



Romania

Introduction

A person's liability for Romanian tax is determined by residence status for taxation purposes and the source of income derived by the individual. Income tax is levied at a flat tax rate of 16 percent applied to each type of income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Romanian workdays.

Income tax

Liability for income tax

A person's liability for Romanian tax is determined by residence status. A person can be a resident or nonresident for Romanian tax purposes.

A resident of Romania generally is defined as an individual who has a domicile in Romania, has a center of vital interests in Romania, or spends more than 183 days in Romania during any 12-month period during the fiscal year concerned. A nonresident of Romania is generally someone who spends less than 183 days in Romania.

The general rule is that a person who is a resident of Romania is assessable on the individual's worldwide income. Nonresidents are generally assessable on income derived from sources in Romania. An exception to the general rule above is available for non-Romanian nationals who are treated as Romanian tax residents. During the first three years of being Romanian tax residents, these individuals are liable for Romanian tax only on Romanian-sourced income. Full liability to tax may occur in the fourth consecutive year.

Extended business travelers are likely to be considered nonresidents of Romania for tax purposes unless they spend more than 183 days in Romania.

Employment income is generally treated as Romanian-sourced compensation to the extent that the individual performs services while physically located in Romania.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Romania. Under Romanian domestic legislation, nonresident individuals deriving dependent activities in Romania are liable for Romanian personal income tax from the first day of activity in Romania. However, to the extent that the individual qualifies for relief in terms of the dependent personal services article of an applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Romanian entity is the economic employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are Romanian-source employment income, as well as other Romanian-sourced income, and gains from taxable Romanian assets (such as real estate). Fringe benefits, broadly noncash employment income, are deemed to be employment income and taxed similarly to employment income.

Tax rates

Net taxable income (a deduction is generally available for compulsory employee social security contributions) is taxed at a flat rate of 16 percent. Nonresidents are also subject to a flat tax rate of 16 percent.

Social security

Liability for social security

Generally, a 5.5 percent health insurance contribution is due by foreign individuals who have residence in Romania (that is, who obtain a Romanian residence permit).

Exemption from Romanian social security contributions may be available where there is a totalization agreement between Romania and the home country or where EC Regulation 883/04 is applicable.

Compliance obligations

Employee compliance obligations

Generally, annual tax returns are due by May 15 following the tax year-end, which is December 31. Employment income must be declared and income tax must be paid for the previous month by the 25th of each month.

No extension of the deadline is available.

Employer reporting and withholding requirements

Where an individual is employed by a non-Romanian employer, that employer has no personal tax withholding or reporting obligations. It is generally the employee's obligation to declare and pay Romanian personal tax on a monthly basis.

The Romanian entity where the individual carries out activity has certain reporting obligations towards the local tax authorities at the commencement and at the end of the business trip.

Other

Work permit/visa requirements

A visa and/or a work permit must be applied for before the individual enters Romania, depending on the nationality of the individual. The type of visa required will depend on the purpose of the individual's entry into Romania. There are various exceptions to the rule, especially for EU nationals.

Double taxation treaties

In addition to Romania's domestic arrangements that provide relief from international double taxation, Romania has entered into double taxation treaties with more than 80 countries to prevent double taxation and allow cooperation between Romania and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Value-added tax (VAT) is applicable at 24 percent (standard VAT rate) on taxable supplies. VAT registration may be required in some circumstances.

Transfer pricing

Romania has a transfer pricing regime, and thus, related-party transactions must observe the arm's-length principle.

Local data privacy requirements

Romania has data privacy laws.

Exchange control

Romania does not restrict the flow of Romanian or foreign currency into or out of the country. Certain reporting obligations, however, are imposed to control tax evasion and money laundering. Domestic legislation requires financial institutions and other cash dealers to give notification of cash transactions over 15,000 euros (EUR), suspicious cash transactions, and certain international telegraphic or other

electronic funds transfers (there is no minimum amount). All currency transfers (in Romanian or foreign currency) made by any person into or out of Romania amounting to EUR15,000 or more in value must be reported.

Nondeductible costs for assignees

Nondeductible costs for assignees include contributions to private medical insurance or pension funds above certain caps.

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