



Romania as a Partner

Tax and business law specifics – short overview by ECOVIS Romania

Monday, July, 26th, 2021



Topics for today



ECOVIS Romania &
ECOVIS International



Incorporation of a company
in Romania



General taxation



Transfer Pricing



VAT



Employment



Other taxes



Accounting, reporting
compliance, statutory audit



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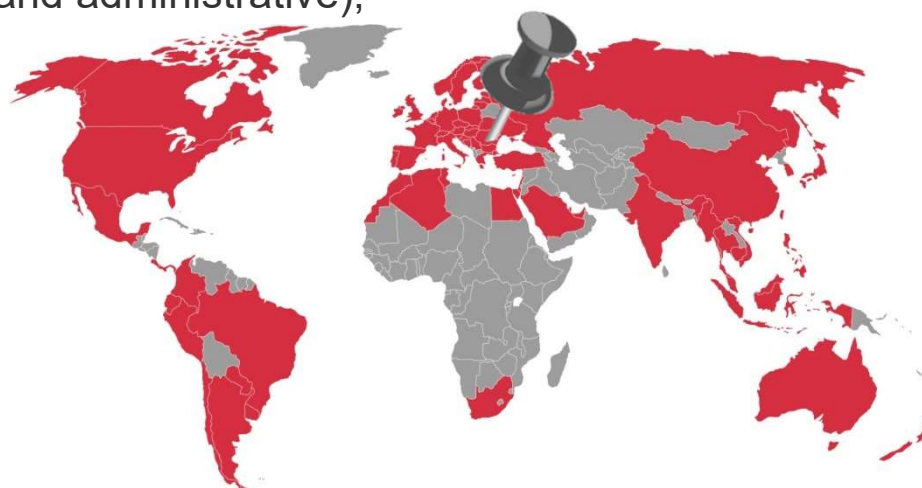
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1. ECOVIS Romania & ECOVIS International

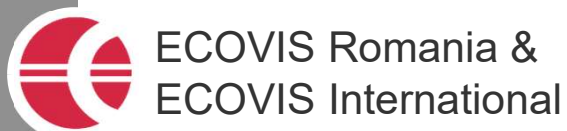


ECOVIS Romania: „*business people for the business people*”

- mid-size company providing since 1999 accounting, tax compliance, audit, transfer pricing documentation, payroll & HR assistance;
- currently having 30 staff (professionals and administrative);
- a member of ECOVIS International, a network of independent tax advisers, auditors, CPAs, lawyers and management consultants, with a number of 8,500+ professionals operating in more than 80 countries.



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2. Incorporation of a company in Romania (1|3)



