



**DOING BUSINESS  
IN UKRAINE 2020**

# INTRODUCTION

The Moore Europe 'Doing Business In' series of guides have been prepared by Moore member firms in the relevant country in order to provide general information for persons contemplating doing business with or in the country concerned and/or individuals intending to live and work in that country temporarily or permanently.

Doing Business in Ukraine 2020 has been written for Moore Europe Ltd by Moore in Kyiv, Ukraine, an independent member firm of Moore Global. In addition to background facts about Ukraine, it includes relevant information on business transactions and taxation matters. This Guide is intended to assist organizations that are considering establishing a business in Ukraine either as a separate entity or as a branch of an existing foreign company. It will be helpful to anyone planning to come to Ukraine to work and live there either on secondment or as a permanent life choice.

Unless otherwise noted, the information contained in this Guide is believed to be accurate as at 1 January 2020. However, general publications of this nature cannot be used and are not intended to be used as a substitute for professional guidance specific to the reader's particular circumstances.

Moore Europe Ltd provides the Regional Executive Office for the European Region of Moore Global. Founded in 1907, Moore Global is one of the world's major accounting and consulting networks comprising 276 independently owned and managed firms and 626 offices in 112 countries around the world.

Our member firms' objective is simple: to be viewed as the first point of contact for all our client's financial, advisory and compliance needs. They achieve this by providing sensible advice and tailored solutions to help their clients' commercial and personal goals. Moore member firms across the globe share common values: integrity, personal service, quality, knowledge and a global view.

Brussels, January 2020

# CONTENTS

<b>1. UKRAINE AT A GLANCE</b>	<b>4</b>	Single Tax	20
Geography	4	Value Added Tax	20
Population	4	Registration as VAT payers	20
History	4	Import VAT	21
Language & Religion	5	VAT rates	21
Climate	5	Non-taxable and Tax-exempt transactions	21
Politics and government	5	Calculation of VAT payable/receivables	23
Currency, time zone, weights and measures	5	Tax invoices and VAT accounts	23
General Economic Outlook	5	Reporting	23
<b>2. DOING BUSINESS</b>	<b>6</b>	<b>7. PERSONAL TAXATION</b>	<b>24</b>
Main forms of business organisation	6	Income tax	24
The Limited Liability Company	6	Tax residency	24
The Representative office	6	Tax agents	24
The Joint Stock Company	7	Tax base	24
Labour relations and working conditions	7	Personal Income tax rates	25
Work permits, visas, etc.	7	Tax deductions	25
<b>3. FINANCE AND INVESTMENT</b>	<b>8</b>	Tax calculation	26
Business regulation	8	Taxation of Individual Entrepreneurs and Self-Employed Persons	26
Banking and local finance	8	Taxation of income from the sale of immovable property	27
Exchange controls	8	<b>8. OTHER TAXES</b>	<b>28</b>
Investment incentives	8	Excise tax	28
<b>4. THE ACCOUNTING ENVIRONMENT</b>	<b>10</b>	Property tax	28
The audit environment	10	Tax on real estate	28
<b>5. OVERVIEW OF TAX SYSTEM</b>	<b>12</b>	Land tax	29
National-level and local taxes	12	Transport tax	29
Appeals	15	<b>9. SOCIAL SECURITY CONTRIBUTION</b>	<b>30</b>
<b>6. TAXES ON BUSINESS</b>	<b>16</b>	Reporting and payment requirements	30
Corporate Income Tax	16	10. IT Industry	32
Tax base	16	IT Sector	32
Tax rate	16	VAT rules	32
Depreciation	16	<b>11. AGRICULTURAL INDUSTRY</b>	<b>34</b>
Dividends Payment	17	Single tax	34
Peculiarities of Taxation of Non-Resident Income	17	Corporate Profit Tax	34
Special Rules	18	Value Added Tax	34
Reporting period	18	State transfers	34
Transfer Pricing Rules	18		
Controlled Foreign Company Rules	19		

# UKRAINE AT A GLANCE

General Survey and Overall Review

## GEOGRAPHY

Ukraine is a country in Eastern Europe, having the territory of 603,549 square kilometres (including 27,000 square kilometres of the Republic of Crimea which is currently deemed to be the territory occupied by the Russian Federation). It is the second largest country in Europe by territory (after Russia).

Ukraine borders Belarus to the north, Poland, Slovakia and Hungary to the west, Romania and Moldova to the southwest, Russia to the east and the northeast. In the south and the southeast, it is washed by the Black Sea and the Sea of Azov.

## POPULATION

As of 1 January 2020 the population of Ukraine is estimated to be about 37 million inhabitants (excluding the population of the territories not controlled by the Ukrainian government). The largest cities by population are Kyiv, the capital of Ukraine, Kharkiv and Odessa.

## HISTORY

Founded in 482 A.D., Kyiv, the capital of Ukraine, is one of the oldest cities in Europe. The formation of Ukraine as an independent state dates back to the end of the 9th century, when most of the current territory of Ukraine formed the medieval state of Eastern Europe, i.e. Kyivan Rus, with its centre in Kyiv.

In the days of Kyivan Rus, Kyiv was one of the most developed and richest cities in Europe. However, the Mongol-Tatar invasion in 1240 caused the country's long-term decline.

After a long period of fight for its independence against Lithuania and Poland, Ukraine again appeared on the European political map. Now it was represented by the Zaporizhian Sich due to the victory of Hetman Bohdan Khmelnytsky in the National Liberation War of 1648–54. However, a short period of sovereignty was followed by centuries of colonial existence: the Russian Empire, Poland and then the Austro-Hungarian Empire had dominated much of the land; but Ukraine suffered the incursions of Swedes and Ottomans as well.

In the second half of the 18<sup>th</sup> century, most of the Ukraine's ethnographic territory was governed by the Russian Empire. After the collapse of Tsarist Russia in 1917, Ukraine achieved a short period of state independency (1917–1920), soon changing for subjection to the Soviet Union.

With the collapse of the Soviet Union, on 24 August 1991, Ukraine emerged as a sovereign state. Since then, Ukraine has successfully developed into a democratic and independent country with rich and diverse cultural heritage.

## LANGUAGE & RELIGION

The official language is Ukrainian. However, most of the population speaks both Ukrainian and Russian. The freedom of religion is enshrined constitutionally. The main religions are Orthodoxy and Greek Catholicism; there are also some groups of citizens that are Muslims.

## CLIMATE

On the territory of Ukraine, the temperate continental climate is featured by fairly hot summers (the warmest months temperature ranges from 25°C to 30°C) and relatively cold winters (the coldest months temperature falls far below zero, about -20°C).

## POLITICS AND GOVERNMENT

Ukraine is a parliamentary-presidential unitary republic. The president is elected for five years by means of ballot voting in general equal and direct elections; having the total term of the office of no more than two consecutive terms. The Prime Minister of Ukraine leads the executive branch represented by the Cabinet of Ministers of Ukraine.

The sole body of legislative power is the parliament — the Verkhovna Rada of Ukraine — that consists of deputies and is a permanent structure elected every five years on the majority-proportional basis.

## CURRENCY, TIME ZONE, WEIGHTS AND MEASURES

As of 1 September 2020 according to the official hryvnia exchange rate established by the National Bank of Ukraine: USD 1 = UAH 27.5618, EUR 1 = UAH 32.8950.

Ukraine lies in the EET time zone (UTC+2, in summer season — UTC+3).

The country uses the metric system of weights and measures; temperature units are degrees Celsius.

## GENERAL ECONOMIC OUTLOOK

On 16 September 2014 Ukraine ratified the Agreement of association with the European Union, thereby securing its intentions to deepen the integration between Ukraine and the European Union. Ukraine is now experiencing a period of democratic transformations and economic reforms on the path to European integration. Ukrainian business is open for new potential partnerships to provide a valuable contribution to economic development and its modernization.

# DOING BUSINESS

Running a successful business in teamed with long standing experience

## MAIN FORMS OF BUSINESS ORGANIZATION

Main forms of legal entities are designated in the Civil Code and the Commercial Code of Ukraine. Foreign citizens and legal entities can be founders and members of legal entities on an equal basis with citizens of Ukraine.

## THE LIMITED LIABILITY COMPANY

Limited liability company (LLC) in which the shareholders' liability is limited by their shares is the most widespread form of commercial companies in Ukraine. The activity of LLC and corporate relationships between shareholders are governed by the Law of Ukraine "On Limited Liability and Additional Liability Companies," company's Articles of Association and, in some cases, by shareholders' agreement.

LLC can be established by at least one person, either physical person or legal entity, irrespective of the residency. There is no minimum share capital requirement. Nevertheless, the question of initial business financing (until the profit is obtained) should be considered when decision is made concerning the amount of the share capital. The procedure of registration normally takes up to two weeks.

Limited Liability Companies are required to submit monthly, quarterly and annual tax returns as well as monthly returns on social contributions and quarterly and annual financial statements.

## THE REPRESENTATIVE OFFICE

In addition, a common form of doing business is a formation of representative offices or branches of foreign companies in the territory of Ukraine. In accordance with the legislation, the representative office is not a legal entity and performs functions of protection and representation of interests of a foreign company.

There are two types of representative offices: (1) non-commercial representative office can only function to represent its headquarters with no right of business activity on the territory of Ukraine; and (2) commercial representative office (or permanent establishment) can conduct business and gain profit. Tax benefits are only provided to non-commercial representative offices while a permanent establishment is subject to taxation on ordinary terms.

Representative offices are established by means of the registration with the Ministry of Economic Development and Trade of Ukraine. The documents for the registration are considered by the Ministry within 20 working days as from the date of the documents' submission. As of 1 January 2020, the state duty for the registration is UAH 2100. Then, a representative office shall be registered with the tax authorities and a bank account opened before a representative office will become fully operational. No business activities can be conducted before registration with the tax authorities.

