International Tax

Ukraine Highlights 2021

Updated February 2021

Recent developments

For the latest tax developments relating to Ukraine, see Deloitte tax@hand.

Investment basics

Currency: Ukrainian Hryvnia (UAH)

Foreign exchange control: Only local currency generally may be used in business transactions between residents. Foreign currency may be used in cross-border transactions between residents and nonresidents.

Foreign exchange transactions with a price below UAH 400,000 are not subject to foreign exchange controls. The settlement period for export-import transactions with a price exceeding UAH 400,000 is 365 days while

Fund transfers from Ukraine to nonresidents are limited to EUR 2 million annually for legal entities and individual entrepreneurs, and to EUR 100,000 annually for individuals. The EUR 2 million limit for residents does not apply to transactions involving the transfer of funds by resident legal entities to the accounts of their own branches, representative offices, and other separate divisions that do not have a legal entity established abroad. However, the limit applies if a legal entity is established in a country:

- Located in a low tax jurisdiction, as defined by the Cabinet of Ministers of Ukraine (CMU);
- Recognized as an "aggressor state" by Ukraine's parliament (the Verkhovna Rada); or
- That does not implement or improperly implements the recommendations of international, intergovernmental organizations involved in the fight against money laundering, terrorist financing, or financing that facilitates the proliferation of weapons of mass destruction.

Accounting principles/financial statements: Ukrainian accounting standards generally are in line with IFRS. Financial statements must be prepared on a quarterly basis.

Joint stock companies, banks and insurance companies, and large private companies that meet certain revenue, asset value, and headcount criteria must prepare financial statements in compliance with IFRS. Other companies may opt to prepare financial statements in compliance with local GAAP or IFRS.

Principal business entities: These are the limited liability company, private and public joint stock company, noncommercial representative office, and permanent establishment (PE) of a foreign corporation.

Corporate taxation

Rates	
Corporate income tax rate	18%
Branch tax rate	18%
Capital gains tax rate	18%

Residence: A legal entity incorporated and operating under Ukrainian law generally is considered a tax resident; a legal entity incorporated abroad and operating according to the laws of another country normally is treated as a nonresident.

As from 1 January 2022, a foreign company that has its place of effective management in Ukraine may apply to become a Ukrainian tax resident. CFC rules will not apply to such a company and the company's foreign income will not be subject to tax in Ukraine.

Basis: A resident entity, unless it is a foreign company that has opted to be tax resident in Ukraine based on the "place of effective management" criterion (see "Residence," above), is taxed on its worldwide income received or accrued within the reporting period, depending on the type of income. A nonresident company is taxable on business income derived from carrying out trade or business activities in Ukraine and other nonbusiness income received from Ukrainian sources. A branch or PE of a nonresident in Ukraine is treated as a separate entity for tax purposes and is taxed in the same way as a subsidiary.

Nonresidents acting in accordance with the conditions of international agreements on providing technical and humanitarian aid that are registered with the Ministry for Development of Economy, Trade and Agriculture of Ukraine are not subject to tax and may conduct economic activities in Ukraine without registration.

Taxable income: Taxable income is calculated based on accounting data by adjusting profit (loss) before tax by the amount of book/tax differences.

Taxpayers with income (excluding indirect taxes) not exceeding UAH 40 million may calculate taxable income based only on accounting data, without any adjustments for book/tax differences (except for losses carried forward from previous periods).

Rate: The corporate income tax rate is 18%. Certain types of business (e.g., insurance, lotteries, etc.) are taxed under special regimes, which may provide lower tax rates.

Surtax: There is no surtax.

Alternative minimum tax: There is no alternative minimum tax.

Taxation of dividends: Dividends received by a domestic company from another domestic company/corporate income tax payer are not subject to corporate income tax.

Dividends received by a domestic company from a nonresident are included in taxable income.

Dividends paid by a Ukrainian company are subject to advance corporate income tax (ACT) at the general corporate income tax rate. The ACT base is the amount of dividends paid by the company that exceeds the company's taxable profit for the year from which the dividends are payable. ACT is due at the time the dividends are paid. Where the corporate income tax liability for the year is unsettled, ACT is calculated based on the full amount of dividends paid.

