

Impact of the changes on the regulation substance on the tax residence of shareholders, directors, administrators and executives of multi-national entities

March 9th, 2017



Agenda

- Conditions
- Implications of the Tax Treaty for Avoidance of Double Taxation concluded between Greece and Romania
- Questionnaire for establishing the tax residence at arrival/ departure in/ from Romania
- Implications of the Romanian tax residence status on:
 - Employment income
 - Other income
- Changes 2017- income tax and social security contributions

Conditions

- An individual is considered Romanian tax resident if he/she fulfills at least one of the following conditions (the conditions are noncumulative):

a) he/she has the domicile in Romania (RO Identity Card)

b) he/she has the center of vital interests in Romania;

c) he/she is present in Romania for a period/ periods that exceed in total 183 days in any 12 consecutive months that end in the calendar year concerned

Center of vital interests

- Center of vital interests- the place where the personal and economic ties of an individual are stronger
 - Family (spouse; children);
 - Dependent persons;
 - Membership in charitable/religious organizations;
 - Participation in cultural events;
 - Romanian employer;
 - Business activity in Romania;
 - Real estate in Romania;
 - Bank accounts in Romania;
 - Credit/ debit cards at banks in Romania.

Center of vital interests (cont')

- If a **Romanian tax nonresident fulfills one of the following conditions: center of vital interests and/or the period of presence in Romania:**
 - he/she becomes liable to Romanian income tax on worldwide income (i.e. from Romania and from outside Romania), starting the date at which he/she becomes Romanian tax resident (Fiscal Code entered in force starting 2016)

Exception:

- He/she can obtain a tax residence certificate issued on the basis of the Tax Treaty for Avoidance of Double Taxation between Romania and Greece.

Exception of worldwide income taxation

Before 2016	After 2016
<p>2012- 2015: starting with the date of 1 January of the calendar year following the year in which he/she becomes tax resident.</p> <p>Before 2012: if a Romanian tax nonresident fulfills one of the conditions for 3 consecutive years, he/she becomes liable to Romanian income tax on worldwide income starting with the fourth fiscal year.</p>	<p>Starting the date at which he/she becomes Romanian tax resident.</p>

Implications of the DTT concluded between Greece and Romania

- According to the DTT between GR and RO, the individual is resident in both countries, as per local legislation, the fiscal status will be determined based on:
- Permanent home at his/her disposal;
- Center of vital interest;
- Habitual abode;
- Nationality;
- Mutual agreement between countries

Questionnaire for establishing the tax residence at arrival/ departure in/ from Romania (mandatory)

- **Questionnaire for establishing the tax residence at arrival in Romania** –individuals that arrive in Romania and stay more than **183 days** in any 12 months that end in the calendar year concerned (together other documents). Should be filled-in in 30 days term of fulfillment of the 183 days of presence in Romania;
- **Questionnaire for establishing the tax residence at departure from Romania** individuals that leave Romania for more than **183 days in any 12 months**. Should be filled-in within 30 days before the departure from Romania;

Questionnaire for establishing the tax residence at arrival/ departure in/ from Romania (mandatory)- cont'



- The authorities are providing the feedback in 30 days from the date of submitting of the arrival questionnaire; 15 days from the date of submitting the departure questionnaire

Documentation:

- Arrival: copy of passport, foreign ID card; copy of the registration certificate from Romania; document that attests the address from Romania; tax residence certificate from Greece, issued on the basis of the Tax Treaty etc.
- Departure: tax residence certificate from Greece issued on the basis of the Tax Treaty; any other relevant documentation.

