

Fundamentals Level – Skills Module

Taxation (Romania)

Tuesday 4 December 2012



Time allowed

Reading and planning: 15 minutes

Writing: 3 hours

ALL FIVE questions are compulsory and MUST be attempted.
Tax rates and allowances are on pages 2–5.

Do NOT open this paper until instructed by the supervisor.

During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.

This question paper must not be removed from the examination hall.

The Association of Chartered Certified Accountants

Paper F6 (ROM)

ACCA

SUPPLEMENTARY INSTRUCTIONS

1. Calculations and workings should be made to the nearest lei, unless instructed otherwise.
2. All apportionments should be made to the nearest month.
3. All workings should be shown.

TAX RATES AND ALLOWANCES

The following tax rates and allowances should be used when answering questions.

Personal income tax

General tax rate 16%

Income from employment

Benefits
 Limit for non-taxable gifts 150 lei/person/occasion
 Limit for non-taxable voluntary pension contributions paid by the employer €400/year
 Deductions
 Deduction allowed for voluntary pension contributions paid by the employee €400/year

Personal deduction

Number of dependent persons for the taxpayer	Monthly gross income (MI) – lei		
	Below 1,000	Between 1,000 and 3,000	Above 3,000
0 persons	250	$250 \times \left(1 - \frac{MI - 1,000}{2,000}\right)$	0
1 person	350	$350 \times \left(1 - \frac{MI - 1,000}{2,000}\right)$	0
2 persons	450	$450 \times \left(1 - \frac{MI - 1,000}{2,000}\right)$	0
3 persons	550	$550 \times \left(1 - \frac{MI - 1,000}{2,000}\right)$	0
4 persons and more	650	$650 \times \left(1 - \frac{MI - 1,000}{2,000}\right)$	0

Note: The value of the personal deduction resulting from the calculation should be rounded up to 10 (e.g. both 212 and 217 should be rounded to 220).

Income from the sale of immovable property owned by an individual

For immovable properties sold in less than three years from their acquisition

Income	Tax rate
Up to 200,000 lei	3%
Above 200,000 lei	6,000 lei + 2% of the amount exceeding 200,000 lei

For immovable properties sold in a timeframe longer than three years from their acquisition

Income	Tax rate
Up to 200,000 lei	2%
Above 200,000 lei	4,000 lei + 1% of the amount exceeding 200,000 lei

Income from renting

Lump-sum deductible expenses quota 25%

Copyright income

Lump-sum deductible expenses quota for:	
– monumental works of art	25%
– other	20%
Tax rate for withheld prepayments	10% or 16%

Self-employed income

The allowance accepted for public institutions' employees	13 lei/day/person
The limit of deductibility for protocol expenses	2%
The limit of deductibility for compulsory subscription expenses	5%
The limit of deductibility for subscription expenses other than the compulsory ones	2%
The limit of deductibility for social expenses	2%
Reference interest rate set by the Romanian National Bank for loans denominated in lei	6.25%
Tax rate for withheld prepayments	10% or 16%

Investment income

Tax rate for capital gains from the sale of shares	16%
Tax rate for interest received by individuals	16%
Tax rate for dividends received by individuals	16%

Prize income

Tax rate for prize income	16%
Non-taxable value	600 lei/day/prize

Pension income

Non-taxable pension income	1,000 lei
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Corporate income tax

General tax rate	16%
Minimum tax applicable to night clubs, discotheques, casinos or sport betting activities	5%
Reference interest rate set by the Romanian National Bank for loans denominated in lei	6.25% p.a.
Maximum accepted interest rate set by the Tax Code for loans denominated in foreign currency	6% p.a.
Inflation rate for prepayments of corporate income tax in 2011	3.2% p.a.
The allowance accepted for public institutions' employees	13 lei/day/person
Maximum value of deductible expenses for employees:	
– voluntary pension contributions	€400/tax year/employee
– private healthcare insurance contributions	€250/tax year/employee
Maximum value of deductible expenses for subscriptions to non-profit organisations other than those which are compulsory or due to the chambers of commerce and to employers' organisations	€4,000/year
The limit of deductibility for protocol expenses	2%
The limit of deductibility for social expenses	2%
Maximum value of tax credit for sponsorship expenses	20% of the corporate income tax but no more than 3‰ of sales revenue

Corporate tax for very small companies

Tax rate 3%

Straight-line depreciation periods (for tax and accounting purposes)

Class of asset	Period in years
Buildings	50
Machines and equipment	10
Computers	3

Note: The straight-line depreciation method for the above periods should be used in all cases, except where a question specifically indicates another method and/or period is to be used.