A Ukrainian company may offset the ACT paid against its corporate income tax liability and any excess ACT may be carried forward indefinitely to reduce the taxpayer's corporate income tax liability in a future period.

The amount of ACT paid on dividends is not refundable to the taxpayer and may not be used to reduce taxes other than corporate income tax.

ACT does not apply to certain dividends (i.e., dividends paid by a holding company out of dividend income received from subsidiaries, dividends paid by a company out of tax-exempt profits, and dividends paid to individuals).

As from 1 January 2021, transfer pricing adjustments and certain other payments to nonresidents (payments for the buyback of shares and certain types of divestment) are treated as dividend-equivalent payments subject to a 15% withholding tax. However, these payments are not subject to ACT.

Capital gains: Capital gains are treated as ordinary income and taxed at the standard corporate income tax rate.

Losses: Tax losses generally may be carried forward indefinitely. Losses may not be carried back.

Foreign tax relief: Foreign tax paid may be credited against Ukrainian tax payable or deducted from taxable income under an applicable tax treaty. The credit or deduction is limited to the amount of Ukrainian tax payable on the foreign income.

Participation exemption: Dividends from a foreign company (other than a company located in a low tax jurisdiction, as defined by the CMU) may be exempt from tax where the Ukrainian recipient company has owned at least 10% of the foreign payer company for at least one year.

Holding company regime: There is no holding company regime.

Incentives: Small enterprises and agricultural producers that meet specific criteria may use a special taxation regime (the unified tax system) under which their profits are subject to tax at a lower rate. Enterprises operating in the aircraft industry may benefit from temporary corporate income tax exemptions. Incentives also are provided to entities that are founded by the public institution of disabled people.

Compliance for corporations

Tax year: The tax year is the calendar year.

Consolidated returns: Consolidated returns are not allowed; each entity must file a separate return.

Filing and payment: The corporate income tax return must be submitted within 40 days following the quarterly reporting period and 60 days following the annual reporting period. Certain companies (newly established companies, agricultural producers, and entities with annual income less than UAH 40 million) are subject only to annual reporting requirements and the annual tax return must be submitted within 60 days following the end of the reporting year.

Corporate income tax must be paid within 10 days after the tax return submission deadline.

Penalties: Penalties and/or fines apply for late payments (at a rate equivalent to 120% of the national bank's discount rate) and failure to comply with filing requirements. Accuracy related penalties apply of 25% of the underpaid amount for the first violation in a 1,095-day period, and 50% for the second and subsequent violations. In case of unintentional violations, a 10% penalty applies. A 50% penalty reduction is possible if there are mitigating circumstances.

Significantly reduced penalties apply for understatements disclosed by the taxpayer.

A penalty of up to 75% of the understated tax liability will be imposed for failure to pay withholding tax to the government or to withhold individual income tax. The maximum 75% penalty is charged for the third and any subsequent violations in a rolling 1,095-day period.

Penalties of up to 300 times the minimum wage may be imposed for failure to submit complete or timely transfer pricing documentation, including the report on controlled transactions. Penalties of up to 1,000 times the minimum wage may be imposed for failure to submit the master file or report on controlled transactions; the first reporting period is calendar year 2021.

In response to COVID-19, penalties and/or fines are suspended for violations committed between 1 March 2020 through the last calendar day of the month in which the quarantine ends (however, the suspension does not apply to misstatements of certain taxes, such as excise tax, VAT, and land tax). Also, full-scope tax audits may not be conducted during the quarantine period.

Rulings: A taxpayer may request an explanation of the tax treatment of a particular issue. A taxpayer may not be subject to a penalty for acting on the basis of a ruling issued by the tax authorities.

Individual taxation

Rates	
Individual income tax rate	18%
Capital gains tax rate	Varies

Residence: An individual's tax residence is determined as follows: (i) an individual is tax resident in Ukraine if they have a permanent home in Ukraine; (ii) where an individual has a permanent home in more than one country, they are considered a tax resident in Ukraine if they have closer personal and economic ties (center of vital interest) with Ukraine; (iii) where it is impossible to determine residence under either of the preceding tests, an individual will be deemed to be tax resident in Ukraine where present in Ukraine for at least 183 days cumulatively during a calendar year (counting both the day of arrival and the day of departure); and (iv) where tax residence still cannot be determined, the individual will be deemed a tax resident if they are a Ukrainian national.

