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Taxation and Investment in Ukraine 2016

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1.0 Investment climate

1.1 Business environment

Ukraine is located in Eastern Europe, bordered to the west by Hungary, Poland and Slovakia; to the southwest by Moldova and Romania; to the south by the Black Sea and the Sea of Azov; to the east and northeast by Russia and to the north by Belarus.

Ukraine gained independence after the collapse of the Soviet Union in 1991 and is a unitary republic under a parliamentary-presidential form of governance. According to the Constitution, the state power in Ukraine is exercised on the basis of the separation of legislative, executive and judicial powers. The Parliament is the representative and legislative body of Ukraine and consists of 450 members.

The primary sectors of the economy are manufacturing (ferrous metallurgy, machinery, chemical industry, food industry and consumer goods); agriculture; the supply of electricity supply, the supply of natural gas, etc.

The main export items are metals (ferrous and nonferrous), agricultural products (grain, sunflower seeds, etc.), foodstuffs, machinery and equipment, raw materials, textiles, etc. The primary imports include fuel and energy products, petroleum products, raw materials and products of chemical industry, machinery and electronics.

Ukraine's major trading partners are the CIS countries, European Union (EU) countries (primarily Germany, Hungary, Italy and Poland) and Asian countries (chiefly China and Turkey).

Price controls

Some categories of goods and services are regulated at the state level. The state regulation of prices (tariffs) of goods is based on the Law of Ukraine "On Prices and Pricing", together with the Commercial and Civil Codes of Ukraine. Legislative acts specifying those types of good whose price is subject to state regulation are issued by the Cabinet of Ministers, relevant ministries and state administrations.

For example, the Ministry of Infrastructure of Ukraine specifies the tariffs for transportation of passengers and cargo by rail, processing of foreign and transit cargo at river and sea ports, airport charges, aero navigation charges, etc. The national regulatory commission for energy and utilities specifies maximum prices for electricity and gas for consumers, tariffs for transportation of natural gas, oil, oil products, ammonia etc. The regional state administrations set the ceiling for markups on wholesale prices of foodstuffs (bread, cereals, sugar, meat, milk, etc.).

Intellectual property

Copyrights

The main legislative acts governing copyrights are the Civil Code of Ukraine and the Law of Ukraine "On Copyright and Related Rights". Ukraine is a signatory to the:

- Berne Convention for the Protection of Literary and Artistic Works (1886);
- Universal Copyright Convention (1952);
- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961);
- Convention Establishing the World Intellectual Property Organization (1967)
- WIPO Copyright Treaty (1996);
- Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms (1971); and
- Agreement on Trade-Related Aspects of Intellectual Property Rights (1994).

Generally, the duration of copyright protection in Ukraine is for the author's life plus 70 years after his/her death.

Patents

The main legislative acts governing patents are the Civil Code of Ukraine and the Law of Ukraine "On Protection of Rights to Inventions and Utility Models". Ukraine is signatory to the:

- Paris Convention for the Protection of Industrial Property (1883);
- Eurasian Patent Convention (1994);
- Strasbourg Agreement Concerning the International Patent Classification (1979);
- Patent Cooperation Treaty (1970); and
- WIPO Patent Law Treaty (2000).

Patents for inventions are granted for 20 years from the date of filing of an appropriate application.

Declarative patents for utility models are granted for 10 years from the date of filing of an appropriate application.

Trademarks

The main legislative acts governing trademarks are the Civil Code of Ukraine and the Law of Ukraine "On Protection of Rights to Trademarks". Ukraine is signatory to the:

- Paris Convention for the Protection of Industrial Property (1883);
- Madrid Agreement for the International Registration of Marks (1891);
- Madrid Protocol (1989);
- Trade Mark Law Treaty (1994); and
- Singapore Treaty on the Law of Trademarks (2006).

Trademarks are registered for a term of 10 years from the date of filing of an appropriate application and this may be extended for another 10 years.

Industrial designs and models

The main legislative acts governing industrial design and models are the Civil Code of Ukraine and the Law of Ukraine "On Protection of Rights to Industrial Models". Ukraine is signatory to the:

- Hague Agreement Concerning the International Registration of Industrial Designs (1925);
- Locarno Agreement Establishing an International Classification for Industrial Designs (1968); and
- Agreement on Trade-Related Aspects of Intellectual Property Rights (1994).

A patent for an industrial model is issued for a term of 10 years from the date of filing of an appropriate application and may be extended for up to a further five years.

1.2 Currency

The currency in Ukraine is the Ukrainian Hryvnia (UAH).

1.3 Banking and financing

Ukraine has a two-tier banking system, comprising the central state bank (the National Bank of Ukraine or NBU) and commercial banks. The NBU's main function is to ensure the stability of the national currency of Ukraine. Other functions, such as banking sector regulation, include the issue of money and arrangement of money circulation, regulation of banking transactions, a consolidated banking regulation and supervision.

Commercial banks operate upon the authorization and under the supervision of the NBU. They are established as public joint-stock companies or as mutual saving banks, and require a license from the NBU to operate. The NBU has established requirements for capital adequacy, minimum statutory capital and minimum regulatory capital.

1.4 Foreign investment

Generally, Ukrainian legislation does not restrict or limit the extent of foreign investment or equity participation of a foreign investor in a Ukrainian business. However, there are some restrictions on foreign ownership that apply to highly regulated businesses (e.g. insurance companies, publishing companies, television, etc.).

Ukrainian legislation does not provide for any special tax regimes for enterprises with foreign investment. However, a foreign investor's contribution to the share capital of a Ukrainian enterprise with foreign investment made in the form of goods may be exempt from customs duties, provided that such goods are not alienated for three years after the contribution.

1.5 Tax incentives

Ukrainian tax legislation provides attractive tax incentives for businesses operating in a wide range of prioritized sectors of the economy. However, it should be borne in mind that the legislation is frequently amended.

Renewables and energy efficiency

The government's support of renewable energy and energy efficiency in Ukraine includes:

- A "green" tariff regime (nontax incentive), enabling the sale of electricity produced from renewable energy sources at a special price, which is higher than the traditional energy price;
- An exemption from Ukrainian VAT and customs duties on certain types of imported equipment; and
- A temporary exemption from VAT and customs duties for specified operations (up to 1 January 2019).

Mining

Mining companies operating under production sharing agreements (PSAs) with the government (for the most part, oil and gas companies) can benefit from a number of tax incentives, including:

- No VAT or customs duties on the import of goods/property for the purposes of implementing a PSA;
- No customs duties or excise tax on the export of goods produced under a PSA, and a 0% VAT rate;
- Exemption from withholding tax for the income earned under a PSA and repatriated outside Ukraine by a foreign investor's permanent establishment (PE) registered in Ukraine; and
- Tax-free financing of a PE's activity.

Agriculture

A special VAT regime is available for qualified agricultural producers.

Information technology

Until 1 January 2023, the supply of software is VAT-exempt. Software includes operating systems, computer programs, system administration, websites, online services, etc.

Shipbuilding

VAT and customs incentives are available for shipbuilders importing equipment and spare parts subject to certain conditions. The incentives include a deferral of import VAT.

Priority industries

Tax and customs incentives are also offered to entities engaged in investment projects in "priority industries" as defined by the Cabinet of Ministers of Ukraine, in particular, agriculture, machine-building, transport infrastructure, etc. An entity operating in the priority industry may qualify for the incentives if the project has been approved by the government and meets specific legal

requirements regarding the minimum amount of investment, number of new jobs created, etc. The incentives include:

- An exemption from customs duties on the import of equipment for eligible projects, subject to specific approval from the Cabinet of Ministers of Ukraine (available until 1 January 2018).
- The ability to postpone payment of import VAT on equipment imported duty-free by issuing a VAT promissory note to be paid in cash within 60 days. This benefit is available until 31 December 2022.

Other incentives

Certain incentives are granted only to entities founded by a public institution for disabled people.

1.6 Exchange controls

The Ukrainian currency has limited convertibility. Currency operations in Ukraine are subject to state currency control regulations, which are based on the concept of residency. For these purposes, a resident of Ukraine is defined as:

- Any person, including foreign citizens, permanently residing in Ukraine;
- Legal entities, representative offices or other structural subdivisions thereof located and performing business activities in Ukraine;
- Ukrainian diplomatic, consulate, trade and other official governmental institutions abroad that enjoy diplomatic privileges and immunity; and
- Representative offices or other structural subdivisions of Ukrainian companies and organizations abroad, if such subdivisions perform representative functions only and are not engaged in any business activities.