Representative offices are required to submit monthly, quarterly and annual tax returns and financial statements, even if they do not carry out business activity.

## THE JOINT STOCK COMPANY

The activities of joint stock companies are governed by the Law of Ukraine "On Joint Stock Companies."

The share capital of a joint stock company is divided into a certain number of issued shares of the equal nominal value. The legislation sets out the minimum capital dimension at the level of 1250 minimum wages (as of January 2020, 1 minimum wage is UAH 4723). The shareholders of such joint stock company shall bear the risk of losses related to the joint stock company's activities within a value of their shares.

Joint stock companies are of two types, i.e. public joint stock companies and private joint stock companies. Public offering of shares can be carried out only after payment of the full value of shares by the founders.

Ukrainian legislation also provides for other forms of legal entities; however, they are used much less frequently.

## ULTIMATE BENEFICIAL OWNERS DISCLOSURE REQUIREMENT

All legal entities are required to keep up-to-date and submit to the state registrar the information on their ultimate beneficial owners (UBO) including the ownership structure and copies of UBO's identification documents.

According to the law, UBO (controller) is defined as an individual who, independently of formal ownership, is in a position to exercise a decisive direct or indirect influence over the management and business activity of the legal entity, in particular, by enforcing the ownership right or right on use of all assets or their majority, right of the decisive impact on the ownership structure, voting results as well as transactions which give the opportunity to determine the conditions of business activity, give binding instructions or perform functions of management body or who can exercise control through direct or indirect (through other legal entity or individual) ownership, alone or together with related individuals and/or legal entities, of 25% or more shares or voting rights in the legal entity.

The information on UBOs (except for passport details of individuals) is public.

## LABOUR RELATIONS AND WORKING CONDITIONS

Labour relations and working conditions in Ukraine are regulated by the Labour Code of Ukraine. The maximum number of working hours per week is 40. Ukraine has 11 public holidays that are also days off for employees. Employees are provided with the basic annual paid holiday leave of 24 calendar days.

Traditionally, labour law establishes the broad rights of employees and the limited rights of employers with regard to termination of employment contracts and aims at protection of employees' rights.

As of January 2020, the minimum wage is UAH 4723. According to the Ministry of Finance of Ukraine, the average wage is about UAH 12264 (as of December 2019).

Both employees and employers are free to be members of trade unions as well as to form them by themselves. However, trade unions in small and medium-sized businesses are not widespread. Employers make mandatory contributions to the Social Security Fund by paying the unified social tax (see in detail para 9).

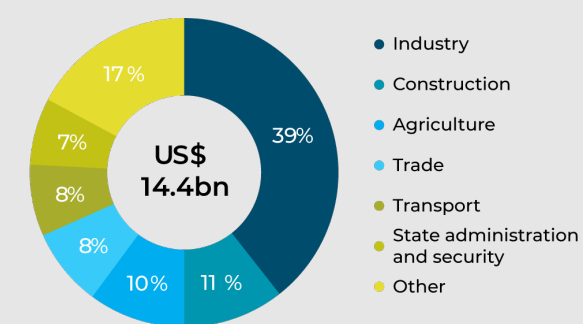
## WORK PERMITS, VISAS ETC.

To work in the territory of Ukraine foreign citizens (including in some cases those sent to Ukraine for a business trip) need to obtain a work permit which should be requested by their prospective Ukrainian employer from the Employment Service, to claim a long-term visa at a consular office and upon arrival in Ukraine to receive an authorization document for temporary residence. A work permit is usually issued for the period from one to three years. In most of the cases the requirement of paying salary to an expat employee in the amount not less than 10 minimum wages (as of January 2020, 1 minimum wage is UAH 4723) should be complied with for a work permit to be issued.

The state duty for a work permit amounts to 6 minimum living wages (as of 1 January 2020, 1 minimum living wage is UAH 2102) and a decision concerning issuance of the work permit should be made by the state authorities within 7 working days.

The work of foreign citizens in the representative offices of foreign companies does not require an employment permit and is performed on the basis of the service cards issued by the Ministry of Economics upon a representative office's request.

Capital investment split by sector for 9m 2019, %



Source: State Statistics Service of Ukraine

# FINANCE AND INVESTMENT

Through expert knowledge and long-standing experience of cooperation with the local and international companies, our specialists will partner with your business to help you get an expert approach to the core decision-making processes.

## BUSINESS REGULATION

In compliance with the domestic regime, when doing business in Ukraine foreign citizens have the same rights and fulfil the same obligations as citizens of Ukraine, except for the cases expressly provided for by the Ukrainian legislation and international treaties. Businesses owned by the foreign citizens or non-resident companies have the same legal status as Ukrainian companies. Intellectual property is protected by the domestic legislation as well as international treaties.

## BANKING AND LOCAL FINANCE

The banking system of Ukraine is supervised by the National Bank of Ukraine that defines and pursues the monetary policy in Ukraine, issues the national currency and oversees its circulation, as well as regulates banks' activities in the territory of Ukraine.

75 banks are registered in Ukraine, among which 23 banks are 100% owned by foreign investors. Bank lending is a quite expensive mechanism and loans are generally granted against collateral.

The most common types of financing businesses in Ukraine are bank lending and foreign investments through capital investments and loans.

## EXCHANGE CONTROLS

Generally, the foreign capital can be freely imported/exported into/out of the territory of Ukraine.

However, the foreign currency transactions are subject to bank supervision and the National Bank of Ukraine can place temporary restrictions on carrying out certain currency transactions. Typically, their performance requires additional documents to confirm the nature of such transactions.

The proceeds of residents from the export of goods shall be accrued to their account in Ukrainian banks within 365 calendar days since the moment of customs clearance for export. In case of exceeding this term, the penalties apply.

The granting of loans in foreign currency for the benefit of residents from non-residents is also subject to special regulations. According to the current requirements any agreements concluded with non-residents regarding granting of borrowings, loans, refundable financial aid shall be registered with the automated system held by the National Bank of Ukraine. All transactions under such loan agreements are subject to supervision by supporting banks. Although the maximum permitted interest rates are not established, supporting banks are required to ensure that the interest rate is in line with market rates before submitting the agreement for the registration with the National Bank of Ukraine. Reporting to supporting banks regarding foreign currency loans are usually required.

Since temporary restrictions can be imposed on foreign currency transactions by the National Bank of Ukraine from time to time, it is recommended that a professional advice before contemplating a cross-border transaction be received.

## INVESTMENT INCENTIVES

Foreign investors are guaranteed the national treatment of investments, i.e., foreign investors have the same rights as Ukrainian ones.

State support in specific industries like agriculture and renewable energy is available in the form of state subsidies as well as feed-in tariffs.

Based on World Bank Group Doing Business Project (<http://www.doingbusiness.org/en/rankings>) Ukraine ranked # 64 internationally in 2019 and it has shown consistent growth in comparison with previous years.



**HELP YOU ACHIEVE YOUR GOALS  
USING LOCAL AND GLOBAL  
KNOWLEDGE**

# THE ACCOUNTING AND AUDIT ENVIRONMENT

The accounting environment is set out by the Law of Ukraine "On Accounting and Financial Reporting in Ukraine."

All the business entities in the territory of Ukraine should use the Chart of Accounts for accounting of assets, equity, liabilities and business operations of enterprises and organizations, as established by law. Legal entities keep accounts and prepare financial statements in the national currency of Ukraine.

The above Law introduces the classification of all companies in Ukraine (more information is available on page 11).

For the purpose of classification an enterprise must comply with at least two of the above criteria in the year preceding the reporting one and the annual average of official UAH/EUR exchange rates shall apply.

Furthermore, enterprises-issuers of securities circulated on stock exchange, banks, insurers, non-state pension funds and other financial institutions (except for financial institutions classified as micro and small enterprises) as well as enterprises which are classified as large enterprises — are defined as Public Interest Entities (PIE).

For the purpose of statutory financial reporting companies in Ukraine may choose between National Accounting Standards and the IFRS translated into Ukrainian and published on the web-site of the Ministry of Finance. However, public interest entities are required to use the IFRS. Micro and small enterprises as well as representative offices of non-residents, except for those which are obligated to submit financial statements prepared under IFRS, report only a Balance and P&L Account. Consolidated financial statements shall be provided by holding (parent) companies. Such obligation will not be applied in case the total indicators of business activity of both holding company and subsidiaries are the same as those established for small enterprises.

Financial statements cannot be recognized as confidential information and shall be provided upon request.

Starting from 2019 reporting year all PIEs, medium-sized enterprises as well as micro and small financial institutions will be obligated to publish their audited annual financial statements on their web-sites.

## OBLIGATORY AUDIT REQUIREMENTS

The audit activity in Ukraine is regulated by the Law of Ukraine "On Audit of Financial Statements and Auditing Activity," statutory documents of the Audit Chamber of Ukraine as well as by the International Standards on Quality Control, Auditing, Review, Other Assurance and Related Services. The Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants of the International Federation of Accountants, as entered into force by the Decision of the Audit Chamber of Ukraine on 18 April 2003, sets forth the professional standards on ethics for auditors in Ukraine.

According to the above Law audit and related services in Ukraine can only be rendered by auditors certified in Ukraine or audit firms included into the Ukrainian Registry of Audit Firms and Auditors. Certification exams for auditors consist of theoretical and practical parts; and ACCA or similar certificates exempt the applicants from the theoretical part of exams. At this, they do not entitle their holders to render audit services in Ukraine independently.

The obligatory audit is conducted in cases when an auditee is obligated to disclose its financial statements according to the law (e.g. all PIEs). The Law of Ukraine "On Audit of Financial Statements and Auditing Activity" sets out additional specific requirements for obligatory audit, including requirements to an audit firm's staff and internal quality control system, liability insurance, limitations as to non-audit services rendering, etc.

Control over the quality of audit services is exercised by the Audit Chamber and the Public Supervisory Board.

