

Ukrainian Tax Guide 2011

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- US\$ 3.07 billion in revenue
- Ranked 8th in the world
- 120 countries
- 150 member firms
- 25,000 personnel

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Baker Tilly Ukraine

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Audit and Assurance services

- Statutory Audit for companies registered in Ukraine
- Review of financial statements in accordance with the applicable financial reporting framework
- Preparation of financial statements in accordance with International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS)
- Compilation of financial statements
- Related Audit Services: special purpose audit agreed-upon procedures engagement
- Outsourcing of internal audit.

Tax Advisory services

- Tax advice in specific business transactions
- Assessment of tax risks with respect to business transactions
- Advice on taxes paid by foreign companies and representative offices in Ukraine
- Tax legislation compliance reviews
- Tax planning and tax payment optimization

Baker Tilly Ukraine

Independent Valuation

- Practical accomplishment of independent valuation
- Advisory activity in property valuation
- Review of valuation reports
- Assessment of business

Corporate Finance and Advice

- Financial and Tax Due Diligence
- M&A Risk Assessment
- Vendor Due Diligence
- M&A transaction services (for buyer/seller)

Accounting services

- Outsourcing of the accounting function
- Accounting services for individuals
- Assistance in drawing up the management accounts
- Assistance in development of the statutory financial statements
- Payroll services

Internal audit services

- Assessment of internal control environment and financial controls
- Internal audit service organizational management
- Independent evaluation of effectiveness of the internal audit function

Training Center

- A wide range of corporate and public training courses in finance, accounting, financial statement analysis, and IFRS
- A training course for the qualification test in ACCA DipIFR
- Specialized trainings towards preparation for the CAP/CIPA exam

Tax Basics

Since 1991, after Ukraine became independent, the Ukrainian tax system has continued its development and still changes rapidly. In December 2010, a substantial tax reform was implemented; this resulted in adoption of a brand-new Tax Code. Most of the provisions of the Tax Code came into force starting from January 1, 2011 but rules with respect to taxes imposed on corporate profit were enacted starting with April 1, 2011. Changes brought by the Tax Code are aimed at eliminating discrepancy between the tax and statutory accounting, and further incorporation of the globally accepted tax principles into the national legislation.

At present, business and tax authorities undergo a transitional period of practical implementation of the Tax Code's provisions. As at the date of preparation of this Guideline, there is no authoritative court practice related to dealings with the Tax Code provisions. This, as yet, leaves taxpayers to face the often-unclear provisions of the new tax law.

Ukraine imposes taxes on its residents on a worldwide basis. The residency of legal entities is determined based on the place of incorporation (country). As to individuals, the Tax Code provides for a tie-breaker rule (for details please refer to the corresponding section below).

There is an extensive list of double tax treaties (67). The double tax agreements entered into by Ukraine do not always follow the OECD Model Tax Treaty. For more information please see Annex A.

Ukraine is not a member of the OECD, and the OECD Commentaries to the Model Tax Treaty are not binding on the Ukrainian authorities. However, tax authorities tend to use the Commentaries in their interpretation of the Tax Code's provisions.

The Ukrainian tax system encompasses the so-called general system of taxation applicable to majority of legal entities and individuals, and some special tax regimes, such as available for agricultural companies, small businesses etc.

Corporate Profits Tax

Tax Payers

Legal entities - residents of Ukraine carrying out business operations are obliged to register as tax payers. Residents of Ukraine are required to pay the Corporate Profits Tax (CPT) from their worldwide income.

Non-residents pay Ukrainian CPT with respect to profits generated in Ukraine.

Permanent establishments (PE) of the non-resident companies are obligated to register as CPT payers and are viewed as independent legal entities for the Ukrainian CPT purposes. Ukrainian law follows UN Model Tax Convention as to the definition of permanent establishments defining service PE and establishing six-month period as sufficient for creating a PE.

No group tax assessment is allowed in Ukraine.

Tax base

The profits subject to tax have been determined as a taxable income less production costs and other expenses being of commercial nature.

Taxable income as well as deductible expenses are determined basically on the accrual basis.

Depreciation

Value of tangible and intangible assets is subject to depreciation. The Tax Code provides for 16 groups of tangible and 5 groups of intangible assets, as well as for the minimum term of the useful life and methods for calculation of the amount of depreciation. For more details please see Annex B.

Each item of the tangible and intangible assets is accounted and depreciated individually.

