

# Romanian taxation

Study book for ACCA exam, F6 – Romanian taxation



:/Users/madalin/Documents/MTA/M\_CONSULTING\_LOGO\_TRANSPARENT.png

*Valid for 2022 Exams*



J:\seri\madafira\Documents\MTA\1\_CONSULTING\_LOGO\_TRANSPARENT.png

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Cuvânt înainte

Acest curs este dedicat celor care vor sa susțină examenul F6 Taxation (Romanian stream) în vederea obținerii calității de membru ACCA. În acest sens, legislația pe baza căreia a fost realizat acest manual este legislația fiscală în vigoare la 30 Septembrie 2021.

Având în vedere cerințele ACCA pentru cei ce își propun să promoveze acest examen publicate de către examinator pe site-ul ACCA ([accaglobal.com](http://accaglobal.com)):

“In this syllabus, candidates are introduced to the rationale behind and the functions of the tax system. The syllabus then considers the separate taxes that an accountant would need to have a detailed knowledge of, such as income tax from self-employment, employment, investments and other activities; the corporate income tax liabilities of companies; the social security, unemployment, health care and other similar contributions liabilities of both employed and self-employed persons, the value-added tax liability of businesses and the obligation of tax payers. No knowledge on excise duties is required for this paper.

Having covered the core areas of the basic taxes, candidates should be able to compute tax liabilities, explain the basis of their calculations, apply tax planning techniques for individuals and companies and identify the compliance issues for each major tax through a variety of business and personal scenarios and situations. “

acest curs este conceput astfel încât un student care parcurge, își însușește toate noțiunile și rezolvă toate problemele din secțiunile de probleme are toate șansele să promoveze acest examen.

Bineînțeles, nici o lucrare pe această temă nu poate să acopere 100% posibilele subiecte de examen, iar acest curs nu face excepție.

Deși, în mod evident, unui student român i-ar fi mult mai ușor să învețe materia pentru examen dintr-un manual în limba română, am ales redactarea acestui curs în limba engleză deoarece aceasta este limba în care se susține examenul. Aceasta nu înseamnă că nu puteți să-mi scrieți în limba română și că nu voi recurge la limba română în răspunsurile mele la întrebările/comentariile voastre dacă voi socoti că în felul acesta vă voi ajuta să înțelegeți mai bine.

Vă rog pe toți cei ce parcurg acest curs să-mi scrie orice neînțelegere ar putea avea în secțiunea de comentarii atașată fiecărei lecții. Voi încerca să le răspund repede astfel încât să poată învăța în continuare fără a pierde timp.

Mulțumesc anticipat celor care vor găsi de cuviință să-si sacrifice timpul prețios pentru a-mi face sugestii sau pentru a puncta eventualele erori ceea ce-mi va permite să îmbunătățesc cursul.

Cu deosebită stimă,

Mădălina ION

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Table of contents

Lesson 1 Overview - Corporate Income Tax (CIT) ..... 4
Lesson 2 From accounting profit to taxable profit ..... 7
Lesson 3 About Expenses (art.25) ..... 12
Lesson 4 Excessive loan’s expense (art. 40²) ..... 21
Lesson 5 Tax treatment of fixed assets ..... 23
Lesson 6 Tax losses (art. 31) ..... 29
Lesson 7 The consolidated fiscal group regime for corporate income tax purposes ..... 33
Lesson 8 International issues..... 37
Lesson 9 Tax returns and tax payments ..... 43
Lesson 10 Specific tax and small companies’ tax ..... 48
Lesson 11 Dividend tax ..... 55
Lesson 12 Employers’ mandatory social contributions..... 56
2 APPENDIX ..... 59
3 INDEXES OF TERMS ..... 64
4 Bibliography ..... 65

Important note:

In solving all questions from this course use the tax rates and allowances given in the APPENDIX if the question is not specifying other values.

The table of tax rates and allowances from APPENDIX is similar to the information you receive in exam and you must use exactly that information if the question is not specifying other values!

The table of tax rates and allowances to be used in exam is also published on accaglobal.com.

CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Lesson 1 Overview - Corporate Income Tax (CIT)

In this chapter, we will study the main taxes and contributions to be paid in Romania by legal entities, hereafter called “companies”.

The companies subject in our study:

- \_\_\_\_\_ established companies
- \_\_\_\_\_ companies established in Romania
- \_\_\_\_\_ companies controlled from Romania
- \_\_\_\_\_ permanent establishments of foreign companies

The main taxes and contributions to be paid by companies studied for your exam are:

- Corporate income tax or corporate profit tax (hereafter CIT)
- Small companies’ tax
- Specific tax
- Dividend tax
- VAT (studied in the previous chapter)
- Employers’ mandatory social contributions

CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Taxpayers (art. 13 and art. 14)

Entities subject to CIT (corporate income tax or corporate profit tax) and which are relevant for your exam are:

Entity	Income subject to Romanian CIT
Romanian companies	World-wide income
European companies established in Romania	
Foreign companies controlled from Romania	
Other foreign companies	Income attributable to the permanent establishment in Romania

## Exemptions

A first category of exemptions regards companies carrying on exclusively innovation, research and development and related activities which are tax exempt in the first 10 years of activity (art. 22<sup>1</sup>).

A second special category of companies excepted from corporate income tax (CIT) are those companies acting in the field of hotel, camping, restaurant and catering industries which are paying a “specific tax”.

Then, a special category of companies excepted from corporate income tax (CIT) are the micro-enterprises (hereafter called small companies) which are not taxed on their taxable profit but on their realised income, using what we will call small companies’ scheme.

## The tax year (art. 16)

Illustration 1: The tax year

The tax year for corporate income tax purposes is:

- Since \_\_\_\_\_ until the first December 31<sup>st</sup>; or
- The \_\_\_\_\_ year; or
- Since the latest 1<sup>st</sup> of January until \_\_\_\_\_ (which is the date of de-registration from the Trade Register)

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

By exception, those companies with accounting reporting periods different from the calendar year may opt to have their tax year equal to their accounting year. The option should be notified to tax authorities in \_\_\_ days from the start of their new tax year or at incorporation.

In this case, their first modified tax year should start at 1<sup>st</sup> January and end when the new tax period ends and will have more than 12 months.

If subsequently the tax year is changed back to the calendar year (or to another accounting period), the last “modified” tax year will also include the period up to the next 1st January (or up to the beginning of the new tax year).

If the company change its tax year to the calendar year, the option should be notified to the tax authorities until the \_\_\_\_\_ following the end of the modified tax year.

If the company change its tax year to a new accounting period, the option should be notified in \_\_\_ days from the start of the new tax year.

## Tax rate (art. 17)

### Illustration 2

The CIT rate applicable in Romania is \_\_\_% from the tax base except for the entities which qualifies as investors on disadvantaged area if the statute as disadvantaged is in force.

 Now it is time for you to check your understanding. Note your answers to the quiz:

# CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Lesson 2 From accounting profit to taxable profit

### (Title II Chapter II)

A calculation of the profit tax liability will always start by computing the accounting profit. However, the accounting profit will be quite different from the company's tax base, i.e.:

$$\boxed{\text{tax base} \neq \text{accounting profit}}$$

The first step in computing the tax base is to compute the difference between all types of incomes from any source and the total expenses incurred in that tax year less any non-taxable incomes plus any non-deductible expenses.

This first step can be written also using the following formula:

$$\text{Total} - \text{Total} - \text{Non-taxable} + \text{Non-deductible} = \text{Tax base 1}$$

And if we consider that:

$$\text{Total incomes} - \text{Total expenses} = \text{Accounting profit}$$

Then:

$$\text{Accounting Profit} - \text{Non-taxable incomes} + \text{Non-deductible expenses} = \text{Tax base 1}$$

The second step is to adjust this tax base with the so called assimilated incomes and/or expenses and then to deduct from this result the tax loss brought forward from previous tax years:

$$\text{Tax base 1} + \text{Assimilated incomes} - \text{Assimilated expenses} - \text{Tax loss brought fwd} = \text{Tax base}$$

The above formulas suggest that there are two types of adjustments: adjustments which will increase the tax base versus accounting profit and adjustments decreasing the tax base versus accounting profit.

Corrections made in accounting books in the current period which relate to tax deductible expenses related to previous tax periods are considered deductible in the current year only if these corrections are operated over the current year accounting result also.

If these corrections must affect the previous years' accounting results, then they also must affect the tax base of these previous years.

Note:

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.



The assimilated incomes/expenses are, as their name says amounts which will be used to increase/decrease the tax base, but you will never find these elements as accounting incomes/expenses, at least not in the tax year for which you compute the tax base.

## Adjustments made to accounting profit

### Adjustments UPWARDS

The accounting profit is increased by the following adjustments (most common examples):

- a. The largest group of adjustments is represented by expenses which are not deductible for tax purposes, i.e. expenses accounted for in the company's books, but not considered deductible for income tax purposes;
- b. The non-deductible part of expenses which have limited deductibility;
- c. The accounting depreciation expense and net accounting value of disposed fixed assets;
- d. Items assimilated to income as per tax law, i.e. those amounts which are considered "incomes" only and only for profit tax computation (these incomes are not recorded in the accounting incomes of the year and must not be recorded) e.g.:
  - Part from revaluation reserve which becomes taxable in accordance with [art. 26 \(5\) and \(6\)](#).
  - The reclassification of revaluation reserve or of other reserves which were previously deducted, or which have not been taxed when created.
  - Adjustments for transfer pricing (detailed later in this paragraph).

