

## Registration for VAT purposes in Romania

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Some companies can – or, depending on the situation, even must, get registered for VAT purposes in Romania. The registration procedures for taxpayers headquartered in Romania are summarized hereinafter.

### The “usual” registration for VAT purposes

Legal basis is to be found in Art 316 (1) of the Fiscal Code, which provides the obligation to register for VAT purposes when the threshold for small sized companies (annual turnover of 300.000 RON) is exceeded. In this case, the registration must be initiated within 10 days following the end of the month in which the threshold was exceeded. In case such threshold is not exceeded, the registration is optional.

The procedure used to be problematic in the past and required considerable time and efforts to prove the ability and intention of performing commercial activities. In the past few years, it has been made easier, and the documents to be attached to the registration request were reduced.

At present, the Romanian Tax Administration (ANAF) only asks for a registration request and a few proofs depending on the legal status of the requester, on the time at which the VAT number is requested, as well as on whether the registration is made optionally or as a result of having reached the threshold.

The communication of the VAT number to the tax payer is made, however, only after a thorough analysis on the part of the authorities, aimed at assessing if the tax payer is inactive or if there are other circumstances applicable that would ask for a cancellation of the VAT No. In the latter case, the VAT No is cancelled immediately, and the tax payer receives in addition to its VAT registration certificate also the decision for the cancellation of its VAT No.

The criteria applied by the Romanian Tax Authority (ANAF) for the assessment of the fiscal risks of tax payers, which are regulated in Annex 1 of the Government Decision No. 340/30.04.2020, remain unchanged. The most important criteria refer to the following:

- **Seat** – a mailbox seat, a seat declared at a lawyer/ freelancer, as well as a seat rented for a short period of time (less than a year) generate an increased fiscal risk.
- **Insolvency, entries in the tax clearance certificate** – if a shareholder and/or managing director of the applicant has the capacity of shareholder and/or managing director in a different company, the assets of which are subjected to insolvency or bankruptcy procedures, this will pose problems for the risk assessment of the applicant. The same applies if the shareholder, managing director or applicant themselves have personal records in the tax clearance certificate.
- **Share capital, fiscal residence of the shareholder/ managing director** – in case the share capital lies above 45.000 RON and at least one managing director is a Romanian citizen, there will be a lower risk related to the tax payer.

- **Further aspects:** a current active account, the electronic submission of tax returns, as well as the existence of employees represent further criteria indicating the ability and the intention to carry out commercial activities and lower the fiscal risks.

### “Special” Registration for VAT purposes

Tax payers that hold no VAT no. based on the usual registration and also have no obligation to register for VAT purposes, but however need a valid VAT no. for intra-community transactions or have the obligation to register due to such transactions can initiate a “special” registration for VAT purposes according to art. 317 of the Fiscal Code.

Based on this special registration, a VAT no will be obtained, which will be valid for intra-community transactions, however not for transactions carried out in Romania. Obtaining this number is similar to obtaining the “usual” VAT No, however it will be communicated solely to contracting partners in the EU. When registering, no risk assessment is performed.

A company may not have two different VAT numbers at the same time. Therefore, if a VAT no. is granted based on the usual procedure, the special one will be cancelled.

### Assessment

Despite certain measures taken for making the procedures easier, there are still certain practical difficulties. Therefore, taxpayers should assess the situation they are in before applying for a VAT no. in order to avoid inconveniences resulting from high risks.

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