Restrictions on deduction of expenses

Pursuant to the Tax Code, some expenses are non-deductible or deduction is limited to certain threshold value.

Corporate Profits Tax

Non-deductible expenses include, inter alia, the following items:

- Expenses not connected with business activity of the tax payer;
- Expenses not evidenced by the relevant primary accounting documents;
- Dividends;
- Advance payments;
- Penalties and fines;
- Payments to individual entrepreneurs - payers of the single tax, with the exception of the expenses incurred in connection with purchase of IT services.

There is a limitation on deductibility of royalties and fees for engineering, consultancy, and marketing and advertisement services if the above is paid to any non-residents, specifically: if paid to non-residents (except for those operating in Ukraine through permanent establishments), royalties, consultancy fees, fees for marketing and advertisement services are deducted at a 4% rate with respect to the revenues obtained from the sale of goods and services during the year, preceding the reporting one.

Should these payments be made to non-resident entities having an offshore status, they are non-deductible in whole amount.

In addition, there are further conditions applicable to the deduction of royalties. Those are as follows:

- a. Recipient of payments should be a beneficial owner of royalties;
- b. Items of the intellectual property subject to royalties must not be initially registered in Ukraine;
- c. Royalties should be subject to payment of taxes in the country of residence of a recipient.

Corporate Profits Tax

Expenses on engineering services paid to non-resident entities (except for those operating in Ukraine through PE) are deductible at a 5% rate with respect to customs value of the imported equipment. The recipient of payments should be a beneficiary of payments and should not be a non-resident entity having an offshore status.

Any payments to non-residents having an offshore status are deductible at 85% of their gross amount, where the above mentioned payments (i.e. royalties, fees for engineering, consultancy, marketing and advertisement services) if paid to such non-residents are non-deductible in general.

Thin Capitalization Rule

There is no thin capitalization rule in Ukraine in its commonly accepted meaning. However, there is a quasi-thin capitalization rule that is applicable if a Ukrainian tax resident pays interest to non-resident entities which are related parties to such resident entity. The rule stipulates that the interest paid is deductible within limit of interest income obtained by the resident entity, plus 50% of its taxable income received from other sources.

In case the interests paid exceed the above threshold, the amount of excess can be deductible in the future tax periods within the limit.

Transfer Pricing Rules

Transfer pricing rules apply to transactions with related parties, non-resident entities and those paying tax at a zero or reduced rate. The contractual price is deemed to be conforming to the transfer pricing rules unless otherwise is proven.

The burden of proof lies with tax authorities.

Tax Code allows 20% difference between the contractual price and the fair market price.

Corporate Profits Tax

Presently, in order to determine the fair market price Ukrainian legislation employs a comparable uncontrolled price method. Starting from January 1, 2013 a provision of the Tax Code setting up rules for determination market prices will enter into force. This is likely to follow OECD approaches although the details are not yet developed.

Ukrainian legislation does not provide for advanced pricing agreements.

Losses Carry Forwards and Losses Carry Backs

Losses are carried forward without limit. However, a limitation may be imposed in certain years.

Declaring of the tax loss for 4 subsequent tax periods (calendar quarters) may result in an unscheduled tax audit.

Losses carry back is not permitted.

Tax Rates

Main CPT rates are as follows:

- 23% - starting with April 1, 2011;
- 21% - starting with January 1, 2012;
- 19% - starting with January 1, 2013;
- 16% - starting with January 1, 2014 and onwards.

Some entities enjoy a zero tax rate.

Tax Code stipulates that income of taxpayers operating in certain industries is exempt from CPT for a 10-year period starting from January 1, 2011. Those industries are as follows (the list is not comprehensive):

- a. 3, 4 and 5-star hotels;
- b. Light industry (except entities operating under toll conditions);
- c. Power plants selling energy, produced from renewable sources;
- d. Shipbuilding industry;
- e. Aircraft construction;
- f. Construction of machinery for agriculture.

Corporate Profits Tax

Reporting and Payment

The tax period corresponds to a calendar quarter, half-year, three quarters and a year. The return should be submitted to the authorities within 40 calendar days after the end of a reported period.

The deadline for payment is within 10 calendar days after the deadline for submission of the tax return.

In case of payment of dividends the paying entity is obliged to pay advanced payment of the tax.

The advanced payment is been accrued on dividends due not lessening the amount of such dividends.

The advanced payment is been set off against future CPT liabilities.