### Adjustments DOWNWARDS

The accounting profit is decreased by the following adjustments (most common examples):

Illustration 1: Most important exempt incomes for your exam are ([art 23](#)):

- a) Dividends from a \_\_\_\_\_ legal entity (which are either exempted either taxed at source),
- b) Dividends from a company resident in a country which has DTT with Romania if the following conditions are met:
  1. The payer of the dividends is a \_\_\_\_\_ tax payer and proves his residency with a valid F \_\_\_\_\_ R \_\_\_\_\_ C \_\_\_\_\_;
  2. The Romanian recipient of the dividends holds at least \_\_\_\_% of the share capital of the company paying the dividends
  3. At the date the dividends are recorded the participation has been held for at least \_\_\_\_ year

Note: DTT = double taxation treaty – see paragraph related to international aspects

**NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.**

- c) Income from (re)valuation/selling/cession of titles held in a person registered in a country which has \_\_\_\_ with Romania if the following conditions are met:
1. The residence in a country with \_\_\_\_ is proved with a valid F\_\_\_\_\_  
R\_\_\_\_\_  
C\_\_\_\_\_
  2. The Romanian company holds at least \_\_\_\_ %
  3. The period of ownership of titles is at least \_\_\_\_ year
- d) Incomes from revaluation of titles not qualifying for the previous exception as long as these incomes are \_\_\_\_\_,
- e) Incomes registered by a permanent establishment from a country which has \_\_\_\_ with Romania if the DTT stipulates that such income realised in that country is \_\_\_\_\_ in Romania,
- f) Incomes related to tax \_\_\_\_\_ expenses,
- g) Income from \_\_\_\_\_ tax.

#### Illustration 2: Tax deductions from taxable profit:

The tax deductions refer to deductions which must be computed separately, accordingly to the Tax Law provisions, no matter their accounting value.

The most common tax deductions are the fixed assets expenses.

The "fixed assets" expenses are:

- \_\_\_\_\_
- \_\_\_\_\_

#### Other deductions from taxable profit:

Assimilated expenses as per tax law, i.e. those amounts which are considered expense only and only for profit tax computation (these expenses are not recorded in the accounting incomes and must not be recorded) e.g.:

1. Allowed deduction for legal reserve (detailed later);
2. Interest expense brought forward

#### Other adjustments:

##### Transfer pricing adjustments

The price used in a transaction between affiliated parties should be reconsidered if it is not the price given by the market ([art 11, par \(4\)](#)).

A person is considered affiliated with another person if the relationship between the two persons may be defined at least by one of the following definitions ([art. 7, par 1, 26](#)):

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

1. An individual is affiliated with another individual if those persons are spouses or are related up to the 3<sup>rd</sup> degree inclusive.
2. An individual is affiliated with a legal entity if the individual owns (directly or indirectly via his affiliated persons) at least 25% of the voting power of the legal entity.
3. A legal entity is affiliated with another legal entity if at least:
  - a. The first owns (directly or indirectly via its affiliated persons) 25% of the voting power of the second legal entity;
  - b. The second owns (directly or indirectly via its affiliated persons) 25% of the voting power of the first legal entity;
  - c. A third legal entity owns (directly or indirectly via its affiliated persons) 25% of the voting power of both legal entities.

The method used to assess the market price may be anyone of the following methods:

1. Comparison: the market price is established using the price paid to other persons who sell similar product/services to independent persons.
2. Cost-plus: the market price is equal to the cost of the good/service supplied plus the profit margin/mark-up.
3. Re-selling price: the market price equals the re-selling price less any expenses incurred for resale less the profit margin/mark-up for re-sale.
4. Net margin: the net margin obtained in a transaction with a related party should be equal to the net margin obtained in transactions with independent persons.
5. Profit sharing: the profit obtained by the affiliated persons is divided between them following the same distribution as between independent persons.
6. Any other method recognised by the Organisation for Cooperation and Economic Development (the net margin method, the profit share method).

Illustration 3: A suggested proforma for your future computations:

Based on the formula given by the tax law to compute the corporate income tax base, I strongly suggest you the below "proforma" which's main purpose is to help you not to forget anything in your computation:

Accounting incomes	X
Less accounting expenses	<u>(X)</u>
Accounting profit	X
Less _____ incomes	(X)
Less tax _____	(X)
Add/less _____ incomes/expenses	X/(X)
Add back _____ expenses	<u>X</u>

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Taxable profit for the year before _____	X
Less _____ brought forward	<u>(X)</u>
Tax base	X

 Now it is time for you to check your understanding. Note your answers to the quiz:



CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Lesson 3 About Expenses (art.25)

### General

The general rule is that the expenses incurred to carry on economic activities are \_\_\_\_\_ for corporate income tax purposes. Expenses which do not meet this condition are non-tax deductible and must be added back to the accounting profit to assess the tax base.

Most of the expenses recorded by a company are tax deductible but, we will see, the fiscal code specifically classifies some expenses as limited deductible or even as non-deductible expenses.

### Tax deductible expenses (art. 25, par (1) and (2))

Normally all expenses which satisfy the general rule for deductibility are tax deductible, further, the fiscal code underlines that the following expenses are considered also deductible:

- Expenses done to comply with law and regulations, membership fees and contributions paid to trade chambers, ownership organisations and trade unions,
- Salaries and assimilated expenses.

Watch the video of this lesson and fill in the blanks regarding the non-deductible expenses:

(Pay attention! Some exceptions are written only in this Study book!)

### Non-deductible expenses (art 25, par (4))

- a. \_\_\_\_\_ paid/deferred within or outside Romania as well as taxes not withheld at source for other legal entities or individuals and deferred tax expenses;
- b. \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ due to authorities if not specified in written contracts with authorities;
- c. Expenses due to deficits/shortages and/or damages (as well as the related VAT) regarding inventories and fixed assets \_\_\_\_\_. These losses are considered deductible expenses in each of the following cases:
  - 1) They were the result of \_\_\_\_\_,
  - 2) The lost goods were \_\_\_\_\_,
  - 3) The goods were qualitatively damaged and their destruction may be proven,
  - 4) Their validity term expired.
- d. Expenses incurred on behalf of \_\_\_\_\_ (other than those generated by payments for deliveries of goods or provision of services performed at market prices);
- e. Expenses related to \_\_\_\_\_. If the accounting records are not allowing the exact repartition of expenses between taxable and non-taxable incomes, then the management and admin expenses as well as other similar common expenses must be split using a rational allocation method or proportional between taxable and non-taxable incomes. There should be no allocation for the non-taxable incomes

**NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.**

related to tax non-deductible expenses (such as incomes from release of non-deductible provisions, cancelations of non-deductible expenses, etc.).

- f. Expenses with management, consultancy or for other services carried on in a country which has no DTT with Romania if these expenses are proven to be the result of an \_\_\_\_\_
- g. Insurance premiums for assets that are \_\_\_\_\_ by the business or that do not belong to the taxpayer except for these assets which, even though are not used by the legal entity, are pledged for the legal entity.
- h. Bad debts \_\_\_\_\_ covered by provision or not in the following cases:
  - 1) Due from a debtor in \_\_\_\_\_;
  - 2) Due from a \_\_\_\_\_ individual;
  - 3) Due from a \_\_\_\_\_ limited liability company with a sole shareholder or without successor;
  - 4) Due from a debtor encountering \_\_\_\_\_ financial difficulties;
  - 5) Due from receivables covered by \_\_\_\_\_.
- i. Expenses based on a justifying document issued by an \_\_\_\_\_ tax payer (except for the case when the acquisition was incurred in the liquidation procedure);
- j. Impairment of \_\_\_\_\_ assets (following revaluation);
- k. Expenses proved to be determined by \_\_\_\_\_ acts;
- l. Sponsorship - this expense is not deductible but should be used to reduce the tax liability (i.e. as tax credit)
- m. Decrease in fair value of titles or of shares held in companies if the participation is over 10% and is owned since more than 1 year;
- n. Share options plans expenses. These expenses are considered non-deductible when the options are given to employees and will be considered assimilated deductible expenses when the options are exercised;
- o. The expenses related to the acquisition and depreciation of electronic cash machines
- p. The expenses for management and consultancy services paid to a supplier from a stat which do not exchange information with Romania, if these services are proved to be artificial
- q. The expenses paid to a supplier from a stat which refuses to cooperate with EU for tax regulation purposes (included in EU Journal) if the related transaction is proved to be artificial

Observation:

The sponsorship expense should be accounted for when the payment is made and not when the sponsorship agreement is signed.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Illustration 1: Limited deductible expenses (art. 25 (3))

- a. Protocol expenses – up to \_\_\_% of computational base  
computational base = \_\_\_\_\_ + \_\_\_\_\_ + \_\_\_\_\_;
- b. Social expenses – up to 5% of \_\_\_\_\_
- c. Meal tickets – up to \_\_\_\_\_ ticket per person and per working day and holiday vouchers – up to \_\_\_\_\_ given in accordance with \_\_\_\_\_
- d. Maintenance expenses of job related houses in the limit given by Law 114/1996 indexed with 110% for \_\_\_\_\_
- e. \_\_\_% of all the expenses (including the related non-deductible VAT) except the tax depreciation (which is treated in a subsequent paragraph) directly related to those motor vehicles (hereafter called by us “small vehicles”) which:
- Have \_\_\_-\_\_\_ seats
  - Have less than \_\_\_\_\_ kg
  - Are not vital and exclusively used for the business. The exclusive use for business purposes should be proved with “car logs” (foi de parcours).
- f. The expenses related to vehicles at management disposition are also deductible up to \_\_\_\_\_;
- g. Membership expenses (which are business related but are not compulsory) may be deducted up to \_\_\_\_\_ Euro per year (art. 25 (4));
- h. The expenses related to the “provisions” for receivables’ depreciation which are not due by \_\_\_\_\_, and which are not \_\_\_\_\_ by a third person are deductible for up to:
- \_\_\_\_\_% of the receivable value if they are overdue for more than \_\_\_\_\_ days (art 26 (1) c) or
  - \_\_\_\_\_% of the receivable value if they are due from a legal person which \_\_\_\_\_ or from an individual for whom \_\_\_\_\_ (art 26 (1) j)
- i. Perishables inventory expenses up to the relevant law limits;

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

- j. Normal losses;
- k. Depreciation, interest and provisions as detailed later;

Check the Illustration 2 to see a practical example on how to treat the expenses connected to what we defined as being “small vehicles”.



NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.



### Illustration 3: Tax treatment of sponsorship expense

The sponsorship expense is \_\_\_\_\_ a deductible expense.

But for this expense we have tax credit, which is computed with the formula:

$$\text{Tax credit} = \min\{ \text{_____}; \text{_____}; \text{_____} \}$$

The expense not used as tax credit in the year it was done may be carried forward for \_\_\_\_\_ consecutive tax years.

Check the next illustration for a practical example regarding the tax treatment of sponsorship expense.

