

Additional places of business, in practice

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A company's business can require the execution of permanent activities outside the company's headquarters. In such cases, the Romanian Tax Procedure Code identifies the existence of additional places of business (*sedii secundare*). In practice, one must observe the following important aspects.

Notion

One might speak about an additional place of business when the activity of a company is carried out partly or fully in a fixed location, such as an office, a shop, a factory, a warehouse, etc. Construction sites, construction projects, assembly works or related monitoring works also represent (from a fiscal perspective) additional places of business if their existence is longer than six months. The definition of an additional place of business also includes operation sites of non-resident companies as defined in the Tax Code.

Registering additional places of business

Additional places of business run by Romanian tax-payers must be registered in the Commercial Register; the actual activities carried out at the additional place of business must be declared by an affidavit.

Failing to make this entry in the Commercial Register can be problematic from a fiscal point of view. A fiscal inspection could refuse the deduction of costs incurred at the operation sites, claiming that the company's necessity for an additional place of business cannot be proved formally. In extreme cases, they might even claim that the activity was carried out at that particular location illegally. Although, in certain individual cases, there can be good counterarguments for the business concerned, there are some risks in practice which should be avoided from the very beginning.

Additional places of business must also be reported to the competent tax authorities. The formalities in this regard vary according to the number of employees working at the additional place of business. Sites with five or more employees must be registered for tax purposes at the financial administration competent in the area in which the company headquarters are located, and receive its own tax identification number, while additional places of business with less than 5 employees are registered with the tax authorities competent for the headquarters. The rules are based on the fact that additional business places with five employees or more are subjected to income tax for on-site personnel.

Furthermore, an inspection register (*registru de control*) must be kept at each additional place of business and presented in case of an inspection.

Income tax for additional places of business with fewer than five employees

Except for income tax (as above), additional places of business are not subject to tax, even when reaching the threshold of five employees, and do not have to submit any tax statement. Their activities will be identified and consolidated at the company's HQ, from an accounting and fiscal point of view.

Also the income tax for additional places of business with at least five employees will be reported via the parent company, based on the payroll tax declaration it submits. It must, however, declare the payroll tax owed by the headquarters and by additional places of business separately, and differentiate them by their specific tax numbers.

Even if the payment of the income tax for the HQ and for the additional place of business is made to the same account, separate payments must be made. Each payment order must state the tax number which will be attributed to the payment amount.

Permanent establishments of non-resident companies in Romania from a fiscal point of view

If a non-resident company carries out permanent activities in a fixed location in Romania, this triggers a permanent establishment from a fiscal point of view, which has to be registered for tax purposes. The registration formalities require drafting several documents and records for the non-resident companies and their activity in Romania.

In such cases, the non-resident companies become taxable entities because the profit realized through the Romanian permanent establishment is subject to Romanian corporate tax. In case there are several permanent establishments in Romania, the non-resident company must name one of them which shall fulfill the fiscal obligations for all Romanian permanent establishments.

Conclusion

Companies with additional places of business must comply with certain formalities, especially with regard to their declaration and fiscal registration. In this context, there are deadlines that must be met. Non-compliance can lead to the enforcement of fines or other fiscal consequences. In this context, it is necessary for the companies concerned to be aware of their obligations and meet them on time.

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