Withholding Tax

The basic rate of the withholding tax (WHT) is 15%. The tax applies to the income payable to non-resident entities that was derived from sources within Ukraine.

For WHT purposes such income includes, inter alia, the following items:

- Interests
- Dividends
- Royalties
- Frigate
- Lease payments
- Income from sell of immovable properties
- Income from transactions with securities
- Other income, except for the income obtained from sell of goods and provision of services.

The WHT should be withheld from the amount due to be paid to the non-resident entities. Gross-up provisions are prohibited.

The rate of tax may be reduced or the payment may be exempt from taxation under the provisions of respective Double Tax Treaty (DTT). In order to be able to apply treaty provisions a resident entity must obtain a residency certificate from a non-resident entity confirming the residency of the latter.

According to Ukrainian laws, international legislation is given preference over the domestic laws and regulations.

Ukrainian law provides for a beneficial ownership test. Should this test is not met the tax authorities could deny application of the treaty benefits.

Ukraine is not an EC member and provisions of EC treaties, including those related to taxes, are not applicable in Ukraine.

Personal Income Tax

Tax Payers

The Personal Income Tax (PIT) is charged in Ukraine in connection with income obtained on the worldwide basis. Residents are liable to pay tax from income received from both Ukrainian and foreign sources. Non-residents pay PIT from their income obtained in the territory of Ukraine. Non-residents are deemed to be the individuals who do not have resident status in Ukraine.

In order to determine the residency status of an individual, the Tax Code provides for a tie-breaker rule, where the criteria for determination of a residence status are as follows:

- a. Place of abode;
- b. Permanent place of abode;
- c. Centre of vital interest;
- d. Staying in Ukraine for not less than 183 calendar days within a tax (calendar) year.

PIT Rates

There are two principle PIT rates: 15 and 17%. The 17% rate is applied to the excess of monthly taxable income over 10 minimum wages as of January 1 of the reporting year (about EUR 820 in 2011).

Personal Income Tax

Certain types of income are subject to payment of taxes at different rates:

Type of Income	Rate, %
Interest*	5
Royalties	15(17)
Dividends, paid by resident	5
Dividends, paid by non-resident	15(17)
Income from sale of immovable property not more than once a year	Non-taxable
Income from sale of immovable property more than once in a year period	5
Income from sale of a motor car, motorcycle or a scooter, not more than once a year	1
Income from sale of movable property	5
Succession obtained from an immediate family member	0
Other succession	5
Succession obtained from a non-resident testator	15(17)
Foreign income	15(17)
Income received by non-residents	As per rates envisaged for residents

* Non-taxable until 01.01.2015

Reporting and Payments

Entities paying income to individuals are determined as tax agents of such individuals and are liable for accruing and withholding the tax from the gross amount of payment due. Should the income be received not from a tax agent, the individual is obliged to pay tax individually.

Personal Income Tax

The Tax Code imposes an obligation on taxpayers to prepare and submit PIT returns in the following cases:

- The taxpayer receives income not from tax agents;
- The taxpayer receives income from two or more tax agents and the total amount of income received for one of the month within a reporting year exceeds 10 minimum wages;
- The taxpayer receives income from transactions with investment assets (securities, corporate rights etc.).

The PIT return should be submitted before May 1 of the year immediately following the reporting one. The payment should be made until August 1 after the reporting year.

Taxation of Profits of Private Entrepreneurs

Taxable profit of private entrepreneurs is their annual gross income less deductible expenses. In order to be eligible for deduction the expenses must be connected to business operations of the entrepreneur and documentarily evidenced. The entrepreneur has to pay advance PIT on a quarterly basis. The advance payments are to be calculated by the entrepreneurs themselves and cannot be less than the amount of tax determined for the previous year. The final payment should be made according to the PIT return taking into account advance payments. Private entrepreneurs submit annual PIT return within 40 calendar days after the end of reporting year. The tax must be paid within 10 calendar days after the deadline set up for submission of the return.

Private entrepreneurs' income may be also subject to the Single Tax (for information of that tax please see the respective section below).

Value Added Tax

Tax Payers' Registration

Legal entities as well as individual entrepreneurs who carried out any transactions subject to VAT within previous 12 month exceeding UAH 300 thousand (about EUR 26k) must register as VAT payers.

The Tax Code grants a right to an entity to get registered on voluntarily basis provided at least 50% of the taxable supplies for the previous subsequent 12 months had been made to the customers which are VAT payers. However, an entity can register as a VAT payer without meeting the above requirements if the capital of that entity or balance value of fixed assets exceeds UAH 300 thousand.