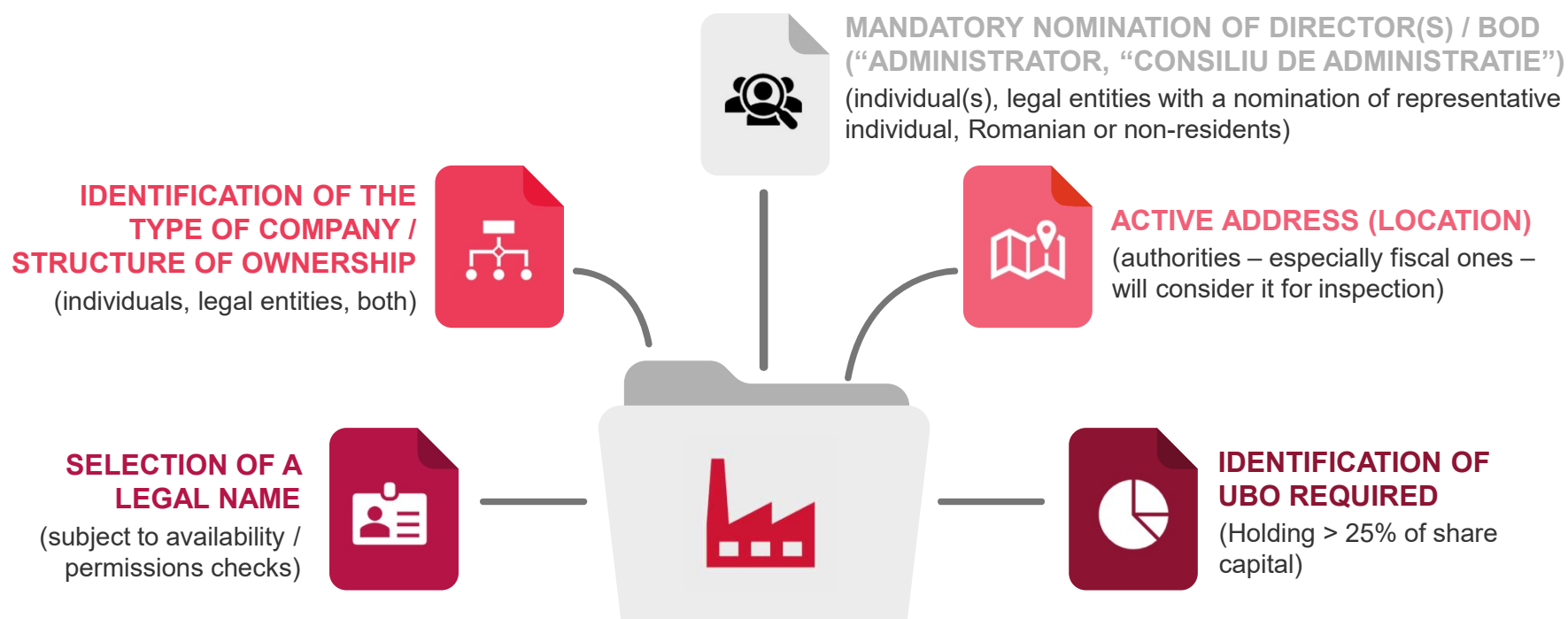
Forms of companies. Condition.

Form	Form (Romanian)	Particularities	Minimum capital	Payment of capital at incorporation	Minimum shareholders
Joint Stock Company	S.A. "Societate pe actiuni"	obligations are guaranteed with the company's patrimony; shareholders are obliged <u>only</u> to payment of their shares	90.000 Ron	Minimum 30%	2
Limited Liability Company	S.R.L. "Societate cu raspundere limitata"	Idem	1 Ron (1 share for 1 shareholder)	no	1
General Partnership	S.N.C. "Societatea in nume colectiv"	obligations are guaranteed with the company's patrimony <u>and</u> with the <u>unlimited</u> and solidary responsibility of <u>all</u> shareholders	1 Ron (1 share for 1 shareholder)	no	1
Limited Partnership	S.C.S. "Societatea in comandita simpla"	Idem	1 Ron (1 share for 1 shareholder)	no	1
Limited Partnership on shares	S.C.A. "Societatea in comandita pe actiuni"	idem	90.000 Ron	Minimum 30%	2
Representative Office	"Reprezentanta"	Not distinct from the parent company it represents; rather acts in the parent company's name and on its behalf with the specific mandate.	n/a	n/a	n/a
Branch (non independent entity)	Sucursala	Non independent legal entity; an extension of the parent company and therefore has no legal status and no financial independence.	n/a	n/a	n/a

2. Incorporation of a company in Romania (2|3)



Formalities. Particularities. Time frame.



2. Incorporation of a company in Romania (3|3)



Formalities. Particularities. Time frame.



Apostil documents: only for shareholders/Director legal entities (excerpt for information from local Trade Registry – must bear Hague Apostille)



Relatively low taxes and charges for incorporation; competitive fees for professional assistance



Simplified formalities during national state of alert (Covid19 pandemic): e-documents, no physical presence in Romania required



Time frame for registration after submission of documents to Trade Register: **5 – 7 working days.**

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3. General taxation (1|6)

Corporate income tax (CIT) vs. Tax for micro-companies (TMC)

- There are two types of taxation for a Romanian company: CIT or TMC
- Unless specifically expressed, the companies are incorporated as micro-companies.
- In case some criteria are fulfilled during a period (see next), the company can opt ONLY ONCE to change the taxation from TMC to CIT company during the year starting the quarter period the option is expressed

Tax year

tax year = calendar year
(exceptions possible)

3. General taxation (2|6)

Tax for micro-companies (TMC)

MICRO-COMPANY:

- an entity that is privately owned (not by state)
- an entity that is registering an annual turnover (calendar year is the fiscal year) of max 1 mil euro
- entity that is not under liquidation procedure.