The Law also provides the guarantees of auditing activity. Thus, an access to the working paper of an auditor as well as to any sensitive data (i.e. any information disclosed in the course of rendering of audit services) is granted only upon the court decision, except for the cases when the quality control over the audit services is performed.



CRITERIA	MICRO ENTERPRISES	SMALL ENTERPRISES	MEDIUM-SIZED ENTERPRISES	LARGE ENTERPRISES
BALANCE VALUE OF ASSETS	< EUR 350k	< EUR 4 mln	< EUR 20 mln	> EUR 20 mln
NET SALES REVENUE	< EUR 700k	< EUR 8 mln	< EUR 40 mln	> EUR 40 mln
AVERAGE NUMBER OF EMPLOYEES	< 10 persons	< 50 persons	< 250 persons	> 250 persons

# OVERVIEW OF TAX SYSTEM

There are tax implications for whatever we do — decisions made today will often affect your tax burden in the future.

## NATIONAL-LEVEL AND LOCAL TAXES

The current tax system comprises seven national-level taxes which are as follows:

- Corporate Income Tax (CIT) (податок на прибуток підприємств);
- Personal Income Tax (PIT) (податок на доходи фізичних осіб);
- Value Added Tax (VAT) (податок на додану вартість);
- Excise Tax (акцизний податок);
- Environmental Tax (екологічний податок);
- Rental Fee (рендна плата);
- Customs Fee (митний збір).

There are also four local taxes and fees established by the law, the rates of most of which are determined by local authorities:

- Property Tax consisting of: transport tax (транспортний податок), a land fee (плата за землю) and tax on real estate other than a land plot (податок на нерухоме майно, відмінне від земельної ділянки);
- Single Tax (єдиний податок);
- Tourism fee (туристичний збір);
- Fee for vehicle parking (збір за місця для паркування транспортних засобів).

Four taxes (Corporate Income Tax, Personal Income Tax, Value Added Tax, Excise Tax) make up about 80 per cent of the budget revenue.

The brief overview of the taxation base, tax rates and reporting requirements is presented in the table below:

	TYPE OF TAX	PAYERS	TAXATION BASE	RATE	REPORTING
<b>National level taxes</b>					
1	Corporate Profit Tax	Legal entities and representative offices of non-residents	Profit before taxation according to the local GAAP or IFRS adjusted for certain tax differences	18%	Quarterly or annually
1.1	including non-resident withholding tax	Legal entities – non-residents	Ukraine-sourced income, excluding proceeds from goods and services	15%*	
2	Personal Income Tax	Resident individuals and non-resident individuals	For residents – the general taxable income; for non-residents – Ukraine-sourced income	18%	Quarterly or annually
2.1	Military Tax	Resident individuals and non-resident individuals	The same tax base as for Personal Income Tax	1.5%	Quarterly or annually
3	Value Added Tax	Legal entities and individuals registered as VAT payers	Transactions with respect to goods and services supply and import into the customs territory of Ukraine	20%	Monthly
4	Excise tax	Legal entities and individuals – manufacturers, importers and sellers of excisable goods; both residents and non-residents	Quantity of manufactured, imported, sold excisable goods or the volume of sales	Ad valorem and specific tax rates according to the type of goods	Monthly
5	Environmental tax	Legal entities and representative offices of non-residents	Volumes and types of contaminants	Rates according to the type of hazards and waste disposal zone	Quarterly
6	Rental fee				
6.1	Rental fee for the use of mineral resources for purposes associated with the extraction of commercial minerals	Legal entities and resident/non-resident individuals, stateless persons using resources	Volume/cost of commercial minerals extracted	Specific rates	Quarterly (monthly for extraction of oil and gas)
6.2	Rental fee for the use of mineral resources for purposes not associated with the extraction of commercial minerals	Legal entities and resident/non-resident individuals, stateless persons using resources	Volume of underground facilities	Rates according to the type of mineral resources and per volume unit	Quarterly
6.3	Rental fee for the use of radio frequencies	Legal entities and resident/non-resident individuals, stateless persons using resources	Bandwidth of radio frequencies	Rates according to the type of radio communication for a MHz	Monthly
6.4	Rental fee for the special use of water	Legal entities and resident/non-resident individuals, stateless persons using resources	Actual volume of used water	Rates according to the water supply sources in UAH per 100 cubic metres	Quarterly
6.5	Rental fee for the special use of forest resources	Legal entities and resident/non-resident individuals, stateless persons using resources	Actual volume of forest resources used	Rates are established according to type of forest tree depending on the forest belts in UAH per 1 cubic metres of wood substance with bark and without	Quarterly
6.6	Rental fee for transportation of oil and petroleum products	Legal entities and resident/non-resident individuals using pipeline facilities	For oil and petroleum products – actual volumes of transportation. For natural gas and ammonia – the sum of products of their relevant transportation route distances	USD 0.56-2.4 for transit transportation of 1000 cubic metres per every 100 km of the relevant transportation routes	Monthly

\*Unless other rates are provided by a corresponding double tax treaty.

7	Customs fee	Legal entities and resident/non-resident individuals transferring goods through the customs border of Ukraine	Customs value of goods transferred through the customs border of Ukraine or the quantity of such goods or the combined determination of taxation base	Ad valorem, specific and combined rates according to the type of goods	
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Local taxes:

8	Property Tax, including:				Annually
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8.1	Transport tax	Legal entities and resident/non-resident individuals – owners of motor vehicles registered in Ukraine	Quantity of motor vehicles registered in Ukraine up to five years of use at the cost of more than 375 minimum wages	UAH 25000 per year for each vehicle	
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8.2	Land tax	Owners of land plots and land users	Normative valuation of land plots	From 0.3% to 3% (for landowners) and up to 12% (for land users) depending on the type of land and intended purpose	
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8.3	Tax on real estate other than a land plot	Legal entities and resident/non-resident individuals – real estate owners	Total area of residential and non-residential real estate	Upon decision of local councils, but not more than 1.5% of minimum wage per square metre	
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9	Single tax				
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9.1	The first group	Individual entrepreneurs who do not use hired labour and the amount of income of which in a calendar year does not exceed UAH 1 million	-	Flat rate in 2020 – up to UAH 202	Annually
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9.2	The second group	Individual entrepreneurs whose amount of income in a calendar year does not exceed UAH 5 million and who do not use the hired labour or the number of employees who have labour relations with them does not exceed 10 persons at the same time	-	Flat rate in 2020 – up to UAH 944	Annually
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9.3	The third group	Legal entities and individual entrepreneurs whose amount of income in a calendar year does not exceed UAH 7 million	Income in specie (cash and/or non-cash), tangible or intangible form	3% for the VAT payers and 5% for non-VAT payers	Quarterly
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9.4	The fourth group	Legal entities – agricultural manufacturers	Normative monetary evaluation of the agricultural land and water fund lands	Rates are established according to the category (type) of land and its location, as a percentage of the normative monetary evaluation	Annually
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Local fees:

10	Tourism fee	Resident & non-resident individuals, stateless persons receiving services associated with the temporary accommodation (overnight accommodation)	Cost of the whole period of dwelling in hotels, camping areas, motels, hostels and other hotel facilities	Rates are established by the local authorities (0.5-1%)	Quarterly
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11	Fee for vehicles parking	Legal entities, individual entrepreneurs who organize and carry out the activity associated with the parking of vehicles at the paid parking lots and specially allotted parking areas	Parking lot area	Rates are established by the local authorities for each day per 1 square metre	Quarterly
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Social taxes:

12	Unified Social Contribution	Legal entities and individual entrepreneurs using hired labour	Payments accrued to the hired employees, associated with the labour relations, but not more than 15 minimum wages	22%	Monthly
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## APPEALS

Decisions made by tax bodies can be appealed in accordance with the administrative procedure to the higher tax authority and/or to the court.

Appeals to the tax authorities can generally be submitted within 10 calendar days after receipt of a tax decision being appealed and in case when such appeal has been dismissed, the tax payer can appeal further to the higher tax body within 10 calendar days after the receipt of notification concerning dismissal of appeal. The tax authorities shall consider the submitted appeals within 20 calendar days. In case of their failure to consider an appeal within the above terms the decision is considered to be made for the benefit of a taxpayer.

Decisions of the tax authorities can be appealed directly to the administrative courts as well as in cases when the appeals in accordance with the administrative procedure have not brought any results within a month after the respective decision of the tax authority.



# TAXES ON BUSINESS

Providing tax solutions to compliment your strategy

General taxes applicable to the companies in Ukraine are Corporate Income Tax (CIT) and Value Added Tax (VAT). Additional taxes and fees may apply or the rates may differ depending on the area of business.

## CORPORATE INCOME TAX

### Tax Payers

The Corporate Income Tax is paid on the territory of Ukraine by:

- Resident legal entities, i.e. legal entities of any type established on the territory of Ukraine, except for the budget-funded institutions, non-profit entities, institutions, organizations and legal entities which apply simplified tax system.
- Non-resident legal entities, i.e. legal entities established under the laws of other states, drawing their income from the Ukrainian sources (except for institutions and organizations with diplomatic privilege or immunity under international treaties).
- Non-resident legal entities carrying out their activity on the territory of Ukraine through permanent establishment of non-residents that draw their income from the Ukrainian sources or act as agents (representatives) or act otherwise in respect of such non-residents or their founders.

### Tax base

The CPT in Ukraine shall be withheld from the Ukraine-sourced income as well as in some cases from income derived abroad, as specified in the Company's financial reporting prepared according to the National Regulations (Standards) on Accounting in Ukraine and International Financial Reporting Standards ("IFRS"). Both income and expenses shall be recognized on accrual basis.