Any other person or structural subdivision that is not a resident of Ukraine is treated as a nonresident for currency control purposes.

Residents and nonresidents may hold hard currency and UAH accounts with authorized banks, and may import and exchange currency in accordance with the procedures established by the NBU.

Foreign currency control regulations apply in the following areas:

- Generally, only local currency may be used in business transactions between residents.
- Payments between residents and nonresidents involved in international transactions in connection with trade and investment activities are, for the most part, made in foreign currency.
- Foreign currency proceeds received by a company from foreign clients must be transferred to a local bank account within 90 days of the date of exportation of the relevant goods or services. Failure to comply with this provision will result in the Ukrainian company being liable to pay a penalty of 0.3% of the outstanding proceeds for each day of the delay.
- Goods must be imported into Ukraine within 90 days from the date prepayments were made by a Ukrainian company to its suppliers. Failure to comply with this provision will result in the Ukrainian company being liable to pay a penalty of 0.3% of the outstanding proceeds for each day of the delay.

Certain transactions in local and foreign currencies are subject to licensing by the NBU (e.g. settlements made in foreign currency in Ukraine). Ukrainian residents are also required to obtain an individual license to make investments abroad. Investing abroad includes purchasing securities issued by foreign entities, opening an account with a foreign bank and granting or raising loans in foreign currency. Licenses are issued for a limited term and for a specified amount of foreign currency. The procedure for obtaining an individual license is quite onerous and requires a specific set of documents to be submitted to the NBU for approval.

Since February 2015, the NBU has been setting the official exchange rate based on market factors. As at 31 December 2015, the official exchange rates for the major currencies were:

- UAH 24.0007: USD 1
- UAH 26.2231: EUR 1
- UAH 3.2931: RUB 10

Moreover, the NBU imposes a number of temporary restrictions, in particular:

- A ban on certain foreign currency transactions that affect the investment climate in Ukraine (e.g. ban on the payment of dividends to foreign investors abroad);
- Currency control limitations affecting the business (e.g. mandatory sale of 75% of foreign currency earnings) and
- Currency control limitations applicable to individuals (e.g. the sale of cash foreign currency to a single individual on one business day by one banking institution is limited to the equivalent of UAH 6,000).

2.0 Setting up a business

2.1 Principal forms of business entity

The principal forms of doing business in Ukraine are: a limited liability company; a private or public joint stock company; a joint venture (particularly in the oil and gas exploration sector); a representative office (common for foreign companies that are only planning to perform marketing, promotional and other auxiliary activities) and a branch or permanent establishment (PE) of a foreign corporation.

Foreign investors contemplating carrying out active business operations may choose to establish a legal entity in Ukraine, instead of opting for a representative office.

If a foreign investor chooses to do business in Ukraine in a form other than a legal entity, it is important to determine whether such foreign company's presence in Ukraine will lead to the creation of a PE under Ukrainian tax legislation.

It is also possible to perform certain types of business activity in Ukraine without establishing a representative office or without any other formal presence in the country, e.g. one-time contracts or joint production agreements with Ukrainian partners.

Formalities for setting up a company

A Ukrainian business is established and operates on the grounds of its constituent (foundation) document (charter). A constituent document should contain specific information required by law for each type of business. A Ukrainian entity (either a limited liability company or a joint-stock company) may not have a sole founder, if 100% of the founder is owned by a single corporate shareholder.

To set up a company, the following documents are required:

- Completed registration card;
- Application to elect for the simplified taxation system, if required, and/or application for voluntary registration as VAT taxpayer, in the approved form;
- Original or notarized copy of the decision of the founders or an authorized body on incorporation of the legal entity;
- Two copies of incorporation documents (either a charter for LLC, JSC, or a foundation agreement for full partnership (*Povne Tovarystvo*) and limited partnership (*Komandytne Tovarystvo*); one copy, if provided in electronic format); and
- Document confirming the state registration of the shareholder (shareholders), if the shareholder is a nonresident legal entity (i.e. extract from the commercial, banking or court register).

Individual shareholders (beneficial owners) must be disclosed when a legal entity is registered with the state and in case of merger or acquisition.

Forms of entity

Ukrainian legislation provides for a number of different forms of legal entity for carrying out business activities. The two most common are a limited liability company and a joint-stock company. The latter may be public or private.

The main legislative acts regulating these types of legal entity are the Civil and Commercial Codes of Ukraine and the Laws of Ukraine "On Business Entities" and "On Joint-Stock Companies".

A Ukraine-based company or partnership is considered to be a legal entity once it has been registered with the state.

Requirements for a limited liability company

The limited liability company (*Tovarystvo z Obmezhenoyu Vidpovidalnistyu* or LLC) and private joint-stock company (*Pryvatne Aktsionerne Tovarystvo* or PrJSC) are the most popular corporate

vehicles for foreign investors in Ukraine. As with a PrJSC, shares of an LLC cannot be transferred without the consent of other shareholders. The financial and reporting requirements for an LLC are less burdensome than those for a PrJSC.

Capital. There are no legal restrictions on the amount of authorized share capital of an LLC. Shareholders are obliged to pay the full value of their shares within one year from the company's state registration.

Founders, shareholders. Participants in an LLC have limited liability, which does not exceed their contribution to the company's authorized share capital. Individuals and legal entities, as well as the state or the territorial community owning shares, are recognized as shareholders of the company.

There are no restrictions regarding the residence or nationality of the shareholders.

Management. The supreme management body of an LLC is the General Meeting of its Participants. The frequency of meetings of the participants is to be specified in the LLC's Charter; however, the legislation requires such meetings to be held at least twice a year, and additional meetings to be held as and when necessary. The General Director/Director of the LLC is responsible for day-to-day operation of the LLC.

Types of share. Under Ukrainian legislation, an LLC has no right to issue shares (securities). Participants in an LLC hold a share (or part of a share) in the authorized share capital of the LLC of a nominal value equivalent to each participant's contribution to the share capital.

Taxes and fees. No taxes are payable at the time of registration or on subsequent increases in share capital. No fees are required on registration; however, a fee of 0.05 times the minimum wage applies to increases in share capital (approximately UAH 69).

Requirements for a joint-stock company

Joint-stock companies may be public (*Publichne Aktsionerne Tovarystvo* or PJSC) or private (*Pryvatne Aktsionerne Tovarystvo* or PrJSC). Along with a limited liability company, a PrJSC is the most common and most popular corporate vehicle for foreign investors in Ukraine.

The main difference between public and private joint-stock companies is that the shares of a PrJSC are distributed exclusively among the founders, while the shares of a PJSC are offered for public subscription or may be sold publicly on the stock market.

Capital. *Both:* The minimum amount of authorized share capital is set at 1,250 times the minimum monthly wage (as at 1 January 2016, the minimum monthly wage is fixed at UAH 1,378). *PrJSC:* The founders must pay at least 50% of the amount of authorized share capital in order for the company to be allowed to perform activities other than those related to the purposes of its foundation. Each founder of the joint stock company must pay the full value of the purchased shares before the date of confirmation of the results of the placement of the initial share offering. Shareholders may use cash funds, property, property and nonproperty rights, and securities (except for promissory notes or any debt securities issued by the PrJSC) to pay for their shares in the authorized share capital of the PrJSC.

Founders, shareholders. *PJSC:* The shares of a PJSC are offered for public subscription or may be sold publicly on the stock market. A PJSC may have an unlimited number of shareholders. Subject to certain disclosure requirements, a PJSC is the only form of legal entity whose shares may be openly traded. *PrJSC:* The shares are distributed exclusively among the founders. The shareholder of a PrJSC may transfer its shares to a third party subject to the consent of the other shareholders in the PrJSC. Shareholders are not liable for the obligations of the company. Shareholders bear the risk of losses only to the extent of their shares (limited liability). The frequency of shareholders' meetings is specified in the Charter; however, there should be at least one meeting each year.

A joint stock company may be set up by one person or may consist of one person where all the shares are purchased by one shareholder. The number of shareholders of a private joint stock company may not exceed 100. For public joint stock companies, the number of shareholders is unlimited.

