

Extensive New Fiscal Measures Package in Romania

On 27.10.2023, Romania has introduced a comprehensive set of tax measures in order to ensure its long-term financial sustainability.

Key takeaways:

- I. **Introduction of minimum or additional turnover tax for CIT payers** with quarterly payment starting 2024:
 - **1%** minimum turnover tax (MTT) compared to Corporate Income Tax (CIT) for companies with a turnover over EUR 50Mil.
 - **2%** in addition to CIT for credit institutions and
 - **0.5%** in addition to CIT for energy companies to be established by the Ministry of Finance with a turnover over EUR 50Mil.
- II. **Tighter microenterprise tax regime** due to lower threshold and a reintroduced rate of 3% for turnover over EUR 60,000 starting 2024. Certain activities will be included by default under the new quota.
- III. **New property tax** for houses and cars with value over EUR 500k/ EUR 75k, starting 2024
- IV. Amendments of the tax regime for employees in the IT, construction, agriculture and food industry starting with November 2023 by imposing income tax for gross wages exceeding 10,000 RON and health insurance contributions for construction and food industry workers.
- V. Health insurance contribution of 10% will be applied **on meal, holiday, gift vouchers** in 2024
- VI. **Health insurance contribution for independent activities** and individuals obtaining income from intellectual property rights will have increased threshold as of 2024
- VII. **e-Invoicing on all B2B** transactions starting 2024 with a grace period for sanctions after which VAT deduction will be dependent on the e-Invoice.

- VIII. **VAT rate increase and amendments** for the supply of housing, photovoltaic, solar panels, heat pumps and other equipment, gyms, amusement parks, sugar drinks, food with added sugar and non-alcoholic beer etc.
- IX. **Higher excise duties** for tobacco, alcohol products, energy products and newly introduced for sugar drinks beginning with 2024
- X. **e-Seal for carriers** introduced as a monitoring system of road transports as soon as the application norms are published (apart from existing e-Transport)
- XI. **Harsher application of fines** for accounting failures along with higher sanctions for non-justified income and illicit activities

Summary of the tax package

➤ **Minimum turnover tax (MTT) for companies with turnover over 50Mil.** from 1 January 2024

Taxpayers, except those under special rules, who registered a turnover of more than EUR 50Mil. in the previous year, are obliged to pay corporate income tax (CIT) at the level of the minimum turnover tax of 1% (MTT) if CIT < MTT. The CIT element is to be determined based on the subtractions and restrictions provided by the current law.

The MTT is determined as follows:

$$IMCA = 1\% \times (VT - Vs - I - A),$$

where the indicators have the following meaning:

IMCA – MTT, determined cumulatively from the beginning of the fiscal year/changed fiscal year to the end of the quarter/calculation year;

VT – total revenues, determined cumulatively from the beginning of the fiscal year/amended fiscal year to the end of the quarter/calculation year, as the case may be;

Vs – revenues that are subtracted from total revenues, determined cumulatively from the beginning of the fiscal year/changed fiscal year to the end of the quarter/calculation year

I – the value of fixed assets under construction caused by the acquisition/production of assets, recorded in the accounting records starting from January 1, 2024, respectively starting from the first day of the modified fiscal year that begins in 2024;

A – the accounting depreciation at the level of the historical cost related to the assets purchased/produced starting from January 1, 2024/the first day of the modified fiscal year starting in 2024. This indicator does not include the accounting depreciation of the assets included in the value of indicator I.

A detailed procedure is established for calculating and comparing the MTT with CIT together with the potential subtractions and restrictions.

This MTT rules include specifics for taxpayers applying the annual payment system with prepayment, as well as for tax groups.

For the purpose of the MTT, sponsorship / patronage expenses are allowed to be deducted from the minimum tax amount under the condition of registration of beneficiaries in the Registry of cult entities.

Special provisions are laid down for cases where the taxpayer registers a taxable tax loss/profit at the end of a tax period.

Where application of the calculation formula for determining the MTT results in a negative value, the minimum tax shall be zero.

Economic operators that exclusively carry out activities of distribution/supply/transport of electricity and natural gas and that are regulated/licensed by the National Energy Regulatory Authority do not fall under the scope of this article.