For the taxation purposes the taxable profit defined in the financial reporting shall be adjusted by the accounting and tax differences which arise in the following cases:

- when the depreciation of non-current assets is accrued;
- when provisions (reserves) are made;
- when carrying out financial transactions (i.e. when the income from participation in equity of other CPT payers is accrued; in case of downward revaluation, upward revaluation of equity instruments reclassified as financial liabilities, etc.);
- when costs associated with royalty for the benefit of non-residents are withheld when making transfer pricing adjustments;
- when applying deductibility restrictions for certain payments to non-residents;

- when carrying out transactions with non-profit organisations;
- in some other cases stipulated by the Tax Code of Ukraine.

Thus, the Ukrainian legislation provides for the restrictions on inclusion of the loan interest to the tax-deductible expenses, as paid to non-resident — related parties. In particular, if the amount of resident's debt liabilities before a non-resident — related party exceeds the amount of equity capital by more than 3.5 times (for financial and leasing companies — by more than 10 times), the financial result before taxation shall be increased by the excess of the accrued percent in the accounting over 50 per cent of the financial result before taxation, financial costs and depreciation charges (thin capitalization rule).

The CPT payers shall have a right on prepaid expenses carried forward for the following tax periods until complete repayment.

### Tax Rate

The basic CPT rate is 18%. The reduced rates of 0% or 3% apply to the insurance activity of the resident entities. The base rate of the non-resident withholding tax totals to 15 per cent (the rates may differ depending on the type of income and based on the provisions of bilateral double taxation treaties).

## DEPRECIATION

Depreciation of fixed assets and intangible assets for the purposes of CPT calculation shall be calculated in accordance with the National Accounting Standards or IFRS in view of the minimum allowable periods of their depreciation set forth by the Tax Code, in particular: see table on page 21.

When determining the tax depreciation the depreciation methods specified by the National Accounting Standards shall be applied.

The following groups shall not be subject to depreciation and are carried out at the cost of related financial sources: cost of goodwill and non-productive fixed assets. The term "non-productive fixed assets" shall mean non-current fixed assets that are not used in the taxpayer's business activity.

The useful life term for depreciation of intangible assets shall be established according to the title documents. If under the title document there is no fixed period of effect of the right to use intangible asset, such a period shall be determined independently by the taxpayer, but shall not be less than two and exceed 10 years of continuous operation.

## DIVIDENDS PAYMENT

If the decision on distribution of dividends is taken, the CPT payer-issuer of corporate rights the dividends are accrued for shall make payments to the owner of such corporate rights regardless of whether the taxable income is calculated or not; at the same time the issuer of corporate rights shall accrue and pay to the budget the advance contribution of the CPT.

The amount of advance contribution shall be calculated on the excess of payable dividends over the value of the taxation base with repaid financial liabilities for the same fiscal (reporting) year the dividends are paid for. In case of an outstanding liability the advance payment shall be calculated on the full amount of dividends payable. The advance contribution shall be calculated according to the basic CPT rate. The amount of payable dividends shall not be decreased by the amount of the advance contribution.

At the same time if the dividends are paid for incomplete calendar year, the mentioned excess amount shall be calculated by applying the value of the taxation base calculated proportionally to a number of months the dividends are paid for. The mentioned advance contribution shall be paid to the budget prior to/ simultaneously with the payment of dividends.

The amount of the paid advance contributions of CPT shall be paid to reduce the outstanding CPT liability, as declared in the tax return for the reporting (tax) year.

## PECULIARITIES OF TAXATION OF NON-RESIDENTS' INCOME

Ukraine-sourced income received by a non-resident shall be taxed in the amount of 15 per cent of the income sum, unless otherwise specified by the effective international double taxation treaties of Ukraine concluded with the countries of residence of persons the income is paid to. This tax shall be withheld from the income accrued for the benefit of a non-resident by a resident or permanent representative office of non-resident making any type of Ukraine-sourced income payment.

Such income includes:

1. interest, discount income paid in favour of the non-resident, including interest for loans and debt obligations issued by the resident;
2. dividends paid by the resident;
3. royalty;
4. freight and revenues from engineering;
5. leasing/rent payments made by residents or permanent representative offices in favour of the non-resident-lessor/landowner under operative leasing/rent contracts;



6. proceeds from sales of real estate located in Ukraine, which is owned by the non-resident, including the real estate of the permanent establishment of the non-resident;
7. income from trades in securities, derivatives or other corporate rights, as determined in line with this section;
8. income from joint ventures (operations) in Ukraine, income from long-term contracts on the territory of Ukraine;
9. fees earned for cultural, educational, religious, sports and entertainment operations made by non-residents or the persons authorized thereby on the territory of Ukraine;
10. brokerages, commissions or agent fees received from residents or permanent establishments of other non-residents as regards brokerages, commissions or agent fees paid by the non-resident or its permanent establishment in Ukraine in favour of residents;
11. contributions and premiums for insurance and re-insurance of risks in Ukraine (including insurance of life risks) or insurance of residents against risks beyond the borders of Ukraine;
12. income obtained from activities in the field of entertainment (except for activities related to the organization of the state lottery);
13. income as charities and voluntary contributions in favour of non-residents;
14. other income from the non-resident (permanent establishment of the latter or any other non-resident) business in Ukraine.

Tax is withheld by resident which makes the payment to a non-resident at the expense of such payment.

The following non-residents' income shall not be taxed: income as cash or other compensations for the value of goods/work/services transferred/ provided/ rendered to the resident by this non-resident (permanent establishment), including the cost of services for the international communications or international information support.

Special tax rates with respect to specific types of income are available based on the provisions of bilateral double taxation treaties.

## SPECIAL RULES

The Ukrainian legislation provides for special CIT taxation rules for:

- Insurers;
- Sales or other alienated securities;
- Transactions with investment property and biological assets;
- Investors in the context of the performance of production sharing agreements;
- Non-residents;
- Betting activities, issue and holding of lotteries, gambling;

- Institutes of joint investment;
- Non-state pension provisions.

The enterprises and organizations established by the public organizations of the disabled ones are exempted from CIT.

## REPORTING PERIOD

For the purposes of the CIT calculation the reporting tax period is considered to be a one-year period starting from the 1<sup>st</sup> of January until the 31<sup>st</sup> of December of the related reporting year, except for the producers of agricultural goods for which the annual reporting period shall start on the 1<sup>st</sup> of July of the current reporting period and end on the 30<sup>th</sup> of June of the following reporting period.

The tax return for the reporting tax year shall be submitted to the tax authorities prior to the 1st of June of the following year. The taxpayer shall include into the tax return the calculation of the advance contributions to be paid within the period of 12 months from June until May in the subsequent years on a monthly basis.

For tax payers the annual income (excluding indirect taxes) of which exceeds UAH 20 million the reporting period is a calendar quarter.

## TRANSFER PRICING RULES

The pricing control in Ukraine is executed in the form of transfer pricing rules. The transactions which are subject to transfer pricing rules are as follows:

1. Transactions with non-resident — related parties.
2. Business transactions on sale of goods by means of commissioners — non-residents.
3. Transactions where one of the parties is a non-resident registered in the state included in the list approved by the Cabinet of Ministers of Ukraine (where the corporate income tax rate is by five or more percent lower than in Ukraine, or where tax benefits are provided with respect to the corporate income tax; or in cases when no international treaties on exchange of information have been concluded between the state and Ukraine, or such exchange of information is not effectively ensured).
4. Transactions with non-residents which are not payers of the corporate income tax or which are not tax residents of jurisdictions where they are registered (the list of organizational forms and jurisdictions is approved by the Cabinet of Ministers of Ukraine).
5. Transactions between non-resident and its permanent establishment in Ukraine.

Transfer pricing rules apply to payers of the corporate income tax as well as to the single taxpayers of the fourth group. At this, the transfer pricing rules are applicable only if the following conditions are met simultaneously:



- total taxable annual income (excluding indirect taxes) of a resident exceeds UAH 150 million; and
- the volume of transactions with a counterparty exceeds UAH 10 million (excluding indirect taxes) for the corresponding year.

The transactions between non-residents and their permanent establishments in Ukraine shall be subject to transfer pricing rules in case their volume exceeds UAH 10 million for the corresponding year.

A Corporate Income Tax payer, being a participant of the controlled transaction, shall determine the scope of the taxable profit by arm's length principle, i.e. the circumstances of the controlled transactions shall not differ from the comparable circumstances of the uncontrolled transactions. The Tax Code of Ukraine specifies five methods to determine the compliance of the circumstances of the controlled transactions with the arm's length principle. These methods are in line with those established by the Transfer Pricing Guidelines published by OECD.

A transfer pricing report as well as in certain cases global transfer pricing report (master file) and country-by-country report are to be submitted to the tax authorities before the 1<sup>st</sup> of October of the following year. Therein it should be specified as follows: the list of all counterparties the controlled transactions were carried out with, as well as the costs and volume of such transactions. A failure to submit such a report entails a fine in the amount of 300 living wages and a failure to report a controlled transaction in the submitted report — a fine in the amount of 1 per cent of the amount of the controlled transactions, but not exceeding 300 living wages.

The tax office can request the master file from the Ukrainian taxpayer, if consolidated annual revenue of the relevant international group of companies amounts to at least EUR 50 million. The country-by-country report (CbCR) can be requested if (i) consolidated annual revenue of the relevant

international group of companies exceeds EUR 750 million and (ii) the Ukrainian taxpayer is an ultimate parent entity or there is a lack of effective CbCR exchange mechanism with a jurisdiction of an ultimate parent entity.

All taxpayers carrying out the controlled transactions shall undertake to maintain and keep documentation on transfer pricing and to submit it upon request of the controlling authorities. The documentation on transfer pricing shall contain data concerning the functions of the related persons, description of transactions, financial and economic conditions of transactions, substantiation of pricing, terms & conditions of settlements, economic analysis, etc. A fine in the amount of three (3) per cent of the amount of controlled transactions not documentary substantiated (but not more than 200 minimum wages) shall be paid for a failure to provide such documentation.

