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## **Representative offices of foreign companies in Romania**

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### **Summary**

*In order to promote commercial interests in Romania, foreign companies and economic organizations can establish a representative office in Romania. Representative companies and foreign economic organizations operate in Romania under an authorization procedure established by the Ministry of Economy, Trade and Tourism. These institutions unfold activities on behalf of the companies they represent, often having an intermediary role between foreign companies and partners in Romania.*

Foreign legal entities can set up their representative offices, authorized to operate in Romania. At the same time, foreign companies or economic organizations can be represented in Romania, on contract, and by specialized Romanian offices, including those set up on their own initiative. In general, foreign companies set up offices in Romania for local market research purposes, promoting products or prosecution of contracts concluded with Romanian partners. Representation cannot carry out production activities, provision of services or works.

Representative offices have neither the quality of legal entity or are entitled to perform acts of trade, and, therefore, should not be confused with subsidiaries of foreign companies in Romania. They carry out in the name of the company or foreign economic organization only activities and legal acts in accordance to the activity object established by the authorization of operation. Companies and foreign economic organizations represented are responsible for the acts and activity of their representative offices in Romania.

Services for preparation and formalities necessary for establishment and operation of representative offices in Romania can be provided at the request of the company or foreign economic organization, also by the Chamber of Commerce and Industry of Romania or other authorized bodies.

Representative offices and staff operate lawfully in Romania. Staff representatives may contact directly any foreign trade or productive enterprise, institution or authority, to discuss issues related to their activity object, in compliance with the regulations in force at the time.

It is important to note that during the period of time in which a Romanian citizen works for a representative office he / she may not receive another function in a unity government established in Romania.

### **➤ Granting of authorization to representative offices in Romania**

Permits for operation of representative offices of foreign companies and economic organizations shall be issued, on their request, by the Ministry of Economy, Trade and Tourism.

In order to obtain authorization, foreign economic company or organization requesting an authorization of representation will mention in the request to the Ministry of Economy, Trade and Tourism, the following things<sup>1</sup>:

- a) the registered office;
- b) the subject of the representative activity, consistent with the object of activity of the company or economic organization;
- c) functioning duration of the representative offices;
- d) number and functions of the persons proposed to be within the representative offices, and, if foreign, their name, surname and residence abroad, mentioning their functions in the company or economic organization and representation.

At the request of issuing the authorization, one shall attach the following documents<sup>1</sup>:

- a) a certificate in original from the Chamber of Commerce or other competent authority of the country where the company is headquartered or foreign economic organization confirming its legal existence, the object of activity and its social capital;
- b) a confirmation from the bank on the creditworthiness of the company or organization by which it carries out its main financial operations;
- c) status or other documents proving their form of organization and operation modality of the company or organization;
- d) the credentials authenticated on the appointed representative offices named to hire the company, respectively the organization that has applied for authorization.

Operating authorization sets out the object and conditions for exercising the activity, duration and headquarters of the representative office.

Any changes that may occur in the legal status of foreign firms represented in Romania shall be communicated to the Ministry of Economy, Trade and Tourism within 30 days, requesting modification of the operating license.

#### ➤ **Withdrawn of representative offices in Romania**

The operating authorization may be withdrawn by the Ministry of Economy, Trade and Tourism before expiry of validity, in the following cases:

- a) violation by the staff of representative office of legal provisions in Romania on public policy;
- b) exceeding the object of activity established by authorization;
- c) failure to comply with tax obligations.

In this situation, the Ministry of Economy, Trade and Tourism will notify the abroad company and the representative offices in Romania of the withdrawal of the authorization, granting a deadline of 90 days to liquidate the business.

#### ➤ **Tax Registration**

Within 15 days after the issuance of the authorization, the tax representative is obliged to register with the tax office in whose jurisdiction it is headquartered by the registration statement 010<sup>2</sup>

At the same time, both for the establishment and the dissolution of a representative office, it will make a “Fiscal declaration on the establishment or abolition of a representative office during the fiscal year” at the competent tax authority within 30 days of the date on which the representative office was established or abolished<sup>3</sup>. Within 30 days from the submission of the tax return, the territorial tax authority establishes or recalculates the tax

<sup>1</sup> Decree-Law no. 122/1990 on the authorization and operation in Romania of representative offices of companies and foreign economic organizations

<sup>2</sup> Decree-Law no. 122/1990 on the authorization and operation in Romania of representative offices of companies and foreign economic organizations

<sup>3</sup> Law no. 571/2003 on the Fiscal Code, as subsequently amended and supplemented

due for the period in which the representative office will unfold or will cease its activity, as appropriate.