Management. *Both:* If a joint stock company (either public or private) has more than 10 shareholders, a Supervisory Board must be established. The shareholders' meeting is responsible for electing the Supervisory Board. The day-to-day management functions are performed by the

entity's board of directors (or a director). There are no legislative limitations on the number of members of the board of directors. An audit committee controls and supervises the board's activities.

Types of share. *Both:* Under Ukrainian legislation, both public and private joint stock companies may issue the following types of share:

- Ordinary shares – give their owners the right to obtain a part of income of the joint stock company (dividends), participate in the JSC's operation and obtain a part of the JSC's property in case of its liquidation, and other rights with respect to foundation, activities and winding up of the JSC).
- Preferred shares – give their owners priority rights over the holders of ordinary shares, and voting rights on a limited number of issues as specified by legislation and the company's charter (e.g. amendments to the company's charter intended to limit the rights of holders of preferred shares, etc.)

All ordinary shares issued by a JSC have equal rights to vote and to the distribution of profit. There are various classes of preferred share granting different rights to their owners. Unlike shares (participation) in an LLC, shares in a joint stock company may be effectively pledged as securities.

Taxes and fees. No taxes are payable at the time of registration or on subsequent increases in share capital. No fees are required on registration; however, a fee of 0.05 times the minimum wage applies to increases in share capital (approximately UAH 69).

Branch of a foreign corporation

See 'Representative office' below for details. A branch is subject to tax at the same rates as a company.

Representative office

A representative office (RO) of a foreign business in Ukraine is not a legal entity, but rather an "extension" of its parent company. The representative office may either simply represent its foreign parent company in the market and carry out various auxiliary activities (a "noncommercial representative office") or conduct business activities that may give rise to a taxable PE (a "commercial representative office").

All ROs are legally required to register with the Ministry of Economic Development and Trade of Ukraine (the "Ministry of Economy" or "MEU"). Commercial ROs must also register with the local tax authorities and social security funds. In practice, noncommercial ROs will also typically do so, although this is not a legal requirement.

Registration with the MEU involves:

- Filing a package of registration documents required by law, and payment of the state registration fee (USD 2,500);
- Review of the documents by the MEU (within 60 working days);
- Approval or rejection of the registration (may be appealed against in court);
- After approval, the RO is included in the Unified Register of Representative Offices and issued with a Registration Certificate;
- Registration of the RO with the tax authorities and the State Statistics Service of Ukraine within 10 days after its registration with the MEU; and
- Approval of the RO's official seal and opening of the RO's bank accounts.

Upon completion of the above procedures, the registered entity has the right to apply to:

- The relevant departments of the Ministry of Internal Affairs of Ukraine for visas and registration of passports of its employees; and
- Traffic police offices for registration of vehicles owned by the representative office.

The representative office must also file the required documents with the tax authorities in the region/district where it is located and by the next business day after the submission of the

documents, the tax officer must decide whether to approve or reject the registration. In case of approval, the state tax authorities will issue a Certificate of Registration for a corporate income taxpayer.

2.2 Regulation of business

Mergers and acquisitions

Under Ukrainian competition law, the acquisition of control over a company, including the purchase of more than 25% or 50% of the share capital, is a market concentration and requires prior approval from the Antimonopoly Committee (AMC).

This provision also applies when the acquisition is carried out abroad between nonresident entities if the following criteria are met:

- The total value of assets or the worldwide turnover of the concentration participants per last financial year exceeds the equivalent of EUR 12 million; and
- The total value of assets or the worldwide turnover of at least two participants exceeds the equivalent of EUR 1 million for each participant; and
- The total value of assets or the overall turnover in Ukraine of at least one of the participants, considering the control relationship, exceeds the equivalent of EUR 1 million.

If all the criteria are met, permission from the AMC must be obtained prior to closing the transaction.

Regardless of the financial criteria mentioned above, the permission of the AMC is also required if the share of a certain commodity market of any participant in the merger and acquisition or the combined share of such participants, given the control relationship, exceeds 35% and the merger or acquisition will be carried out in this or a related commodity market.

If permission from the AMC is required, the participants should consider the following issues prior to the transaction:

- The statutory term for obtaining permission from the AMC is 45 calendar days. In practice, obtaining the permit takes three to four months including the timeframe for collecting the required documents (approximately one to two months). In some cases, the AMC may initiate an investigation, which prolongs the above mentioned period to approximately six months.
- If the merger or acquisition is carried out without a permit, the AMC may impose a fine of 5% of the total group turnover for the year preceding the identification of the violation.
- Individual shareholders (beneficial owners) must be disclosed when a legal entity is registered in Ukraine and in the case of mergers or acquisitions.

Monopolies and restraint of trade

Holding a dominant position in the market is not in itself a breach of Ukrainian law. However, abuse of the dominant position (e.g. setting prices that would be impossible to set in a competitive market; restrictions on production, markets or technical development that has harmed or could harm other entrepreneurs, purchasers or sellers) is forbidden by law and subject to fines.

Coordinated actions (conclusion of agreements, coordinated competitive actions, etc.) also require prior permission from the AMC. Anticompetitive coordinated actions (e.g. falsifications of tender results, significant impediments of competition) are prohibited. Ukrainian legislation provides for fines of up to 10% of income of a legal entity or group (if individuals and legal entities in the group have a control relationship) for anticompetitive coordinated actions.

2.3 Accounting, filing and auditing requirements

Accounting standards

Ukrainian entities must prepare financial statements based on either International Financial Reporting Standards (IFRS) or Ukrainian National Accounting Standards (Ukrainian GAAP, developed on the basis of IFRS in 1999).

Public joint stock companies, banks, insurance companies and certain other companies (as listed in a government decree) are required to prepare their financial statements in accordance with IFRS; other companies may choose Ukrainian GAAP or IFRS.

According to legislation, Ukrainian GAAP should not contradict IFRS; however, there are some differences between the two sets of standards as Ukrainian GAAP do not reflect the latest developments in IFRS and the disclosure requirements are less demanding.

Auditing requirements

The Law of Ukraine “On Audit Activity” requires public stock companies and other legal entities obliged to make their financial reports public (excluding institutions and organizations entirely financed by the government) to have their entity and consolidated financial statements audited. The statutory audit requirement also applies to:

- Founders of banks, entities with foreign investment, public stock companies (excluding individuals), insurance and holding companies, collective investment funds, trust entities, and other financial intermediaries; and
- Issuers of securities engaged in public offerings and issuers of derivatives (upon obtaining a license for professional activities in the stock exchange market).

Filing requirements

The reporting period for the preparation of financial statements is the calendar year. The first reporting period for newly created firms may be less than 12 months but not more than 15 months.

The annual financial statement shall comprise of the balance sheet (BS), profit & losses statement (P&L), cash flow statement, equity statement, notes. Small companies prepare a simplified financial statement, which consists only of a BS and P&L statement.

Interim statements are prepared quarterly cumulative from the beginning of the year as the balance sheet and income statement.

Under the requirements of Ukrainian legislation, financial reporting should be submitted to the following state authorities at the place of state registration:

- (1) State Statistics Authorities
 - a. Annual financial statement must be submitted not later than 28 February in the year after the reporting calendar year.
 - b. Quarterly interim financial statement must be submitted not later than the 25th day of the month after a reporting quarter.
- (2) State Tax Authorities – financial statement should be submitted together with tax return for respective reporting period
- (3) State registrar –annual financial statement (balance sheet and profit & losses statement) must be submitted not later than 1 June in the year after the reporting calendar year.

3.0 Business taxation

3.1 Overview

The principal taxes applicable to companies in Ukraine are corporate income tax and VAT. Other taxes include property tax and customs duties. In addition, employers have to bear a portion of the unified social security contribution.

Business income of a branch or permanent establishment in Ukraine is taxed in the same way as income of a domestic corporate entity.