➤ **Turnover tax – credit institutions** - from 1 January 2024

An additional tax is introduced for Romanian credit institutions and Romanian branches of foreign credit institutions, in the form of a 2% turnover tax (TT), which is added to the existing CIT.

Starting with the 2026 tax year the TT will be 1%. An exhaustive list of income and expenses on the basis of which turnover is calculated is provided.

The TT due quarterly shall be determined as the difference between the TT calculated cumulatively since the beginning of the tax year and the TT due for the period prior to the calculation period. Declaration and payment is to be performed quarterly by the 25th of the following month with an extension for Q4 until 25 of March.

It is specified that turnover tax is considered a non-deductible expense in determining the tax result.

➤ **Turnover tax – oil and gas** - from 1 January 2024:

By order of the Ministry of Finance, a list of taxpayers from the oil and gas sector with turnovers exceeding EUR 50Mil will bear an additional turnover tax of 0.5% computed through a similar formula as the MTT.

However, the oil and gas companies qualified for the TT will exclude from the formula all elements related to distribution, supply and transport of electric energy and natural gas.

The TT due quarterly shall be determined as the difference between the TT calculated cumulatively since the beginning of the tax year and the TT due for the period prior to the calculation period. Declaration and payment are to be performed quarterly by the 25th of the following month with an extension for Q4 that will be submitted together with deadline for the annual CIT returns.

It is specified that turnover tax is considered a non-deductible expense in determining the tax result.

Economic operators that exclusively carry out activities of distribution/supply/transport of electricity and natural gas and that are regulated/licensed by the National Energy Regulatory Authority ANRE do not fall under the scope of this article.

The provisions of the TT for oil and gas sectors will be applied for the period January 1, 2024 - December 31, 2025. Specifically for taxpayers who use an amended fiscal year started in 2024 will apply the TT until the amended fiscal year ending in 2026.

Starting with January 1, 2026 / the amended fiscal year beginning in 2026, the taxpayers qualified for the TT of oil and gas sectors will continue to apply the MTT for companies with turnover higher than EUR 50Mil (please see chapter I.A.).

➤ **Microenterprise income tax** - From 1 January 2024:

The rate of 3 % in addition to the 1 % rate shall be reintroduced under the following conditions of application:

- a. 1% – if revenues do not exceed EUR 60,000 inclusive and the legal entity does not carry out economic activities classified under certain NACE codes in the IT, HoReCa, legal, medical/dental services and other services for human health (e.g. optometry, hydrotherapy, medical massage, occupational therapy, speech therapy, homeopathy, chiropractic, acupuncture etc.).
- b. 3% – if revenues exceed EUR 60,000 or the micro-enterprise carries out activities specified above.

If the taxpayer does not meet the above specific conditions for the 1% rate, it will apply the new corresponding tax rate of 3% starting with the quarter in which it registers such a situation.

All past cumulative conditions provided by law for microenterprise regime remain valid.

➤ **Special tax on high-value immovable and movable property**

From 01.01 2024, the special tax on high-value immovable and movable property is introduced on:

- residential buildings owned by individuals located in Romania if the taxable value, individual or cumulative, as the case may be, exceeds RON 2,500,000;
- cars registered in Romania owned by individuals of legal entities with a purchase value over RON 375,000. The tax is due for a period of 5 years starting with the fiscal year in which the delivery-receipt of the car takes place / for the fraction of years remaining from its delivery-receipt.

The yearly tax rate is 0.3% and applies to:

- the difference between the taxable value communicated by the tax body through the tax decision and the ceiling of RON 2,500,000, respectively
- the difference between the purchase value of cars and the ceiling of RON 375,000.

➤ **Income tax and social security contribution**

The income tax exemption applicable for the salary income obtained by employees in the field of **information technology (IT)** will be limited to a gross monthly salary/assimilated of RON 10,000 conditioned by the fulfilment of the eligibility criteria. This measure will only be available until 31 December 2028.

The obligation to pay **health insurance contribution (CASS)** at a 10% rate will be reintroduced for employees in the **construction, agriculture and food industry**, regardless of the level of salary or salary-assimilated income obtained.