VAT Rates

The standard VAT rate is 20%. Export of goods and some other limited transactions are taxable at a zero rate.

Starting from January 1, 2014, the standard VAT rate will be reduced to 17%.

VAT-taxable transactions

The taxable transactions include, unless exemption is specifically provided in the Tax Code, the following:

- Supply of goods and services with place of supply within the territory of Ukraine;
- Transfer of objects of financial lease to the lessee;
- Export of goods and auxiliary services;
- Import of goods and services;
- International transportation services.

Financial, insurance services, trade in securities, interests on financial lease, reorganization of business entities and some others transactions are out of scope of VAT.

Value Added Tax

Place of supply

Place of Supply of Goods

Place of supply of goods is determined as the place where goods are located at the moment of supply, except for the cases listed below:

- If goods need to be assembled or installed, the place of such assembly or installation is deemed to be the place of supply;
- If goods are to be transported, if such goods are transported by the seller to the customer, the place of supply is deemed to be the place of shipment of goods.

There are certain special rules as to the determination of place of supply when supply is been provided on board of transport vehicles.

Place of Supply of Services

As a general rule, place of supply for services is determined as the place of tax registration of the provider of services. The following exemptions apply:

- In case of supply of services related to movable property the place of supply is the place of actual provision of such services;
- Services related to immovable properties are treated as supplied at the place, where such properties are located;
- Place of supply for some services is considered to be place of registration of the customer as VAT payer. Thus, should the customer be a non-resident, the following services are not subject to Ukrainian VAT (please note, that the list below is not comprehensive):
 - Granting of intellectual property rights or creation of items of IP rights;
 - Advertising services;
 - Professional services (consulting, engineering, audit, accounting services, software development, data processing and other IT services);
 - Lease of movable property except of transport vehicles;
 - Telecommunication services.

Value Added Tax

VAT Base

Under the general rule set forth in the Tax Code, the tax base has been determined as a contractual value of the supplied goods and services but not less than the fair market price thereof.

In case of import of goods VAT base is determined as the contractual value, but not less than customs value thereof. Imported services are taxed at their contractual value.

Payment and Reporting

VAT payers are entitled to claim an input VAT paid to suppliers in order to purchase goods and services which are to be used in VAT-able transactions, against their output VAT.

Input VAT must be confirmed by VAT invoice issued by the seller of the goods (services).

Should a VAT payer carries on non-taxable transactions (either exempt supplies or transactions out of scope of the tax) input VAT paid to suppliers when purchasing goods and services for such transactions may not be claimed.

Input and output VAT is recognized under the first-event rule:

- Input VAT is recognizable as of the date of payment or as of the date when goods (services) are received whichever occurs first;
- Output VAT must be recognized as of the date when payment is received or as of the date when goods (services) supplied whichever occurs first.

Value Added Tax

Excess of output VAT on input VAT in the reported period is payable to the State Budget. In case input VAT exceeds output VAT, the excess amount could be set off against future VAT liabilities or claimed to refund from the State. However, the procedure of refund is complicated and time consuming.

The VAT payers should calculate the VAT payable or receivable based on tax period of a calendar month (a period of a calendar quarter may be applicable in case of small entities). The VAT returns are to be submitted to tax body within 20 calendar days after the last calendar day of the reported month.

The deadline for payment is within 10 calendar days after the deadline for submission of the return.

Excise Tax

Selling and import of alcoholic beverages, tobacco products, petroleum products and cars are subject to payment of the Excise Tax.

The tax payers are the producers and importers of excisable goods. The objects to tax are sold / imported volumes of such goods. The tax base is been determined based on the value of goods according to their maximum selling prices (without VAT but including the Excise Duty) set by producers / importers.

The rates are mainly set up in UAH and EUR as per physical unit of taxable goods.

For some tobacco products ad valorem and combined rates are set.

Land Tax

The taxpayers are the owners and users of land plots. The base for tax is determined as normative valuated cost of land plot or, in case such an assessment has not been made – area of the land plot in question.

The rates are set depending on designated use of the plot as a percentage of the normative valuated cost or in lump sum per hectare if the assessment is not available. For instance, the rates for agricultural land are as follows:

- For plough, hayfield and pastures - 0.1%;
- For perennial plantations - 0.03%.

The tax period is set as a calendar year. Legal entities calculate the tax for the current year as at 1 January of that year and submit the tax return to the tax office on or before 20 February. The tax due for the previous month is to be paid monthly until the 30th day of the immediate following month.