Tax on dividends paid to legal persons

For dividends paid to legal persons resident in Romania, EU or EFTA countries 16% or 0%
For dividends paid to other non-residents 16%

Social security and other insurance contributions

Employed persons

	Employee	Employer
Social security fund	10.5%*	20.8%**
Healthcare insurance fund	5.5%	5.2%
Unemployment fund	0.5%	0.5%
Work accident fund	–	0.15%–0.85%***
Health insurance indemnities fund	–	0.85%
Fund for guaranteeing salary payments	–	0.25%

Contributions withheld from income for persons with professional activities

Social security fund	10.5%*
Unemployment fund	0.5%*

Contributions payable directly by the persons with professional activities, where applicable

Healthcare insurance fund	5.5%
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Self-employed persons

Social security fund	31.3%
Healthcare insurance fund	5.5%
Unemployment fund	1%
Work accident fund	0.15%–0.85%***
Health insurance indemnities fund	0.85%

Medium monthly earnings	2,022 lei
Minimum monthly salary	670 lei
The limit of gifts to which social contributions do not apply	150 lei/person/occasion

* The taxable base shall not exceed 5 times the medium monthly earnings

** The taxable base shall not exceed 5 times the medium monthly earnings multiplied by the number of employees

*** The exact value will be specified in the question, where necessary.

Note:

These rates should be used in answering the questions, irrespective of the time period the question refers to.

Value added tax (VAT)

Standard rate	24%
Reduced rates	9% and 5%
Annual threshold for VAT registration	€35,000
Annual threshold for monthly tax period	€100,000

Exchange rate

Euro/lei	€1 = 4.20 lei
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Note: This rate should be used in all cases except where a question specifically indicates another rate is to be used.

Interest and penalties

Interest rate for late tax payments	0.04%/day
Penalty level for late tax payments	
– for payments made in the first 30 days after maturity	0%
– for payments made between 31 and 90 days after maturity	5%
– for payments made more than 90 days after maturity	15%

ALL FIVE questions are compulsory and MUST be attempted

1 Rose S.A., a company established in Oradea, Romania, in September 2011, specialises in various construction works. Rose S.A. has a share capital of 1,000,000 lei which is owned 80% by Bush Co, a company based in Hungary, the remaining 20% being owned equally by 30 individuals, all of whom are resident in Romania. In the first period of trading from September to December 2011, Rose S.A. recorded a tax loss of 87,000 lei and an accounting loss of 120,000 lei, which has worried investors.

The general manager of Rose S.A. has computed the corporate income tax for 2012 as below.

	Lei
Total revenues	7,560,000
Total expenses (excluding corporate income tax)	6,422,500
Gross profit before tax	1,137,500
Corporate income tax	182,000
Net income (after tax)	955,500

The general manager intends to announce to shareholders that the 2011 loss is fully covered and that Rose S.A. may even distribute dividends after the allocation to the legal reserve of 113,750 lei is made. According to a shareholders' decision of 2011, each year the company will allocate 10% of its gross profit to the legal reserve, but not exceeding the limit imposed by the law for the legal reserve, of 20% of share capital.

The general manager has provided the following additional information on total revenues and total expenses for 2012:

- (1) Sales revenue is 6,230,000 lei. Other operational taxable revenues are 1,310,000 lei.
- (2) In September 2011, Rose S.A. bought 40% of the share capital of Bulb Co, a company based in Bulgaria. For 2011, Bulb Co distributed and paid the dividends to its shareholders on 10 April 2012. Rose S.A. received dividend revenue of 20,000 lei. Bulb Co did not withhold any tax from these dividends.
- (3) Rose S.A.'s premises are in a rented building. The rent contract was for four years from September 2011 until August 2015. In April 2012, Rose S.A. renovated the premises and transformed its courtyard into a parking space for ten cars. The value of works was 240,000 lei and Rose S.A. registered the whole value directly to expenses. The ten parking spaces were to be occupied by Rose S. A.'s four company cars and the cars of clients. On 30 November 2012, Rose S.A. ceased the rent contract as it had had some differences with the owner. Thus Rose S.A. abandoned the investment and received no money from the owner for the improvements it had made. Starting in December 2012, Rose S.A. rented other premises.
- (4) The four company cars are leased by Rose S.A. under operating leases. Three of the cars are used by Rose S.A.'s managers, while the fourth one is used by an engineer who has no management responsibilities. In 2012, Rose S.A. changed the tyres for all four company cars for an amount of 2,000 lei/car and registered the amount in expenses.
- (5) Based on a written contract, according to the law, Rose S.A. sponsored the Architecture National Contest of Romania organised by the Architecture University with 20,000 lei. Rose S.A. also made a donation of 20,000 lei to a person having a serious health problem.
- (6) Rose S.A. received consultancy services from a Hungarian company which invoiced Rose S.A. 32,000 lei. The consultancy services were provided from Hungary. Rose S.A. paid the full amount to the Hungarian company which did not provide Rose S.A. with a certificate of fiscal residence. Thus Rose S.A. computed the withholding tax using the gross-up formula and paid it to the state and registered it in expenses.
- (7) Rose S.A.'s annual gross salary expense is 1,200,000 lei. According to the collective employment contract, Rose S.A. pays a monthly subscription of 4,000 lei to a sports club, so its employees can relax and enjoy themselves. Rose S.A. also paid 6,450 lei for training courses organised by certified trainers to improve the professional skills of its employees, and paid 25,000 lei for health spa treatments for its employees. Rose S.A. has 25 employees. None of these amounts were taxed at the employee level.
- (8) Rose S.A. is a member of the Builders Professional Association to which it paid a subscription of 30,000 lei for 2012. It is not compulsory for Rose S.A. to be a member of this association, but it helps with employees' networking and knowledge of the building sector.

(9) According to the rules established by the Builders Professional Association, Rose S.A. included in the contracts with its clients a warranty clause of 100,000 lei. Being prudent, Rose S.A. included a provision expense of 150,000 lei in its 2012 total expenses.

(10) According to the decision of the general manager for the depreciation of its fixed assets, Rose S.A. uses the accelerated method for accounting purposes and the straight-line method for tax purposes.

Rose S.A.'s shareholders have agreed that the net profit for 2012, after covering previous losses and the allocation to the legal reserve, will be distributed as dividends.

Required:

(a) List the main standard adjustments that should be made by any corporate income tax payer to the accounting profit for the purpose of calculating the corporate tax base. (3 marks)

(b) Compute the corporate income tax due by Rose S.A. for 2012, making all changes necessary in respect of the accounting legislation, Rose S.A.'s policies and the tax legislation.

Note: You should ignore any social contributions that may arise. (19 marks)

(c) Compute the maximum value of gross dividends that may be distributed by Rose S.A. (2 marks)

(d) Under each of the two scenarios below, compute the income tax due on the dividends distributed by Rose S.A. from its 2012 profit and state the deadline for paying and declaring the tax if Bush Co (its major shareholder) did not provide a certificate of fiscal residence or any other declaration, if

(i) the dividends are paid on 8 June 2013; and

(ii) the dividends are paid on 14 December 2014.

The total marks will be split equally between each part. (6 marks)

(30 marks)

2 Mr and Mrs Iris have been married since 1980 and are located in Cluj, Romania. They have three sons: Paul, Andrei and George. The Iris family registered the following revenues in 2012:

- (1) Since 2008, Mrs Iris has been employed by Park SA, a company based in Jucu, a town 20 kilometres away from Cluj. Mrs Iris's employment revenues for 2012 comprise a monthly base salary of 2,200 lei. As Mr Iris has no employment revenue, Mrs Iris asked her employer to consider all of their children in her care, if allowed by the law. In 2012, Mrs Iris also received an inheritance from an aunt of 100,000 lei in cash.
- (2) Mr Iris has revenues from a small self-employed business in the field of gardening services. Mr Iris applies the real system in determining his income tax. He began this activity in 2012 when he estimated his net annual income at 49,000 lei. At the end of 2012, he recorded the following values in the accounting books:
 - Gross revenues: 189,000 lei
 - Expenses for gardening materials: 78,000 lei
 - Acquisition in June 2012 of equipment (a lawn mower) at a cost of 12,000 lei
 - Other deductible expenses (including social contributions): 10,000 lei

Mr Iris tried to get some additional money by trading on the Bucharest Stock Exchange. During 2011, his activities were not as successful as he had hoped and he registered a tax loss of 4,000 lei. During 2012, he made only three transactions in the shares of Lavender S.A.:

- (i) bought 10,000 shares for 3 lei/share in March 2012,
 - (ii) sold 3,000 shares at 4 lei/share in May 2012, and
 - (iii) sold the remaining 7,000 shares at 3.5 lei/share in November 2012.
- (3) Paul, who is 30 years old, is a writer, so he usually earns intellectual property revenue. He has a contract with a local magazine where he publishes an essay every week for which he receives monthly gross intellectual property revenue of 14,000 lei. He has made no specific option as regards taxation in his contracts, so the standard tax treatment applies.
 - (4) Andrei, who is 21 years old, is studying full time at the University of Bucharest. He has a scholarship of 400 lei/month from the University as he is a top student. Andrei receives the scholarship in every month of the year. In December 2012, Andrei sold his own personal computer for 2,500 lei to have money for the New Year's Eve party.
 - (5) George, who is 18 years old, studies at the local high-school. He has no permanent revenues. In March 2012, he participated in the Mathematics National Contest organised by the Ministry of Education and came first, winning a prize of 2,000 lei. During the summer, he participated in some television contests where he won different prizes as follows: 1,000 lei in June 2012, 2,800 lei in July 2012 and 4,000 lei in August 2012.

Required:

(a) State which incomes earned by the members of the Iris family are exempt from tax. (2 marks)

(b) For each member of the Iris family, determine the total final income tax due for 2012 and, where applicable, the prepayments of tax. (23 marks)

(25 marks)

- 3** Tulip SRL is a company providing transport services for goods, which is established and registered for value added tax (VAT) purposes in Romania. Tulip SRL has a monthly tax period for VAT and charges its clients 2·5 lei/km, excluding VAT.

During the first quarter of 2012, Tulip SRL performed the following transport services:

Item	Service	Month of performance	Number of kilometres	Invoiced to
1	Transport of goods within the EU from Romania to France	January 2012	2,200	Grass SARL, a company established and registered for VAT purposes in France
2	Transport of goods from the EU (Italy) to outside the EU (North Africa)	January 2012	3,000	Leaf SA, a company established and registered for VAT purposes in Romania
3	Transport of goods in Romania from Bucharest to Pitesti	February 2012	130	Flower Co, a company established in Russia
4	Transport of goods in Romania from Bucharest to Iasi	February 2012	400	Strain Ltd, a company established and registered for VAT purposes in Hungary
5	Transport of goods from Russia (non-EU) to China (non-EU)	March 2012	6,300	Pestle SRL, a company established and registered for VAT purposes in Romania

Tulip SRL also performed other transport services within Romania for which it did not issue any invoice, as it did not receive payment for them:

- (i) Transport of some of its own assets from Bucharest to Arad (550 km), when Tulip SRL opened a branch in Arad in January 2012;
- (ii) Transport of the personal belongings of two of Tulip SRL's shareholders, when they moved from Suceava to Bucharest (500 km) in February 2012;
- (iii) Transport of goods from Bucharest to Constanta (250 km) in March 2012 for Ground S.A., a company established and registered for VAT purposes in Romania. Ground S.A. is Tulip SRL's supplier of fuel. Thus, Tulip SRL and Ground S.A. agreed that the value of the transport made by Tulip SRL for Ground S.A. would be subtracted from the value of fuel sold by Ground S.A. to Tulip SRL and that Ground S.A. would invoice to Tulip SRL only the difference, being an amount of 2.000 lei, exclusive of VAT.

Required:

- (a) For each transport service provided and invoiced by Tulip SRL (items 1 to 5), state the place of supply of the service and the amount of value added tax (VAT) that should be charged by Tulip SRL, giving reasons if no VAT should be charged. (9 marks)
- (b) For each transport service not invoiced by Tulip SRL (items (i) to (iii)), state, giving reasons, whether or not Tulip SRL should have issued an invoice or a self-invoice. (3 marks)
- (c) Considering the transactions performed by Tulip SRL (items 1 to 5), list the VAT returns and statements that should be submitted by Tulip SRL, together with the deadlines for submitting them. (3 marks)

(15 marks)

- 4 Daffodil SARL is a company established in France providing consultancy services. In January 2012, Daffodil SARL signed a contract to provide consultancy services to Bouquet S.A., a company established in Romania. The duration of the contract was for four months starting on 1 February 2012. The consultancy services were to be invoiced at a monthly fixed value of 18,400 lei, exclusive of value added tax (VAT).

In order to perform the consultancy services, Daffodil SARL rented an apartment in Bucharest to use as an office from Mrs Freesia, a Romanian citizen, for four months at a monthly rent of 4,000 lei starting on 1 February 2012. Daffodil SARL sent two of its employees, who are both French citizens, from France to Romania to supply the consultancy services to Bouquet S.A. The gross employment revenue of each employee is 5,100 lei per month. Daffodil SARL pays social contributions and income tax for these employees in France.