Ukraine Quick Tax Facts for Companies	
Corporate income tax rate	18%
Branch tax rate	18%
Capital gains tax rate	18%
Basis	Worldwide income
Participation exemption	No
Loss relief	
– Carryforward	Indefinitely
– Carryback	No
Double taxation relief	Yes
Tax consolidation	No
Transfer pricing rules	Yes
Thin capitalization rules	Yes
Controlled foreign company rules	No
Tax year	Calendar year
Reporting period	1 quarter, 1-2 quarter, 1-3 quarter, year
Advance payment of tax	Yes, in certain cases
Return due date	40 days after the end of reporting period
Withholding tax	
– Dividends	15%
– Interest	15%
– Royalties/technical service fees	15%
– Branch remittance tax	15% (where no tax treaty exists)
Capital tax	No
Property tax	Various
Social security contributions	22%
VAT	20% (standard rate)/7% (reduced rate)

3.2 Residence

A legal entity incorporated in Ukraine and operating under Ukrainian laws is generally considered to be a tax resident; a legal entity incorporated abroad and operating under the laws of a foreign country is treated as a foreign resident (nonresident).

3.3 Taxable income and rates

A resident entity is taxed on its worldwide income received or accrued within the reporting period, depending on the type of income. A nonresident company is taxed on its business income derived from carrying out trade or business activities in Ukraine and on other nonbusiness income received from Ukrainian sources. A branch or PE of a Ukrainian nonresident is treated as a separate entity for tax purposes.

The corporate income tax (CIT) rate is 18%. Certain types of business (e.g. insurance, banks, etc.) are subject to special tax treatment. Insurance companies pay special CIT of 0% and 3% from their income. CIT of 0% or 3% paid from insurance premiums reduces taxable profit.

Special CIT rates of 10% and 18% apply to the income from gambling activities. CIT of 10% or 18% paid from gambling income does not reduce taxable profit.

Taxable income defined

Profit (loss) before tax is calculated as the difference between income and expenses for the reporting period in accordance with Ukrainian accounting standards (UAS) or IFRS as appropriate. Taxpayers should maintain records of income, expenses and other key figures related to the determination of taxable items based on source documents, accounting books, financial statements and other documents used for the calculation and payment of taxes and duties.

Taxpayers with income (net of indirect taxes) not exceeding UAH 20 million may calculate taxable income based only on their financial accounting result, without any adjustments for tax differences (other than tax loss carryforwards).

Dividends received by a domestic company from another domestic company that is a corporate income taxpayer are not subject to CIT.

Dividends received by Ukrainian company from another Ukrainian company (CIT payer or person operating on 4th group of simplified tax system) are exempt from CIT. Dividends received by Ukrainian companies from foreign companies are no longer specifically exempted from CIT.

Capital gains are treated as ordinary income and taxed at the standard CIT rate.

Deductions

In general, all expenses are deductible if they have been incurred in the course of the company's business operations. Certain expenses are nondeductible, including the write-down in value of equity instruments reclassified to financial liabilities according to UAS or IFRS, and included in financial profit (loss) before tax. Adjustments may also be required in accordance with the Ukrainian transfer pricing legislation (see Section 3.6).

As an anti-avoidance measure, Ukraine has established restrictions on the deductibility of royalties incurred by resident taxpayers in favor of nonresident entities located in low-tax jurisdictions, and on purchases of goods and services from such nonresidents (see Section 3.6).

Interest paid is generally deductible for CIT purposes. However, the deduction of interest expense in favor of nonresident related parties is limited according to the thin capitalization rules.

Deduction of royalties paid to a non-resident is limited to royalty income plus 4% of net income of the previous year.

Royalties paid to non-beneficial owners, low tax jurisdictions, non-residents that are exempt from tax on royalties in the country of their residence, and non-residents for trademarks originated from Ukraine are not tax deductible.

The thin capitalization rules apply to taxpayers whose debts to nonresident related parties are more than 3.5 times greater than their equity (more than 10 times greater for financial institutions and leasing companies). The interest expense deduction for these taxpayers is limited to 50% of earnings before interest, taxes, depreciation and amortization (EBITDA). Interest not deducted in the current tax period may be carried forward and offset in future periods but the balance carried forward is reduced annually by 5% of the interest amount, until the interest is fully relieved.

If the debt-to-equity ratio is less than 3.5:1, the taxpayer is entitled to deduct the interest expense in full.

Depreciation

Depreciation or amortization is available on all capital assets, including both fixed and intangible property, other than land, goodwill, fixed assets under conservation, and nonbusiness related capital assets.

Fixed assets

Under the Tax Code, fixed assets are defined as tangible assets (including mineral resources) intended for use in a taxpayer's business activities for a period exceeding one year or operating cycle and with a value exceeding UAH 6,000. For tax depreciation purposes, fixed assets are divided into 16 groups according to their minimum useful life. The useful life of fixed assets may be extended by a taxpayer.

Group	Fixed assets included in the group	Minimum useful life (years)
1	Plots of land	–
2	Capital expenditure on land improvements unrelated to the construction	15
3	Buildings	20
	Facilities	15
	Transmission devices	10
4	Machinery and equipment	5
	Computers and other automatic data processing equipment; information and telecommunications systems and associated equipment, etc.	2
5	Motor vehicles	5
6	Instruments, devices, furniture	4
7	Animals	6
8	Perennial plants	10
9	Other fixed assets	12
10	Library funds	–
11	Low-cost noncurrent tangible assets	–
12	Temporary facilities	5
13	Natural resources	–
14	Reusable containers	6
15	Rented assets	5
16	Long-term biological assets	7

For tax purposes, fixed assets are depreciated over their useful lives based on financial accounting rules according to UAS or IFRS using one of the following four methods:

- Straight line method;
- Reducing balance value method;
- Accelerated reducing balance value method; or
- Cumulative method.

The tax depreciation method used should correspond to the taxpayer's UAS policy, although the units of production method is not permitted for tax depreciation calculations.

Depreciation is determined on a monthly basis. Each fixed asset is accounted for separately and depreciated over its useful life, as defined in the Tax Code or, if longer, by the taxpayer's financial accounting policy.

There are no specific rules prescribed for tax accounting of repair costs, UAS or IFRS should apply.

Intangible assets

According to the Tax Code, intangible assets are divided into six groups. Each intangible asset should be accounted for separately and amortized using one of the above mentioned methods over its useful life, taking into consideration the minimum useful life established by the Tax Code.

Group	Intangible assets included in the group	Minimum useful life (years)
1	Rights to use natural resources	According to entitling document
2	Rights to use property	According to entitling document
3	Rights to use commercial branding (trademarks, etc.)	According to entitling document
4	Industrial property rights	According to entitling document, but no less than five years
5	Copyrights and related rights	According to entitling document, but no less than two years
6	Other intangible assets	According to entitling document

Taxpayers are entitled to set the amortization period of the intangible assets on their own, but it must not be less than two years and not more than ten years of continuous operation.

Provisions

Profit (loss) before tax is increased (decreased) by the amount of accrued provisions for future expenses and payments in accordance with UAS or IFRS.

Losses

Tax losses may generally be carried forward indefinitely. Taxpayer may offset the amount of accrued tax on real estate (other than land) against its CIT liabilities for the respective tax period. There is no carryforward of unutilized amount of the real estate tax.

Net operating losses can be carried forward without limitations.

3.4 Capital gains taxation

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

3.5 Double taxation relief

Unilateral relief

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

Tax treaties

Ukraine has a broad tax treaty network, with most treaties following the OECD model. Treaties generally: (i) provide relief from double taxation on all types of income, (ii) limit the taxation by one state of companies with residency in the other, and (iii) protect companies with residency in one country from discriminatory taxation in the other. Ukraine's treaties generally contain OECD-compliant exchange of information provisions.

In order to benefit from applicable treaty relief, a nonresident should provide the Ukrainian taxpayer with a tax residency certificate issued annually by the tax authorities of the recipient's country of residence. The Ukrainian payer should remit the tax withheld to the government at the time the income is paid.

Ukraine Tax Treaty Network			
Algeria	Georgia	Lebanon	Singapore
Armenia	Germany	Libya	Slovakia
Austria	Greece	Lithuania	Slovenia
Azerbaijan	Hungary	Macedonia	South Africa
Belarus	Iceland	Malaysia	Spain
Belgium	India	Mexico	Sweden
Brazil	Indonesia	Moldova	Switzerland
Bulgaria	Iran	Mongolia	Syria
Canada	Ireland	Morocco	Tajikistan
China	Israel	Netherlands	Thailand
Croatia	Italy	Norway	Turkey
Cyprus	Japan	Pakistan	Turkmenistan
Czech Republic	Jordan	Poland	United Arab Emirates
Denmark	Kazakhstan	Portugal	United Kingdom
Egypt	Korea (ROK)	Romania	United States
Estonia	Kuwait	Russia	Uzbekistan
Finland	Kyrgyzstan	Saudi Arabia	Vietnam
France	Latvia	Serbia*	

* The treaty with the former Yugoslavia continues to apply in connection with Ukraine's relations with Serbia. Montenegro has not yet conformed that it will apply the treaty.

