scope of VAT are those for which the following conditions are fulfilled:

- They represent the supply of goods or services in return for a payment or an operation assimilated thereto;
- The deemed place of supply is in Romania;
- They are performed by taxable persons;
- They result from economic activities.

The import of goods is also within the scope of VAT. A taxable person is any person conducting economic activities anywhere in an independent manner, irrespective of the purpose or result of those activities.

The rules for establishing the place of VAT taxation are similar to those stipulated in the EU 6th VAT Directive. The standard VAT rate is 19% and is applied to all supplies of goods and services, including imports, not qualifying for an exemption (with or without credit) or for VAT reduced rate.

The reduced VAT rate is 9% and is applied to medicine for human and veterinarian use, books, newspapers and periodicals, accommodation in hotels or in areas with a Value Added Tax.

The VAT payers can benefit from VAT payment exoneration in customs for the import of industrial machinery, technological equipment, installations, equipment, measurement and control devices, automations imported for investments, as well as farming machinery, means of transportation and certain raw materials (included in a list issued by the Ministry of Public Finance). VAT exoneration can be applied only based on a VAT exoneration certificate issued by the local tax authorities where the VAT payer is registered.

Customs Duties

The Romanian Customs Import Tariff is based on the Harmonised System for the denomination and classification of goods, and is in line with the Combined Nomenclature adopted by EU member states (eight-digit code).

Customs duties are expressed as a percentage applied to the customs value. With the exception of agricultural and food products, which have a specific tariff regime, the rates of customs duties vary from 0% to 30% depending on the type and characteristics of the goods.

Preferential customs duty rates apply for goods originating in EU, EFTA and CEFTA countries, as well as with countries with which Romania has signed bilateral free trade agreements (Albania, Bosnia & Herzegovina, Israel, Macedonia, Moldova, Serbia & Montenegro and Turkey). The trend is heading towards the elimination of customs duties for goods originating in these trade blocs

or countries. However, in order to benefit from preferential customs duties, importers have to present at the customs office a valid proof of preferential origin.

Excise Duties

There are two categories of products: products for which the excise regulations are harmonised with EU legislation (i.e. alcohol, cigarettes, mineral oils, electricity) and other excisable products (i.e. coffee, natural furs, jewelry, perfumes and some electrical domestic appliances such as microwave ovens, video cameras, and air conditioning units).

Withholding tax

Non-resident companies and individuals are subject to the following withholding taxes if there are no prevailing provisions in international treaties:

- 16% as of 1 January 2006 withholding tax on interest for term deposits; Also the withholding tax applies on interest for demand deposits if the interest rate exceed the reference interest rate quoted on the inter-bank market for one month deposits denominated in the relevant currency;
- 20% from gambling by non-residents;
- 16% as of 1 January 2006, withholding tax on other revenues derived from Romania, such as:
 - royalties, dividends, revenues from services if performed in Romania, except for revenues from international transport services, revenues obtained from management, brokerage or consultancy services, irrespective where the services are performed, commissions, interest, other than mentioned under point 1 above.

Capital Gains Tax

Capital gains obtained by a Romanian resident company are included in ordinary profit and taxed at 16%. Capital gains obtained by non-residents from the sale of real estate located in Romania or on the sale of shares held in a Romanian company are also taxable in Romania at 16%.

The provisions of Double Taxation Treaties succeed over the provisions of domestic legislation.

Individual income tax

Individual Income Taxpayers

The Fiscal Code defines the following categories of taxpayers:

- resident natural persons;
- non-resident natural persons conducting independent activities through a permanent establishment in Romania;
- non-resident natural persons who carry out dependent activities in Romania; and
- non-resident natural persons deriving specific income.

In order to qualify as a Romanian resident for tax purposes, at least one of the following conditions should be met:

- domicile in Romania;
- centre of vital interests located in Romania;
- presence in Romania exceeding 183 days within 12 consecutive months, ending in the respective calendar year; or
- Romanian state employee working abroad.

The following categories of income are subject to taxation under the Fiscal Code:

1. Income from salaries;
2. Income from independent activities;
2. Income from transfer of rights of use;
3. Income from investments;
4. Income from pensions exceeding RON 900 per months;
5. Income from agricultural activities;
6. 7. Income from prizes and gambling; and
8. Other incomes.

