



## EMERGENCY LEGAL KIT FOR BUSINESS SERIES

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### Romania – striving to become a better host for R&D investments

#### 1. Background

Although ranked as a “modest innovator” by the European Commission and having one of the lowest research and development (“R&D”) intensities among the EU member states, Romania has targeted substantial growth and improvements in this sector for the year 2020.

While at the moment Romania dedicates 0.5% of its GDP to R&D activities, the percentage is set to increase to 2% in the next thirteen years. Legal changes and fiscal stimulants will also help to grow R&D activities along with a sustained program of State aid, with the greater goal of creating an efficient framework for the establishment of functional public and private research and development facilities.

Historically, Romanian research centres were developed close to the major technical universities and in support of the state-run enterprises. While universities have to some extent retained their educational capabilities after the 1989 revolution, the wave of privatizations that hit the Romanian industry in the 90s and early 2000s affected research centres, which had to shut down following a drastic reduction in state funding and low investor interest.

It is only recently that major companies have started to establish R&D centres in Romania. However, the shy increase in R&D developments in the private sector has been affected by a severe talent shortage, as numerous young researchers prefer the

option of working abroad – statistically, Romanian researchers have one of the lowest income levels in the EU.

It is in this context that Romania has taken several steps to increase Romanian R&D intensity, as briefly detailed below.

## **2. Labour incentives**

In order to increase net earnings of R&D personnel and make domestic employment opportunities more attractive, as of August 2016 Romania adopted an income tax exemption for natural persons, for income obtained from salaries as a result of undertaking applied research and technological development.

In order to benefit from the incentive, the personnel have to be assigned to a separate R&D department (belonging to either a public or private organization) and the salaries have to be part of a budgeted research project.

One drawback of the initiative is that scientists undertaking fundamental research (such as those working with genetics, lasers, nuclear technology) do not benefit from the tax exception.

## **3. Fiscal incentives**

Recent changes to the Romanian Fiscal code exempt companies undertaking exclusively innovation and R&D activities from income tax (16%) for a period up to 10 years, subject to meeting all State aid requirements. The exemption applies to both applied and fundamental research.

Another specific incentive for Romanian companies undertaking R&D activities is the ability to deduct R&D expenses in an amount amplified by 50%, along with the possibility to apply the accelerated depreciation method to specific R&D equipment.

Both individual research and collaborative partnerships / joint ventures qualify for this latter incentive. Such activities can be conducted based on a cost allocation agreement within the group of companies, provided that the beneficiaries have full rights to use the research results in their activities. The activities may be carried out for internal company research use or for the benefit of a third party under specific research works agreements. This incentive targets only applied research and technological development, while excluding a list of activities in the field of social sciences and humanities, quality control, feasibility studies, etc.

#### **4. Reinvested profit**

Romanian companies benefit from an income tax exemption for profits reinvested in new technological equipment, computers and peripheral equipment, machines and cash registers, control and billing devices.

Starting 2016, the list of above tax exemptions was expanded to include off-the-shelf and custom software, meaning researchers contracting a software development company to provide testing and data analysis applications may directly lower their taxable income with such investments.

However, the income tax exemption for the reinvested profit and the incentive related to the method of accelerated depreciation are mutually exclusive – a company can only benefit from one such incentive.

#### **5. State aid for R&D**

Romania has also been making a persistent progress in granting funds to research and development projects. Since the European acquis allows exceptions to state-aid approval obligations for certain R&D research areas, around 14 such state-aid schemes have been approved in 2015 alone.

Currently, research activities are being financed under the Third National Research and Development Plan 2015-2020 which has a budget of RON 15 billion (approximately EUR 3.333 billion) comprising financing from the state budget, EU funds and related treaties and partnerships.

Although each scheme is governed by specific rules and comprises different eligibility conditions, State aid is usually awarded under grants in the form of non-refundable financial assistance in one or more instalments. The funding is awarded by reimbursing of the eligible costs according to the financing agreement, without exceeding the specific per project state aid intensity.

#### **6. Intellectual property**

Apart from the above-mentioned measures, Romanian companies investing in R&D have for some years benefited from a well-established legal framework governing IP rights.

Thus, an individual or company may file for national patent, which can be awarded with minimal formalities, namely, for any invention which has as object a product or a procedure, in any technological areas, provided that it is a new invention, it implies a creative activity and is susceptible of industrial application. The duration of the patent is usually 20 years from the moment of the deposit date. Romanian legislation also covers

comprehensive rules regarding company patents resulting from an employee's research work.

Industrial design and models are also protected at a national level and international protection is recognized at the national level.

The general trend is to integrate the Romanian national patent system into the EU IP rights protection framework, while at the level of the European Union the legislation pertaining to a unified European patent awaits in the final stages of approval.

## **7. Conclusion**

While retaining a strong academic background, Romania has suffered from a severe brain-drain in the post-revolutionary years, in conjunction with the closure of numerous former state research and development centres.

It is only recently that Romania has started leveraging its position as an EU member in order to attract R&D grants and increase the percentage of the GDP allotted to research.

While certain private investors have been slowly raising their R&D expenditure level in Romania, the Government has set up numerous fiscal incentives to encourage spending and make research jobs more attractive.

However, much remains to be done over the next several years in terms of grant absorption and aligning the legislation to allow an inflow of researchers back into the country.

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