Local Taxes

The Tax Code sets forth four local taxes. Those are as follows:

- Real Estate Tax;
- Charge for car parking;
- Charge for conducting of some kinds of entrepreneurial activity;
- Tourist charge.

The Real Estate Tax (RET) is a brand new tax in Ukraine and will be charged starting from July 1, 2012. The RET objects are defined as residential buildings. Legal entities and individuals who are the owners of such buildings are defined as taxpayers.

Tax Code envisages the maximum threshold of the RET rates (in % from the minimum wage set forth by law as at January 1 of the reporting year):

- For apartments with space not exceeding 240 sq. m. and houses with space not exceeding 500 sq. m. - 1%;
- For apartments and houses with the area exceeding the above value the rate would be 2.7%.

Single Tax

The Single Tax (ST) may be applied by small entrepreneurs both legal entities and individuals. In order to be eligible to apply the tax, the following requirements must be met:

- a. For legal entities: annual revenue must not exceed UAH 1 m (about EUR 87k) and annual average number of employees must not exceed 50 people.
- b. For individuals: annual revenue must not exceed UAH 500 k (about EUR 43.5k) and annual average number of employees must not exceed 10 people.

Entities and individuals paying the Single Tax are exempt from following taxes:

- Corporate Profits Tax
- Personal Income Tax (on income of individual entrepreneurs only)
- Value-Added Tax (except for entities opting for the ST rate at 6%)
- Land Tax
- Some minor charges

Rates of the ST are as follows:

Individual entrepreneurs	UAH 8.6 – 86.3 per month (specified by local authorities depending on type of business) In case of carrying out business with engagement of employees or members of family, the rate increases by 50% for each such person
Legal entities	6% of revenues in case the entity opts to be VAT payer or 10% if the entity chooses not to pay VAT

Individual entrepreneurs who pay the ST must pay the Single Social Charge accrued on their income, but not less than the minimum payment (minimum monthly wage multiplied by the rate of the charge).

It is expected that rules for the Single Tax would be significantly changed at the end of 2011.

Fixed Agricultural Tax

Agricultural companies in Ukraine enjoy favorable tax treatment represented in particular by Fixed Agricultural Tax (FAT). The payers of this tax are exempt from the taxes and charges listed below:

- a. Corporate Profits Tax
- b. Land Tax (except for land plots used not for production of agricultural goods)
- c. Charge for special use of water
- d. Charge for conducting of certain types of business activities (in relation to trade activities).

The Fixed Agricultural Tax provides for relatively small tax burden due to its rates which are set up in per cent of the normative value of one hectare of land plots as follows (per annum):

- a. For plough, hayfield and pastures - 0.15
(for mentioned kinds of land owned by entities specialized in growing plants in hothouses - 1.0)
- b. For perennial plantations - 0.09
- c. For lands of water fund - 0.45

In case the land is located in mountain areas and Polissya territories (north of Ukraine), the rates are lowered still further:

- a. For plough, hayfield and pastures - 0.09
- b. For perennial plantations - 0.03

The entity is considered agricultural and eligible for FAT if specific amount of revenues from selling agricultural goods of own production of that entity is not less than 75% of its total annual revenue.

Social Insurance

The mandatory social insurance payment is presented in Ukraine by the Single Social Charge (SSC). The SSC has been charged on the amount of wages, salaries and other payments to employees, income of self-employed individuals and profits of individual entrepreneurs.

Salaries paid by foreign employers are not subject to SSC.

The SSC rates vary from 36.76 to 49.70% depending on the group of risk of accidents and occupational diseases inherent to the respective industry.

The SSC amounts are deductible for CPT purposes.

The SSC is charged on the payments not exceeding the ceiling which is set at the level of 15 subsistence minimums per month.

In 2011, the monthly cap applicable will vary as follows:

- UAH 14,115 from 1 of January till 31 March
- UAH 14,400 from 1 April till 30 September
- UAH 14,775 from 1 October till 30 November
- UAH 15,060 from 1 December till 31 December

Employees' part of the contribution is been charged at rate of 3.6% from the monthly salary (the abovementioned cap is applicable).

Tax Administration

I. Registration with Tax Authorities

Each taxpayer must get registered with tax authorities. As a result of such registration a taxpayer receives an individual tax ID. Registration is conducted by local tax authority where the legal entity or individual entrepreneur is registered by the state registrar. Branches of the legal entities (including permanent establishments of the foreign entities) are liable to tax registration as well.

