

# Comparison of tax secrecy in Austria and Romania

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Matter	Austria	Romania
Specific statutory provisions	Sections 48a to 48c of the Austrian Federal Fiscal Code; Sections 251 and 252 of the Austrian Criminal Tax Act.	Art 11 of the Romanian Fiscal Procedure Code; Art 227 of the Romanian Criminal Code; Art 46 of Law 188/1999 on civil servants.
Personal scope	Applies to civil servants and other persons (experts) participating in a tax or criminal tax proceeding.	<ul style="list-style-type: none"><li>- Applies to civil servants involved in tax administration and to experts designated by the tax authorities or by taxpayers to prepare expert reports.</li><li>- Does not apply to tax advisors, who are bound by professional secrecy.</li></ul>
Material scope	Publishing or exploiting non-public information or circumstances of parties of tax or criminal tax proceedings that were disclosed or investigated in these proceedings.	Disclosure of information regarding taxpayers, eg tax liabilities, the amount and source of income, payments, account movements, deductions, debts, etc included in tax returns and in other documents disclosed by taxpayers or third parties.
Limit of scope	Use of information and circumstances <ul style="list-style-type: none"><li>(i) to carry out tax or criminal tax proceedings; or</li><li>(ii) due to a legal obligation or compelling public interest; or</li><li>(iii) obviously no interest worth being protected exists or the protected person consents; or</li><li>(iv) to inform other authorities in case of suspicion that laws were violated (employment, social security, professional, trade, etc).</li></ul>	Use of information <ul style="list-style-type: none"><li>(i) to public authorities for fulfilling their obligations; or</li><li>(ii) to tax authorities of other countries, based on the principle of reciprocity; or</li><li>(iii) to judicial authorities; or</li><li>(iv) to any requestor, with the written approval of the relevant taxpayer.</li></ul>
Civil consequences	Civil damage Civil injunction	Civil damage
Disciplinary or criminal consequences	<ul style="list-style-type: none"><li>- Disciplinary measures</li><li>- Criminal Act: civil servants: up to 3 years prison, other persons: up to 6 months prison, daily fine up to 360 days.</li></ul>	<ul style="list-style-type: none"><li>- Disciplinary measures.</li><li>- Criminal offence: up to 3 years prison, if the aggrieved person makes a complaint.</li></ul>
Consequences on the tax and criminal tax proceedings	<ul style="list-style-type: none"><li>- Published information may be used by the tax authorities.</li><li>- Public may be excluded from tax or criminal tax hearings if they concern information or facts subject to tax secrecy.</li></ul>	<ul style="list-style-type: none"><li>- Information may be transmitted to the public when a final decision on breaching the tax legislation is reached, either in the administrative stage or in court.</li><li>- In practice, tax secrecy does not apply in court; hearings on tax matters are generally public.</li></ul>
Relation between disclosure of information protected by tax secrecy and professional confidentiality	Professional confidentiality takes priority over tax disclosure obligations, even if protected by tax secrecy.	Professional confidentiality takes priority over tax disclosure obligations, unless the disclosure of the information is specifically requested by law.
Restriction of duty regarding professional confidentiality in regard to tax matters	In case of (criminal) tax proceedings against a person subject to professional confidentiality, such professional confidentiality may be restricted to the extent necessary to allow the tax authorities to examine and review the tax matters of that person (also in light of applicable tax secrecy).	A person subject to professional confidentiality is required to disclose information about the tax matters related to him, even if the information refers to matters which are under professional confidentiality. For example, in Romania all VAT registered taxpayers, including tax advisors, must periodically disclose via a special tax return information on the transactions carried out with their suppliers / clients.