Basis: Residents are taxable on their worldwide income. Nonresidents are taxed only on Ukrainian-source income.

Taxable income: Income is taxable whether obtained in cash or in kind. Taxable income includes employment income (including benefits-in-kind), income from trading or professional activities, disposal of property, gifts, and prizes, insurance payments, dividends and interest, investment income, and contributions to unqualified pension plans made on behalf of a taxpayer by another person/employer.

Rates: The general individual income tax rate is 18%. The value of benefits-in-kind is enhanced by a coefficient of 1.2% for tax purposes. A number of specific sources of income are exempt from individual income tax (i.e., interest on government bonds, state aid for low income families, etc.).

A 1.5% military contribution applies to all income subject to individual income tax.

Dividends on shares and corporate rights accrued by resident payers of corporate income tax (other than dividends on shares or investment certificates payable by collective investment vehicles) are taxed at a rate of 5%. Dividends accrued by nonresident collective investment vehicles or legal entities that are not payers of corporate income tax are taxed at 9%. Other passive income is taxed at 18%.

Gains derived from the sale of movable property are subject to a 5% rate.

Gains derived from the first sale of motor vehicles during the year are exempt from tax. Subsequent sales of motor vehicles by the same person will be subject to tax at 5%.

Capital gains: The taxation of capital gains depends on the source of the gains (see "Rates," above).

Gains derived from the sale of a house, apartment (or part thereof), room, or village house (including a land plot) are exempt from tax if only one such sale takes place during the year and the owner has held legal title for at least three years before the sale (the three-year ownership period does not apply to inherited property). Gains are taxed at 5% where the taxpayer makes more than one sale per year.

Deductions and allowances: Deductions are available for mortgage interest (for real estate located in Ukraine), contributions to listed charities, and educational expenses for the taxpayer and the taxpayer's immediate relatives.

Foreign tax relief: Foreign tax paid may be credited against Ukrainian tax payable or deducted from taxable income under an applicable tax treaty. The credit or deduction is limited to the amount of Ukrainian tax payable on the foreign income.

Compliance for individuals

Tax year: The tax year is the calendar year.

Filing status: Joint filing is not allowed in Ukraine; individuals must file their own return.

Filing and payment: Employers and other legal entities are considered tax agents in respect of the income paid to individuals and are responsible for withholding individual income tax and military contributions, in addition to paying the unified social security contribution on accrued salaries and other remuneration. All taxes and contributions must be remitted by the tax agent before or at the time of payment of the income (or on the following banking day if income is paid in kind). The tax agent also is responsible for filing reports on a monthly and quarterly basis for social security contribution and individual income tax purposes, respectively.

If an individual receives taxable income from sources other than a tax agent (e.g., foreign income), they must file an individual income tax return by 1 May of the year following the reporting year and pay the tax due by 1 August. Annual tax return filing also is required if an individual wishes to claim a tax credit for certain expenses incurred during the calendar year.

There is no filing obligation if income is received entirely from Ukrainian tax agents; income is derived from the sale/exchange of real property or from gifts, and individual income tax has been paid during notarization of such transactions; or income is derived from an inheritance that is taxed at the 0% rate.

Penalties: Penalties are imposed for incorrect reporting, late payment of tax, and understatement of tax payable.

Rulings: A taxpayer may request an explanation of the tax treatment of a particular issue. A taxpayer may not be subject to a penalty for acting on the basis of a ruling issued by the tax authorities.

Withholding tax

Rates

Type of payment	Residents		Nonresidents	
	Company	Individual	Company	Individual
Dividends	0%	0%	15%	15%
Interest	0%	0%	0%/5%/15%	0%/5%/15%
Royalties	0%	0%	15%	15%
Fees for technical services	0%	0%	15%	15%

Dividends: No withholding tax is imposed on dividends paid to a resident. A 15% withholding tax is imposed on dividends paid to a nonresident, unless the rate is reduced under a tax treaty.

