

Jurisdiction's name:

Romania

Information on Residency for tax purposes

Section I – Criteria for Individuals to be considered a tax resident

Please list the domestic legal provisions that determine whether an Individual is to be considered a tax resident of that jurisdictions. Such legal provisions may be articles of the relevant tax code (with hyperlinks to the provisions themselves, where possible), as well as any further regulations specifying the residency criteria (if available, with hyperlinks).

This section should ideally also provide further guidance for Individuals to determine whether they are a resident for tax purposes in the jurisdiction, presented either in narrative form or by means of hyperlinks to the relevant sections of the government or tax authority website or publications.

According to the provisions of the Fiscal Code (Article 7(28) of the Law no.227/2015, as amended and completed), a resident individual is a person who:

- a. is domiciled in Romania, or**
- b. has his/her centre of vital interests in Romania, or**
- c. he/she is present in Romania for more than 183 days in any 12 consecutive months interval ending in the concerned calendar year.**
- d. he/she is a Romanian citizen working abroad as an official or an employee of Romania in a foreign state.**

Romanian citizens who are residents for tax purposes in Romania are taxed on their worldwide income (except for income derived from work performed abroad, if certain conditions are met).

Starting with 2012, all individuals who come in/leave Romania and whose residence exceeds 183 days during any period of 12 consecutive months, have the obligation of filling in the form "Questionnaire for setting out the tax residence of an individual when coming in/leave Romania" - the deadline is 30 days from the term when the 183 days of presence in Romania are exceeded or 30 days before they leave Romania.

As a consequence of the analysis of the questionnaire and other related documents, the responsible tax authority will decide if the non-resident person will keep the residence of the other state according to the DTT or the individual becomes resident of Romania. In the case of individuals who leave Romania, the tax authority, will decide in the same manner, if the person will keep the residence of Romania or the individual will become resident of the other state.

Section II – Criteria for Entities to be considered a tax resident

Please list the domestic legal provisions that determine whether an Entity is to be considered a tax resident of that jurisdiction. Such legal provisions may be articles of the relevant tax code, as well as any further regulations specifying the residency criteria. Ideally, also a list of domestic Entity types that are in principle considered tax residents of the jurisdiction should be included (if available, with hyperlinks).

This section should ideally also provide further guidance for the different types of Entities to determine whether they are a resident for tax purposes in the jurisdiction. It can be presented either in narrative form or by means of hyperlinks to the relevant sections of the government or tax authority website or publications.

According to the provisions of the Fiscal Code (Article 7(37) of the Law no.227/2015, as amended and completed) resident legal person is any Romanian legal person, any foreign legal person having the place of management in Romania and any legal person established according to the European regulations with registered head office in Romania.

Section III – Entity types that are as a rule not considered tax residents

This item should ideally provide a list of entity types that are considered fiscally transparent by the jurisdiction or are considered to have no tax residence by the jurisdiction based on other criteria, including a particular legal status or tax regime (such as trusts, foundations, partnerships, investment funds etc.), but are considered to have a nexus with the jurisdiction, in particular due to the fact that the entity was incorporated or is organised under the laws of the jurisdiction or has its place of effective management within the jurisdiction. Jurisdictions may wish to complement this section with further guidance on their domestic rules on the topic, either in narrative form or by inserting relevant hyperlinks.

In terms of tax legislation, the associations without legal personality established under the Civil Code are subject to fiscal transparency. There are also Professional limited liability companies used to exercise the profession of lawyer or insolvency practitioner which have legal personality but are also subject to fiscal transparency

Thus, according to the definitions provided by the Fiscal Code (Article 7(14) of the Law no.227/2015, as amended and completed), the transparent fiscal entity with/without legal personality is represented by any joint venture, any association or association of parties, association based on exploiting contracts of a common party, economic interest group, civil society or other entity that is not treated as a taxable person for the purposes of the income tax and profit tax.

Transparent entities with/without legal personality are not considered tax residents under the Fiscal Code.

Section IV – Contact point for further information

Please provide the contact details of the competent service within their tax authority, which can be contacted in case of further questions on tax residency.

(EU Member States can furthermore refer to the Taxes in Europe Data Base maintained by the European Union, which contains a wide range of information on all taxes in the EU Member States, including on tax residency.)

Contact details:

Mariana VIZOLI
General Director
General Division for Fiscal Code Legislation and Custom Regulations
Ministry of Public Finance
Romania

<mailto:mariana.vizoli@mfinante.ro>

Elena IORDACHE
Deputy General Director (Direct Taxes)
General Division for Fiscal Code Legislation and Custom Regulations
Ministry of Public Finance
Romania

<mailto:emilia.iordache@mfinante.ro>

Oana IACOB
Deputy General Director (Indirect Taxes)
General Division for Fiscal Code Legislation and Custom Regulations
Ministry of Public Finance
Romania

Oana CIUREA
General Division for Fiscal Code Legislation and Custom Regulations
Chief, Department concerning the taxation of non-residents, negotiation and application of tax treaties (tax residency issues)
Ministry of Public Finance
Romania
email: oana.ciurea@mfinante.ro