## CONTROLLED FOREIGN COMPANY RULES

The Controlled Foreign Company (CFC) Rules enter into force since 1 January 2021 and enable taxation of income of controlled foreign entities (having the status of a legal entity and partnerships) in case Ukrainian residents are their beneficial owners or exercise de facto control over such entities. Rules will apply mostly to CFC paying corporate tax at the effective rate less than 13% or to those obtaining mainly passive income. Obligations of Ukrainian 'controlling' residents will include:

- annual reporting and taxation in Ukraine of undistributed CFC's income pro rata to their stakes in the CFC;
- annual reporting of existing CFCs, irrespective of whether there is any reportable income;

- reporting of acquisition / alienation of shares in the CFCs or discharging other de facto control, as well as the establishment / liquidation of trusts or other transparent entities.

The attributable CFC's income should be exempted from taxation in Ukraine if, in particular, total income for the reporting period of all CFCs of a taxpayer is EUR 2 million or less. Otherwise, the undistributed income of CFCs would be subject to 18% PIT at the level of Ukrainian "controlling" persons-individuals.

Penalties are applied for non-reporting of controlled entities.

## SINGLE TAX

Single tax is a special taxation regime which replaces the payment of certain taxes and duties (in particular, corporate income tax) with the payment of a single tax in line with simultaneous keeping of the simplified accounting and reporting. A legal entity or an individual entrepreneur can independently choose among four groups of a simplified tax system, if such an entity/entrepreneur complies with the established requirements.

Single tax of the third group cannot be applied by legal entities in cases if more than 25% of their authorized capital is owned by legal entities — non-payers of single tax as well as to permanent establishment.

## VALUE ADDED TAX

In general, VAT is due on supplies of goods and services as well as the import of goods & services (in certain cases) to Ukraine.

The VAT taxation base, as a rule, shall be the agreed cost of goods/work/services.

Since VAT is an indirect tax with the real burden of VAT falling on final consumers, businesses registered as VAT payers are, in fact, acting as collecting agents for the state. They are required to charge and report VAT and they are also entitled to refund the input VAT. Any VAT incurred in the course of the taxable person's taxable activity (e.g. charged by the taxable person's suppliers), can in principle be deducted or set off against the VAT due. Only the net amount must be paid to the tax authorities.

## REGISTRATION AS VAT PAYERS

Any business entity shall have a right to be registered as a VAT payer on a voluntary basis.

Businesses with the total amount of transactions on sales of goods/ services of more than one million hryvnias (excluding VAT) on the territory of Ukraine for the last twelve calendar months shall be subject to obligatory registration as VAT payers.

Non-residents shall have a right to carry out the business activity on the territory of Ukraine through

their representative offices which are also entitled to get registered as VAT payers in Ukraine.

The single tax payers of the second and third groups shall have a right not to be registered as the VAT payers provided that they do not exceed the statutory threshold of the income amount for their groups.

## IMPORT VAT

In the event of import of goods into the customs territory of Ukraine by persons not registered as the VAT payers, the tax shall be paid during the customs clearance of goods by the said persons without registration as a VAT taxpayer.

Import into the customs territory of Ukraine of goods with customs value not exceeding EUR 150 equivalent shall not be subject to VAT. The individuals (physical persons) can import the goods in hand luggage and/or accompanied luggage without paying VAT into the territory of Ukraine with total invoice value not exceeding EUR 1000 equivalent through checkpoints on the State Border of Ukraine open for air traffic, and with total invoice value not exceeding EUR 500 and 50 kg through other checkpoints.

## VAT RATES

VAT rates:

- a) 20 per cent — basic rate;

b) zero per cent — for export transactions, duty free shops, international traffic, maintenance and refuelling of ships and aircrafts engaged in international flights;

c) 7 per cent — supply in the customs territory of Ukraine and import into the customs territory of Ukraine of pharmaceutical products, medical products and medical equipment.

## NON-TAXABLE AND TAX-EXEMPT TRANSACTIONS

The non-taxable transactions, in particular, include:

- issue (emission) and sale of securities;
- transactions with respect to placing property in the custody, transfer to concession or lease (rent), except for financial lease, accrual and payment of interest or commission fees as part of a lease (rent) payment under terms of a finance lease agreement; pledging (mortgaging) property to the lender (creditor); payment of a principal sum of consolidated mortgage debt and of accrued interest;
- insurance, coinsurance or repeated insurance services by persons licensed to carry out insurance activities under the law;
- turnover of banking metals, other currency valuables;
- payment system organization services related to money transfers, cash collection, cash management services, services for involvement, investment and repayment of money under loan, deposit agreement

CONDITION	THE FIRST GROUP	THE SECOND GROUP	THE THIRD GROUP	THE FOURTH GROUP
Can be applied by	Individual entrepreneurs — physical persons		Individual entrepreneurs and legal entities	Legal entities — manufacturers of agricultural products
Amount of income per one calendar year	Up to UAH 1 million	Up to UAH 5 million	Up to UAH 7 million	Subject to receipt of 75 and more per cent of income out of the agricultural productions for the previous year
Maximum number of hired employees	-	10	Not limited	
Types of business activity	Retail sale of goods on the markets and/or rendering consumer services to population	Manufacturing and/or sale of goods, restaurant business, rendering services to single tax payers and/or population, except for entities providing services in the area of real estate, including assessment services and those carrying out jewellery business	Any types of activities, except for those specifically prohibited for the single tax payers	Production and sale of agricultural products as well as derivative products; agricultural services
Settlements for the dispatched goods (performed work, rendered services)	Solely in the monetary form (cash and/or non-cash). Thus, the barter is prohibited.		No limitations	
Tax rates	Fixed rate — is approved by the decisions of the local authorities		3 per cent including VAT or 5 per cent excluding VAT	Depending on the category (type) of land and its location (between 0.09 and 3 per cent of the regulatory monetary valuation of the land) based on the amount of land in use
	up to 10 per cent of a living wage	up to 20 per cent of a minimum salary		
Tax reporting period	Calendar year		Calendar quarter	Calendar year

GROUPS	MINIMUM ALLOWABLE PERIODS OF USEFUL LIFE, YEARS
Group 1 — land plots	-
Group 2 — capital expenses for land improvement that are not related to construction	15
Group 3 — buildings	20
Facilities	15
Transmission devices	10
Group 4 — machinery and equipment	5
of which:	
Electronic computing devices, other machines for automatic processing of information, related information readout and printing devices, related software (except for programs the expenses for acquisition of which are recognized as royalty and/or software recognized as intangible assets), other information systems, commutators, routers, modules, modems, uninterrupted power supply sources and means of their connection to telecommunication networks, phones (including cell phones), micro-phones and portable radio sets the cost of which exceeds UAH 2500.	2
Group 5 — transport means	5
Group 6 — instruments, equipment, inventory (furniture)	4
Group 7 — animals	6
Group 8 — perennial plantings	10
Group 9 — other fixed assets	12
Group 10 — library funds; preservation of the National Archival Fund of Ukraine	-
Group 11 — non-current tangible assets of low cost	-
Group 12 — temporary (non-title) facilities	5
Group 13 — natural resources	-
Group 14 — reusable containers	6
Group 15 — rent objects	5
Group 16 — long-term biological assets	7

# BREAKTHROUGH BUSINESS DECISIONS, INNOVATIVE APPROACHES AND TECHNOLOGIES TO PROVIDE TAILORED SERVICES OF THE HIGHEST QUALITY

(including pension deposit agreement), debt trading for monetary funds or securities;

- payment in specie of wages (other equivalent payments), pensions, grants, subsidies, payment of dividends, royalty in specie in the form of securities by the issuer; supply of services on a commission basis (brokerage, dealership) related to trade and/or management of securities (corporate rights), derivatives and currency valuables;
- reorganization (merger, accession, split-up, spin-off and transformation) of legal entities;
- supply of services for agenting and chartering the merchant marine by shipping agents in favour of non-residents;
- lease or concession payment under lease or concession agreements with respect to integral property complex of state or municipal enterprises (organization units thereof), where state or local self-government authorities act as lessors or lessors under agreements and payments under the law are paid to the State Budget of Ukraine or to local budgets.

Some transactions are recognized by the Tax Code as VAT-exempt. In particular, such transactions include:

- supply of baby food products and baby stuff;
- supply of education services;
- supply of healthcare services by licensed healthcare institutions;
- provision of housing (housing facilities), except for the first provision thereof;
- charitable support;
- supply (sale/transfer) of land plots, land shares, lease payment for the land plots;
- transactions for supply of services for transit passenger and cargo carriage (transfer) through the customs territory of Ukraine;
- transactions for supply of services to foreign and domestic seacraft performing international passenger luggage and cargo carriage owned and paid by them;

- transactions for supply of services for air navigation service of aircraft performing interstate, international and transit flights;
- transactions for import into the customs territory of Ukraine of property by way of international technical assistance provided in accordance with the international treaties of Ukraine, or by way of humanitarian aid supplied according to the provisions of the Law of Ukraine "On Humanitarian Aid";
- transactions for import into the customs territory of Ukraine of renewable energy equipment, energy conservation equipment and materials, means for measuring, control and management of expenses for fuel and power resources, equipment and materials for alternative fuel manufacture and for renewable energy generation;
- transactions for import into the customs territory of Ukraine of purebred animals, breeding (genetic) resources;
- transactions on supply within the customs territory of Ukraine and exportation within the customs treatment of grain crops and technical crops.

Furthermore, temporarily until 1 January 2023, transactions on supply of software (including operational systems, applications, web-sites, access to online services as well as their upgrading) and transactions with software which are not considered royalty are VAT-exempt.

## CALCULATION OF VAT PAYABLE/ RECEIVABLES

For the VAT payers the tax amount which is subject to budget payment or budget refunding is determined as the difference between the amount of tax output of the accounting (tax) period and the amount of the VAT input of the accounting (tax) period.