Taxation

- Base: total incomes (generally the turnover and other assimilated incomes; some incomes are not included in the taxation base)
- Rates:
 - 1% in case the entity has minimum 1 full time employee (or similar);
 - 3% in case there are no employees.

3. General taxation (3|6)



Tax for micro-companies (TMC)


Tax reporting period: Calendar quarter

Exit from MCT system to CIT :

- by exceeding limit of annual turnover of 1 mil. Euro; CIT will apply starting the calendar quarter the turnover exceeded the 1 mi. euro limit.
- by option if :
 - ✓ **Company as minimum of 45.000 Ron as share capital, and**
 - ✓ **minimum 2 full time employees.**

The option is permanent as long as the two conditions are fulfilled and turnover is < 1 mil. Euro.

Return to MCT from CIT :

- 
- For companies not expressing option but exceeded the 1 mil euro turnover to be taxed with CIT, return to TMC will be starting next fiscal period (year) of the one the condition of turnover limit is not achieved.
 - In case one condition for the option is not fulfilled at year end (share capital is reduced under the limit or number of full-time employees is < 2). When? Starting next fiscal period (year).

3. General taxation (4|6)

Corporate income tax (CIT)

Taxable Person



Romanian legal entities,
with some exceptions

foreign legal entities that carry
out activity through permanent
establishment(s) in Romania

foreign legal entities resident in
Romania according to the place
of effective management

foreign legal entities that generate income from transfer or real
estate located in Romania or of any rights related to these
properties, from exploitation of natural resources located in
Romania, sale-assignment participation titles held at a resident;

legal entities with registered
office in Romania, established
according to European
legislation;

the fiscally transparent entity,
regarding the situations that imply
the existence of non-uniform treat
ments of the inverted hybrid
elements.

foreign legal persons resident in
a third country operating in
Romania through one or more
elements treated as permanent e
stablishments, in respect of
situations involving the existence
of non-uniform treatment of
hybrid elements or non-uniform tr
eatment of tax residence;

3. General taxation (5|6)



Corporate income tax (CIT)

Taxation

- Base:
 - Resident companies are taxed on their worldwide income;
 - Non-resident companies are taxed only on Romania source income.
 - Calculated as difference between the gross income and expenses booked in accordance with the applicable accounting rules, reduced by nontaxable income and increased by nondeductible expenses; items similar to income and expenses also considered.
- Taxable incomes: generally, all incomes are taxable, except for those specifically exempt. Some exceptions are related to participation in other legal entities.
- Standard CIT rate: 16%.
- **Relief for losses:** tax losses can be carried forward over **7 (seven) years** and are not updated for inflation purposes.

3. General taxation (6|6)

Corporate income tax (CIT)

Taxation of dividends received by a Romanian legal entity:

- From a Romanian legal entity: **exempted** income for CIT (no minimum participation required);
- From a non-resident company: **exempted** income for CIT **if** the Romanian recipient company **holds at least 10%** of the payer company's shares **for an uninterrupted period of at least one year**.

Other exceptions are related to participation

- Capital gains from the sale/assignment of shares;
- Incomes from liquidation of the entity;

Incentives:

- additional 50% deduction for eligible expenses arising from R&D activities + accelerated depreciation
- CIT exemption for profits reinvested in certain technological equipment ;
- 10-year CIT for taxpayers engaged exclusively in R&D and innovation activities.

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4. Transfer Pricing (1|2)



- Implemented rules generally follow OECD guidelines
- Certain local requirements applicable regarding:
 - the content and structure of the transfer pricing file;
 - the application of transfer pricing methods; and
 - the strategy used to conduct benchmarking studies
- Specific TP documentation requirements according to category of taxpayer (large, medium or small sized) and the annual value of intercompany transactions per type of transaction



4. Transfer Pricing (2|2)



Large taxpayers:

intercompany annual transactions exceeding

- ✓ **200.000 Euro for interest**
- ✓ **250.000 Euro for other services**
- ✓ **350.000 for purchases/sales goods**

Other categories

TP documentation is required to be submitted only if requested by the tax authorities

Not complying

- ❑ fine of 12.000 – 14.000 Ron for medium and large taxpayers and 2.000 – 3.500 for small companies.
- ❑ fine will not exonerate the taxpayer of preparation of TP documentation

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5. Value Added Tax (VAT) (1|4)

Taxable persons

General

Any person supplying taxable goods or services during business on a regular basis is considered a taxable person. The term 'business' refers to all independently carried out activities of producers, traders and suppliers of services.

