

Tax registration of foreigners – often a challenge

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The tax laws of Romania generally set forth that any person or entity subject to a fiscal relationship must be registered and receive a tax number. The tax number is used for the registration of the taxpayer in the electronic system of the Romanian tax authority (ANAF) and for the allocation of tax paid and reported by such taxpayer.

Foreign elements, however, often lead to problems as described below.

Principles

The tax number represents:

- The sole registration number (*cod unic*) allocated upon registration for natural persons or other entities that are registered in the Commercial Register according to the regulations applicable to merchants;
- The personal ID number (*cod numeric personal* or *CNP*) issued by the registration authorities for natural persons subjected to this registration obligation;
- The tax number issued by the tax authority (*cod/număr de identificare fiscală*). To obtain this number, one has to submit a registration application; ANAF provides a series of forms for different situations.

The tax number must not be mistaken for the VAT number. The structure of the two numbers is quite similar, but they serve distinct purposes and are issued within separate procedures. The VAT registration represents practically a particular case of tax registration.

Foreign taxpayers – common situations

Natural persons from the EU who stay in Romania for longer than three months must get registered at the immigration office and receive a registration certificate (*certificat de înregistrare*). The personal ID number on this certificate serves as tax number for income tax purposes, so the submission of another registration form is not required. Persons whose stay in Romania is shorter than 90 days must still submit a form for tax registration.

Legal persons can get registered in Romania directly or through a secondary seat (permanent establishment/ branch). Foreign agencies, foundations, associations and other organizations active in Romania must also register for tax (and/ or VAT) purposes. In such cases a registration request is always necessary, which has to be accompanied by evidence supporting the capacity of the person concerned as a taxpayer in Romania. In individual cases, evidence for the intended activity in Romania might be required.

For persons earning income from Romania which is subject to withholding tax (e.g. dividends income), the Romanian payer of the income can carry out the registration without a power of attorney being required.

Foreign tax payers – problematic issues

The registration formalities evolved over time. Problems arise – on the one hand because of missing regulations and on the other hand because of poor implementation of existing regulations – whose resolution can imply additional costs.

If, for instance, a foreigner purchases land in Romania, he will need a tax number when signing the purchase agreement at the notary public. The prior obtaining of a tax number often proves to be difficult since when applying for the registration, no evidence can be provided yet that the applicant is, in fact, a tax subject.

When registering a Romanian company in the Commercial Register, transferring shares of a Romanian company, appointing new legal representatives or joining of new shareholders, the Commercial Register should automatically file a request to the Ministry of Finance for the fiscal registration of the foreign shareholders, founders and managing directors, and hand over the registration certificates together with the documents of the company. These rules are, unfortunately, not applied at the moment. Similar registration formalities should also be applied by banks with which foreigners open bank accounts.

Conclusion

Tax registration often comes with difficulties or bureaucratic requirements. Missing English versions of forms and information, communication taking place solely in Romanian, detailed evidence and working with the authorities require great patience and administrative efforts. Let's hope that the future modernization of ANAF will also take this matter into account.

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