The income tax exemption for salary income obtained by employees in the field of information technology (IT), construction, agriculture and the food industry **will apply only for a single employer/income payer and only for the salary income obtained under a single full-time or part-time employment agreement** (or, for the IT sector, work report, delegation or secondment or special status provided by law).

Employees in the agriculture, construction, food, and IT industries will by default have a **reduction of the due pension contribution (CAS) with the rate corresponding to the contribution to the pension Pillar II** (4.75% starting with 1 January 2024 that was attributable to Pillar II). Employees can still opt to pay the contribution related to Pillar II.

Last but not least standard work insurance contribution (CAM) of 2.25% will be applicable for the employees working in these sectors.

All the above provisions/amendments are applicable starting with the salary income derived in the month following their publication in the Official Gazette – i.e. from November.

➤ **Salary assimilated income – vouchers**

The nominal value of meal vouchers, the cash equivalent (RON) of meal vouchers and holiday vouchers granted by employers will be subject to health insurance contribution (CASS).

The value of tourist and/or treatment services granted by the employers to their employees and their family members cannot be exempted from income tax and social contributions in the case of employees who also benefit from holiday vouchers.

The above changes, among others, will come into force starting with the income derived in January 2024.

➤ **Income obtained from independent activities**

Health insurance contribution (10%) for income obtained from independent activities will be determined by reference to a taxable annual computation base that is equal to the gross/net annual income obtained or to the annual income quota applicable, and which cannot exceed **60 gross minimum national wages (up from 24 applicable in 2023)**. When determining the annual health insurance computation base, annual tax losses are not taken into account.

The provided changes will come into force starting with the income derived in 2024.

➤ **RO e-Invoice starting as of 1st of January 2024**

A generalized B2B e-Invoice system will be introduced between January 1 and June 31, 2024, without applying sanctions in the first three months. The transition to the mandatory issuance and transmission of invoices through the RO e-invoice system in the B2B relationship is scheduled starting July 1, 2024.

1. Taxable persons established in Romania have the obligation between 1 January 2024 and 30 June 2024 to submit issued invoices in the national system regarding the electronic invoice RO e-Invoice, regardless of whether or not the recipients are registered in the RO e-Invoice Register, for taxable transactions in Romania, performed
 - in the B2B relationship,
 - in relation to public institutions (B2G) for transactions other than those already covered by the current legislation on B2G electronic invoicing that entered into force in the year 2022.
2. Taxable persons not established, but registered for VAT purposes in Romania (i.e., non-resident taxpayers), for taxable transactions in Romania performed in the B2B relationship, have the obligation, starting with January 1, 2024, to submit issued invoices in the national system regarding the electronic invoice RO e-Invoice.
3. The following are exempt from the above:
 - exports of goods carried out by the supplier or another person on his behalf;
 - intra-Community supplies of goods with the place of departure in Romania.

The suppliers referred to in para. (1) – (2) are obliged to transmit invoices issued to recipients according to Article 319 of the Fiscal Code, unless both the supplier / provider and the recipient are registered in the RO e-Invoice Register.

The deadline for submitting invoices to the national system regarding the electronic invoice RO e-Invoice is 5 working days from the date of issuing the invoice, but not later than 5 working days from the 15th day of the month following that in which the chargeable event for the tax arises or from the date of receipt of advances. Failure to comply with this provision is a contravention and is sanctioned with a fine between 1,000 and 10,000 RON, depending on the taxpayer.

By exception, failure to comply with this provision between January 1 and March 31, 2024, is not sanctioned.

Starting from 1 July 2024, for transactions carried out between taxable persons established in Romania, only electronic invoices that comply with the conditions regarding **RO e-Invoice will be considered valid invoices under which the right to deduct VAT can be exercised**.

Registering an invoice issued by economic operators in Romania in a B2B relationship without complying with the provisions of RO e-Invoice will be sanctioned in equal to the amount of VAT entered on the invoice.

B2G relationship invoices can be lawfully paid only if the provisions regarding the RO-e Invoice system are observed. Failure to comply with the provisions is sanctioned with a fine from RON 500 to RON 1,000.