Interest: No withholding tax is imposed on interest paid to a resident. Interest income received from government securities is not subject to withholding tax. A 15% withholding tax generally is imposed on interest paid to a nonresident (5% on interest paid on loans made to Ukrainian residents from qualifying Eurobond issuance proceeds), unless the rate is reduced under a tax treaty.

Royalties: No withholding tax is imposed on royalties paid to a resident. A 15% withholding tax is imposed on royalties paid to a nonresident, unless the rate is reduced under a tax treaty.

Fees for technical services: No withholding tax is imposed on technical service fees paid to a resident. A 15% withholding tax is imposed on technical service fees paid to a nonresident for engineering services, unless the rate is reduced under a tax treaty.

Branch remittance tax: There is no branch profits tax specifically imposed in the corporate income tax section of the tax code, and the Ukrainian tax authorities generally agree that no tax should be withheld if there is a tax treaty between the country of the head office of the branch and Ukraine.

Other: A 6% withholding tax is levied on freight charges. Withholding tax rates of up to 12% apply on insurance payments to nonresidents.

A 15% withholding tax is imposed on income received by nonresident companies from the indirect transfer of shares of Ukrainian asset-rich companies (whose value derives mainly from owned or leased immovable property situated in Ukraine). A 20% surtax applies to payments to nonresidents for advertising services performed outside of Ukraine (in lieu of withholding from the nonresident).

Anti-avoidance rules

Transfer pricing: The transfer pricing rules generally are based on the OECD transfer pricing guidelines. The rules apply to taxpayers with annual revenue (less indirect taxes) exceeding UAH 150 million that engage in controlled transactions exceeding UAH 10 million with one counterparty. Controlled transactions include: (i) transactions with nonresident related parties; (ii) sales or purchases of goods and services under commission agreements with nonresidents; (iii) transactions between related parties (one of which is a nonresident) through one or more unrelated intermediaries that do not perform significant functions; (iv) transactions with nonresidents registered in low tax jurisdictions included in the list issued by the CMU; (v) transactions with nonresidents with specified legal forms (included on a list issued by the CMU) that do not pay corporate tax or are not tax residents of the country where they are registered; and (vi) transactions between a nonresident and its Ukrainian PE.

The CMU list of low tax jurisdictions includes countries: (i) with a corporate income tax rate at least five percentage points lower than the Ukrainian rate and (ii) that have not concluded agreements with Ukraine with an information exchange provision.

The transfer pricing rules provide five permissible transfer pricing methods: comparable uncontrolled price method, resale price method, cost-plus method, transactional net margin method, and profit-split method. Special regulations are anticipated for cross-border sales of goods that are traded on a commodity exchange with residents in the jurisdictions included in the CMU list.

Taxpayers are required to submit a report of controlled transactions by 1 October and other transfer pricing documentation within one month of a request by the tax authorities.

In addition to a local file, as from the 2021 reporting year and subject to Ukraine joining the OECD Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports, multinational enterprises will be required to prepare a master file and a country-by-country (CbC) report. The proposed revenue thresholds and filing guidelines are in line with OECD recommendations (i.e., EUR 50 million for master files and EUR 750 million for CbC reports).

Interest deduction limitations: Thin capitalization rules apply to all loans received by resident companies from nonresidents where the debt exceeds 3.5 times the company's equity. The deduction for interest paid on such loans is limited to 30% of taxable profit (plus the amount of financing expenses and depreciation) for the relevant tax period. Nondeductible interest may be carried forward to future periods, but the carryforward amount is reduced by 5% annually.

Controlled foreign companies: The controlled foreign company (CFC) rules prescribe taxation of undistributed profits of CFCs at the level of a Ukrainian tax resident (either an individual or a legal entity) considered a controlling shareholder based on either shareholding criteria or de facto control. A CFC is defined broadly to include corporate entities, as well as certain transparent entities (e.g., trusts, investment funds, and partnerships).

The CFC's income is taxable unless an exemption applies. An 18% tax applies on the undistributed income of a CFC calculated under applicable tax laws. Where the controlling shareholder is an individual, lower tax rates may apply, including a 9% rate (where the profit of the CFC is distributed within certain periods established by law) or a 5% rate (where the CFC's income is from income distributed from Ukrainian legal entities).