The positive difference (VAT payable) shall be paid to the state budget and the negative difference (VAT receivable) is subject to the budget refunding for the benefit of the taxpayer or to the VAT payment accrual in the subsequent accounting (tax) periods.

VAT output/payable shall be determined as the taxation base multiplied by the taxation rate. The taxation base is determined on the basis of the agreed cost of the sold goods and services, but not lower than the acquisition price or the historical cost.

The date of incurrence of VAT liabilities shall be considered to be the date of event that occurred earlier — either the payment date or the date of shipment of goods/services.

## TAX INVOICES AND VAT ACCOUNTS

For each delivery of goods/services the supplier of goods/services shall undertake to prepare a tax invoice in electronic form, wherein it shall be indicated, inter alia, both the taxation base and the tax amount.

All tax invoices prepared by the suppliers of goods/services shall be registered with the Unified Register of Tax Invoices on a mandatory basis.

The VAT input of the registered VAT payers shall include the amount of Value Added Tax paid as part of purchase price of goods, materials, accessories, non-current assets, services and other expenses related to the taxpayer's business activity.

The inclusion of the tax amounts into the VAT input/receivable is possible only under the tax invoices registered by the suppliers in the Unified Register of Tax Invoices.

If the goods/services, during a purchase of which the VAT amounts were included into the VAT input, were

used in full or in part for carrying out VAT-exempt/VAT-free transactions or in the transactions not connected with the business activity, a taxpayer shall undertake to accrue VAT output based on the share of use of such goods/services.

VAT is paid through special VAT accounts which should be opened by each VAT-payer. The amount to be accumulated at the VAT special account of a tax payer is determined automatically by the Unified Register and, in fact, constitutes an advance VAT payment.

## REPORTING

The VAT reporting period shall be one calendar month. The single tax payers shall have a right to choose a VAT reporting period on a quarterly basis. The VAT return shall be submitted to the State Fiscal Service within 20 calendar days following the last calendar day of the reporting (tax) month. The specified tax amount due shall be paid within 10 days following the deadline for submission of the tax return.

Special tax treatment of VAT is applied for:

- transactions depending on the customs regime of the goods transfer through the Ukrainian border;
- tour operator and travel agency activities;
- non-residents' services rendered on the territory of Ukraine;
- transactions related with the work on Nuclear Safety of Chornobyl Nuclear Power Plant;
- cultural valuables, collector's items; or
- antiques.

# PERSONAL TAXATION

Helping you navigate complex corporate and legal requirements

## INCOME TAX

Personal Income Tax (hereinafter — the “PIT”) is a tax levied on income of physical persons. For the PIT purposes in Ukraine, the compilation of two taxation principles are applied: the income of the tax residents is taxed on the world-wide basis (unlimited tax liability); and the income of non-residents shall be subject to taxation if received from sources located on the territory of Ukraine (limited tax liability).

Payers of the PIT are individuals — residents and non-residents as well as tax agents.

## TAX RESIDENCY

For the PIT purposes a resident refers to an individual (physical person) having a place of residence in Ukraine. In cases where the individual (physical person) has a place of residence in a foreign country, he or she is considered to be a resident if such a person has a permanent residence in Ukraine; if the person has a permanent residence in a foreign country, he or she is considered to be a resident if there are close personal or economic ties (centre of vital interests) in Ukraine. If it is impossible to determine the state of the person's centre of vital interests, or if physical person does not have a permanent place of residence in one of the states, he or she is considered to be a resident if he or she resides in Ukraine for at least 183 days (including the day of arrival and departure) during the fiscal year period(s).

Sufficient (but not exclusive) condition to determine the location of the centre of vital interests of an individual (physical person) would be a permanent place of residence of the members of his/her family or his/her registration as a business entity.

If the resident status of an individual (physical person) cannot be determined, using the provisions of this sub-clause above, an Individual is considered to be a resident if he or she is a citizen of Ukraine.

If, contrary to the law, an individual — citizen of Ukraine, is a citizen of another country as well, for the PIT purposes such person is deemed to be a citizen of Ukraine not eligible for foreign tax credit provided for by the Tax Code of Ukraine or by provisions of international treaties of Ukraine.

If an individual (physical person) is stateless and is not subject to the provisions of paragraphs one through four of this sub-clause, his/her status is to be determined in accordance with international law.

Sufficient basis to determine if the person is a resident is an independent determination of his/her primary residence in the territory of Ukraine in the manner prescribed by the Tax Code of Ukraine or his/her registration as a self-employed person.

Double Tax Treaties may contain specific rules for determining a tax resident and their provisions prevail over the national regulations.

Non-residents refer to the individuals (physical persons) not having a place of residence in Ukraine.

## TAX AGENTS

Basically the PIT agents are considered to be persons who accrue and pay income for the benefit of individuals (employers, banks during the interest payment, lessees, issuers during the dividends payment, etc.) or participate in the legal procedure of the income payment (authorized persons, notaries public, professional securities dealers). Pursuant to the Tax Code of Ukraine such tax payers shall be held liable for accrual, withholding and payment of the PIT.

Responsible for the PIT withholding and payment transfer to the budget shall be:

- employers who pay salary and make similar payments;
- tax agents for the taxable income originated from Ukraine;
- taxpayers — for foreign income and profit received as from carrying out entrepreneurial or independent activities.

## TAX BASE

The PIT base is considered to be an annual taxable income, i.e. any income accrued, paid or provided for the benefit of an individual (physical person) within a reporting period.

Monthly taxable income shall include as follows:

- income in the form of a salary;
- proceeds of performance of works under civil law and employment contracts;
- part of income from property transactions;
- income from sales of property and non-property right objects, intellectual property, royalty fee, other right of use or disposal fee for intangible assets, royalty;
- income from property lease, renting or sublease;
- passive income, gifts, prizes and awards;

- investment profit;
- value of property inherited or obtained in grant (except for the property inherited from relatives of the first degree of relationship);
- over-expenditures of funds granted for business trip expenses;
- funds or property obtained as a bribe, stolen or found as treasure;
- other income received by a taxpayer as additional material benefits;
- other income.

The total monthly taxable income does not include the following:

- amount of state and social financial aid;
- amount of State Prize of Ukraine or educational grants of Ukraine;
- aid amount paid (provided) to Nazi victims, to persons declared repressed and/or rehabilitated, or to their descendants;
- amount of pensions, if it does not exceed the amount of three minimum salaries (on a monthly basis);
- cost of free healthful and dietary meals, milk or equivalent food-stuff, special clothing and other personal protection equipment provided under the Law of Ukraine “About a Labour Safety;”
- amount of financial or property supplies or provision of compulsory-duty military servants;
- amount of alimony received;
- gifts and property received from the first-degree family members;
- dividends, provided that such accrual in no way changes proportions (shares) of shareholding (share ownership) in issuer's authorized capital;
- funds or property cost provided as medical treatment assistance;
- funds paid by the employer in favour of domestic higher educational institutions and vocational schools;
- income obtained from sale of own-produced agricultural products;
- amount of insurance benefit and insurance indemnity;
- accommodation value transferred from state or community property into the ownership of taxpayer free of charge, and the amount of state support of construction or acquisition of affordable housing;
- cost of gifts, if their cost does not exceed 50 per cent of one minimum salary (on a monthly basis);
- cost of booking documents for treatment or recreation in the territory of Ukraine, donated to him by a trade union or using the funds of relevant fund of compulsory state social insurance;
- income obtained by a taxpayer for blood, breast milk and other kinds of donation;
- some types of other income.

As a general rule, unless specific type of income is determined as a non-taxable income, it shall be subject to taxation by PIT.

## PERSONAL INCOME TAX RATES

The general tax rate is non-progressive and amounts to 18%.

The passive income in the form of dividends is taxed by PIT at the rate of 5%, in case when they are paid by Ukrainian companies (except for the dividends paid by collective investment institutions which are taxed at the rate of 18%) and 9% in case when dividends are paid by non-resident companies. The rate of 5% also applies to gains from property disposal and income in the form of inheritance and gifts.

## TAX DEDUCTIONS

PIT taxpayers shall have a right on decrease of total taxable income by the amounts of tax social privileges; however, the threshold amount of income for the purpose of social privilege application is relatively low (living minimum wage multiplied by 1.4 and rounded to the nearest UAH 10 and in case of taxpayers who are provided privilege in connection with maintaining two or more children under 18, the above amount is multiplied by number of children) and salaries paid by businesses exceed such threshold. Accordingly, in most cases they are not used.

A taxpayer has a right to deduct his taxable income by the following expenses actually made by him during the accounting tax year:

- a part of interest paid according to the residential mortgage loan for purchase or construction of the primary place of residence of a taxpayer;
- funds in the form of donations or charitable contributions to non-profit organizations in the amount not exceeding four per cent of his total taxable income for such accounting year;
- funds paid by a taxpayer in favour of educational institutions for compensation of education cost for such taxpayer and/or his family member of the first degree of relationship;
- funds paid by a taxpayer in favour of health facilities for cost compensation of paid medical treatment services of such taxpayer or his family member of the first degree of relationship, including acquisition of medicaments, prosthetic and orthopaedic devices, medical products for private use of persons with disabilities;
- insurance payments under the long-term life assurance contracts and under pension contract with non-state pension fund;
- funds paid by a taxpayer in connection with conversion of vehicle owned by a taxpayer, using biofuel;
- taxpayer's construction expenses (purchase) of affordable housing, including repayment of privileged residential mortgage loan.

Tax deductions are indicated in the taxpayer's annual tax return based on the results of the accounting tax year and are only provided to resident taxpayers. The total amount of tax deductions cannot exceed the total amount of taxable income in the form of sala

## TAX CALCULATION

The PIT amount shall be accrued and withheld by the tax agents from the income of individuals and shall be calculated as follows: the income amount decreased by the unified social contribution and tax social privilege, if any, is multiplied by the tax rate. Tax agents shall report the sums of accrued income and withheld taxes to the regulatory authorities within 40 calendar days following the last calendar day of a tax (accounting) quarter.