➤ **Value added tax ("VAT") - from 1 January 2024**

VAT rates will increase as follows:

- 9% for the delivery and installation of photovoltaic panels, solar thermal panels, heat pumps and other efficient heating systems.
- 9% rate for the delivery of housings with a usable area of maximum 120 sqm, excluding household annexes, whose value, including the land on which they are built, does not exceed RON 600,000, excluding VAT, purchased by individuals. As an exception, for housings for which documentation providing for advance payment were concluded during 2023 and delivered during 2024, the reduced VAT rate of 5% is maintained.
- 19% to gyms, fairs, amusement parks and recreational parks and sports events.
- standard VAT rate for the supply of non-alcoholic beer and foods with added sugar, whose total sugar content is at least 10g/100g produced (other than "cozonac" and biscuits);
- Abolition of the VAT exemption with the right to deduct for transactions carried out to state hospitals.

The meaning of the expression "housings which at the time of supply are habitable as such" is revised, in order to establish a degree of finishing and necessary facilities, so that VAT at the reduced rate applies only to housings that can be occupied without significant additional investment. The cumulative conditions to be fulfilled for the application of the reduced VAT rate are defined.

➤ **Excise duties – from the 1st of January 2024**

New non-harmonized excise duties are introduced for:

- products intended for inhalation without burning, containing tobacco substitutes, with or without nicotine, falling within CN 2404 12 00, 2404 19 10, including those contained in refills supplied with electronic cigarettes and similar electric personal vaporizers, falling within CN code 8543 40 00 (RON 1,094.93 per kg);

- non-alcoholic beverages with added sugar for which the total sugar level is between 5g – 8g / 100 ml (RON 40 per hl);
- non-alcoholic beverages with added sugar for which the total sugar level is above 8 g / 100 ml (RON 60 per hl).

New obligations are introduced for economic operators producing or importing non-alcoholic beverages with added sugar, subject to non-harmonized excise duty, who will have to notify these facts to customs authorities.

Moreover, the level of excise duties on products in the category of alcohol and alcoholic beverages will no longer be updated with the consumer prices index.

The level of excise duties on alcohol and alcoholic beverages, tobacco and energetic products (except leaded gasoline) will be increased from January 1, 2024.

A uniform tax regime is introduced for products intended for inhalation without burning, regardless of their ingredients, to avoid fraud and ensure uniform application of the law.

➤ **E-Seal for carriers**

This is a system based on the use of smart electronic seals and an IT application allowing competent authorities to monitor in real time the transport of goods by road, regardless of whether they are in transit or have as their destination an economic operator on the national territory.

The application of smart seals and the monitoring of road transport of goods is carried out by the National Agency for Fiscal Administration and the Romanian Customs Authority based on a risk analysis. In case of affixing smart seals on means of transport, the driver has the obligation to ensure their integrity.

Failure by the driver to fulfil the obligation is a contravention, if it was not committed under such conditions as to be considered, according to the criminal law, a criminal offense, and is sanctioned with a fine from RON 20,000 to RON 50,000.

➤ **Amendment with regard to sanctions and other financial discipline measures**

The fines stipulated in major documents such as the Fiscal Code, the Fiscal Procedure Code, the Accounting Law, the Cash Register Ordinance, the Law on Cash Operations, Law on e-Transport will NOT be able to be paid in half within 15 days.

➤ **Income from sources that could not be identified**

Income ascertained by the Romanian tax authorities, whose source has not been identified, will be subject to a tax rate of 70% (compared to the current 16% rate). These provisions will come into force starting with 1 June 2024.

➤ **Cash payment limits**

Lower cash payments are allowed under strict limits without the possibility to fragment payments. Depending if the person is the payor or the payee, the individual amount is limited between 1,000 RON to a payor and a maximum of RON 50,000 if the payee is a company or individual with a registered income generating activity. The latter is obliged to deposit the cash amount within two working days.

➤ **Other aspects**

Individual prosumers, as defined by the specific legislation, will be exempted from health insurance contribution (10%) for the income obtained from the sale of electricity to energy suppliers, under certain conditions.

In case of questions, do not hesitate to contact us.

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