In May 2012, Daffodil SARL signed another contract with a Romanian based company, Root SRL. Under this contract, Daffodil SARL would provide consultancy services to Root SRL for 15 months starting on 1 June 2012, for a fixed monthly fee of 20,500 lei, exclusive of VAT. Thus, Daffodil SARL extended the rent contract with Mrs Freesia until September 2013. In May 2012, Daffodil SARL's employees who came to Romania in February returned to France and Daffodil SARL decided to employ two Romanian citizens in its office in Bucharest. The gross revenue for each of these new employees is 5,100 lei per month. Daffodil SARL pays social contributions and income tax for these new employees in France.

In 2012 Daffodil SARL's accountant made a separate budget for its activity in Romania. According to this budget, only the following expenses are considered as being directly linked to the Romanian activity:

- the rent paid to Mrs Freesia plus utilities of 500 lei per month;
- meals given in Bucharest to business partners of 3,200 lei;
- the gross salaries of the employees working in Bucharest;
- the social contributions due by the employer and paid in France for the employees of 1,500 lei per month per employee; and
- a 5,000 lei fine received from the French authorities for not declaring the activity in Romania to the French tax administration.

Required:

- (a) **Explain how a permanent establishment is defined and state whether Daffodil SARL's activity generates a permanent establishment in Romania.** (3 marks)
- (b) **Assuming that Daffodil SARL would have declared a permanent establishment in Romania from February 2012, determine the corporate income tax due by this permanent establishment in 2012.** (5 marks)
- (c) **Explain how the tax residence of an individual is defined and state whether Daffodil SARL's employees brought to Romania in February 2012 will be considered resident in Romania.** (3 marks)
- (d) **Explain from when Daffodil SARL's employees brought to Romania in February 2012 are liable to pay personal income tax in Romania, and state the person liable to declare and pay the tax, together with the deadline by which it should be paid.** (4 marks)

Note: Ignore any double taxation tax treaty that may apply in all parts of this question. Ignore any VAT implications.

(15 marks)

- 5** Mr Snowdrop is a Romanian citizen living in Ploiesti, Romania. Mr Snowdrop is a self-employed person, having a small business trading in CDs and DVDs since 2010. Mr Snowdrop decided to use the system of income quotas for paying his personal income tax. The Ploiesti tax administration approved this decision and communicated to Mr Snowdrop that for 2012 the annual income quota is set at 8,400 lei. Mr Snowdrop has a cash register for issuing fiscal receipts to his clients. Mr Snowdrop always received payment from clients at the moment of sale, but he did not keep any evidence of his expenses.

In June 2013, Mr Snowdrop received a tax inspection that made a tax audit for the tax year 2012. The tax inspectors analysed the fiscal receipts issued by Mr Snowdrop and established that Mr Snowdrop's revenues during 2012 were 12,000 lei per month. Further to the tax inspection, on 1 July 2013, the tax administration issued and communicated to Mr Snowdrop a tax decision stating the following:

- (1) Mr Snowdrop's revenue in 2012 was higher than the income quota, so Mr Snowdrop has to pay additional income tax, which is to be calculated on the revenues that exceeded the income quota as Mr Snowdrop recorded no expenses.
- (2) Mr Snowdrop exceeded the value added tax (VAT) registration threshold, so he has to pay VAT for the revenues recorded in 2012 after the date when Mr Snowdrop should have registered for VAT purposes.
- (3) Mr Snowdrop should pay interest and penalties for not paying his taxes on time.

Required:

- (a) **Compute the prepayments of income tax and the final income tax due by Mr Snowdrop for 2012 using the income quota system, and state the deadlines for declaring and paying the tax.** (2 marks)
- (b) **Determine the additional income tax to be paid by Mr Snowdrop for 2012 as calculated by the tax inspectors.** (2 marks)
- (c) (i) **Determine when Mr Snowdrop should have requested to be registered for value added tax (VAT) purposes, and calculate the VAT that Mr Snowdrop should have charged for the year 2012.**
Note: The revenues of Mr Snowdrop should be considered as amounts exclusive of VAT; the exchange rate for calculating the VAT threshold is 1 Euro = 3.3817 lei. (4 marks)
- (ii) **Compute the total value of interest and penalties due by Mr Snowdrop on the VAT established by the tax inspectors (as calculated in (i) above), if Mr Snowdrop pays the amount due on 10 July 2013.** (2 marks)
- (d) **Assuming Mr Snowdrop would like to appeal the decision of the tax administration, state the deadline and competent authority for making the appeal together with the arguments against any wrong decision taken by the tax inspectors.** (5 marks)

(15 marks)

End of Question Paper