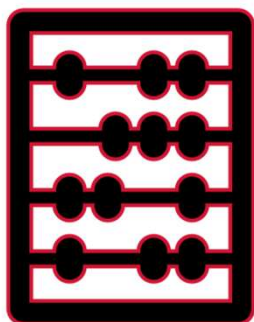
Direct registration / VAT representative for non-resident entities

Foreign companies without an establishment in Romania but performing taxable transactions in Romania

- if the company is resident in an EU country will be direct registered in Romania for VAT;
- if the company is not resident in an EU country will required to appoint a VAT representative.



5. Value Added Tax (VAT) (2|4)



Tax rates

- **19%** standard rate;
- **9%** reduced rate applicable : orthopedic devices, medicines, food, hotel accommodation, , water, supply of fertilizers and pesticides used in agriculture, seeds and other agricultural products, etc.;
- **5%** specific rate for delivery of housing as part of social policy (under specific conditions of destination, transaction value , surface, etc.) books, tickets to museums, cinemas, etc.

Exemptions:

- Specific banking and financial operations;
- Insurance and reinsurance;
- Medical services;
- Education;
- Rent or sale of real estate (land and/or construction) under certain conditions.

5. Value Added Tax (VAT) (3|4)

Reverse charge mechanism

Basic condition: participants to taxable transaction to be registered for VAT purposes in country of origin / performing transactions.

➤ For EU or import transactions

- ✓ Romanian entity registered for VAT according national rules;
- ✓ Counter party registered for VAT in an EU country.
- ✓ For VAT payable on imports by entities holding a VAT deferral certificate and an AEO (authorized economic operator) authorization, etc.

➤ For local transactions not subject to VAT but are reported in the VAT return and taxed via the reverse charge mechanism.

- ✓ Transactions with wood, grain, mobile phones, electronic devices, game consoles, tablets, computers, and laptops.
- ✓ Sale of real estate subject of taxation: land suitable for constructions and /or new constructions
- ✓ Supply of gas and electricity to distributors.

5. Value Added Tax (VAT) (4|4)



Registration

✓ **Mandatory:**

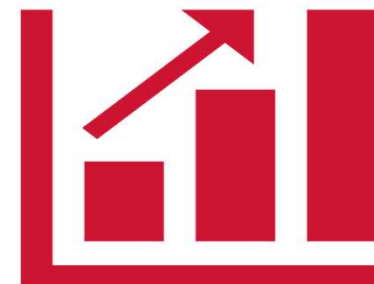
- threshold is turnover of 300.000 Ron
- Valid from following calendar month of the one exceeding the limit.

✓ **By option:**

- Subject of risk assessment performed by tax authorities;
- Valid from date of authorization.

Fiscal periods

- ☐ **Calendar month for** taxable persons with an annual turnover of more than 100.000 Euro;
- ☐ **Calendar quarter for** taxable persons with an annual turnover of less than 100.000 Euro.



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6. Employment (1|5)



Applicability

The Labor Code covers Romanian registered employees with employment contract who perform activities in Romania or abroad for a Romanian employer, as well as foreign individuals with employment contract who perform activities for a Romanian employer in Romania.

Working relationship

Employment agreements, no matter if the individuals are residents or non-residents, are concluded :

- for indefinite period
- for definite period.

In addition, other forms of employment permitted are:

- employment by temporary employment agency;
- part-time employment;
- flexible working arrangements (home-based work and teleworking);
- daily working;
- internship employment.