### Illustration 4: Case study

To write your own computations, you can use the data below:

	Lei	Lei
Accounting incomes:		
- From sale of goods		1,000,000
- Dividends from a Romanian company		50,000
- Proceeds from sale of fixed assets		<u>10,000</u>
		1,060,000
Less accounting expenses:		
- Cost of goods sold	750,000	
- Direct labour expenses	90,000	
- Administrative expenses	100,000	
- Sponsorship expense	<u>15,000</u>	
		<u>(955,000)</u>
Accounting profit		105,000

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Illustration 5: Tax treatment of amounts paid to acquire electronic cash machines:

When an electronic cash machine is acquired, the amounts paid are recorded as \_\_\_\_\_ expenses  
 Further, this amount is \_\_\_\_\_ as tax credit from the computed profit tax payable for the period

Example:

	Quarter 1	Quarter 2
Income from sale of goods	1,000,000 Lei	1,100,000
Total expenses	950,000 Lei	900,000

The total expenses form quarter 1 includes an expense of 20,000 Lei for 10 electronic cash machines. Out of these 8 were put into operation in March and 2 on April.

In the special case of receivables sold to factoring companies. The net loss is deductible up to 30%.

The net loss = value of receivable (or its cost) – price received

AND

If the receivable was covered by provision or was previously written of, then 70% of the different between the value of receivable and the price received should be treated as an assimilated income

CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Provisions and Reserves (art. 26)

### Illustration 6: Legal reserve:

The allocation to legal reserve is considered assimilated expense and it is deductible until it reaches \_\_\_\_% of the share capital but the deductible allocation per year should not exceed \_\_\_\_% of the year gross profit.

So, the deductible allocation to legal reserve is:

$$= \min\{\text{_____}; \text{_____}; \text{_____}\}$$

On the other side, in the case of a decrease of share capital, the part of the legal reserve corresponding to the reduction of share capital must be treated as assimilated income and taxed.

The same, if the legal reserve is decreased/distributed/used to cover accounting losses, the reduction of legal reserve should be treated as assimilated income and taxed.

Now check the Illustration 7 and let's compute together the deductible allocation to legal reserve for company A!

MM  
CONSULTING

Provisions:

The following provisions are tax deductible:

- a. Guarantees granted to customers within the limit written in the commercial agreements;
- b. Doubtful debts provision up to 30% from the receivables that cumulatively satisfy the following conditions:
  1. They are not received for a period of more than 270 days from the due date,
  2. They are not guaranteed by another person,
  3. They are payable by a person that is not an affiliated person of the taxpayer,
- c. Bad debts provision up to 100% from the receivables that cumulatively satisfy the following conditions:
  1. They are not guaranteed by another person,
  2. They are payable by a person that is not an affiliated person of the taxpayer,
  3. The bankruptcy procedure was opened and there is a court decision in this respect,
- d. Specific provisions for credit institutions, insurance companies and brokers created/increase in accordance with their specific regulations or with IFRS (and, consequently, the diminution of these provision following to IFRS accounting represents assimilated incomes);
- e. Provisions for closing waste and sewage facilities;
- f. Provisions made by air lines companies for maintenance;
- g. Impairment losses for fixed assets are deductible if:
  1. The assets are destroyed due to natural disasters or other similar causes,
  2. The assets were insured.
- h. Taxpayers having activities in the field of exploitation of natural resources must record and deduct provisions for the restoration of damaged lands of 1% of the difference between incomes and expenses from exploitation;

The decrease or cancelation of such a provision or reserve which was previously considered a deductible expense will be considered a taxable income/assimilated income no matter the reason of decrease or cancellation.

Now check illustration 8 for a practical example related to the treatment of provisions!

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Revaluation reserve:

Once an asset has been revaluated resulting an increase of its value which from accounting point of view is recorded as revaluation reserve, an assimilated income should be considered equal to the tax depreciation of the revaluation surplus of the respective asset.

For that part of the revaluation amount which was not taxed via the above treatment, once the reserve is used or if it's changed its purpose it becomes taxable via assimilated income.

We will detail the tax treatment of the revaluation reserve when we will deal with "Fixed assets".

Other reserves:

The reserves accounted for following fiscal releases (e.g. supplementary deduction for reinvested profit) may not be used to increase share capital or to cover losses. Otherwise, corporate tax should be computed for these amounts together with interest and penalties for late payment as of the date of the fiscal release.

✍ Now it is time for you to check your understanding. Note your answers to the quiz:

MM  
CONSULTING

## Lesson 4 Excessive loan's expense (art. 40<sup>2</sup>)

### Definitions

Further we will use the term "loan's expense" for interest expense plus commissions plus the net foreign exchange loss/(gain) plus all other similar expenses connected to the financing activity

So, if LE = loan's expense:

$$LE = \Sigma \underline{\hspace{10cm}}$$

The "excessive loan's expense" represents the difference between the "loan expense" and the incomes from interest and other equivalent incomes =>

$$\text{Excessive loan's expense} = \text{ELE} = \underline{\hspace{10cm}}$$

Next it is very important to remember a formula for a computational base (CB) used to assess the deductibility of excessive loan's expense.

$$CB = \underline{\hspace{10cm}} - \underline{\hspace{10cm}} + \underline{\hspace{10cm}} + \underline{\hspace{10cm}}$$

### Illustration 1

In order to assess if the excessive loan's expense (ELE) is deductible or not we need to use the following algorithm:

Step 1: Is the company an independent entity?

If Yes, then ELE is  $\underline{\hspace{10cm}}$

If No, then Step 2

Step 2: Is  $CB > 0$ ?

If Yes, deductible ELE =  $\min\{ \underline{\hspace{10cm}} ; \underline{\hspace{10cm}} \}$

If No, then deductible ELE =  $\min\{ \underline{\hspace{10cm}} ; \underline{\hspace{10cm}} \}$

The non-deductible ELE from one year should be carried forward with no time limit.

And if we have ELE carried forward from previous tax years then:

If  $CB > 0$  then: deductible ELE =  $\min\{ \underline{\hspace{10cm}} ; \underline{\hspace{10cm}} \}$

And

If  $CB < 0$  then deductible ELE =  $\min\{ \underline{\hspace{10cm}} ; \underline{\hspace{10cm}} \}$

### Illustration 2

Let's compute together the outstanding corporate income tax payable by Company A (which is not an independent entity).

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

At the end of the year the incomes and expenses recorded by A where:

Total accounting incomes: 200,000,000

Out of which:

- Interest income 150,000
- Fx differences 50,000
- Dividends from Romanian companies 200,000

Total accounting expenses: 170,000,000

Out of which:

- Interest expenses 25,000,000
- Fx losses 30,000
- Accounting depreciation 300,000
- CIT expense 3,200,000

And let's consider that the tax depreciation is 100,000 Lei.

CONSULTING

✍ Now it is time for you to check your understanding. Note your answers to the quiz:

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Lesson 5 Tax treatment of fixed assets

Definition:

For corporate income tax purposes, any assets used in the economic activity which has a useful life of more than \_\_\_\_\_ year and an entry value above 2,500 Lei qualifies as fixed asset.

There are two ways of analysing fixed assets:

- Looking at their substance: \_\_\_\_\_ and \_\_\_\_\_
- Looking at the treatment of their cost: \_\_\_\_\_ and \_\_\_\_\_

Non-depreciable fixed assets

- \_\_\_\_\_, including \_\_\_\_\_ with forests,
- \_\_\_\_\_ and \_\_\_\_\_,
- \_\_\_\_\_
- \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ that do not result from an investment,
- Goods from the public domain that are financed from budgetary sources,
- Any fixed asset that does not lose value over time due to use, as provided by norms,
- Own houses of rest, dwellings of protocol, ships, aircrafts, cruise ships, other than those used to realise income,
- Intangible assets with an unlimited useful life in accordance with the accounting norms.

Who can depreciate?

The following persons can depreciate:

The owner: - \_\_\_\_\_ assets except those leased under financial lease.

The \_\_\_\_\_: - assets under financial lease and  
- technical appreciation over other leased assets.

Tax value (art 7, paragraph 44)

= \_\_\_\_\_ or \_\_\_\_\_ or \_\_\_\_\_ of assets received for free or in exchange of share capital.

Acquisition cost includes any costs relating to the acquisition (as per the accounting rules).

Own costs include appropriate direct cost and overheads.

The impairment in the market value of an asset does not affect its fiscal value.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.



## Technical appreciation

### Definition

- Technical appreciation (or technical improvement) means \_\_\_\_\_ expenditure on an addition/improvement to an asset, which \_\_\_\_\_ its life or \_\_\_\_\_ its output parameters. It is not a pure repair, which is considered expense.

### Tax treatment

- The value is added to the original input price at the time it is incurred, and the increased value is depreciated over the remaining useful life of the asset.

## Depreciation rules

Tax depreciation should be computed as follows:

- a) using useful lives of fixed assets given by depreciation law for tax depreciation purposes (Government Decision No. 2139 of 2004). For exam purposes, it is not necessary to know these useful lives; if necessary, the information will be given to you in the exam questions;
- b) beginning with the month that \_\_\_\_\_ the month in which the depreciable fixed asset is put into operation;
- c) For “small vehicles”, tax depreciation is limited to \_\_\_\_\_ lei/month.
- d) For cars used by the management the tax depreciation may be computed up to \_\_\_\_\_ car per management person;

Below you find other special cases for depreciation rules (which are less common in exam):

- e) for investment expenses made from own sources over fixed assets from the public domain, the depreciation should be computed over the normal period of use, or over the remaining normal period of use or over the period of the rental contract or concession, as the case may be;
- f) for investment expenses made to fixed assets under concession, rental or under the administration of the entity that made the investment, the depreciation should be computed over the period of the rental/administration contract or over the normal period of use, as the case may be;
- g) land improvements should be depreciated on a straight-line basis over a 10-year period;
- h) for mining buildings and other constructions, salt mines with extraction in solution by wells, quarries, current exploitations, for solid mineral substances and those in the industry of oil extraction, for which the period of use is limited by the duration of the reserves and which may not be given other uses after the reserves are exhausted as well as investments for uncovering, the depreciation is to be computed per unit of product, depending on the exploitable reserve of the useful mineral substance. The depreciation per unit of product should be computed as follows:
  - f1. Every 5 years for mines, quarries, oil extraction, as well as investment expenses for uncovering
  - f2. Every 10 years for salt mines

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

- i) the means of transport may be depreciated also based on the number of kilometres or the number of hours of operation as written in their technical books;
- j) for workplace dwellings, depreciation is fiscally deductible up to the level corresponding to the constructed area as provided by the law on dwellings;

If a fixed asset is not used for a period of minimum one month (and is recorded as fixed asset in conservation), the tax depreciation is not computed in this period and the useful life is frozen in the period of conservation. This means that the useful life is increased by the period of conservation.