The new CFC rules will be introduced in phases over the period 2022 through 2023. For example, the first CFC report must be filed in 2023 for the reporting year 2022.

Hybrids: There are no anti-hybrid rules.

Economic substance requirements: There are no economic substance requirements.

Disclosure requirements: Individual shareholders (beneficial owners) must be disclosed at the time a legal entity registers with the state and at the time of a merger or acquisition. Taxpayers are required to submit certain transfer pricing documentation (see "Transfer pricing," above).

Exit tax: There are no exit taxes. However, transactions that transfer functions, assets, risks, and opportunities from Ukrainian to foreign entities resulting in a reduction of Ukrainian taxable profit are subject to transfer pricing rules (where other transfer pricing criteria are met). Moreover, the buyback of shares or decrease in share capital may be treated as a dividend distribution.

General anti-avoidance rule: A "business purpose test" (i.e., a transaction must have actual economic substance in addition to any tax benefits that it generates) has been introduced with regard to transactions with nonresidents, which are subject to transfer pricing control. Additionally, as from 2022, business purpose for certain transactions with nonresidents situated in low tax jurisdictions may have to be substantiated.

The domestic GAAR also prevents granting of tax treaty benefits where one of the principal purposes of a transaction is to claim relief at source or a lower withholding tax rate in Ukraine under a relevant tax treaty.

Other

Limitations on deductibility of certain payments

Limitations are imposed on the deductibility of payments to nonprofit and government-financed organizations; payments to nonresidents registered in low tax jurisdictions; foreign companies having special legal forms; and royalty payments to nonresidents.

The deductibility of royalty payments is restricted to 4% of the previous year's taxable profit increased by the current year's income from royalties if the payment is made to a nonresident entity and the transaction does not fall within the scope of the transfer pricing rules. The restriction may be avoided, however, if the payment made is at an arm's length price and this is supported by proper documentation.

Royalty payments are nondeductible if paid to: (i) a nonresident that is not the beneficial owner of the royalties; (ii) a nonresident whose intellectual property rights relating to the royalties originated in Ukraine; (iii) a nonresident that is not taxed on the royalties in its jurisdiction of residence; or (iv) a legal entity that is not subject to corporate income tax or pays tax at a rate lower than the standard rate applicable in its jurisdiction.

Only 30% of the value of goods and services (including fixed assets) purchased from nonprofit organizations and nonresidents (including related parties) in low tax jurisdictions is nondeductible, unless the transaction is at an arm's length price and this is supported by transfer pricing documentation.

A 30% upward adjustment (increase in the taxable base) applies on sales to residents of low tax jurisdictions and foreign companies having special legal forms.

Temporary tax free liquidation of foreign companies

As from 1 January 2021, Ukrainian resident individuals are exempt from individual income tax on the liquidation of foreign companies they own, subject to certain conditions. The income from the liquidation remains subject to the military tax at a rate of 1.5%. To be exempt from individual income tax, the liquidation must begin no earlier than 1 January 2020 and be completed no later than 31 December 2021. The foreign company must have been established in a transaction or under the laws of a foreign state no later than 23 May 2020 or registered no later than 23 May 2020 if it is subject to registration under the laws of a foreign state.

Value added tax

Rates	
Standard rate	20%
Reduced rate	0%/7%/14%

Taxable transactions: VAT is levied on the supply of goods and services in Ukraine and on the import/export of goods and auxiliary services. Certain supplies are not subject to VAT (e.g., the issuance of securities, insurance services, payment of dividends, royalties, and services (other than transport services) supplied outside Ukraine). VAT-exempt supplies include domestically produced baby food products, published periodicals, student notebooks, textbooks, and books.

Rates: The standard VAT rate is 20% for domestic supplies and for imported goods and auxiliary services. A 14% rate applies to domestic supplies and imports of certain agricultural products. A 7% VAT rate applies to supplies of pharmaceuticals and healthcare products. Exported goods and auxiliary services are zero rated. For VAT purposes, services that are included in the customs value of imported/exported goods are considered auxiliary services. A temporary VAT exemption for the supply of software and software upgrades applies through 31 December 2022.