6. Employment (2|5)

Requirements:



- ✓ **Standard form** with minimal mandatory requirements; additions to standard form are allowed.
- ✓ **Age condition** : minimum age is 16 years.
- ✓ **Prior medical check-up**: prior to the employment starting date. Without the certification from the employment medicine physician the employment agreement is considered null.
- ✓ **Notification of conditions** before conclusion of a new contract or amendment of an existing employment contract, (terms of the agreement, leave periods, allowances, etc.).
- ✓ Along with the general terms, an individual employment contract may also include **special clauses** such as: Non-compete clause; Mobility clause; Confidentiality; Professional training

6. Employment (3|5)



Employment Standards

- A working day is generally of 8 hours (for a full-time contact)
- Currently (2021), the minimum monthly gross salary is 2300 Ron for medium education degree (high school) and 2350 Ron for high education (university degree).
- Minimum of 20 working days of paid holiday per year;
- Public holidays (currently 15 days per year).

Collective Working Agreements and Trade Unions

- For over 20 employees collective work agreements must be negotiated with their employees on an annual basis.
- Usually, CWA includes minimum salaries; benefits; minimum paid holidays; working conditions; social security; dispute settlement mechanisms; protection of trade union leaders; miscellaneous rights and obligations of employers and employees.

6. Employment (4|5)

Taxation

Contributions are generally due by the employee, although the compliance procedure remains the responsibility of the employer.

The mandatory employee contributions (which are deductible for income tax calculation purposes) are:

- pension contribution of 25%
- health insurance contribution of 10%.

Employee individual income tax is 10%.

The Employer:

insurance contribution of 2.25% of the employee's total gross salary

Incentives (provided that certain criteria are met both at the level of the employee and employer)

- Income tax exemption for employees performing software development or R&D activities, for employees working in construction sector, etc.



6. Employment (5|5)



Simplified calculation of salary



exchange rate			Euro	Ron
4,95				
1	%	Gross salary (employment agreement)	2.000 €	9.900
2	25%	Pension contribution	500 €	2.475
3	10%	Health fund	200 €	990
4		Income tax base (1 - 2 - 3)	1.300 €	6.435
5	10%	Income tax	130 €	644
6		Net salary for employee (1 - 2 - 3 - 5)	1.170 €	5.792
7	2,25%	Risk insurance (employer)	45,00 €	223
8		Total employment cost (1 + 7)	2.045 €	10.123
average % to add to net salary to determine gross salary			71%	

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7. Other taxes (1|3)

Withholding tax

- Romania concluded tax treaties for avoidance of double taxation (DTAs) with over 90 countries.
- Romania signed the OECD multilateral instrument (MLI) on 7 June 2017.
- DTA between Romania and Germany includes following main tax rates:

Income	Legal entities	Individuals & others
Dividends	5% (for minimum 10% holding shares)	15%
Interests	3%	3%
Royalties	3%	3%
Services (art.7)	0%	n/a

- Conditions to apply DTAs provisions: beneficiary of income paid by a Romanian entity must provide specific documentation: Certificate of Fiscal Residence valid for current year.



7. Other taxes (2|3)

Withholding tax

- Romanian tax code provides the following tax rates / conditions:



Income	Legal entities	Individuals & others
Dividends	5%	5%
Interests	16%	10%
Royalties	16%	10%
Services	0%	n/a

- 50% WHT is levied on payments made to an account registered in a jurisdiction that Romania has not concluded an exchange of information agreement if the payment is subject to a transaction qualified as artificial by tax authorities.
- Exemption of WHT on **incomes from Romania** based on **participation**:
 - **Dividends (10% for minimum 1 year)**
 - **Interests & Royalties (25% for minimum 2 years).**

7. Other taxes (3|3)

Representative office tax

- Flat annual tax: 18.000 ron;
- Annual reporting and payment: last day of February for current year (anticipated payment);
- Prorated tax according to number of months function in current year applicable for Rep. Office incorporated / closed during the year.

Real estate tax

- Is paid to local budgets where real estate properties are located;
- Tax on buildings applies based on the purpose for which the building is used (residential, nonresidential, or mixed).
- Tax on buildings rate is applied to the taxable value of the building and ranges:
 - from 0.08% to 0.2% for residential buildings, and
 - from 0.2% to 1.3% for nonresidential buildings.
- Tax on land tax is computed considering certain criteria such as surface, value per sqm., the rank of the locality where the land is located, land category, land utilization, etc.