A taxpayer, who obtains income from a person/entity other than tax agent (that is, from a non-resident or an individual not registered as an entrepreneur or independent professional), is obliged to include the amount of such income into the total annual taxable income and submit tax return based on the results of accounting tax year and pay tax from such income on an individual basis.

## TAXATION OF INDIVIDUAL ENTREPRENEURS AND SELF-EMPLOYED PERSONS

Apart from individual entrepreneurs — single tax payers, the individual entrepreneurs shall independently determine and pay the PIT from the amount of net taxable income at the rate of 18 per cent.

Net taxable income is determined as the difference between total taxable income (revenue in specie or in kind) and documented expenses associated with business activity of such individual entrepreneurs. Personal income tax withheld from individual entrepreneurs is paid by advance instalments on a quarterly basis, as calculated on the basis of the tax amount accrued in the previous year. The final tax calculation for the tax reporting year shall be made by a taxpayer in the annual tax return in view of the advance instalments made. Individual entrepreneurs are obliged to keep the Ledger of income and expenditure wherein all income received and all expenses incurred are itemized in chronological order.

The income of self-employed persons carrying out independent professional activities shall be taxed in a similar way, yet without making advance instalments. Such independent professional activities refer to individual participation in scientific, literary, artistic, educational or teaching activities, activities of doctors, private notaries, lawyers, auditors, accountants, appraisers, engineers or architects, persons engaged in religious (missionary) activities, other similar activities, provided that such person is not an employee or an individual entrepreneur and employs staff of no more than four people. Self-employed professionals shall be registered as such with the tax authorities.

Foreigners and stateless persons, registered in regulatory authorities as private entrepreneurs or self-employed persons, are considered to be residents of Ukraine for the taxation purposes and, along with the income from carrying out an independent professional activity, other Ukraine-sourced income and foreign income should be specified in the annual tax return.

## TAXATION OF INCOME FROM THE SALE OF IMMOVABLE PROPERTY

Income obtained by a taxpayer from the sale of residential building, apartment or its part, lodging, garden cottage and land plot not more frequently than once per accounting tax year, provided that such property is owned by a taxpayer over three years, is tax exempt. The provision concerning taxpayer's ownership of such property over three years does not apply to property inherited by such taxpayer.

Income received by a taxpayer from the sale of more than one immovable property item within a one-tax year period shall be taxed at the rate of 5 per cent (for residents) and 18 per cent (for non-residents) of the sales/purchase agreed price, but not lower than the estimated value determined by a certified assessment agency.

The tax shall be paid by the seller of immovable property before notary attesting the deal, and the written proof of payment shall be submitted to the notary public during execution of the purchase-sales agreement. The notaries public shall quarterly submit to the State Fiscal Service of Ukraine the information on the amount of tax paid under the agreements on purchase-sales of immovable property.



# OTHER TAXES

## EXCISE TAX

The excise tax shall be paid by legal entities and individuals, residents and non-residents — manufacturers as well as importers and distributors of excise goods.

Excise goods include:

- ethyl alcohol and other alcohol distillates, alcoholic beverages, including beer;
- tobacco products, tobacco and industrial tobacco alternatives;
- fuel;
- motor cars, car bodies, trailers and semitrailers, motorcycles, motor vehicles designed for carriage of 10 and more persons, motor vehicles for cargo transportation;
- electric energy.

**The excise tax rates are set out:**

1. as fixed amount per unit of commodity (products sold (specific));
2. as a percentage of the volume of sales (ad valorem);
3. both as an ad valorem tariff and as a fixed amount depending on the type of excise goods.

Special provisions are established for different types of excise goods.

In case of production on the customs territory of Ukraine of alcoholic beverages and tobacco products or import of such goods to the customs territory of Ukraine, taxpayers are required to mark those products with the standard excise stamps in such a manner, that the excise stamp will tear up at the time of corkage (opening) of the goods.

The manufacturers, importers and distributors of excise goods shall calculate independently the excise tax due on a monthly basis and shall file excise tax return prior to or on the 20<sup>th</sup> day of the next period. The amount of excise tax shall be paid by the manufacturers and sellers of excise goods (products) within 10 calendar days following the last day of the relevant deadline for filing tax return for a one month — tax period. Importers shall pay the excise tax prior to and on the date of filling the customs declaration. The manufacturers and importers of alcoholic beverages and tobacco products shall pay the excise tax when acquiring excise stamps.

## PROPERTY TAX

Property Tax consists of:

- tax on real estate other than a land plot;
- transport tax;
- land tax.

## TAX ON REAL ESTATE

Tax on real estate other than a land plot shall be paid by individuals and legal entities, residents and non-residents — owners of residential and non-residential property. The taxation base shall be the total area of the property. The tax rates are established by the local authorities depending on the property location in the amount not exceeding 1.5 per cent of the minimum wage established by the law as of 1 January of the reporting year, per 1 square metre of taxation base.

The calculation of the tax amounts for the immovable property owned by the individuals shall be made by the tax authorities on the basis of the data received from the Unified State Register of Property Rights to Real Estate or on the basis of the original copies of documents submitted by owners. The results of such calculations should be sent by post to the taxpayers prior to the 1<sup>st</sup> July of the year following the reporting one. The tax should be payable by individuals within 60 calendar days since the receipt of a tax notification.

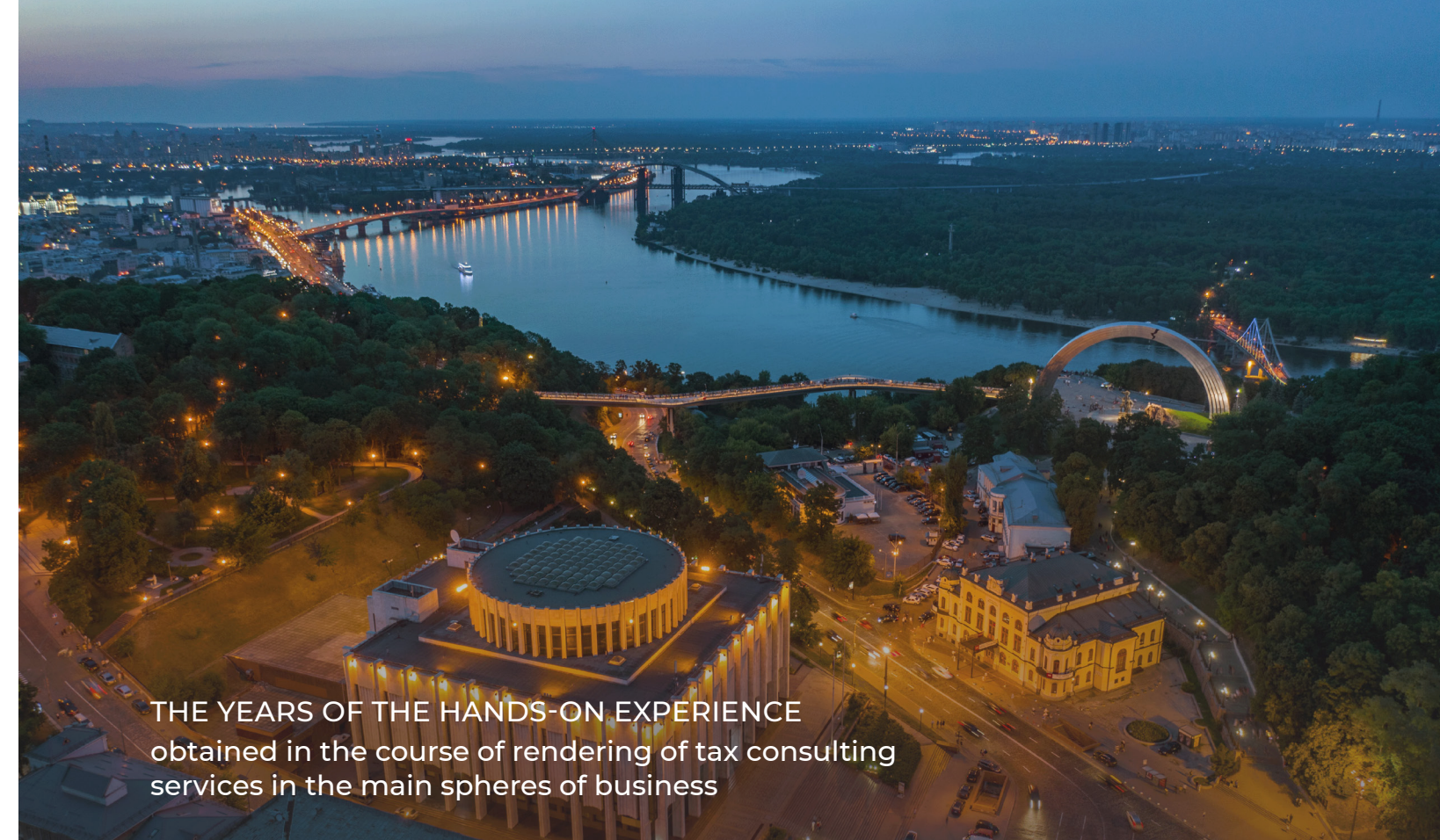
Taxpayers — legal entities independently calculate tax amount as of the 1<sup>st</sup> January of the accounting year, and not later than the 20<sup>th</sup> of February of this year, submit to the tax authority at the location of the immovable property the tax return with breakdown of annual amount by equal parts on a quarterly basis. Tax should be payable in the form of advance payments on a quarterly basis until the 30<sup>th</sup> day of the month following the reporting quarter.

Some immovable property is exempted from taxation, including: non-residential property used by retailers-SME, industrial and manufacturing buildings, warehouses, buildings and constructions for agricultural producers.