Registration: Registration is required (for residents and nonresidents) where turnover exceeds UAH 1 million during any rolling 12-month period. A legal entity may apply for voluntary registration if such registration is deemed necessary by the entity.

Filing and payment: The tax period (and the filing and payment obligations) is either a calendar month or calendar quarter (depending on turnover). Monthly returns must be submitted within 20 calendar days of the last calendar day of each reporting month. Quarterly returns must be submitted within 40 calendar days of the last calendar day of each reporting quarter.

All VAT invoices must be registered with an electronic register (Unified Register of VAT Invoices) maintained by the tax authorities, which provides the basis for recognition of input VAT. The entitlement to such recognition is valid within 365 days.

Each VAT payer must use a special VAT account opened with the State Treasury of Ukraine to account for VAT paid at customs, input VAT from suppliers, and VAT to be invoiced, and out of which to pay VAT liabilities to the government.

Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply both to companies and individuals and are imposed at the national level.

Social security contributions: Salary or similar employment compensation paid to an employee is subject to a unified social security contribution at a rate of 22%. Remuneration for these purposes is capped at 15 times the minimum wage. (The monthly minimum wage is UAH 6,000 per month as from 1 January 2021, with a further increase to UAH 6,500 as from 1 December 2021.)

Payroll tax: There is no payroll tax. Ukrainian companies are required to withhold individual income tax (18%) and a military contribution (1.5%) on the income paid to individuals.

Capital duty: There is no capital duty.

Real property tax: Separate taxes apply for buildings and for land. Land tax is imposed on the owner/user at rates generally up to 12% (for legal entities) and up to 3% (for individuals) of the land's estimated value depending on the location and use of the land.

Legal entities (including nonresidents) that own residential or nonresidential real estate are subject to tax at a rate of up to 1.5% of one minimum salary as at 1 January of the reporting year per square meter owned.

An individual must pay tax annually where one of the following conditions is fulfilled: (i) the area of their apartment(s) exceeds 60 square meters; (ii) the area of their dwelling house(s) exceeds 120 square meters; or (iii) the total area of their apartments and houses exceeds 180 square meters.

Where an individual owns real estate with an area of less than the square meters mentioned above, there are no tax obligations related to the real estate; otherwise, the excess over these square meters is taxed at a rate of up to 1.5% of the minimum wage per square meter.

Where the total area of real estate owned by a legal entity or individual exceeds 300 square meters (for apartments) and/or 500 square meters (for houses), the amount of tax calculated will be increased by UAH 25,000 per property per year (or part thereof).

Transfer tax: There is no transfer tax but state duty and mandatory pension fund contributions may be triggered by transfers of real estate (see "Other," below).

Stamp duty: There is no stamp duty.

Net wealth/worth tax: There is no net wealth tax or net worth tax.

Inheritance/estate tax: Inheritances (e.g., of real estate, chattels, securities, corporate rights) and gifts are taxable at the following rates: 0% where the recipient is a resident of Ukraine classified as a first- or second-degree family member of the testator or donor (i.e., child, spouse, parent, sibling, or grandparent); 5% where the recipient is any other resident individual; and 18% where the recipient is a nonresident but the testator was a resident (or vice versa).

Other

State duty

A state duty generally is imposed on governmental registrations, including agreements for the transfer of real estate and vehicles.

Pension fund contribution

A mandatory pension fund contribution applies to certain transactions at rates of 1% for land/buildings, 3%-5% for vehicle purchases, 10% for the governmental plate-mark on jewelry, and 7.5% for usage of mobile services.

Excise tax

The import or manufacture of cars, alcoholic beverages, tobacco products, and fuel, and the import or extraction of gas is subject to excise tax at rates specific to each product.

Automobile tax

Owners of cars with an average market value exceeding 375 times the minimum wage and manufactured within the previous five years are subject to tax of UAH 25,000 per annum per vehicle.

Tax treaties: The OECD multilateral instrument (MLI) entered into force for Ukraine on 1 December 2019. For information on Ukraine’s tax treaty network, visit Deloitte International Tax Source.

Tax authorities: State Fiscal Service of Ukraine

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