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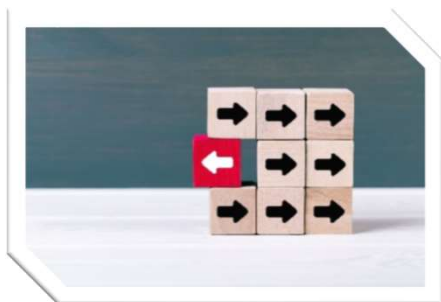
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8. Accounting, reporting, compliance, statutory audit (1|4)



Reporting & tax payment compliance

General reporting & payment due dates



- For employment related: monthly, until 25th of following month;
- For CIT or MCT: quarterly, until 25th of following month ending the quarter
- Some taxpayers may opt to declare and pay CIT by applying the “prepayment system” (payments equal to ¼ of previous annual CIT)
- VAT: according to fiscal period (month or quarter): 25th of following month ending the fiscal period;
- Other taxes (tax on dividends, withholding taxes for residents or non-residents' incomes): 25th of following month of payment of income.
- Local taxes: twice a year for ½ annual tax: March 31, September 30.

8. Accounting, reporting, compliance, statutory audit (2|4)



Reporting & tax payment compliance



Penalties for late payments of tax:

- interest at a rate of 0.02% per day of delay;
- with an additional late payment penalty of 0.01% per day of delay;
- additional penalty of 0.08% per day for unreported or erroneously reported taxes.

8. Accounting, reporting, compliance, statutory audit (3|4)



Accounting standards (GAAS)



- **Romanian standards** are aligned with 4th and 7th EU Directives. They reflect implementation of most IFRS and IAS but not fully.
- **IFRS** applied by companies:
 - Listed companies (mandatory)
 - Banks (mandatory)
 - Entities supervised by Financial Supervisory Authority (mandatory)
 - Some state-owned entities
 - Nonbanking financial institutions (mandatory starting financial period 2023)
 - **Entities which opted to have a financial period different than calendar year**

Financial statements prepared according to IFRS are subject of mandatory audit.

8. Accounting, reporting, compliance, statutory audit (4|4)



Statutory audits

- are mandatory for the companies exceeding for two consecutive years two out of three criteria:

Criteria	Limits
total assets	16 million Ron
turnover	32 million Ron
average no. of employees	50



- ceasing statutory audit is permitted only if not exceeding criteria for two consecutive years .

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9. Contacts of ECOVIS Romania



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CPA, Tax Consultant,
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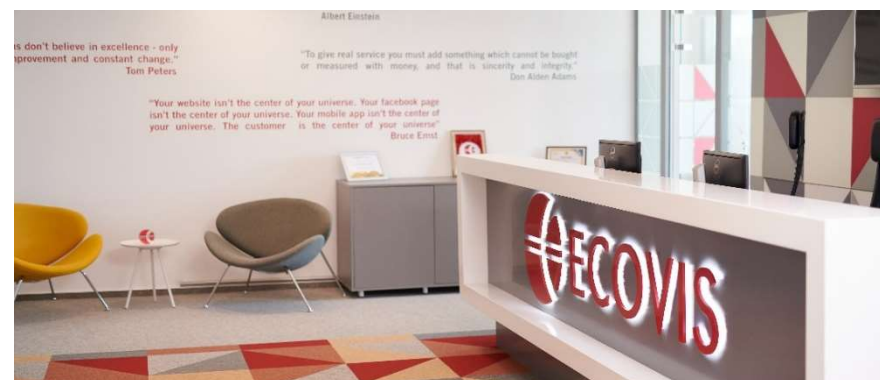
Profound Experiences in

- Tailoring of accounting and reporting systems
- Implementation of ERP accounting software
- Improvement of accounting reporting systems
- Local accounting and reporting compliance
- Payroll and HR compliance

Profound Experiences in

- Provision of auditing, accounting and tax compliance services (national/international)
- Cost accounting and reconciliations (e.g. IFRS)
- M&A transactions

Thank you
for your attention!



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