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2018 Company Formation

Romania



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Legal forms of business, minimum capital, contribution



The type of business forms available in Romania are summarized below with their specific information: the minimum share capital, the liability of the shareholders/stockholders, the minimum number of shareholders/stockholders.

The most common forms of business used in Romania are the **Limited Liability Company** along with the **Joint Stock Company** and **Branches**.

General Partnership (Societate in nume colectiv | S.N.C.)

- There is no minimum capital required.
- A General Partnership must have 2 or more shareholders.
- The shareholders have unlimited and joint liability for social contributions.

Limited Partnership (Societate in comandita simpla | S.C.S.)

- The required minimum capital is EUR 45.
- The Limited Partnership must have at least one limited partner and at least one general partner.
- The limited partners have no management authority and they are not responsible for the debts of the partnership. They respond in the limit of the subscribed shares.
- The general partners have management control and they have joint and several liabilities.

Limited Liability Company (Societate cu raspundere limitata | S.R.L.)

- The required minimum capital is EUR 45.
- A Limited Liability Company in Romania may have between 1 and 50 shareholders. The shareholders respond in the limit of the contribution to the share capital.
- Law 31/1990 establishes limits regarding the fact that a natural person or a legal person can be sole shareholder only in one Limited Liability Company.
- Limited Liability Companies are also forbidden to have as sole shareholder, another Limited Liability Company with sole shareholder.



Joint Stock Company (Societate pe actiuni | S.A.)

- The minimum capital cannot be less than EUR 20,000.
- The Joint Stock Company must have 2 or more shareholders.
- The stockholders respond in the limit of the subscribed shares.

Company Limited by Shares (Societate in comandita pe actiuni | S.C.A.)

- In order to establish a Company Limited by Shares, a minimum capital of no less than EUR 20,000 is required, as well as a minimum of 2 shareholders.
- The limited partners have no management authority and they are not responsible for the debts of the partnership. They respond in the limit of the subscribed shares.
- The general partners have management control and they have joint and several liabilities.

Branch (Sucursala)

- There is no minimum capital or shareholders required for establishing a Branch in Romania.
- The Mother Company is liable for its branch.

Sole Entrepreneur (Persoana fizica autorizata)

- There is no minimum capital required for registering as a Sole Entrepreneur.
- The Sole Entrepreneur is also the sole responsible.



Minimum documentation



Companies can be founded by natural or legal entities and must register to the Trade Register.

Certain activities need **prior authorization** (e.g. credit institutions, insurance brokers, companies which produce, sell firearms and ammunition, pension entities).

Certain activities need to be **authorized after the registration** of the company (e.g. work agent, transportation licence).

The main document needed for incorporating a company is the **articles of incorporation**. This document must specify the following:

- company name and its registered seat
- a list of the company's members, with their respective addresses, date of birth, personal tax number (and their mothers' maiden names)
- the company's business (main) activities (certain activities require special permits)
- the amount of the equity capital, the method and date of its availability
- representation of the company, the method of signing in the name of the company
- names, addresses, places of birth and personal tax number of the company's officers as well as their mothers' maiden names
- the duration of the company, if founded for a fixed period of time
- all other items relevant to the given form of business as required by the prevailing act of law

The types of documents requested by the Trade Register for the company establishment are:

- articles of incorporation for the new founded company
- certificates of incorporation of the shareholders
- articles of incorporation of the shareholders
- excerpts issued by the Trade Register where the shareholders are incorporated
- creditworthiness letter for shareholders
- passport or ID of the future director of the Romanian company
- lease agreement for the headquarter and the landlord property documents
- application form(s)

After the incorporation the company must register within the Romanian Fiscal Authorities in 30 days.



Registration process and registration time



The incorporation procedure of a Romanian company consists mainly in:

- Reserving the name of the company.
- Drafting the relevant documents (mainly constitutive act of the company and shareholders and directors' statements).
- Filling the registration application within the Trade Register.

The registration of a company is mandatory in Romania.

- The incorporation procedure must be initiated by request.
- The registration request must be filed with the competent Trade Register Office.
- Company registration request may be submitted with electronic signature via the Trade Register portal or at the registrar's office of the authority.

After submitting the complete file to the Trade Register, the request is usually processed in 3 working days. Sometime the approval of the file may be delayed, because additional documents are requested by the Trade Register's referents.

The same term applies also for approval of mentions (e.g. update of the Act of incorporation, revocation of directors, appointing of directors, relocation of headquarter).

In order to liquidate and dissolve a company, the procedure will take longer than the registration of the company, respectively up to 3 months.

This procedure consists in 2 steps. First, the GSM resolution will be published in the Official Gazette in order to be brought to the attention of the public and afterwards the interested parties may submit an opposition to the liquidation request.

A newly registered company must also register with the **Tax Authorities, Social Security Authorities and Labour Authorities** (in case it has employees).



Shareholders (company board)



Regarding the shareholders of different forms of companies in Romania:

- The shareholders of General Partnership or the Joint Stock Company are severally liable for the social obligations.
- In the LLC's case the number of shareholders cannot be higher than 50 and the shareholders are liable only up to the subscribed capital.

