



Are you familiar with all the aspects and the latest developments regarding the taxation of income received by non-residents from Romania? Do you know the potential withholding tax (WHT) risks and opportunities for your own company further to the EU accession? PwC can assist you all the way.

As you know...

A general 16% WHT rate is applicable under the Romanian Fiscal Code for payments made to non-residents in respect of:

- Dividends;
- Interest;
- Royalties;
- Services if they are rendered on Romanian territory;
- Management and Consultancy services, irrespective of where they are rendered;
- Commissions, etc.

This domestic rate may be reduced subject to the application of the double tax treaty (DTT) concluded between Romania and the country of residence of the beneficiary of income. Specific requirements provided by the Romanian legislation should be observed.

But how can you be sure that:

- you benefit of the reduced WHT rate?
- your interpretation of the WHT rules is correct?
- you comply with the documentation requirements?

Based on our extensive experience, we consider that the WHT on income earned by non-residents from Romania can become an issue. The year 2007 has come with clarifications of the interpretations of the

Romanian Tax Authorities with respect to WHT documentation.

Are you in this position?

- Your non-resident business partner cannot present you his tax residence certificate.
- The tax residence certificate is not available at the moment when the payment is made.
- You have no confirmation that the form and substance of the documentation attesting the tax residence will be accepted by the Romanian Tax Authorities.
- You need to protect your company against the double penalty triggered by the gross-up procedure.
- You want to initiate an action in order to obtain the residence documents retroactively and to assess your chances for a WHT refund.
- You need to analyse the nature of services and assess the difference in WHT treatment in respect of payments with double components (i.e. supply of know-how / provision of services).
- You need to analyse the character of payments performed in case of transactions involving computer software.

Withholding Tax Quick Scan

New! Clarifications in 2007 on WHT documentation

PricewaterhouseCoopers points out for you the saving opportunities



How can PwC assist you?

1. Help you identify potential exposures by:

- reviewing the agreements concluded by your company with non-residents,
- reviewing WHT payments and
- reviewing available tax residence documentation.

2. Suggest course of action to mitigate the identified WHT risks by:

- assisting in producing back-up documentation to substantiate the nature of the payments described under the agreement, in order to minimize the risk of improper classification for WHT purposes;
- providing advice on tax residence documentation format, liaise with PwC offices in the other countries to assist obtaining proper documentation, maintain relation with Romanian tax authorities for

feedback regarding the validity of the documentation obtained;

- suggesting amendments to contracts to increase protection of the Romanian beneficiary of services in case the non-resident does not provide the necessary residence documents within the required terms;
- suggesting amendments to payment conditions (gross versus net), in order to alleviate the risk of having to apply the higher domestic WHT rate and considering the related expenses as non-deductible for profit tax purposes.

3. Assistance for refunds:

- assess whether you paid WHT in excess;
- assess whether the rate can be reduced by obtaining a fiscal residency certificate for the period;
- file the refund claim;
- liaise with the tax authorities and monitor cash repay.

In view of a future collaboration, we are available for an initial meeting at your earliest convenience in order to identify the nature and extent of the WHT exposure in your company. Our methodology for the quick scan would be to have an interview in order to make an inventory of all payments subject to WHT and identify whether and which documentation is in place. On the base of this inventory we will report you of any issues you may have including suggesting an action plan. Subsequently we may be assisting you with implementation.

Please contact:

Peter Deruiter
Tax Partner

Alina Rafaila
Tax Senior Manager

PricewaterhouseCoopers Romania
Opera Center I
1-5, Costache Negri Street
Bucharest 5, Romania

Telephone: +40 21 202 8500
Facsimile: +40 21 202 8600
Email: name.surname@ro.pwc.com