Tax depreciation represents a right not an obligation for the taxpayer. If the taxpayer did not depreciate an asset, he just loses this right forever. When tax depreciation is started again, it is calculated as if there was no interruption.

## Depreciation methods

Methods of depreciation:

- Accelerated method applies to:
  - \_\_\_\_\_, respectively machines, tools, and installations,
  - \_\_\_\_\_ and equipment peripheral to computers
  - \_\_\_\_\_,
  - \_\_\_\_\_ used in research and development activities (art 20 (1))
- Straight-line method of depreciation applies to:
  - \_\_\_\_\_,
  - \_\_\_\_\_ – over a three (3) years period,
  - \_\_\_\_\_ – over a maximum five (5) years period,
  - Other intangible assets except patents and goodwill,
  - Any other assets which may qualify also for the digressive method or for the accelerated method.
- Digressive method applies to:
  - Any assets which does not qualifies just for the straight-line method (but this method is exempt from exam).

For a depreciable asset, the tax depreciation is the only deduction allowed for corporate income tax purposes and the accounting depreciation expense should be considered a non-deductible expense.

The gains/losses resulted from the disposal of a depreciable assets are computed using the tax value of the asset less the accumulated tax depreciation.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

### Illustration 1

#### Straight line depreciation method

The depreciation starts \_\_\_\_\_

$$\text{Monthly tax depreciation} = \text{tax value} / \text{useful life (in months)}$$

#### Straight line depreciation with technical appreciation (improvement)

Technical appreciation is expenditure incurred which increases the input value of a tangible asset.

### Illustration 2

Method:

- The net tax value (just before considering technical appreciation) =  
= \_\_\_\_\_ - \_\_\_\_\_
- The new tax value = \_\_\_\_\_ + \_\_\_\_\_
- The new tax value is then depreciated over the \_\_\_\_\_ useful life of the asset.
- The technical specialist of the company that owns the asset may consider an increase of the useful life of the assets over which an improvement was made. In this case, based on a management decision, the depreciation may be computed over a longer period.
- If parts (not fully depreciated) of the fixed asset are replaced, the net tax value of the replaced parts is deductible expense.
- If parts (fully depreciated) of the fixed asset are replaced, the new asset will have a new useful life established by technical expertise.

### Illustration 3

#### Accelerated depreciation method

Depreciation shall be computed as follows:

- For the first \_\_\_\_\_ months of use: tax depreciation shall not exceed \_\_\_\_\_% of the entry value of the fixed asset (and for exam purposes you will consider \_\_\_\_\_%)
- For subsequent years of use: depreciation shall be computed by dividing the remaining tax value of the fixed asset by the remaining useful life of the asset.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

#### Illustration 4

##### Special cases for tax depreciation

###### Case 1

Taxpayers who invest in fixed assets that are intended for the \_\_\_\_\_, as well as for the creation and operation of \_\_\_\_\_, may deduct \_\_\_\_\_ of the investment when computing taxable profit on the date when it is put into operation or may recover these expenses by depreciation deductions.

###### Case 2:

For what we call “small vehicles” the tax depreciation is computed using the \_\_\_\_\_ method and cannot be above \_\_\_\_\_ Lei/month/car.

###### Case 3

The fixed assets used in \_\_\_\_\_ may be \_\_\_\_\_ depreciated.

##### Revaluation of fixed assets

In accordance with [article 7, paragraph 44, letter c](#), in case of increase of fixed assets value through revaluation, the increase should affect the tax value.

Consequently, the deductible depreciation expense will increase too.

AND, as long as the revaluation reserve (which led to an increased tax depreciation expense) was not taxed (via assimilated incomes), in accordance with [article 26, paragraph 6](#), any decrease/change of destination of the reserve should be considered assimilated income and taxed accordingly.

Check Illustration 5 for a practical example which illustrates the tax treatment of revaluation surplus!

And now you know that:

Revaluation surplus = \_\_\_\_\_ - \_\_\_\_\_ ;

New tax depreciation = \_\_\_\_\_ / \_\_\_\_\_ ;

The assimilated income from amortisation of revaluation surplus =

= \_\_\_\_\_ - \_\_\_\_\_

#### Illustration 6

##### Impairment of fixed assets

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

In accordance with [article 26, paragraph 1, letter n](#), in case of impairment, the expense is considered deductible if:

- The impairment is the consequence of a natural disaster or other calamities
- The assets were insured.

Otherwise, the impairment expense is \_\_\_\_\_ expense and it should not affect the deductible depreciation expense too ([art.7 \(44\) c](#)).

Another case when impairment may have impact on the tax value of an asset is when the impairment occurs after a positive revaluation surplus. In this case the value of the impairment will decrease the un-taxed revaluation surplus. The decrease will be  $\min\{\text{impairment amount; non-taxed revaluation surplus}\}$ .

 Now it is time for you to check your understanding. Note your answers to the quiz:

MM  
CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Lesson 6 Tax losses (art. 31)

The tax loss may be carried forward during a \_\_\_\_\_-years period.

The tax loss may be used against future taxable profits only if the company is paying profit tax, so, in the cases when after recording tax loss, a company is no longer qualifying to compute and pay profit tax, this company still may use the tax loss brought forward against future taxable profits in the \_\_\_\_\_ tax years' period.

### Re-invested profit (art. 22)

According to the Fiscal Code, the taxpayers who reinvest their profit in \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ can decrease their corporate income tax liability. This supplementary deduction should be equal to the \_\_\_\_\_ but not above the \_\_\_\_\_ for that period.

The deduction should be computed \_\_\_\_\_ or \_\_\_\_\_ (depending on the computation of corporate income tax) and, at the end of the tax year, the amount of profit for which the deduction was computed (except the part corresponding to legal reserve – if not already created) should be used to increase the reserve account up to the amount of the realised accounting profit of the tax year.

In the case of quarterly corporate income tax computation, the cumulated accounting profit considered for deduction should be \_\_\_\_\_ by the reinvested profit used in the previous quarters of the same tax period.

The deduction is allowed in the period (quarter/year) in which the equipment was put into operation there is no possible adjustment in the other quarters/years.

If at year end the taxpayer realised accounting loss, there is no other adjustment needed.

The equipment for which the deduction was computed should be kept at least the minimum between \_\_\_\_\_ of its fiscal life and \_\_\_\_\_ years. Otherwise, the corporate income tax should be recomputed and paid to the state budget together with late payment interest computed from the date of deduction.

The equipment for which the deduction was computed may not be depreciated using \_\_\_\_\_ depreciation.

Observation:

The reserve created from the re-invested profit must not be decreased. If the company uses this reserve, then the decrease should be taxed as assimilated income.

Now check illustration 1 to see an example regarding the tax treatment of tax losses!

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Then check illustration 2 to see how should be computed the tax credit for re-invested profit!

So,

If the accounting profit is = 100,000 Lei,

The tax base is 120,000 lei

=> CIT liability before tax credit for re-invested profit = \_\_\_\_\_

And the company invested 50,000 lei I an equipment,

Then:

- The re-invested profit =  $\min\{\text{_____}; \text{_____}\}$
- The supplementary deduction for re-invested profit (also called the tax credit for re-invested profit) =  $\min\{\text{_____}; \text{_____}\}$
- So, the final tax liability = \_\_\_\_\_ - \_\_\_\_\_ = \_\_\_\_\_

Another important facility regards the re-invested profit targeted to sustain \_\_\_\_\_ . This profit is \_\_\_\_\_ !

The illustrations 3 and 4 show you two comprehensive examples related to the re-invested profit.

CONSULTING

Illustration 5: Proforma to compute CIT

The order of the tax credits is:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

*Example:*

For Company X

Taxable profit = 1,289,500 Lei

During the period made the following expenses:

- a. Paid 15,000 lei tax in Bulgaria for a consultancy service of 500,000 Lei (the connected expenses (salaries) being 100,000 lei)
- b. Acquired an equipment of 50,000 lei (the accounting profit being far above this amount)
- c. Sponsored a TV program with 30,000 Lei
- d. Acquired and put into operation 10 electronic cash machines of 4,000 Lei each

The turnover realised by this company was 8,520,300 Lei

 Now it is time for you to check your understanding. Note your answers to the quiz:

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.





# CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Lesson 7 The consolidated fiscal group regime for corporate income tax purposes

(Title II - Chapter IV<sup>1</sup>)

Illustration 1: When a group of companies can opt to apply the fiscal group regime

2 or more taxpayers may choose to apply the fiscal group regime if:

1. They are:
  - a) companies in a group relationship in which \_\_\_\_\_ OR
  - b) The parent \_\_\_\_\_ holds at least \_\_\_\_\_ OR
  - c) are \_\_\_\_\_

AND

2. They are in one of the above relationships from at least \_\_\_\_\_ AND
3. They have the same \_\_\_\_\_ AND
4. They are not part in another \_\_\_\_\_ AND
5. They do not pay \_\_\_\_\_ or \_\_\_\_\_ AND
6. They are not in \_\_\_\_\_

*Obs.*

*As these conditions are set: the companies members in a fiscal group may apply the specific tax (exclusively), but, in this case, they will switch from computing the specific tax and will compute the corporate income tax!*

If all above conditions are fulfilled, then the group members must choose a person to represent them for corporate income tax purposes, which we will name "the delegated person".

The delegated person must communicate to the tax authorities the option of the members to create a fiscal group for the computation of corporate income tax purposes with at least \_\_\_\_\_ days \_\_\_\_\_.

The delegated person is the person who must \_\_\_\_\_.

The fiscal group regime must be applied for minimum \_\_\_\_\_ consecutive years or until the group \_\_\_\_\_.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

A new member of the group can join the group starting with the beginning of a new year only if all the conditions are satisfied and, it must declare its option to join the group with at least \_\_\_\_\_.