II. Filing and Payments Deadlines

Deadlines for filing tax returns and payments of taxes are set out in the Tax Code as shown in the table below:

Tax Period	Deadlines	
	Filing (number of calendar days following the last day of the reporting period)	Payment (number of calendar days after deadline for submission of tax returns)
1. Calendar month	20	10
2. Calendar quarter or calendar half-year	40	10
3. Calendar year	60	10
4. Calendar year (for personal income tax)	by May 1 of the year immediately following the reporting one	By August 1 of the year immediately following the reporting one
5. Calendar year (for personal income tax of private entrepreneurs)	40	10

Tax Administration

III. Tax Audits

Tax authorities may perform scheduled and unscheduled audits which may also be conducted without actually visiting a taxpayer's site i.e. desk audit.

Frequency of the scheduled audits depends on the level of risk assigned to the entity by tax authorities and vary from one audit per three years for low-risky entities to one audit per annum for high-risky ones.

Unscheduled tax audit may be conducted only in the cases envisaged in the Tax Code. Some of these are presented below:

- a. Tax payer fails to submit a tax return in time
- b. Tax payer files an adjusted tax return for the period already audited by tax authorities.
- c. Tax payer files an appeal to the decision of the tax authority referring to unexamined circumstances which require additional audit
- d. There was initiated a procedure of reorganization or liquidation of a tax payer, a bankruptcy or deregistration procedure
- e. Tax payer files a VAT return claiming a refund exceeding UAH 100,000 (about EUR 9 k)
- f. Tax agent avoids taxation of wages or passive income.

Duration of tax audit should not exceed the maximum duration as shown in the table below (in working days):

Tax payers	Maximum duration of audit	Maximum duration of possible extension of audit
Scheduled field tax audit		
Large	30	15
Small	10	5
Other	20	10
Unscheduled field tax audit (working days)		
Large	15	10
Small	5	2
Other	10	5

Tax Administration

IV. Penalties for non-compliance with tax rules

In cases of non-compliance, taxpayers may be charged penalties and fines set out in the table below. However, the taxpayer is entitled to objections to decisions by tax authorities through both administrative procedure and in court.

1. Non-compliance with registration procedure	- for self-employed individuals: one-time violation – UAH 170, recurrent violation within a year - UAH 340 - for legal entities: one-time violation – UAH 510, recurrent violation within a year - UAH 1020
2. The failure to notify tax authorities about opening / closing bank accounts	UAH 340 for each case
3. Failure to submit a tax return within the legally prescribed terms	one-time violation – UAH 170, recurrent violation within a year – UAH 1020
4. Failure to keep the accounting documents within legally required period	one-time violation – UAH 510, recurrent violation within a year – UAH 1020
5. Failure to timely and proper payment of a single tax	50% of the tax rate
6. Breach of tax rules triggering additional tax assessments by tax authorities	one-time violation – 25% of the additionally assessed amount, recurrent violation during 1095 days – 50%
7. Late payment	Delay of payment for up to 30 calendar days – 10% of the underpaid tax; Delay for more than 30 calen- dar days – 20%
8. Failure to withhold and remit tax to the state budget by a tax agent	one-time violation – 25% of the accrued tax,

Tax Administration

V. Tax Appeal

Should the taxpayer disagree with additional tax assessments or other tax-related decisions of tax authorities, such decisions could be challenged under the administrative appeal procedure.

The procedure is two-tiered: the first appeal should be submitted to the tax body of the higher instance (level) as compared to that of the tax body, whose decision is being appealed. In case the decision is taken not in favor of the tax payer, the latter may submit the second appeal to the State Tax Service of Ukraine, which represents the highest level of the tax authorities of Ukraine. Decision taken by STSU is not subject to further appeal.

However, the challenged decision of tax authorities can be appealed in court within 1095 days from the date of the end of administrative appeal (taxpayer may also submit a claim to the court without finishing (or initiating) administrative appeal).