3.6 Anti-avoidance rules

Transfer pricing

Significant changes to the Ukrainian transfer pricing regulations entered into force from 1 January 2015, with the result that the rules are now generally based on OECD transfer pricing guidelines.

The Ukrainian transfer pricing rules apply to the following "controlled" transactions: (1) transactions with nonresident related parties; (2) sales of goods through nonresident commission agents; (3) transactions between related parties that involve independent intermediaries with no substantial functions; and (4) transactions with nonresidents registered in low-tax jurisdictions included in the list published by the Cabinet of Ministers. Transactions with the same counterparty will be treated

as controlled transactions where the following two conditions are met: (1) the annual volume of the transactions with one counterparty exceeds UAH 5 million and (2) the revenue of the taxpayer exceeds UAH 50 million for the tax year.

Taxpayers may choose one of five transfer pricing methods: comparable uncontrolled price (CUP) method, resale price method, cost-plus method, transactional net margin method (TNMM) and profit-split method. Taxpayers may select the method that they deem to be the most suitable; however, if the CUP method can be applied along with any other method, preference should be given to the CUP method. Ukrainian transfer pricing regulations also envisage the formal preference of the resale price and cost plus methods over the TNMM and profit split methods.

Special rules apply to cross-border transactions involving the sale of goods traded on commodity exchanges, under which the CUP method is required, with the focus being on comparison of prices with the recognized exchanges. Taxpayers are allowed to use other (i.e. margin-based) methods; however, in this case they are required to disclose information on all related parties in the supply chain and profit margins earned. However, the list of commodities and commodity exchanges is not approved yet.

The reporting period for transfer pricing purposes is a calendar year. Taxpayers are required to submit transfer pricing documentation (within one month of the date of the documentation being requested by the tax authorities) and a report on controlled transactions (by 1 May of the year following the reporting period).

The following penalties apply for failure to submit the report on controlled transactions and transfer pricing documentation:

- 300 times the minimum wage (approximately UAH 413,000) for nonsubmission of the report on controlled transactions
- 1% of the amount of transactions omitted from the report, but no more than 300 times the minimum wage for all undeclared transactions
- 3% of the amount of transactions in respect of which TP documentation was not submitted, but no more than 200 times the minimum wage (approximately UAH 276,000).

Major taxpayers may enter into advance pricing agreements with the tax authorities.

Where there is any deviation from the arm's length price (margin) range, tax liabilities should be adjusted in accordance with the median of the arm's length range. While this definitely relates to adjustments made by the tax authority, there is lack of clarity as to whether this relates to self-adjustments.

Thin capitalization

The thin capitalization rules apply to loan transactions with nonresident related parties where the debt-to-equity ratio exceeds 3.5:1 (10:1 for financial institutions and companies engaged solely in leasing activity). The deduction for interest paid on loans exceeding this ratio is limited to 50% of profits before tax (plus the amount of interest expense and accounting depreciation) in a specific tax period.

Interest not deducted in the current tax period may be carried forward and deducted in future periods, but the balance carried forward is reduced annually by 5% of the interest amount, until the interest is fully deducted.

Interest includes liabilities on loans, deposits, REPO transactions, financial lease agreements and other borrowings, regardless of their legal form.

Controlled foreign companies

Ukraine does not have CFC rules.

Other

To prevent tax avoidance, certain restrictions are imposed on the deductibility of expenses relating to transactions with not-for-profit organizations (except government-financed organizations) and transactions with nonresidents registered in low-tax jurisdictions. The profit before tax is increased by 30% of the value of such transactions.

The deduction for royalties paid to nonresidents is limited to the amount of royalty income received, increased by 4% of the net profit of the previous period. No deduction is available for royalties paid to a legal entity either not subject to CIT or paying tax at a lower than standard rate and for royalties paid to a nonresident:

- Registered in a low-tax jurisdiction; or
- Which is not the beneficial owner of the royalties; or
- Where the intellectual property right to the royalty-bearing item first arose in Ukraine; or
- Not taxed on royalty income in its jurisdiction.

However, all such expenses are deductible if they are justified and supported by transfer pricing documentation prepared according to the transfer pricing rules (applicable to both controlled and uncontrolled transactions).

The official list of low-tax jurisdictions is periodically published by the Cabinet of Ministers of Ukraine and includes jurisdictions:

- Where the CIT rate is five percentage points or more lower than that set in Ukraine;
- That do not have a treaty or other agreement with Ukraine that includes a provision for the exchange of information.

The latest version of the list of low-tax jurisdictions was adopted on 16 September 2015 and comprises:

Ukraine Official List of Low-Tax Jurisdictions			
Anguilla	Curacao	Macedonia	Qatar
Andorra	Cyprus	Madeira	Saint Kitts and Nevis
Antigua and Barbuda	French Guyana	Maldives	Saint Lucia
Aruba	Gibraltar	Martinique	Saint Vincent and the Grenadines
Bahamas	Grenada	Marshall Islands	San Marino
Bahrain	Guernsey	Micronesia	Sao Tome and Principe
Barbados	Hong Kong	Moldova	Serbia (Kosovo and Metohija)
Belize	Ireland	Montenegro	Seychelles
Bermuda	Isle of Man	Montserrat	Sint Maarten (Dutch part)
Bosnia and Herzegovina	Jersey	Nauru	Sudan
British Virgin Islands	Kyrgyzstan	Niue	Timor-Leste
Brunei Darussalam	Labuan	Northern Mariana Islands	Turkmenistan
Bulgaria	Lesotho	Oman	Turks and Caicos Islands
Canary Islands	Liberia	Palau	US Virgin Islands
Cape Verde	Liechtenstein	Panama	Uzbekistan
Cayman Islands	Macau	Paraguay	Vanuatu
Cook Islands			

General anti-avoidance rule

Ukraine does not have a general anti-avoidance rule, however see 'Other' above.

General anti-avoidance rule

Ukraine does not have a general anti-avoidance rule, however see 'Other' above.

3.7 Administration

Tax year

The tax year is the calendar year.

Filing and payment

From 1 January 2016, a quarterly tax return must be submitted by taxpayers whose annual turnover in previous year exceeds UAH 20 million . The quarterly tax returns are due within 40 calendar days following the last day of the tax reporting period.

Taxpayers with taxable income of less than UAH 20 million for previous year are required to submit an annual corporate income tax (CIT) return only, which is due within 60 calendar days following the last day of the tax reporting period. Annual tax period is set also for newly created companies (registered in the reporting year) and agricultural companies.

The tax (reporting) period begins on the first calendar day of the tax (reporting) period and ends on the last calendar day of the tax (reporting) period, except agricultural companies, which may choose an annual tax (reporting) period beginning on 1 July of the year and ending on 30 June of the following financial year.

If the filing deadline falls on a holiday or a weekend, it is automatically moved to the next business (i.e. banking) day.

Taxpayers must pay any additional tax due within 10 days from the corporate income tax return submission deadline.

Dividends paid by a Ukrainian company are subject to advance corporate income tax (ACT), at the statutory rate of corporate income tax. The ACT is calculated based on the difference between the amount of dividends to be paid and the profit before tax of the reporting period, if the relevant corporate income tax liability for the period has been paid. If the corporate income tax liability for the year has not been settled, the ACT will be calculated based on the full amount of dividends to be paid. The ACT is payable prior to or at the time of payment of the dividends. It is not refundable and may not be offset against other taxes.

ACT does not apply to certain dividends such as dividends paid by a Ukrainian holding company out of dividends received from subsidiaries, dividends paid by a company out of tax-exempt profits (e.g. by agricultural companies, unified tax payers) and dividends paid to individuals.