Implications of the Romanian tax residence status on income obtained from Romania and abroad

- Employment income
 - Assignment contract: taxable according to DTT
 - Local contract (eg. employment, mandate for administrator, etc): taxable according to Fiscal Code and Labor legislation
- If an A1 certificate from Greece is available, no social security contributions are due in Romania, but form 603 should be submitted in case of other income

Employee

Health insurance (5.5%)	Social security contribution (10.5%) ²	Unemployment fund (0.5%)
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Employer

Health insurance (5.2%)	Social security contribution (15.8%)	Unemployment fund (0.5%)	Leave and indemnity contribution (0.85%) ¹	Salary guarantee fund, based on local employment contract (0,25%)	Contribution for accidents at work and occupational diseases (0.15%-0.85%) ²
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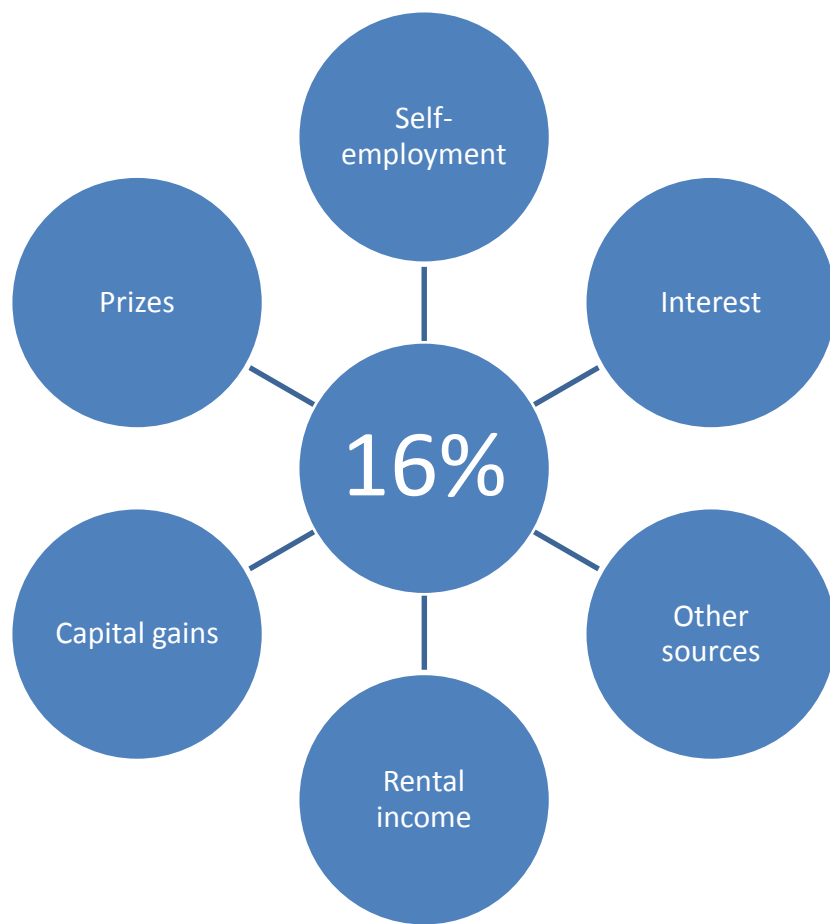
¹ Capped 12 times the minimum gross salary (i.e. RON 1,450 for 2017)

² The contribution varies between 0.15%-0.85%, according to the company's code of NACE

Assignment contract conditions

- According to DTT RO- GR, if he/ she is a Greek tax resident, the income for activity performed in RO by an employee is taxable if:
 - The individual is present in Romania more than 183 days in the tax year;
 - The income is paid by or on behalf of a Romanian tax resident;
 - The income is borne by a permanent establishment or a fix base that the employer has in Romania.
- According to Fiscal Code provisions, there are considered nontaxable the following elements:
 - relocation expenses;
 - accommodation;
 - per-diems;
 - training;
 - **transportation.**

Other income- rates



Other rates:

- **Dividends** – 5% (legislative change 2016)
- **Gambling**: between 1% and 25%;
- **Income from transfer of real estate**: 3% after deducting from the value of transaction the nontaxable amount of RON 450.000 (legislative change 2017)

Declaring and payment

- Depending on the income obtained and the tax residence status (ex. capital gains, dividends, interest etc.), the individual may have the obligation to submit a Romanian annual tax return, until **25 May of the year for the previous year** (ex. 25 May 2017 for 2016).
- The income tax due is paid in 60 days from receiving the tax assessment.



Questions



Contact us

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