Annexes

Annex A

Rates of Withholding Tax According to Double Tax Treaties

Country	Dividends (%)		Interest (%)	Royalties (%)
	Non-portfolio	Portfolio		
Algeria	5	15	10	10
Armenia	5	15	10	0
Austria	5	10	2/5 ¹	0/5 ²
Azerbaijan	10	10	10	10
Belarus	15	15	10	15
Belgium	5	15	2/10 ¹	0/10 ²
Brazil	10	15	15	15
Bulgaria	5	15	10	10
Canada	5	15	10	0/10 ³
China (PRC)	5	10	10	10
Croatia	5	10	10	10
Cyprus	0	0	0	0
Czech Republic	5	15	5	10
Denmark	5	15	0/10 ⁴	0/10 ⁵
Egypt	12	12	12	12
Estonia	5	15	10	10
Finland	0/5 ⁶	15	5/10 ⁷	0/5/10 ⁸
France	0/5 ⁹	15	2/10 ¹	0/10 ¹⁰
Georgia	5	10	10	10
Germany	5	10	2/5 ¹	0/5 ¹¹
Greece	5	10	10	10
Hungary	5	15	10	5
Iceland	5	15	10	10
India	10	15	10	10
Indonesia	10	15	10	10
Iran	10	10	10	10
Israel	5/10 ¹²	15	5/10 ¹³	10
Italy	5	15	10	7

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Japan	15	15	10	0/10 ¹⁴
Jordan	10	15	10	10
Kazakhstan	5	15	10	10
Korea (ROK)	5	15	5	5
Kuwait	5	5	0	10
Kyrgyzstan	5	15	10	10
Latvia	5	15	10	10
Lebanon	5	15	10	10
Libya	5	15	10	10
Lithuania	5	15	10	10
Macedonia	5	15	10	10
Malaysia	15	15	15	10/15 ¹⁵
Moldova	5	15	10	10
Mongolia	10	10	10	10
Morocco	10	10	10	10
Netherlands	0/5 ¹⁶	15	2/10 ¹⁷	0/10 ¹⁸
Norway	5	15	0/10 ¹⁹	5/10 ²⁰
Poland	5	15	10	10
Portugal	10/15 ²¹	15	10	10
Romania	10	15	10	10/15 ²²
Russian Federation	5	15	10	10
Serbia and Montenegro	5	10	10	10
Singapore	5	15	10	7,5
Slovakia	10	10	10	10
Slovenia	5	15	5	5/10 ²³
South Africa	5	15	10	10
Spain	15	15	0	0/5 ²
Sweden	0/5 ²⁴	10	0/10 ²⁵	0/10 ²⁶
Switzerland	5	15	0/10 ¹	0/10 ¹⁸
Syria	10	10	10	15
Tajikistan	10	10	10	10
Thailand	10	15	10/15 ¹³	15

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Turkey	10	15	10	10
Turkmeni- stan	10	10	10	10
United Arab Emirates	5	15	3	0/10 ¹⁸
United Kingdom	5	10	0	0
USA	5	15	0	10
Uzbekistan	10	10	10	10
Vietnam	10	10	10	10

¹The lower rate applies to interests incurred (i) due to sales on credit of any industrial, commercial or scientific equipment; (ii) due to credit sales of any goods or services from one legal entity to another, (iii) on loans granted by bank or any other financial institution.

²The higher rate is charged when royalties are paid for use of any copyright of literary or artistic works, including cinematograph films, and film and tapes for radio and television broadcasting.

³The 0% rate is charged in case of royalties payable for the use of or for the right to use of computer software.

⁴The lower rate is charged when (i) percent is paid to Denmark state, National Bank of Denmark, local authority or state institution; (ii) if any industrial, commercial or scientific equipment is sold on credit provided the entities involved are not associated.

⁵The higher rate is charged when royalties are paid for use of any copyright of literary or artistic works including cinematograph films, and film and tapes for radio and television broadcasting, any trademark, patent, design.

⁶The 0% rate applies (i) when the investment is guaranteed by the Finnish Guarantee Board, or (ii) if amount of the capital invested in Ukraine is not less than USD 1 million and the entity entitled to the dividends controls at least 50% of the capital of the dividend payer, other than operating in field of gambling, show business, intermediation business or auctions. The period of application of exemption from the Ukrainian tax is subject to certain conditions.

Annexes

⁷The lower rate is charged when interests arise due to sale of any goods or industrial, commercial, scientific equipment on credit, except if transactions are made with related persons.

⁸The 0% rate is charged for the use of any computer software, patent, design or model. The 5% rate is charged when royalties are paid as consideration for the use of, or any right to use, any secret formula or process, or for information concerning industrial, commercial or scientific experience. The 10% rate applies to payments for the use of, or any right to use any copyright of literary, artistic or scientific work, including cinematograph films, any films or tapes for radio or television broadcasting or any trade mark.