Penalties and/or fines apply for late payments (including interest at 120% of the national bank's discount rate) and failure to comply with filing requirements. Accuracy-related penalties may also apply (25% of the underpaid amount for the first violation, 50% for the second and subsequent violations). More severe penalties may apply if the understatement is significant or if the taxpayer is convicted of tax evasion. If the taxpayer voluntarily discloses the understatement, the penalty will be 3% to 5% of the amount of the tax liability for the entire understatement period, irrespective of the number of tax periods that have passed. A penalty of up to 75% of the understated tax liability will be imposed for failure to pay withholding tax to the government.

Given the substantial changes in Ukrainian tax legislation, no fines or penalties will apply to corporate income tax payers that fail to comply with CIT calculation, reporting or payment obligations based on their 2015 operating results.

The following penalties also apply for failure to submit the report on controlled transactions and transfer pricing documentation:

- 300 times the minimum wage (UAH 413,400) for nonsubmission of the report on controlled transactions
- 1% of the amount of transactions omitted from the report, but no more than 300 times the minimum wage for all undeclared transactions

- 3% of the amount of transactions, but no more than 200 times the minimum wage (approximately UAH 275,600) for all undeclared transactions, for nonsubmission of the transfer pricing documentation

Taxpayers have the right to challenge the tax authorities' decisions to accrue tax liabilities and impose penalties up to the highest level of the tax authorities and/or to the courts.

In addition to tax and administrative fines and penalties, the Criminal Code provides for criminal responsibility in the event of tax evasion. The officials of legal entities accused of intentional tax evasion are subject to a fine of UAH 17,000 – UAH 425,000, forfeiture of property, and prohibition from occupying some posts for up to three years.

Companies and tax agents are required to file quarterly reports of income accrued and paid to individuals and of the tax withheld from the income and paid to the government on behalf of such individuals.

Consolidated returns

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

Statute of limitations

Under current Ukrainian legislation, the statute of limitations in Ukraine is three years (1,095 days) for general tax purposes and seven years (2,555 days) for transfer pricing purposes, starting from the deadline for submission of the respective tax return or a later date when the tax return is actually submitted.

In general, periods that have been audited by the tax authorities are considered “closed”, and may not be reopened for further tax audits in the future (unless criminal proceedings are initiated against a tax officer who conducted the tax audit of the entity, or against an official of that entity). The statute of limitation period does not apply to tax periods for which a tax return was not filed or deliberate tax evasion was committed, as proved by a court.

Tax authorities

The State Fiscal Service of Ukraine is responsible for levying taxes and duties and has the right to perform tax audits. It may perform both scheduled and unscheduled tax audits of taxpayers. Since 2015, the State Fiscal Service has been able to check the accuracy of the taxpayer's financial accounting.

Types of tax audit include:

- Desk audits;
- Regular audits (scheduled or unscheduled; field, in-house, and electronic);
- Factual audits (at the location where a taxpayer actually performs its business activities, may be carried out without prior notice); and
- Transfer pricing audits.

The frequency of scheduled regular audits depends on the tax risk level of the company's activities, ranging from annually for companies with high risk activities to once every three calendar years for companies whose activities are considered low risk for tax purposes.

The duration of the most common types of tax audit is outlined in the table below.

Type of tax audit	Large taxpayers	Small taxpayers	Other taxpayers
Scheduled	30 business days, with a possible extension of up to 15 business days	10 business days, with a possible extension of up to 5 business days	20 business days, with a possible extension of up to 10 business days
Unscheduled	15 business days, with a possible extension of up to 10 business days	5 business days, with a possible extension of up to 2 business days	10 business days, with a possible extension of up to 5 business days

Factual	10 calendar days, with a possible extension of up to 5 calendar days
Transfer pricing	Up to 18 months with the possibility of extension for another 12 months

Rulings

A taxpayer may request an explanation of the tax treatment of a particular issue. No penalty may be applied to a taxpayer that acted on the basis of a ruling issued by the tax authorities, even if the ruling was subsequently revoked or changed.

Major taxpayers only may apply for advance pricing agreements.

3.8 Other taxes on business

Ukraine does not impose any other direct taxes on business.

4.0 Withholding taxes

4.1 Dividends

A 15% withholding tax is levied on dividends paid to nonresident companies and individuals, unless the rate is reduced under a tax treaty.

4.2 Interest

A 15% withholding tax is levied on interest paid to nonresident companies and individuals, unless the rate is reduced under a tax treaty.

4.3 Royalties

A 15% withholding tax is levied on royalties paid to nonresident companies and individuals, unless the rate is reduced under a tax treaty.

4.4 Branch remittance tax

There is no specific provision for a branch profits tax in the Tax Code, and the Ukrainian tax authorities generally agree that no tax should be withheld if there is a tax treaty between Ukraine and the country of residence of the branch head office. In the absence of a treaty, the tax authorities may require payment of tax at 15% on the repatriation of branch after-tax profits.

4.5 Wage tax/social security contributions

Salary or similar employment compensation paid to an employee, including remuneration under civil contracts, is subject to a unified social security contribution (USSC) at a rate 22%. For disabled persons USSC rate is 8.41%.

The USSC base may not exceed 25 times the minimum subsistence income, in particular:

- 34,450 UAH during the period January-April 2016
- 36,250 UAH during the period May-November 2016
- 38,750 UAH during December 2016

Where the base for calculating the USSC (other than for remuneration under civil contracts or secondary employment) does not exceed the monthly minimum wage, the monthly USSC is calculated based on the minimum wage level.

4.6 Other

A 15% withholding tax is levied on technical service fees for engineering paid to a nonresident, unless the rate is reduced under a tax treaty.

A 6% withholding tax applies to income from international freight transportation.

5.0 Indirect taxes

5.1 Value added tax

VAT is levied on the supply of goods and services in Ukraine and on the import/export of goods and auxiliary services. Supplies to and from Crimea are banned by the Cabinet of Ministers of Ukraine, except for “socially important” foodstuffs.

The standard VAT rate is 20% for domestic supplies and imported goods (including auxiliary services). The 7% 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.

The VAT base of supplied goods/services is their contract value (net of VAT, excise tax on retail trade), which, however, must not be lower than:

- (1) The acquisition cost – for goods/services (other than self-produced ones),
- (2) The normal price – for self-produced goods/services,
- (3) The net book value (per financial accounting records) at the beginning of a reporting period – for noncurrent assets.

Certain supplies are not subject to VAT, including: issues of securities, insurance services, reorganizations of legal entities, transfers and returns of property under operating lease arrangements, currency exchange and imports/exports with a customs value of less than EUR 150.

VAT-exempt supplies include: published periodicals, student notebooks, textbooks, books and certain educational services, certain public transport services, software products (until 1 January 2023) and healthcare services by licensed institutions. Furthermore, supplies of goods/services in the customs territory of Ukraine as international technical assistance under international treaties are also exempt from VAT. However, VAT exemption applicable to supplies of certain grain crops was cancelled with effect from 2016.

Special VAT regimes apply to agricultural and IT companies.

Registration is required (for residents and nonresidents) if the value of taxable supplies of goods or services exceeds UAH 1 million during any 12-month period. A legal entity may apply for voluntary registration if it has no VATable activities or if the volume of its VATable transactions is less than the registration threshold. Although not specifically provided for in the Tax Code, in practice a nonresident entity must register for Ukrainian VAT purposes via a representative office and/or PE in Ukraine.

Place of supply

The place of supply of goods is the physical location of the goods at the moment of supply, other than for goods being:

- Transported – the place of supply is the location of the goods at the beginning of transportation; and
- Assembled or installed by a supplier – the place of supply is where the assembly or installation takes place.

The general rule for services is that the place of supply is the place where the service provider is registered, except for:

- Services related to movable property – the place of supply is where the services are actually provided;
- Services rendered by real estate agents and services related to immovable property – the place of supply is the location of real estate; and
- Cultural, sporting, educational and scientific services – the place of supply is where the services are actually rendered.

The place of supply of the following services is the place where the recipient of the services is registered, i.e. the provision of these services to a nonresident recipient does not give rise to Ukrainian VAT:

- Provision of intellectual property rights;
- Advertising services;
- Consulting, engineering, legal, accounting, audit or actuarial services, and services related to software development, delivery and testing;
- Provision of personnel;
- Telecommunications services, including transmission of signals, words, images and sounds, or any type of information via cable, satellite, cellular, optical or other electromagnetic communications systems;
- Freight forwarding services;
- Radio and TV broadcasting services;
- Leases of movable property (except for motor vehicles and bank safes); and
- Provision of agency services in respect of the above-listed services, either at the expense and on behalf of a third party, or on behalf of the service provider but at the expense of a third party.