The Joint Stock Company is managed by one or more directors. Joint stock companies, whose annual financial statements are subject to audit legal obligations, are managed at least by three directors.

The limited liability company is managed by one or more directors, appointed by the Articles of Association or by General Meeting of Shareholders.

As a general rule, the role of the director is performed by an individual. In its current form, Law no. 31/1990 establishes that a legal person can be appointed as director, but it is required to appoint also an individual, as representative.



General overview of corporate taxes



Tax rates

The standard corporate income tax rate in Romania is 16% and the standard VAT rate is 19%.

Romanian taxpayers that are carrying on activities such as gambling and nightclubs are either subject of 5% rate from the revenues obtained from such activities or 16% of the taxable profit, depending on which is higher.

A **reduced rate of 9%** applies to food and beverage industry, medical treatments and prosthesis, accommodation etc.

Extra-reduced rate of 5% applies to supplies of social housing under certain conditions and to school books, newspapers, magazines, admission fees to castles, museums, sport events, cinemas etc.

Registration requirements

The mandatory VAT registration for taxable persons having the place of business activity in Romania should be performed when the annual turnover of EUR 46,000 (RON 220,000) is exceeded. Voluntary VAT registration before the threshold is exceeded is also possible. The VAT registration procedure is complex and several types of documents are required.

Non-resident taxable persons established in Romania through fixed establishments and non-residents having no actual presence in Romania can register without observing the above threshold. However, a VAT number must be in place before the commencement of the economic activity.

A taxable person not registered for normal VAT purposes in Romania and not required to register is liable to register as an identified person (special VAT registration) in the following situations:

- Purchase of services from persons established outside Romania having the place of supply in Romania.
- Supply of services with place of supply in another EU Member State.
- Intra-Community acquisitions of goods from another EU Member State cumulatively exceeding the annual threshold of RON 34,000.



Fees and penalties



The incorporation of the company, the mentions or the liquidations are tax free as per modified provisions of the updated Law no.26/1990.

The amounts for publishing the documents (e.g. resolutions, Acts of incorporation) in the Romanian Official Gazette will apply.



Investment incentives



Special taxation of micro-enterprises

Starting with 2018, the applicability of the microenterprise regime extended and more companies are subject to this taxation regime. As such, the microenterprise tax is mandatory for all companies obtaining revenues below the threshold of EUR 1,000,000 computed at the NBR exchange rate valid for the last day of the financial year. Companies no longer have available the possibility to opt to be corporate income tax payers irrespective of the level of the share capital.

The microenterprise tax rate applicable are:

- 1% of the revenues for microenterprises that have at least 1 employee;
- 3% of the revenues for microenterprises with no employees.

Related the notification for the switch from corporate income tax payer from microenterprise tax payer will be submitted by March 31st, 2018. The taxation regime applicable will be determined based on the Company's revenues as at December 31st, 2017. If the Company will record revenues exceeding EUR 1,000,000 during the year, it will become corporate income tax payer starting with the quarter in which this threshold has been exceeded.

Income tax exemption for programmers

Main conditions

A company that conducts creative activities of computer programs for trading purpose can benefit of (salary) income tax exemption for its employees engaged in such activities. It is sufficient only that the company achieves revenues from such activities without a minimum threshold.

The tax exemption is granted only for Romanian companies that perform the creation of computer programs to achieve a final product or a component of the final product for trading purposes.

Starting with February 1st, 2018, tax exemption in the IT industry is also granted to those employees who do not have a bachelor's degree at all, but are enrolled at a university (not necessarily on the IT area), as well as to those who have graduated superior education programs with a short duration.



The main condition is that these employees perform one of the activities stipulated in the local legislation, otherwise they cannot benefit from the tax exemption. This list has been amended with two new activities, beside the other 8 previously mentioned:

- programmer assistant
- analyst assistant



Other aspects



Opening a bank account

For a Romanian company it is mandatory to have a bank account. **For opening a bank account, the legal representatives' personal presence is mandatory or it is required that it is issued a special notarized POA for another individual.**

Subsequent modifications in the statute of the company

All modifications regarding the statutory information of the companies (change of registered seat, mandate of directors, change of the shareholders or directors etc.) need to be registered at the Trade Register in 30 days.

Unique European code (EUID)

All Romanian companies receive, beside the unique registration number and the Trade Register identification number, the unique European code (EUID).

Through the system of interconnection of the Trade Register Institutions in Europe, documents and information relating to the professionals registered in the Trade Register of each country are made available to the public. It will be possible to obtain information on identification and status of a company in the European Union and to obtain copies of certificates of electronic documents.

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ABOUT ACCACE

With more than 550 professionals and branches in 13 countries, Accace counts as one of the leading outsourcing and advisory services providers in Central and Eastern Europe. During the past years, while having more than 2,000 international companies as customers, Accace set in motion its strategic expansion outside CEE to become a provider with truly global reach.

Accace offices are located in the Czech Republic, Hungary, Poland, Romania, Slovakia, Ukraine, Bosnia and Herzegovina, Croatia, Germany, Macedonia, Montenegro, Serbia and Slovenia. Locations in other European countries and globally are covered via Accace's trusted network of partners.

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