The most important categories of tax-exempt income are:

- Allowance for maternity leave and for child care leave paid from state social security budget;
- Meal tickets;
- Amounts obtained from insurance policies, representing compensations, insured amounts or amounts obtained from ethical damages;
- Stock options plan advantages, at the moment of employment and of their grant;
- Amounts received for covering transport and accommodation expenses incurred during delegations;
- Salary income related to the design and creation of software (certain conditions need to be met);
- Sponsorship and donations;
- Inheritance;
- Amounts representing the portion of subsidized interest for loans granted according to the legislation in force; and
- Income from sale of movable and immovable assets (with the exception of shares described as "capital gains").

Social security contributions

Law no. 19/2000 up-dated provides for the following categories of taxpayers contributing to the state social security budget: individually insured persons, employers, legal entities employing the following insured persons: persons occupying elective positions or persons appointed in executive, legislative or judicial authorities, during their mandates, as well as members of a an organization of artisan's cooperative; the National Agency for Labor Force Occupancy; persons concluding optional social insurance agreements.

No social security contribution shall be paid with respect to the following amounts:

- social security services borne from the social security fund or employer's funds and which are directly paid by the employer, according to law;
- proceeds paid under the law upon termination of individual labor agreements, of the mandate or co-operative membership and upon termination of professional relations of public officers;
- travel and delegation daily allowances, delegation, transfer allowances, as well as copyright royalties;
- incomes representing employees' participation to corporate profit;
- prizes and other rights exempted by special laws.

The incomes exempted from the payment of the social security contribution mentioned above under letter b)-d), shall not be taken into account when establishing the amount of social security services the beneficiary is entitled to.

Social security contribution rates are established on an annual basis through the law approving the national social security budget.

Under a labour agreement at the individual's level, the employee owes the following Social Security Contributions:

- Social Security contributions - 9.5% of the monthly gross salary;
- Health Fund Contribution – 6.5% applied on the monthly gross salary;
- Unemployment Fund Contribution – 1% applied on monthly gross salary.

Social security contributions owed by the employer are as follows:

- Social Security contributions: ranging between 30 % and 40 % (depending on the work conditions) of the gross monthly income, which is capped at the level of five times the national average salary multiplied by the average number of employees;
- Health Fund: 7 % of total salary fund;
- Unemployment Fund: 2.5% of total salary fund;
- National Insurance Fund for Labour Accidents and Professional Diseases: the contribution will range between 0.5% and 4 % of the total salary fund;
- Labour Chamber commission: 0.25 or 0.75 % of total salary fund, depending on whether the company or the Labour Chamber keeps the work books

Immovable property tax

Building tax ranges between 0.5% and 1% of the accounting value. If the building has not been revaluated in the last three years, this percentage is increased to between 5% and 10%.

Owners of land are subject to land tax which is established at a fixed amount per square meter, depending on location. Land located outside urban areas will be subject to a tax of approximately 0.25 EUR/ha, irrespective of its category of usage and area. The land tax should be paid quarterly.

Double Taxation Agreements

Double Taxation Agreements to which Romania is a party:

Albania	Algeria
Armenia	Australia
Austria	Azerbaijan
Bangladesh	Belarus
Belgium	Bulgaria
Canada**	China
Costa Rica	Croatia
Cyprus	Czech Republic
Denmark	Ecuador
Egypt	Estonia*
Ethiopia*	Finland
France	Georgia
Germany**	Greece
Hungary	India
Indonesia	Iran*
Iraq	Ireland
Israel	Italy
Japan	Jordan
Kazakhstan	Korea (Republic)
Kuwait	Latvia
Lebanon	Lithuania
Luxembourg	Macedonia
Malaysia	Malta
Mexico	Moldova
Mongolia	Morocco
Namibia	Netherlands
Nigeria	North Korea
Norway	Pakistan
Philippines	Poland
Portugal	Qatar
Russian Federation	Slovakia
Slovenia	South Africa
Spain	Sri Lanka
Sudan	Sweden
Switzerland	Singapore
Syria	Thailand
Tunisia	Turkey
Ukraine	United Arab Emirates
United Kingdom	United States
Uzbekistan	Vietnam
Yugoslavia***	Zambia

* - Not yet in force.

** - In force from 1 January 2005.

*** - Applicable for Serbia & Montenegro.

LEA

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Through our membership we have access to a broad base of local resources worldwide. Our membership enables us to draw upon local experience in other markets so that we can provide our clients with the information they require without limitations restricting many other local and regional firms.

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