VAT administration

Filing and payment

The tax period (and the period for filing and payment obligations) is either a calendar month or a calendar quarter, depending on a taxpayer's turnover. Monthly returns must be submitted within 20 days of the end of each calendar month and quarterly returns within 40 days of the end of each calendar quarter.

All VAT invoices must be registered with an electronic register maintained by the tax authorities. All VAT reporting must be submitted electronically.

Each VAT taxpayer has a special VAT account with the State Treasury of Ukraine. The purpose of these accounts is to guarantee payment of VAT liabilities by taxpayers. VAT liabilities are paid to the government out of funds in the account. The taxable entity must assess the amount of VAT to be remitted to the government by reducing output VAT (i.e. VAT charged/collected on taxable supplies) by eligible input VAT (i.e. VAT paid/incurred on purchased goods and services, including import VAT).

To be eligible for offset, input VAT must be related to the purchase or production of goods/services or the purchase/construction of noncurrent assets, for the purpose of subsequent use in VATable transactions as part of the taxpayer's business activities.

Overpaid amounts of VAT liabilities may be refunded by the government to VAT accounts in the electronic VAT administration system.

Where goods/services/noncurrent assets are purchased for VAT exempt transactions or for non-business related activities, input VAT is first recognized by the taxpayer in full, followed by recognition of output VAT to the extent that such goods/services/noncurrent assets are used in VAT exempt transactions or nonbusiness related activities. Where input VAT is incurred in connection with goods, services or noncurrent assets that are only partially used in VATable transactions, only the proportion of VAT attributable to VATable transactions may be treated as input VAT.

The amount of input VAT creditable in a given year is calculated based on the ratio of prior year VATable sales to prior year total sales. The resulting coefficient is applied throughout a calendar year. At the end of the year, the coefficient is recalculated based on the actual volume of VATable and non-VATable supplies.

Input VAT on noncurrent assets purchased prior to 1 July 2015 is recalculated at the end of the 1st, 2nd and 3rd calendar years following the year in which they were put into operation.

A purchaser may recognize input VAT only based on an electronic VAT invoice, which must be properly issued and registered by a seller with the Unified Register of VAT Invoices.

A VAT invoice must be issued by the supplier on the date when the seller's output VAT arises. VAT invoices and/or adjusting VAT invoices must be registered with the Unified Register of VAT Invoices within 15 calendar days from the date of accrual of VAT liabilities shown in the relevant VAT invoice and/or adjusting VAT invoice. Any discrepancy between a VAT return and the Unified Register of VAT Invoices serves as a legal ground for an unscheduled tax audit of both the seller and the purchaser.

If the seller fails to register a VAT invoice, the purchaser may not recognize input VAT with respect to the corresponding transaction but the seller is still obliged to recognize output VAT as appropriate.

If the seller refuses to issue and/or register a VAT invoice, the purchaser has the right to file a claim against the seller within 365 days from the deadline for submission of a VAT return for the period in which the refusal occurred. If a claim is filed, the tax authorities may conduct an unscheduled tax audit of the seller.

If the seller fails to register a VAT invoice within the initially specified term, the purchaser is still allowed to recognize input VAT based on that VAT invoice in the reporting period in which it will be registered, provided, however, that such registration takes place within 365 days of the date of issue of the VAT invoice. The same 365-calendar-day period applies to the taxpayer's entitlement to input VAT based on the duly registered VAT invoice.

Additionally, VAT payers are entitled to input VAT on the grounds of an adjusting VAT invoice within 365 calendar days from the date of the initial VAT invoice.

For imports, a customs declaration is regarded as sufficient documentary evidence for input VAT purposes.

Reverse-charge VAT on services provided by nonresidents

Services rendered by a nonresident to a resident taxpayer with a place of supply in Ukraine are subject to 20% VAT. Unless the nonresident has a PE in Ukraine, the Ukrainian taxpayer must account for the corresponding amount of output VAT using the so-called "reverse-charge mechanism", i.e. the resident taxpayer must self-assess VAT on the value of services provided by the nonresident. Under the reverse-charge mechanism, input VAT is recognized by the resident taxpayer in the reporting period in which the corresponding amount of output VAT is recognized.

VAT refunds

Standard VAT refund

Under the general rule, the amount of VAT payable to, or refundable from, the government is determined as the difference between the amounts of output VAT and input VAT for a given reporting period.

If input VAT exceeds output VAT, the difference must be used to settle VAT debts (if any) accumulated in the previous VAT periods. Where there are no such debts, the taxpayer may claim a VAT refund or, alternatively, offset the "excess" input VAT against future VAT liabilities. The refund is limited to the amount of VAT actually paid to suppliers and the government in the previous and current tax periods.

To obtain a VAT refund, the amount claimed must be confirmed by the tax authorities by means of a VAT refund audit. Unscheduled VAT refund audits are temporarily cancelled from 1 July 2015 and any refund will be subject to a review within the framework of a scheduled full-scope tax audit.

VAT is refunded to taxpayers in chronological order in line with:

- (1) a VAT refund register for taxpayers entitled to an automatic VAT refund, and
- (2) a VAT refund register for all other taxpayers.

Automatic VAT refund

An automatic VAT refund may be obtained by a VAT payer which:

- Is not subject to a bankruptcy procedure;

- Is registered with the State Register of Legal Entities and Individual Entrepreneurs and the official information contained therein does not differ from the actual data in respect of location, constituent documents, registration status; and
- Has noncurrent assets with a tax net book value of at least three times the amount of the VAT refund claimed or has received from an authorized bank a one-year financial guarantee relating to the VAT refund amounts claimed, and performs zero-rated sales which account for at least 40% of the total volume of sales for the previous 12-month period.

The cash refund under the automatic VAT refund model is similar to the standard VAT refund model although the tax authorities perform a simplified VAT refund audit and the VAT is refunded within a shorter timeframe.

5.2 Capital tax

Ukraine does not impose capital duty.

5.3 Real estate tax

Property tax is payable by both legal entities and individuals and has three components: land fee, immovable property tax and transport tax.

Land fee

The land fee is paid as either land tax or land rent, depending on the legal title to the land plot.

Land tax is imposed on entities and individuals who own or use land, at a rate determined by the local tax authorities. The rate varies from 1% to 5%, depending on whether the plot is agricultural land and whether it has a normative monetary value.

Land rent is imposed on those who rent land plots owned by the state or communities. The amount of rent is set by the parties to the lease agreement, within a specified range at a rate of up to 12% of the normative monetary value of such land.

The tax authorities calculate the amount payable by individuals, whilst legal entities calculate the land rent themselves and submit the relevant tax returns. The tax is payable annually by individuals and monthly by legal entities.

Immovable property tax

Immovable property tax is imposed on owners (including nonresident owners) of residential or commercial real estate (excluding land). There are a number of exceptions, including industrial buildings, agricultural buildings designated for use directly in agricultural production, certain social services buildings, etc.

The annual tax rate is set by local authorities but cannot exceed 2% of the minimum wage effective as of 1 January of the reporting year (UAH 27.56 for 2016) per square meter.

The tax authorities calculate the amount payable by individuals, whilst legal entities calculate their own liability and submit the relevant tax returns. The tax is payable annually by individuals and quarterly by legal entities.

Transport tax

Transport tax is imposed on owners of cars with a cylinder capacity in excess of 3,000 cc, which are used for less than five years. The yearly tax rate is UAH 25,000 per car. The tax authorities calculate the amount payable by individuals, whilst legal entities calculate their own liability and submit the relevant tax returns. The tax is payable annually by individuals and quarterly by legal entities.

5.4 Transfer tax

Ukraine does not impose any transfer tax.

5.5 Stamp duty

Ukraine does not impose any stamp duty.