If a member does not longer satisfy the conditions and must leave the group, it must notify the tax authorities in maximum \_\_\_\_\_ days after the event and must start to compute its own corporate income tax with the quarter \_\_\_\_\_.

Illustration 2 Tax implications of the fiscal group regime

Once member in a group for fiscal purposes:

1. Each member computes its own taxable profit and tax and communicate it to the delegated person
2. The group taxable profit is the sum of the taxable profits computed by each member
3. The delegated person computes the tax due by the group by applying the tax rate and using all available tax credits and allowances:
  - a. for tax paid abroad
  - b. for reinvested profit
  - c. for sponsorship
  - d. for electronic cash machines
  - e. for other
4. After the delegated person compute the allowance for the reinvested profit, it must assign it to the relevant members and to communicate it to them for them to allocate the amounts to reserves.

The group’s tax return and the due have the same declaration and payment deadlines as for the independent companies.

M2.L7.3 Computation of tax due by a group in a fiscal group regime

Let’s do an example to see how to compute the tax due by a fiscal group!

The company Bremen SRL holds 90% of Rooster SRL, 80% of Cat SRL, 70% of Donkey SRL and 75% of Dog SRL.

1. The companies exercised the option to apply the fiscal group regime in August 20X2 and their first year as a fiscal group was 20X3  
=> Bremen, Rooster, Cat and Dog are a group, while Donkey must compute, declare, and pay its CIT separately.

For all this companies we know the below information related to the tax year 20X3:

Company	Bremen	Rooster	Cat	Donkey	Dog
Turnover	3,820,500	980,000	1,540,000	300,000	250,000
Accounting profit	380,300	250,000	194,500	181,900	94,200
Taxable profit	456,300	122,300	168,900	154,200	(45,800)

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Tax loss brought forward*		(20,000)		(24,800)	(35,900)
Tax paid abroad**		13,850			
Reinvested profit		200,000	150,000		
Sponsorship paid	80,000				

\* The tax loss brought forward by Rooster is from 20X1. The tax loss brought forward by Dog is from 10,000 from 20X1 and 25,900 lei from 20X2.

\*\* The tax paid abroad by Rooster was paid in Portugal for a service provided to a client. The value of the invoice was \$138,500 and the costs related to this service were 61,200.

Let's now compute the independent tax due by each member of this "group":



CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

And now we can compute the tax due by the group:



 Now it is time for you to check your understanding. Note your answers to the quiz:

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Lesson 8 International issues

### (Title II - Chapter III)

Foreign companies earning income from Romania:

Definitions

Permanent establishment ([art 8](#))

Romanian legislation defines a permanent establishment as being a location through which the activity of a non-resident is wholly or partly \_\_\_\_\_, either directly or through a dependent agent.

Includes:

- A place of management, branch, office, factory, shop, workshop, as well as a place of extraction of natural resources
- Building site, a construction, assembly or installation project or supervisory activities in connection therewith only if the site, project, or activities lasts more than 6 months

Does not include the following:

- The use of a facility solely for storage or display of products or goods
- The maintenance of products or goods belonging to a non-resident solely for:
  - The purpose of storage or display; or
  - The purpose of processing by another person
- The sale of products or goods belonging to a non-resident that have been displayed during a non-permanent or occasional fair or exhibition if the products or goods are sold no later than one month after the conclusion of the fair or exhibition;
- The maintenance of a fixed place of activity solely for:
  - Purchasing products or goods or collecting information for a non-resident
  - Carrying out for a non-resident any activity of a preparatory or auxiliary nature
- Any combination of activities provided above

A non-resident company is not considered to have a permanent establishment in Romania merely because it carries out activity in Romania through a broker, agent, general commissioner, or any other intermediary agent with independent status if the activity is the regular activity of the agent according to the description in the constituting documents. If the activities of such an agent are carried out wholly or almost wholly on behalf of the non-resident and conditions exist between the non-resident and the agent in their commercial and financial relations that differ from those which would exist between independent persons, then the agent is not considered to be an agent with independent status.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

A non-resident is not considered to have a permanent establishment in Romania merely because it controls or is controlled by a resident or by a person that carries out an activity in Romania through a permanent establishment or otherwise.

Any Romanian legal entity has the duty to inform the tax authorities about any agreement concluded with a non-resident company which may create a permanent establishment of that company in Romania.

#### International law definition

International law, in the form of double taxation treaty (DTT) signed by two countries, has as main objective to eliminate the double taxation of an income.

These agreements override domestic legislation where beneficial or where the same income is taxed in more than one country.

The treaties usually provide more flexible/favourable tax conditions.

#### Tax implications of creating a PE ([art 36](#)):

Foreign entities that carry out activity through a permanent establishment (PE) in Romania are required to pay the corporate income tax for the taxable profit that is attributable to that permanent establishment.

The taxable profit is calculated as per the rules applicable to Romanian entities but considering only the income(s) and the expenses attributable to that permanent establishment (PE).

If a foreign entity has several PEs, the foreign entity should name that PE which must report to Romanian tax authorities on a consolidated basis, the results of all PEs.

#### Romanian tax on other incomes obtained by foreign companies ([art. 224](#))

The tax owed by non-residents for taxable income obtained from Romania is to be computed, withheld, declared, and remitted to the state budget by the \_\_\_\_\_ (and usually, these payers are Romanian companies).

The non-residents income tax should be computed and withheld by the income payers by payment date, then declared and submitted to the State Budget by \_\_\_\_ of the following month ([art. 224 \(5\)](#)) except for the tax due on non-residents' dividend income. The tax due on non-residents dividend income is computed, declared, and submitted to the State Budget following the rule existing for dividend income paid to Romanian taxpayers.

The payers of non-residents income qualifying for withholding tax must submit for any of the above incomes for each non-resident another annual declaration with the Romanian income realised by each non-resident from them in a calendar year, as well as the tax withheld by \_\_\_\_\_.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

If the income payer (Romanian company) withheld a higher income tax, then the non-resident company may request to the Romanian income payer the reimbursement of the supplementary tax withheld and the Romanian income payer may further request this tax from Tax Authorities. The Tax Authorities will reimburse the Romanian Company in one calendar year after the receipt of the written demand with all proving documents attached (FPC, art. 170).

#### Illustration 1: Tax rates for non-resident' s income

First, if the non-resident provides Fiscal Residency Certificate valid at payment date and if he/she is resident in a country which has a Double Taxation Treaty, then the tax rate applicable for his/her income is:

Min{\_\_\_\_\_ ; \_\_\_\_\_}

The Romanian rates are:

- a) \_\_\_% for dividend income,
- b) \_\_\_% in the case for the incomes obtained from Romania by \_\_\_\_\_
- c) \_\_\_% for other incomes paid in countries which have no convention with Romania regarding the exchange of information if these incomes are resulting from an artificial transaction (i.e. \_\_\_\_\_),
- d) \_\_\_% in the case of any other taxable incomes obtained from Romania and covered by Title VI.

Exempted incomes:

The following incomes obtained by non-residents are exempt from tax in Romania (art. 229):

- Interest related to public debt instruments, revenues from trading state titles and bonds issued by state bodies;
- Income from prizes obtained from Romania, following the participation in a national artistic, cultural or sports festivals financed from \_\_\_\_\_ as well as prizes granted to students and pupils in contests financed from \_\_\_\_\_;
- Income from consultancy contracts financed through non-reimbursable funds obtained by the Romanian Government;
- Dividend income – if the non-resident is a \_\_\_\_\_ payer registered in EU or a \_\_\_\_\_ from EFTA holding at least \_\_\_\_\_ % of the Romanian company since at least \_\_\_\_\_ year and if the income payer (Romanian resident) is \_\_\_\_\_ payer also;
- Interest and royalty income - if the effective beneficiary of this income is a \_\_\_\_\_ payer from \_\_\_\_\_ and is affiliated (at least \_\_\_\_\_% of share capital) with the Romanian company since more than \_\_\_\_\_ years at the payment date.
- Interest or dividends paid to pension funds as per EU or EFTA (European Free Trade Association) legal definitions.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.



## Illustration 2: Other taxes paid by non-resident companies

A special tax to be paid by non-resident companies in Romania is the tax on representative office.

A representative office = an office of a foreign legal entity which is not entitled to carry on any \_\_\_\_\_.

The tax on representative office for one calendar year is \_\_\_\_\_ Lei and, by general rule, this tax must be paid by end of \_\_\_\_\_ current year ([art. 236](#)).

If the representative office did not exist in Romania for one whole calendar year, then the tax is apportioned using the number of months of \_\_\_\_\_ in Romania.

In the first year the tax on representative office has to be declared and paid to the Tax Authorities in \_\_\_\_\_ days from establishment ([art. 237](#)).

If the representative office is closing in the year, then it will have to re-compute its tax due for the number of months of presence in Romania (including the month of closing) and to declare it to the Tax Authorities in \_\_\_\_\_ days from closure.

## Romanian companies earning incomes from abroad

Romanian companies must pay corporate income tax in Romania for their worldwide incomes/profits.

### Tax credit ([art. 39](#))

Where a Romanian entity obtains income from abroad through a permanent establishment or income subject to tax withheld at source and these incomes are taxed both in Romania and in the foreign state, the tax paid to the foreign state, whether paid directly, or indirectly by withholding and remittance by another person, shall be deducted from the Romanian corporate income tax liability if certain conditions are satisfied.

The tax credit for the tax on profit paid abroad can be deducted if and only if: it is fully documented, there is a Double Taxation Treaty between Romania and the country where the profit came from, the DTT stipulates that the avoidance of double taxation is to be done using tax credit method and only from the profit tax of the year in which the tax was paid in the other country.

The tax credit for taxes paid to a foreign state for a tax year may not exceed the Romanian corporate income tax computed by applying the profit tax rate to the respective income.

Any loss realised through a permanent establishment abroad EU or AELS or from a state which has no DTT with Romania is deductible only from the income obtained by that permanent establishment (i. e. from the same source, for each type of income independently) for a five (5)-year period ([art. 40](#)).

Illustration 3 is explaining you exactly how the tax credit for tax aid abroad is applied.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

So,

Tax credit for tax paid abroad = min{\_\_\_\_\_ ; \_\_\_\_\_}

Illustration 4 is considering a more complex example on tax credit for tax paid abroad.