⁹The 0% rate applies when investor or investors hold directly or indirectly at least 50% of the capital of the dividend payer, and the total invested capital amounts to at least 5 million French francs, or the investments are guaranteed by the state, its central bank or any other person acting on behalf of the state.

¹⁰The 0% rate applies if royalties are paid for the use of or any right to use, any software or any patent, trade mark, design or model, secret formula or process.

¹¹The 0% rate applies if royalties are paid as remuneration for the use of or any right to use any copyright of scientific work, patent, trade mark, design or model, plan, secret formula or process, or information relating to industrial, commercial or scientific experience.

¹²The lower rate applies if the owner of the dividends controls at least 25% of the capital of the dividend payer.

¹³The lower rate applies when interest incurred due to loan extended by a bank.

¹⁴The 0% rate applies to payments for the use of, or any right to use any copyright of literary, artistic or scientific work, including cinematograph films, any films or tapes for radio or television broadcasting.

¹⁵The lower rate applies if royalties are paid as remuneration for the use of or any right to use, any copyright of scientific work, patent, trade mark, design or model, plan, secret formula or process, or information relating to industrial, commercial or scientific experience.

Annexes

¹⁶The 0% rate applies if the investor owns at least 50% of the capital of the dividend payer, and the investment amounts to at least \$ 300'000, or is guaranteed by the Government or the central bank or any other institution owned or controlled by the Government of the country of residence of the dividend payer.

¹⁷The lower rate applies if interest is incurred due to loans granted by a bank or other financial institution or due to sales on credit of machinery and equipment.

¹⁸The 0% rate applies for the use of or the right to use any copyright of scientific work, any patent, trademark, design or model, plan, secret formula or process or for information relating to industrial, commercial or scientific experience.

¹⁹The 0% rate applies if interest is incurred due to debt to the Contracting State and in some other cases.

²⁰The lower rate applies if royalties paid for the use of or any right to use any patent, plan, secret formula or process or for information (know-how) concerning industrial, commercial or scientific experience.

²¹The lower rate applies if the investor owns at least 25% of share capital of the company paying dividends for the period of 2 years prior to payment of dividends.

²²The lower rate applies if payments are made for the use of or any right to use any patent, trade mark, invention or model, secret formula or process or for information (know-how) concerning industrial, commercial or scientific experience.

²³The lower rate applies for the use of or the right to use any copyright of scientific work, any patent, trademark, design or model, plan, secret formula or process or for the use of or the right to use any commercial or scientific equipment, or information relating to industrial, commercial or scientific expertise.

²⁴The 0% rate applies to dividends if the beneficial owner of the company paying dividends owns at least 25% of the capital of the latter company.

²⁵The lower rate is charged when particular kind of equipment is sold on credit (except when sales are made between relatives), or when any loan is guaranteed by the government of the state.

Annexes

²⁶The 0% rate is charged if royalties are paid for the use of any patent concerning industrial know-how or process, or if payments relating to agriculture, pharmaceutical industry, computer software, construction, secret formula, process or information relating to commercial or industrial expertise.

Annexes

Annex B

Group of Assets	Minimum useful life, years
Tangible Assets	
1. Land plots	-
2. Capital cost for land improvement	15
3. Buildings	20
3.1 Constructions	15
3.2 Transmission appliances	10
4. Machinery and equipment	5
(including computers, printers and some other electronic devices)	2
5. Transport vehicles	5
6. Tolls, devices and equipment	4
7. Animals	6
8. Perennial plantations	10
9. Other fixed assets	12
10. Library funds	-
11.	-
12. Temporary installations	5
13. Nature resources	-
14. Returnable containers	6
15. Rental equipment	5
16. Long term biological resources	7

Annexes

Group of Assets	Minimum useful life, years
Intangible Assets	
1. Right to use nature resources	According to the title document*
2. Right to use property	According to the title document*
3. Rights to commercial signs (trade marks, commercial titles) unless expenses for acquisition of which is considered royalties	According to the title document*
4. Rights to industrial property (inventions, models, know-how etc.) unless expenses for acquisition of which is considered royalties	According to the title document but not less than 5 years
5. Copyright (rights to literary, artistic, music works, software etc.) unless expenses for acquisition of which is considered royalties	According to the title document but not less than 2 years
6. Other intangible assets	According to the title document*

* If the title document does not envisage the term of use of an assets, than such term is considered as 10 years.

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