The individuals are entitled to the following tax relief: the taxation base is reduced for apartment(s) regardless of their quantity — by 60 sq. metres; for residential building(s) regardless of their quantity by 120 sq. metres or for different types of residential property (in case of simultaneous ownership of apartment(s) and residential building(s) by a taxpayer) — by 180 sq. metres. Such reduction is provided once per every basic tax (accounting) period (year).

## TRANSPORT TAX

Transport tax shall be paid both by individuals and legal entities being in possession of the motor cars registered in Ukraine and produced not earlier than 5 years ago, of the average market value of more than 375 minimum wages.



THE YEARS OF THE HANDS-ON EXPERIENCE  
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The tax rate shall total to UAH 25 000 per year for each motor car. A motor car purchased during a year shall be taxed in proportion to a number of months left to the end of a year.

The tax amount payable by the individual taxpayers shall be calculated by the tax authority according to the place of registration of a taxpayer on the basis of the data regarding vehicle owners provided by the traffic police agencies. The tax notification-decision on payment of the transport tax shall be sent to the taxpayers before the 1<sup>st</sup> July of the accounting (tax) period. The transport tax shall be paid by individuals within 60 days after delivery of a tax decision notice.

Taxpayers — legal entities independently calculate tax amount as of 1 January of the accounting year, and not later than the 20<sup>th</sup> of February of this year submit to the regulatory authority, at the location of a taxable item, the tax return with breakdown of annual tax amount by equal parts on a quarterly basis. The tax is payable by legal entities — by making advance instalments on a quarterly basis not later than the 30<sup>th</sup> day of the month following the accounting quarter.

## LAND TAX

The payers of the land tax shall be the owners of the land plots and land shares as well as land users.

The taxation base shall be the normative monetary value of the land plots in view of the indexation coefficient or the land plots area, in case if the

normative monetary evaluation of the land plot has not been conducted. The normative monetary evaluation of lands is carried out by the local authorities.

The land tax with the normative monetary valuation shall total to 3 per cent of the normative monetary value; and for the agricultural lands — 0.3–1 per cent of the normative monetary value. As to the land users, the amount of the lease payment shall be established in the lease agreement, but the annual amount of payment cannot be less than the amount of land tax and may not exceed 12 per cent of the normative monetary value.

The tax rate for the land plots the normative value of which has not been established shall be 5 per cent and 0.3–5 per cent — for agricultural land of the average normative monetary value of unit area of arable land in the corresponding region.

The tax payable by individuals is calculated by the tax authorities based on the information obtained from the Unified State Register of Property Rights to Real Estate. The results of such calculations shall be sent to the taxpayers by post before the 1<sup>st</sup> of July of the year following the accounting (tax) one and shall be payable within 60 days after such notification receipt.

The taxpayers — legal parties shall independently calculate the amount of the land plot as at the 1<sup>st</sup> of January of the accounting year and prior to the 20<sup>th</sup> of February shall submit to the tax authorities according to the land plots locations the tax return with the breakdown of the annual tax amount in equal portions on a monthly basis.

# SOCIAL SECURITY CONTRIBUTION

Providing clarity when there is complexity

The social tax is represented in Ukraine by the Unified Social Contribution (hereinafter — the “USC”). The unified contribution on compulsory state social insurance is deemed as a consolidated insurance contribution to be collected to the compulsory state social insurance system on the mandatory and regulatory basis to ensure the rights of the insured persons for receipt of the insurance payments (services) in cases provided for by the legislation according to the type of the compulsory state social insurance, in particular:

- pension insurance;
- unemployment insurance;
- insurance against accidents;
- disability insurance and other types of social insurance.

The duties re collection, accumulation, distribution and administration of USC are imposed by the State Fiscal Service of Ukraine.

The USC payers are:

- employers — legal entities and individuals, residents and non-residents paying income to the individuals;
- individual entrepreneurs paying USC from their entrepreneurial income;
- individual entrepreneurs under the simplified system of taxation shall pay the USC in minimum amount;
- persons who decided to participate in the system of taxation voluntarily.

The rate of USC is 22% of the tax base which is the income in the form of salary or proceeds from the business activity taking into consideration minimum and maximum taxation bases.

For the purpose of USC calculation the minimum tax base is the minimum wage and in case the tax base does not exceed the amount of minimum salary, the USC is calculated as a product of minimum salary and USC rate. The maximum threshold for USC's monthly tax base is 15 minimum wages.

## REPORTING AND PAYMENT REQUIREMENTS

The USC payers — employers shall, on a monthly basis prior to the 20<sup>th</sup> date of a month following a reporting one, prepare and submit in electronic form the Report on the accrued amount of the unified social contribution for obligatory state social insurance, wherein it is specified, inter alia, the personalized data re the income accrued for the benefit of Individuals and re accrued and withheld USC. The pensionable service data, type of insurance and the basis for making insurance payments of obligatory state social insurance for the insured persons should be prepared on the basis of the mentioned Reports.

The individual entrepreneurs shall submit the Report on the accrued amount of the unified social contribution for obligatory state social insurance once a year prior to the 10<sup>th</sup> of February of the following year. The self-employed persons shall submit the Report on an annual basis as well, yet prior to the 1<sup>st</sup> of May of the following year.

The USC payers – employers shall undertake to pay the unified contribution accrued for the calendar month when the salary/other taxable income payment is made, but not later than the 20<sup>th</sup> day of the following month.

The individual entrepreneurs under the general system of taxation shall pay the annual unified contribution not later than the 10<sup>th</sup> February of the following year. The entrepreneurs under the unified taxation system shall pay the USC on a quarterly basis, not later than the 20<sup>th</sup> day of the month following the reporting quarter. The self-employed persons shall pay the USC for the calendar year not later than the 1<sup>st</sup> of May of the following year.



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# IT INDUSTRY

## IT SECTOR

Ukraine has the largest and fastest-growing number of IT professionals in Europe with its IT engineering work force expected to be doubled to over 200,000 by 2020.

At present, the most widespread business model used by foreign businesses for outsourcing software development to Ukraine is the establishment of a local Ukrainian entity to retain and coordinate the work of local developers (mostly as independent contractors rather than hired employees).

In some cases, when the scope of activity is insignificant, foreign companies may enter into service agreements with individual developers. However, the increase of presence in Ukraine may easily lead to the risks of permanent establishment in Ukraine.

In order to contribute to the development of IT industry the government introduced a number of tax incentives and special regimes, the overview of which is given herein below.

## VAT RULES

Until 1 January 2023 transactions with respect to software supply as well as transactions with software whereunder payments are not deemed as royalty shall be VAT exempt. For the purpose of the above exemption the term 'software' includes:

- Results of computer programming in the form of operational systems, software programs, entertaining or educational computer programs, applications (their components) as well as in the form of internet-sites and/or online services and access thereto;
- Copies of computer programs or their components provided in physical and/or electronic form and/or as links for software downloading and/or as codes for software activation;
- Any updates, adaptations, supplements to software;
- Cryptographic means of data protection.

Even though the above mentioned transactions are VAT-exempt, their scope is taken into consideration for the purpose of calculating the threshold for VAT payer registration.

At the same time, IT services (including services with respect to software development) are VAT taxable under general rules. Thus, the line between VAT-taxable and VAT-exempt transactions may be indistinct in some instances and each transaction should be carefully analysed. According to the currently used approach of the tax bodies the difference between VAT taxable and non-taxable transactions is based on the fact whether the IP rights for software initially belong to the supplier and whether they are transferred to the customer.

In case of cross border services with respect to software development the place of services supply is determined based on the place of the customer's registration. Accordingly, such services rendered by

Ukrainian companies to foreign customers are not VAT taxable in Ukraine.

Most of software developers in Ukraine are registered as sole entrepreneurs and provide services to their clients — Ukrainian companies as independent contractors under service agreements. At this, the benefits usually associated with employment (i.e. medical insurance) are often provided. Such structure of relationships allows companies to minimize the tax burden of payroll related taxes. At this, sole entrepreneurs are payers of single tax at the rate of 5% accrued on the total amount of their income and may pay the unified social contribution in the amount of 22% of the minimum statutory salary.



# AGRICULTURAL INDUSTRY

According to some estimates agricultural industry comprises 17– 18% of the country's GDP. Thus, the state is implementing different mechanisms of the industry's development, including special rules of taxation which are considered below.

## SINGLE TAX

In case when the scope of sale of the agricultural production for a reporting year exceeds 75% of the annual revenue, such agricultural producers may be registered as single taxpayers. The single tax substitutes, in particular, the corporate income tax, land tax on lands used for agricultural activities and rent payment for special exploitation of water resources. The tax base is the value of the agricultural land in use of taxpayers; and the rates depend on the type of land in use.

The amount of tax is calculated by taxpayers on an annual basis and is paid quarterly as follows: 10% of the annual tax is paid within 30 calendar days following the first and the second reporting quarters; 50% — following the third reporting quarter; and 30% — following the fourth reporting quarter.

The eligibility for single tax shall be confirmed by taxpayers annually until 20<sup>th</sup> of February of the current year.

## CORPORATE INCOME TAX

The following special provisions are established for agricultural producers which are not eligible for single tax and are payers of corporate income tax in case when the scope of agricultural production sales exceeds 50% of their revenue:

- the tax reporting period is always annual independently of taxpayer's revenue;
- the tax reporting period may be established from 1 July until 30 June.

## VALUE ADDED TAX

Export transactions of soya beans and rape are VAT-exempted until 31 December 2021.

## STATE TRANSFERS

Some agricultural producers, in particular of vegetables and poultry, as well as the owners of the cattle farms, may apply for state transfers provided they do not have VAT debts and the scope of the agricultural production sales for a reporting year exceeds 75% of their annual revenue. They shall be registered for less than a year and the scope of sales shall be calculated for each reporting period.





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