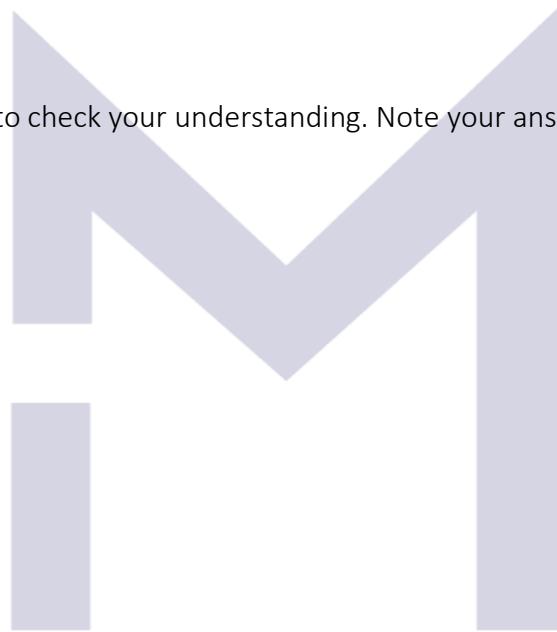


CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Illustration 5 check this illustration to understand how to treat the tax losses happened abroad.

 Now it is time for you to check your understanding. Note your answers to the quiz:



CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Lesson 9 Tax returns and tax payments

### (Title II Chapter IV)

The filing of tax returns and payments of tax liabilities are due at the same time.

#### Illustration 1: The rule for “banks”

Normal rule:

- Quarterly prepayments at the level of  $\frac{1}{4}$  of the \_\_\_\_\_, adjusted by the estimated inflation index. The deadline for payments is the \_\_\_<sup>th</sup> of the first month of the following quarter for quarters 1 to 3 and by \_\_\_<sup>th</sup> of the \_\_\_\_\_ month of the tax year (or by 21<sup>st</sup> December if the tax year = calendar year) for quarter 4 – [art 41 \(4\), and \(8\)](#)).
- Final annual computation of the tax, and reconciliation of payments for the tax is due by \_\_\_<sup>th</sup> of the \_\_\_\_\_ month after the end of the tax year ([art. 42](#)).

Don't forget, for your exam, the estimated inflation index is = 2.4% and it is given

Special rules:

- The anticipated payment of corporate income tax is 16% of the \_\_\_\_\_ of the relevant quarter for quarter 1 to 3 ([art. 41 \(7\)](#)) if:
  - It is the first tax year, or
  - It is the first full tax year, or
  - If incurred tax loss in the preceding year.
  - If in the previous years it paid tax using the “small companies’ scheme”

In this case for quarter 4 there is no anticipated payment and the final tax for the year is due in accordance with the normal rule by \_\_\_<sup>th</sup> of the \_\_\_\_\_ month after the end of the tax year.

#### Illustration 2: The rule for other companies

The companies may opt for:

- Annual computation with quarterly prepayments:
  - Quarterly prepayments at the level of  $\frac{1}{4}$  of \_\_\_\_\_, adjusted by the estimated inflation index. The deadline for payments is the \_\_\_<sup>th</sup> of the first month of the \_\_\_\_\_ quarter for quarters 1 to 3 and by \_\_\_<sup>th</sup> of the \_\_\_\_\_ for quarter 4 – [art 41 \(2\), and \(8\)](#)).
  - Final annual computation of the tax, and reconciliation of payments for the tax is due by \_\_\_<sup>th</sup> of the \_\_\_\_\_ month after the end of the tax year ([art. 42](#)).

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Observation:

According to the fiscal procedure code if the deadline for a payment and/or obligation fall on 25<sup>th</sup> December then it should be replaced by 21<sup>st</sup> December.

- Quarterly computation and payments:
  - Quarterly declaration and payments of CIT for the first 3 quarters, by \_\_\_<sup>th</sup> of the \_\_\_\_\_ – art 41 (1)
  - Final annual computation of the tax, and reconciliation of payments for the tax is due by \_\_\_<sup>th</sup> of the \_\_\_\_\_ month after the end of the tax year (art. 42).
- The option for annual computation should be declared at the beginning of the tax year (by 31st January or in the first 30 days of their tax year) and once exercised should be kept for at least 2 consecutive tax years (art. 41 (3))
- The previous year profit tax liability considered to compute the anticipated payments in annual computation should be without any fiscal facilities which are no longer available.
- If annual computation is applied and the CIT liability from the previous year has been adjusted, the following anticipated payments must be adjusted accordingly.

Special rules:

- The CIT should be computed, declared, and paid quarterly (art. 41 (6)) if:
  - It is the first tax year/ it is the first full tax year,
  - In the previous year, a tax loss was reported (and the previous year was not the first year with annual computation),
  - In the previous year, the company did not compute CIT (paid tax as small company).
- The anticipated payment of corporate income tax is 16% of the accounting profit of the relevant quarter (art. 41 (10)) in the second year of annual computation if in the first year was recorded a tax loss.

Again! Don't forget, for your exam, the estimated inflation index is = 2.4% and it is given

The taxpayers who are changing their tax year must follow the following rules:

- Those computing their CIT liability quarterly:
  - If their new tax year begins in the second or third month of the quarter: the remaining of the quarter will be reported in a special declaration due by 25th of the month following the calendar quarter.
- Those computing their CIT liability annually:

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Continue to pay the anticipated tax as stated before the change of the tax year and if their new tax year begins in the second or third month of the quarter the anticipated tax will be apportioned by months.

Declarative and payment requirements if the tax year is changed

Illustration 3:

In 20Y2, Company A opt to change its tax year from the calendar year to 1<sup>st</sup> August – 31<sup>st</sup> July.

So, it's first changed tax year would be 1<sup>st</sup> August 20Y2 – 31<sup>st</sup> July 20Y3 and according to [art. 16 \(5\)](#), Company A should notify the tax authorities before 16<sup>th</sup> August 20Y2.

Next, we may have 2 cases:

Case 1: Company A is computing its CIT liability quarterly.....



CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

and

Illustration 4:

Case 2: Company A is computing its CIT liability annually .....



NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Model of corporate income tax computation

Below you have a simplified form of the annual corporate income tax declaration.

	LEI	LEI
Total accounting revenues		X
Total accounting expenses		(X)
Accounting profit		X
Less tax deductions (fixed assets expenses)		(X)
Less non-taxable incomes		(X)
Add/Less assimilated items		X/(X)
Add back non-deductible expenses		X
Profit/(loss) before tax loss brought forward		X
Tax loss brought forward		(X)
Tax base		X
Corporate income tax @16% before adjustments		X
Less tax credits		
External tax credit (for tax paid abroad in the period)		(X)
Supplementary deduction for reinvested profit		(X)
Value of electronic cash machines put into operation		(X)
Corporate income tax liability before sponsorship allowance		X
Less sponsorship allowance		(X)
Annual corporate income tax liability		X
Less corporate income tax already assessed (and paid)		(X)
Outstanding corporate income tax payable		X

 Now it is time for you to check your understanding. Note your answers to the quiz:

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.



## Lesson 10 Specific tax and small companies' tax

### The specific tax (law 170/2016)

As you remember, there might be companies who are not paying the corporate income tax as we learned, some of these, "excepted" companies are "excepted" because they are considered "small companies", some of these companies are excepted because they are acting in a special field and because for these companies, we have a "specific tax".

#### Illustration 1: The "specific tax"

The companies paying the "specific tax" are all companies which are not in liquidation and which are acting in the field of:

- hotels and other similar accommodation, including camping
- restaurants, catering and other similar activities.

and the specific tax is computed only for the incomes derived from the above activities.

A major exception from the specific tax represents the companies having to pay tax under the small companies' scheme. These companies will use the small companies' scheme for all their activities.

Consequently, any company will check itself firstly if it should pay the small companies' tax and then will pay the specific tax for the activities qualifying for the specific tax and the corporate income tax for the other activities.

The specific tax is paid \_\_\_\_/year, by \_\_\_\_\_ - for 1<sup>st</sup> semester and by \_\_\_\_\_ for the 2<sup>nd</sup> semester.

#### Entering the specific tax system

New companies or existing companies that at the latest 31<sup>st</sup> December satisfy the conditions to apply the specific tax will compute this tax starting with the next \_\_\_\_\_.

The change must be notified by \_\_\_\_\_.

If a company starts an activity qualified for the specific tax it will start to compute and pay the specific tax with the \_\_\_\_\_ semester.

#### Exiting the specific tax system

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Companies who no longer satisfy the conditions to apply the specific tax must switch to corporate income tax starting with \_\_\_\_\_.

The change must be notified by \_\_\_\_\_.

But if the authorisation to carry on the specific activities is cancelled, the company must switch to the corporate income tax starting with \_\_\_\_\_.

So, a company which starts in August 20Y6 an activity qualified for the specific tax must

\_\_\_\_\_  
\_\_\_\_\_

And if the company stops this activity in April 20Y7, then it should \_\_\_\_\_

#### Illustration 2: Computation of tax

The exact computation of the specific tax is not subject for your exam, but you still must know how to deal with complex companies which carries on activities qualifying for the specific as well as other activities for which corporate income tax must be computed and paid.

If a company is carrying out activities qualifying for the specific tax as well as activities not qualifying for the specific tax, these companies will pay the specific tax for the qualifying activities and corporate income tax for the other activities.

By example, a company specialised in medical services which has also hotel and restaurant services, must \_\_\_\_\_

---

Still the amounts paid on the \_\_\_\_\_ are to be deducted as \_\_\_\_\_ from the computed tax liability and if the amount paid is above the computed tax liability, then it may be carried forward and used as tax credit for the next \_\_\_ consecutive tax years.

## Small companies' tax

(Title III)

### Illustration 3: Small company

Small company (micro-enterprise) is any Romanian legal entity that cumulatively meets the following conditions on last 31<sup>st</sup> of December:

- a) The realised income does not exceed the equivalent in Lei of \_\_\_\_\_ Euro (@ fx from the last 31<sup>st</sup> December);
- b) The social capital of the legal entity is owned by persons other than the state and/or local authorities;
- c) It is not in liquidation/insolvency.

Exception:

A new established company or an existing one with a share capital of minimum \_\_\_\_\_ Lei and at least \_\_ employees may choose to pay profit tax. This option is \_\_\_\_\_ and if these conditions are no longer fulfilled, the company should switch to small companies' scheme starting with the next tax year if it still satisfies the definition of a small company.

