

NEWSLETTER no. 2/2018

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ROMANIA

Tax registration of non-residents obtaining revenues subject to withholding tax

REFERENCE: LAW 207/2015 - TAX PROCEDURE CODE

Through this newsletter we remind you of the requirement of any person or entity subject to a legal fiscal relationship to register for tax purposes in Romania. We have detailed this subject in our previous Newsletter, no. 6/2017.

<p>WHO HAS THE OBLIGATION TO REGISTER</p>	<p>Non-resident individuals and legal entities have the obligation to register for tax purposes if they derive from Romania income subject to withholding tax, such as:</p> <ul style="list-style-type: none"> • dividends, • interest, • royalties, • commissions, • income from services rendered in Romania, • income from independent activities, • income from consultancy or management services rendered both on Romanian territory and abroad, • remuneration received by foreign legal entities acting as administrators or members of the board of a Romanian company, • income from liquidation proceeds. <p>The obligation to register is also maintained if the income from dividends, interests or royalties is tax exempted according to the European law provisions (participation exemption).</p>
<p>REGISTRATION METHOD</p>	<p>Tax registration is made by submitting to the tax authorities the form 015 "Taxpayer registration form for non-residents taxpayers with no permanent establishment in Romania" by the non-resident legal entities, and form 030 "Taxpayer registration form for natural persons without a personal identification number" by the non-resident individuals.</p> <p>The tax registration request - form 015 and form 030, must be accompanied by supporting documents regarding the incomes obtained in Romania, for example contracts for the services rendered, management contracts, loan agreements etc.</p> <p>The obligation to register for tax purposes rests with the non-resident. However, the Romanian income payer is allowed to request the tax authority, on behalf of the nonresident and based on its agreement, to grant the Fiscal Identification Number (NIF). In this case, the income payer will submit same documents previously mentioned, without the requirement of presenting a power of attorney from the non-resident.</p>

<p>THE OBLIGATION OF THE INCOME PAYER – FORM 207</p>	<p>The Romanian legal entity paying the income has the obligation to declare annually the incomes obtained by the non-residents and the taxes withheld through the form 207 “Informative statement regarding the tax withheld/ exempt income, for non-resident income beneficiaries”. The statement will also contain all non-resident identification data, including the Fiscal Identification Number in Romania. Please note that this is mandatory information in the absence of which the statement cannot be submitted.</p> <p>The form 207 has the deadline for submission the last day of February of the current year for the previous year. Being included in the category of informative statements, missing submission is sanctioned by a fine of RON 12,000 to RON 14,000 for medium and large taxpayers, respectively by a fine of RON 2,000 to RON 3,500 for small taxpayers.</p>
<p>RECOMMENDATIONS</p>	<p>Although the obligation of non-residents to register for tax purposes in Romania is very old, until last year the lack of registration had no tax consequences for the Romanian legal entities paying the income. This was also the last year when it was possible to file the form 207 without providing the Romanian Fiscal Identification Number of the non-residents.</p> <p>Therefore, we recommend to all Romanian legal entities which perform payments to non-residents for the types of incomes previously mentioned, to request from the latter to register for tax purposes in Romania or to obtain their agreement to be registered by the Romanian income payer.</p>

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