➤ **Calculation of tax on representative offices**

For the activity unfolded in Romania, representation offices are required to pay taxes and duties established under the dispositions of Title V of Law no. 571 / 2003 on the Tax Code.

In accordance with the above-mentioned legal provisions, the tax accounted for a fiscal year is equal to the equivalent in LEI of the amount of EUR 4,000, established for a fiscal year, at the exchange rate of the currency market communicated by the National Bank of Romania, valid for the day in which the payment of tax is done.

If the representative office is established or abolished during a fiscal year, the tax payable for this year is calculated proportionally to the number of months of existence of representative office in that fiscal year.

For representative offices that are established or abolished within a month of the taxation year, the tax for the taxation year is calculated proportionally to the number of months of existence of the representative offices in that fiscal year. Thus, for representative offices to be established within a month, the tax for the taxation year is calculated from the 1<sup>st</sup> of the month in which the representation was established until the end of that year. If the representative offices are abolished during the year of taxation, the annual tax is recalculated for the period of activity from early January until the 1<sup>st</sup> of the month following that in which the representation dissolution took place.

The payment of tax on a representative office is divided into two equal installments of 2,000 euros each until the dates of 25 June and 25 December.

The tax payable on the 25<sup>th</sup> of June by the representative offices that are established in the first semester of the year is proportional to the number of months of activity made by the representative office during the I<sup>st</sup> semester. For the second semester, the tax representing the equivalent in lei of the amount of EUR 2,000 will be paid until December 25, included.

➤ **Tax returns**

Foreign legal persons who owe tax on representative offices shall submit the “Annual statement on tax representative offices” at the competent tax authority, until the 28<sup>th</sup>, respectively 29<sup>th</sup> of February of the year of taxation.

Annual tax declarations and tax declaration, in case of establishment or abolition of representative offices during the year may be submitted on behalf of foreign legal entities and the representative of the representative office at the territorial tax authority where the representative office operates.

**EXAMPLE**

A foreign company wishing to establish a representative office in Romania in order to promote its products, which will operate from April. In order to obtain authorization, one will submit an application with the documents attached to the Ministry of Economy, Trade and Tourism. The permit will be issued within 30 days.

Within 15 days after the issuance of the authorization, the tax representative office is obliged to register within the tax office in whose jurisdiction it is established the headquarter by the registration statement 010.

Within 30 days, one will fill the “Tax declaration on the establishment of a representative office during the fiscal year” within the fiscal body in whose territorial jurisdiction the representative office operates.

The fiscal authority will calculate and communicate within 30 days the tax established for the period in which the representative office will work, respectively as of April 1.

In this case, the tax is calculated as follows:

Euro 4.000: 12 months x 9 months (April-December) = 3.000 euro annual tax. The annual tax of EUR 3.000 will be paid as follows:

- 1.000 euro until June 25, inclusively,
- 2.000 euros until December 25, inclusively.

Conversion of amounts payable in lei is done at the exchange rate prevailing on the day the tax is paid to the state budget.

➤ **Organization and management of accountancy by representative offices**

Depending on their own needs, representative offices can keep single or double entry accounting. Costs incurred in pursuit of representation are justified by the accounting documents under the law. If the representative offices vote for double entry accounting, they organize and lead their own accounts at trial balance without preparing financial statements under accounting regulations compliant with European directives<sup>4</sup>.

**Bibliography**

- 1) Law no. 571 / 2003 on the Fiscal Code, as amended and supplemented;
- 2) G. D. no. 44 / 2004 for the approval of the Methodological Norms for applying the Law no. 571 / 2003 on the Fiscal Code;
- 3) Decree-Law no. 122 / 1990 on the authorization and operation in Romania of representative offices of foreign companies and economic organizations;
- 4) O.M.F.P. no. 1230 / 2006 on the organization and management of accountability by representative offices;
- 5) The application of conventions of double taxation avoidance concluded by Romania with other states, M. Antonescu, L. Antonescu, Sitech Publishing House, Craiova, 2014

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<sup>4</sup> O.M.F.P. no. 1230 / 2006 on the organization and management of accountability by representative offices