So, if a "small company" may switch to CIT and opt for switch it will start to compute and pay CIT starting with \_\_\_\_\_.

AND if a company which exercised this option no longer qualifies and must switch back to compute the small companies' tax, it will switch starting with \_\_\_\_\_.

### Illustration 4: In and out small companies' tax scheme:

#### Entering the small companies' tax scheme

A new registered company must apply the tax on income for small companies since its first tax year if the condition regarding the share capital is fulfilled.

A profit taxpayer that qualifies as small company during a tax year must switch to the tax on income for small companies starting with \_\_\_\_\_.

The switch should be declared by \_\_\_\_\_ the year of switch ([art. 55\(2\)](#)).

#### Exit from small companies' tax scheme

A small company ceases to pay tax using small companies' tax and should switch to profit tax starting with the next year if:

- no longer satisfy the condition regarding share capital, or
- is declared in liquidation/solvency

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

The switch should be declared by \_\_\_\_\_ in the year of switch (art. 55(3)).

A small company ceases to pay tax using small companies' tax and should switch to profit tax starting with \_\_\_\_\_ if:

- realises incomes above \_\_\_\_\_, or
- \_\_\_\_\_

This company should switch and pay profit tax considering the incomes and expenses incurred starting with that quarter.

The switch should be declared in \_\_\_\_ days.

The tax year of a small company is:

- the \_\_\_\_\_ year or
- \_\_\_\_\_ to 31st December – in the year of registration – or
- 1st January – \_\_\_\_\_ – in the year of deregistration.

Illustration 5: Tax base (art. 53)

The tax base for small companies includes any income from any source \_\_\_\_\_:

- 1) Incomes from \_\_\_\_\_,
- 2) Income from \_\_\_\_\_,
- 3) Income from \_\_\_\_\_,
- 4) Income from cancellation of \_\_\_\_\_,
- 5) Income resulting from the cancellation of \_\_\_\_\_ that were not deductible expenses in computing taxable profit, according to legal provisions,
- 6) Income realised from compensations, from insurance companies, for damages to own tangible assets,
- 7) Incomes from foreign exchange differences,
- 8) Income from operations representing the share-part of government subsidies,
- 9) Settlement discounts allowed ,
- 10) Incomes from another country if these incomes were taxed in that country and there is DTT between Romania and that country.

The resulting amount should be \_\_\_\_\_ by:

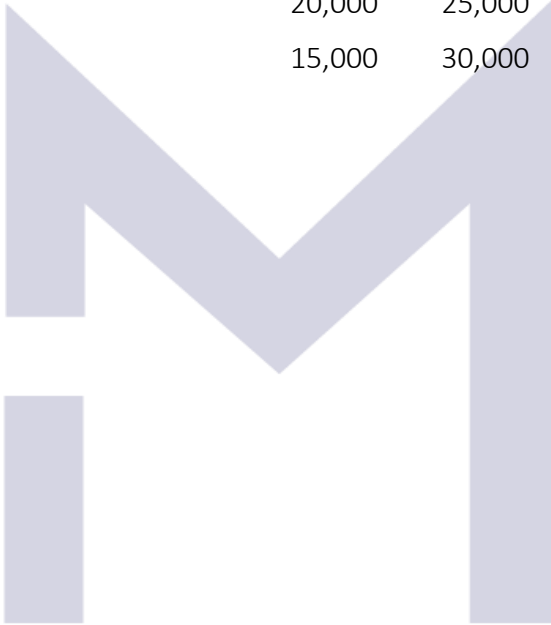
- a) Settlement discounts (received after initial invoice),
- b) \_\_\_\_ foreign exchange \_\_\_\_\_ – only in the last quarter of the tax year,

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

- c) Decrease of reserves (except those connected with fiscal facilities) which were previously deducted when the company was profit taxpayer (legal reserve, revaluation reserve).
- d) Reserves connected with fiscal facilities given when the company was profit taxpayer if these reserves are used to increase share capital.

Illustration 6 Treatment of foreign exchange differences – example

	Q1	Q2	Q3	Q4
Incomes from sales	200,000	100,000	300,000	250,000
Fx incomes	20,000	25,000	22,000	30,000
Fx expenses	15,000	30,000	21,000	18,000
Tax base				



CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

### Illustration 7: Computation, payment and declaration of tax

The tax year of a small company is

- the calendar year or
- registration to \_\_\_\_\_ – in the year of registration – or
- \_\_\_\_\_ – closing date – in the year of deregistration.

The computation, payment and declaration of tax on income for small companies are to be made on a quarterly basis, by \_\_\_\_\_ of the month following the quarter for which the tax is calculated.

The tax rate for small companies is given in exam (art. 51):

- 1% for companies \_\_\_\_\_
- 3% for companies \_\_\_\_\_

The resulting tax should be decreased by (art 56):

1. the sponsorship allowance = \_\_\_\_\_
2. the value of electronic cash machines when \_\_\_\_\_

The sponsorship expense paid as well as the amounts paid for the electronic cash machines not used as tax credit (as above) may be carried forward for \_\_\_\_\_ quarters.

Observation:

The companies applying the scheme for small companies still must compute and keep evidence of the tax depreciation of their fixed assets.

If a company did not reach the limit for sponsorship allowance in one year it may require the tax authorities to redirect this amount to a qualifying recipient within 6 months after the deadline for submitting the tax return.

### Illustration 8

Let's compute together the small company's tax due by the company recording:

	Q1	Q2	Q3	Q4
Incomes from sales	200,000	100,000	300,000	250,000
Fx incomes	20,000	25,000	22,000	30,000
Fx expenses	15,000	30,000	21,000	18,000

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Sponsorship expense	5,000	2,000
Electronic cash machine*	5,000	

The Electronic cash machine was acquired in March and put into operation in April.

#### Illustration 9: Summary

In conclusion, in order to know what type of tax a company has to pay we need to make the following judgement:

Question 1: Is the company a small one according to the definition?

- If it is a “small company”, then proceed to question 2
- If it is not a “small company”, then proceed to question 3.

Question 2: Did the company, lawfully exercised the option to pay CIT?

- If yes, then the company pays CIT
- If no, then the company pays small companies’ tax

Question 3: What is the activity of this company?

If it is in the range of activities specified for the specific tax, then the company pays the “specific tax” (for that part of activity qualifying for specific tax).

If it is not in the range of activity, then the company pays the corporate tax as we learned.

# CONSULTING

 Now it is time for you to check your understanding. Note your answers to the quiz:

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Lesson 11 Dividend tax

### (Title II Chapter V)

Dividend = any distribution in cash or in kind done by a legal entity towards its shareholder/shareholders (art. 7, par 11).

It is not considered dividend:

- A distribution of shares or an increase of shares' value following an increase of share capital,
- The payments done to re-purchase own shares,
- A distribution in cash or in kind following the liquidation of the legal entity,
- A distribution in cash or in kind following the reduction of share capital of the legal entity,
- A distribution of share premium which does not modify the percentage of share capital withheld

Illustration 1: Rule

A Romanian entity that pays dividends to another Romanian entity must withhold and pay to the state budget a \_\_\_\_% tax of the gross dividend incomes.

But, the dividend income is exempt from tax if:

- The payer and the beneficiary are \_\_\_\_\_ from \_\_\_\_\_ (or a legal person from EFTA) and if the beneficiary holds at least \_\_\_\_% of the shares of the payer for a minimum period of \_\_\_ year as at the date of dividend payment
- If the beneficiary is a \_\_\_\_\_ or a \_\_\_\_\_

The dividend tax should be declared and paid by \_\_\_\_<sup>th</sup> of the month that follows the month in which the dividend is paid (art. 43, (1) (2) and (3)).

In cases where distributed dividends are not paid by the end of the year in which the annual financial statements have been approved, the tax on dividends shall be paid by \_\_\_\_\_, next year (art. 43, (3)) if by payment date all conditions for exemptions are not fulfilled.

 Now it is time for you to check your understanding. Note your answers to the quiz:

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.



## Lesson 12 Employers' mandatory social contributions

### Illustration 1: Work insurance fund

Even though companies are, by definition, employers, by employer we understand any person (legal person or individual, resident or non-resident) who has employees as long as the employees are working or are in medical leave.

The companies are responsible to compute, withhold (in some cases), declare and submit to the State Budget:

- Their own \_\_\_\_\_
- The tax on incomes paid to \_\_\_\_\_ and
- The tax and the MSCs on income paid to \_\_\_\_\_ and
- The employer \_\_\_\_\_

For your exam, the only employer's mandatory social contribution (MSC) is the work insurance fund.

The rate for work insurance fund is 2.25% and it is given in exam.

It is important to note that MSCs are due also for employees working in IT, research and development and those with severe disabilities whose incomes are not taxable.

Another duty of company regards the \_\_\_\_\_ and \_\_\_\_\_ to be withhold from the "incentives offered" in form of money/other benefits in kind to persons which are not their employee.

Here we might have 2 cases:

- A company paying directly such "incentives" to another company's employee – in this instance the company \_\_\_\_\_ must compute and hold income tax and MSCs for this income
- A company paying such "incentives" to another company's employee through their employer – in this instance the \_\_\_\_\_ must compute and hold income tax and MSCs for this income

### Illustration 2: Computation base for MSC's purposes

By general rule, all the mandatory social contributions are computed by applying the corresponding percent to the sum of gross salaries/assimilated salaries earned by their employees (art. 139) adjusted with the value of any tickets/vouchers given in accordance with the law (art 140, 141 and 142 – for SSF; art 157 (2) – for HCIF and art 220<sup>4</sup> (2) – for WAF)

So:

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Computational base for MSC = \_\_\_\_\_

And:

For employer: monthly  $ECB_{MSC}$  = \_\_\_\_\_

If a company has 10 employees:

In June, each employee earned a basic salary of 4,000 Lei, and meal tickets of 20 lei/each working day except one employee who has been in medical leave 5 working days and who's gross salary was 3,000 lei.

Also, in June each employee received a bonus of 500 lei.

June has 20 working days.

In this instance:



### Illustration 3: Payment and declaration

The employers must compute and withhold the mandatory social contributions (as well as the salary tax) monthly before the payment of salary.

By general rule, payment and declaration of mandatory social contributions have the \_\_\_\_\_ deadline.

The employers must submit monthly declaration for their share of contributions as well as for their employees' share of contributions by \_\_\_\_\_ of the month following the month for which the salaries are paid.

By exception, the withheld tax on salary, individual mandatory social contributions as well as the employer's mandatory social contributions may be submitted to the State Budget and declared to Tax Authorities quarterly by \_\_\_\_\_ of the month following each quarter by the following employers:

- NGOs,
- Profit taxpayers which in previous year realised a turnover below \_\_\_\_\_ Euro and had less than \_\_\_\_\_ employees,

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

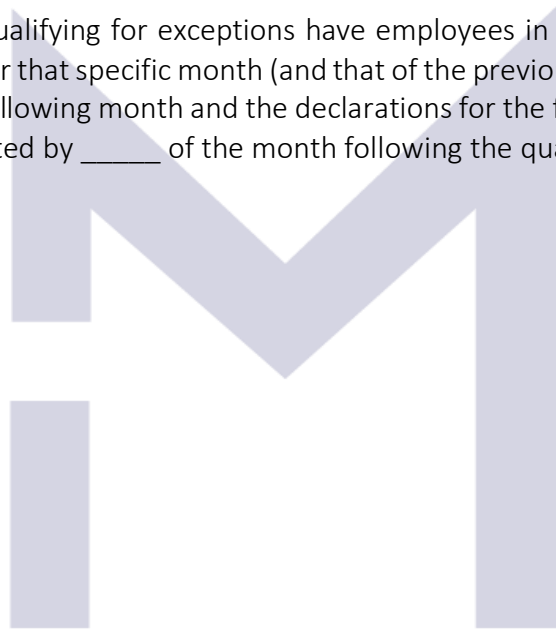
- Small companies which in previous year had less than \_\_\_\_ employees
- Freelancers for their employees,

The entities qualifying for exception must submit their option for quarterly payment and declaration by \_\_\_\_\_ and the exception is applicable starting with the month of January current year.

Those persons, qualifying for exception, must fill in a separate declaration for each month of the quarter which will be submitted by \_\_\_\_\_ of the month following the relevant quarter.

The new registered persons may apply for exception if at registration the estimated turnover for the year of registration is below \_\_\_\_\_ Euro and the estimated average number of employees is up to \_\_\_\_.

In the case the entities qualifying for exceptions have employees in medical leave they must submit the declarations for that specific month (and that of the previous month of that quarter, if any) by \_\_\_\_\_ of the following month and the declarations for the following month(s) of the quarter should be submitted by \_\_\_\_\_ of the month following the quarter.



CONSULTING

## 2 APPENDIX

Tax rates and allowances given in exam, to be used in solving all questions.

### Personal income tax

General tax rate	10%
Charitable giving tax credit limit	3.5%

### Income from employment

#### Benefits

Limit for non-taxable gifts	150 lei/person/occasion
Limit for non-taxable voluntary pension contributions paid by the employer	€400/year
Limit for non-taxable voluntary health insurance paid by the employer	€400/year
Limit for non-taxable per diem allowance	2.5 * public institutions' threshold
The allowance accepted for public institutions' employees for trips within Romania:	20 lei/day/person

Valuation of use of company owned car benefit in kind 1.7%/month

#### Deductions

Deduction allowed for voluntary pension contributions paid by the employee:	€400/year
Deduction allowed for voluntary health insurance paid by the employee:	€400/year

### Personal deduction

The value of personal deduction shall be given in each question.

#### Income from the sale of immovable property owned by an individual

Income	Tax rate
Up to 450,000 lei	0%
Above 450,000 lei	3% of the amount exceeding 450,000 lei

### Income from renting

Lump-sum deductible expenses quota 40%

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Intellectual property income	
Lump-sum deductible expenses quota	40%
Self-employed income	
The limit of deductibility for protocol expenses	2%
The limit of deductibility for compulsory subscription expenses paid to professional associations	5%
The limit of deductibility for subscription expenses paid to professional associations other than compulsory ones	€4,000/year
The limit of deductibility for social expenses	5%
The limit of deductibility for sponsorship expenses	5%
The limit of deductibility of voluntary pension contribution paid for the self-employed person	€400/year
The limit of deductibility of voluntary health insurance paid for the self-employed person	€400/year
Reference interest rate set by the Romanian National Bank for loans denominated in lei	1.5% p.a.
Limit of deductibility for expenses connected to cars not entirely used for business purposes	50%
Investment income	
Tax rate for capital gains from the sale of shares	10%
Tax rate for interest received by individuals	10%
Tax rate for dividends received by individuals	5%
Prize income	
Tax rate for prize income	10%
Non-taxable value	600 Lei/day/prize
Pension income	
Non-taxable pension income	2,000 Lei

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## Corporate income tax

General tax rate	16%
Limits for legal reserve	5% of profit but no more than 20% of share capital
Fixed threshold for deductibility of exceeding borrowing costs	€1,000,000
Variable threshold for deductibility of exceeding borrowing costs	30%
Inflation rate for prepayments of corporate income tax	2.4% p.a.
Maximum value of deductible expenses for subscriptions to non-profit organisations other than those which are compulsory or due to the chambers of commerce and to employers' organisations	€4,000/year
The limit of deductibility for protocol expenses	2%
The limit of deductibility for social expenses	5%
Maximum value of tax credit for sponsorship expenses	20% of the corporate income tax but no more than 0.75% of sales revenue
Limit of deductibility for expenses connected to cars not entirely used for business purposes	50%
Corporate income tax for very small companies	
Turnover threshold	€1,000,000
Tax rate:	
No employees	3%
1 or more employees	1%
Sponsorship deduction	20%
Straight-line depreciation periods (for tax and accounting purposes)	
Class of asset	Period in years
Buildings	50
Machines and equipment	10
Computers and printers	3
Cars*	5
Computer programs	3

\* Limited to maximum 1,500 Lei/month

Note: The straight-line depreciation method for the above periods should be used in all cases, except where a question specifically indicates another method and/or period is to be used.

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

The minimum value of an asset for tax depreciation purposes is 2,500 lei.

### Tax on dividends paid to legal persons

For dividends paid to legal persons resident in  
Romania, EU or EFTA countries:

5% or 0%

For dividends paid to other non-residents

5%

### Social security, health care insurance and work insurance contributions

Persons obtaining employment revenue

Employee

Employer

Social security fund

25%

Health care insurance fund

10%

Work insurance fund

-

2.25%

Persons obtaining revenue other than employment

Social security fund

25%

Health care insurance fund

10%

Minimum monthly salary

2,300 Lei

Note: These rates should be used in answering the questions, irrespective of the time period the questions refers to.

CONSULTING

### Value added tax (VAT)

Standard rate

19%

Reduced rates

9% and 5%

Annual threshold for VAT registration

300,000 Lei

Annual threshold for a monthly tax period

€100,000

Annual threshold for applying the cash accounting scheme

4,500,000 Lei

Threshold for VAT registration for Intra-EU acquisitions of goods

34,000 Lei

Limit of non-taxable protocol gift in goods

100 Lei/gift

**NOTE:** Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

Limit of non-taxable goods and services offered as sponsorships:	0.3%*turnover/year
Limit of deductibility of VAT of expenses connected with cars not Entirely used for business purposes	50%

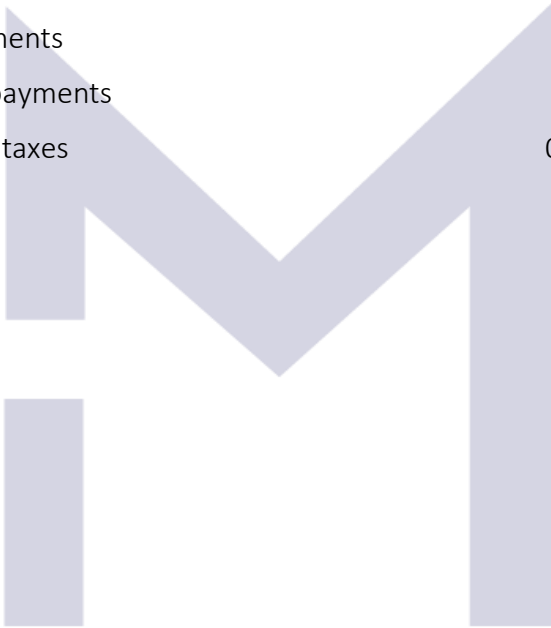
Exchange rate

Euro/Lei €1 = 4.9 Lei

Note: This rate should be used in all cases except where a question specifically indicates another rate is to be used.

Interest and penalties

Interest rate for late payments	0.02%/day
Penalty level for late tax payments	0.01%/day
Penalty for non-declaring taxes	0.08%/day or 0.02%/day



CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.



### 3 INDEXES OF TERMS

annual computation .....	43	quarterly computation.....	44
assimilated incomes/expenses.....	8	re-invested profit.....	29
depreciation methods .....	25	revaluation of fixed assets .....	27
dividend.....	55	revaluation reserve.....	20
Double Taxation Treaty (DTT).....	38	small companies' tax scheme .....	50
Employers' Mandatory Social Contributions .	56	small company.....	50
excessive loan's expense .....	21	sponsorship .....	13
fixed assets .....	23	tax credit.....	40
legal reserve .....	18	tax deductible expenses .....	12
limited deductible expenses.....	14	tax loss .....	29
loan's expense .....	21	tax on representative office.....	40
micro-enterprise.....	50	tax returns .....	43
non-deductible expenses .....	12	tax year .....	5
permanent establishment .....	37	Transfer pricing adjustments.....	9
provisions .....	19		

CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.

## 4 Bibliography

- The syllabus for ACCA Romanian Taxation exam for June & December 2022 published on [accaglobal.com](http://accaglobal.com)
- Law 227/2015 “Fiscal Code” updated as at 30th September 2021
- Norms for the application of Fiscal Code
- Law 207/2015 “Fiscal Procedures Code” updated as of 30th September 2021
- Previous years ACCA Romanian Taxation’s examiner comments
- Previous years ACCA Romanian Taxation exams



CONSULTING

NOTE: Unless otherwise stated all references from this study book are from the Fiscal Code (noted FC) as at 30 September 2021.