5.6 Customs and excise duties

Customs duties are imposed on the majority of goods imported into Ukraine and on certain limited categories of exported goods. For customs clearance purposes, goods are classified into 97 groups according to the Ukrainian Harmonized System (UHS). The UHS is based on the 2012 version of the Harmonized System developed by the World Customs Organization (WCO). The applicable customs duty rates are based on the ten-digit classification codes assigned to goods under the UHS depending on the specific nature of the goods being imported. The rate of customs duty is normally expressed as a percentage of value of the goods being imported ("ad valorem duty"). However, in rare cases, goods are subject to a specific duty, which is expressed as a fixed amount of money per unit or kilogram, liter, etc. Certain goods are exempt from import customs duties.

Import customs duties

Import customs duties are levied based on the classification code and the country of origin of the goods being imported. Duty rates generally range between 0% and 10%. Approximately 64% of rates in the Ukrainian Customs Tariff do not exceed 5%; however, in some cases, duties are levied at rates of 25% or more.

Since Ukraine has joined the World Trade Organization (WTO), the number of countries to which Ukraine grants most-favored-nation status (i.e. applies reduced rates of import duty) has increased. Apart from WTO members, the following countries have most-favored-nation status: Algeria, Azerbaijan, Belarus, Bosnia & Herzegovina, Iran, Kazakhstan, Lebanon, Libya, North Korea, Serbia, Syria, Taiwan, Turkmenistan and Uzbekistan.

Export customs duties

Export customs duties are applicable only to certain limited categories of goods and raw materials, such as livestock, raw hides and skins, oil and sunflower seeds, ferrous metal waste and scrap, gas, natural gas, including liquefied natural gas.

Free trade agreements

Ukraine has signed free trade agreements (FTA) with the CIS countries, the European Free Trade Association (Iceland, Liechtenstein, Norway and Switzerland), Georgia, Macedonia, and Montenegro. Goods originating from states covered by an FTA may benefit from duty exemption or reduced duty upon their import into Ukraine, with certain exceptions.

Starting from 01 January 2016, deep and comprehensive free trade area (DCFTA) established by the Association Agreement between Ukraine and the European Union became operative. Under the DCFTA, in addition to reducing its customs duties applicable to the goods originating from EU member states, Ukraine will harmonize its national trade-related rules, norms and standards with those of the EU.

Ukraine rounded off negotiations on the conclusion of free trade agreement between Ukraine and Canada (CUFTA). Official signing of CUFTA by the parties is expected to take place in 2016.

Special customs procedures

A contribution by a foreign investor to the share capital of a Ukrainian foreign investment company in the form of goods may be exempt from customs duties provided that the goods will not be alienated within three years of contribution.

Inward processing relief provides a full exemption from customs duties and import taxes for goods being imported into Ukraine for processing and then subject to subsequent exportation from Ukraine.

Outward processing relief provides a partial exemption from import duties and taxes upon the importation into Ukraine of goods that have been previously exported for processing. Import duties and taxes are calculated based only on the value that has been added to the goods outside Ukraine.

Goods that have been previously exported from Ukraine for warranty repairs and subsequently reimported are subject to a full exemption from import customs duties and taxes upon their return into Ukraine.

Temporarily imported goods may be fully or partially exempt from import duties and taxes if a temporary import procedure is applied. Once the temporary import period has expired, the goods must be exported from Ukraine, or a different customs procedure must be applied.

Customs valuation

The customs value is essential for determining the correct amount of customs duty payable on the goods being imported. The Customs Code provides six methods for calculating the customs value, taken from Article VII of the General Agreement on Tariffs & Trade. The basic method of valuation is the transaction value method, which uses the invoice price of the imported goods. Under the transaction value method, the customs value is defined as the price actually paid or payable to the seller for the goods being imported, subject to any adjustments required. When the transaction value method cannot be used, other methods should be considered in the following sequence:

- Method of transaction value of identical goods: uses the value of identical goods sold for export to Ukraine at or about the same time as the goods being valued;
- Method of transaction value of similar goods: uses the transaction value of similar goods sold for export to Ukraine. Similar goods would differ in some respects from the goods being valued;
- Deductive value method: customs value is calculated based on the unit price at which the imported, identical or similar goods are sold in Ukraine, less the costs and expenses on transportation, customs clearance and sale of the goods in Ukraine;
- Computed value method: customs value is determined by calculating the total amount of production, general expenses, other costs and profits related to the imported goods based on the information submitted by the actual producer of imported goods;
- Reserve method: the customs value is determined based on customs values previously accepted by the customs authority and determined according to any of the above valuation methods, using reasonable means consistent with existing legislation and on the basis of available data.

Customs fees

Customs fees are charged, at various hourly rates, for customs clearance of goods outside regular office hours and at locations other than the customs house premises.

Excise tax

Generally, excise tax is levied when excisable goods are imported into Ukraine and when excisable goods produced domestically are sold.

For items produced domestically, excise duties are normally imposed when a taxable item is sold. When excisable goods are imported, excise duties are due and payable at the time of the customs clearance of the goods.

Excise tax is applicable to ethyl spirit and other distillates, alcoholic drinks (including beer), tobacco products, fuel, oil products, gas and electrical energy, motor vehicles and its components, at varying rates.

In addition, there are specific transactions with excisable goods subject to excise tax, namely:

- Contribution of goods to the share capital;
- Retail sale;
- Transfer within the company for consumption or processing purposes, as well as sale or transfer to the company's employees;
- Sale of seized, recognized as nobody's, excisable goods and goods transferred into the state's;
- Reconfiguration of a vehicle imported into Ukraine into a motor car;
- Wholesale supply of electrical power;
- Sale of fuel.

Fuel sale electronic administration system and electronic excise tax invoices will be introduced on 01 March 2016. There will be formed a Unified Register of Electronic Excise Tax Invoices intended for registration and storage of data contained in the electronic excise tax invoices.

5.7 Environmental taxes

Rental duty

Use of natural resources is subject to rental duty. This includes:

- Extraction of mineral resources;
- Non-extraction of mineral resources;
- Use of radiofrequencies;
- Special use of water;
- Use of forest resources; and
- Transportation of oil and oil products through oil trunk pipelines and oil product pipelines, natural gas and ammonia transit through the territory of Ukraine (applicable only to few entities, including “Naftogaz of Ukraine”).

The basic reporting period is a calendar quarter. Quarterly rental duty returns must be submitted to the tax authorities within 40 calendar days following the end of each quarter. Advance payments of 1/3 of the rental duty for the previous quarter must be paid by the 30th day of each month. Taxpayers must pay rental duty (based on the total amount of advance payments already made) within 10 calendar days following the deadline for submission of a rental duty return.

Extraction of mineral resources

Rental duty on extraction of mineral resources applies to:

- Mineral resources extracted in Ukraine (including Ukraine’s continental shelf and exclusive economic zone); and
- Mineral resources extracted from mining waste.

The duty base is the value of each type of mineral resource extracted.

The value of mineral resources is calculated under the basic supply terms, at the higher of:

- The selling price of mineral resources; and
- The estimated cost of mineral resources, except for crude hydrocarbons.

The amount of the duty payable is calculated according to a prescribed formula and depends on the volume of the appropriate type of mineral resource, its value, the applicable duty rate and the adjusting coefficient.

Non-extraction of mineral resources

Rental duty on non-extraction of mineral resources is imposed on:

- The active volume of gas – for storage of natural gas and gaseous products; or
- The volume of a mining area – for storage of oil and other liquid oil products.

Duty rates vary from UAH 0.38 (USD 0.01) to UAH 1.51 (USD 0.05) per annum per unit of volume.

Use of radiofrequencies

Rental duty on the use of radiofrequencies is imposed on the radiofrequency bandwidth.

Depending on the type of radiofrequencies and bandwidth, the duty rates vary from UAH 0.95 (USD 0.04) to UAH 37,053 (USD 1,425) per month per 1 MHz band.

Special use of water

The rental duty on special use of water is imposed on:

- The actual volume of water pumped through pipelines to generate electric power – for hydroelectric power producers;

- The time taken by cargo/passenger fleets to transport cargo/passengers – for water transportation purposes; and
- The actual water volume required to replenish water resources for fish-farming purposes – for fisheries.

The duty rates vary from UAH 18.09 (USD 0.70) to UAH 108.31 (USD 4.17) per 100 m³ (for surface water), depending on the water basin, and from UAH 47.37 (USD 1.82) to UAH 112.77 (USD 4.34) per 100 m³ (for underground water), depending on the region.

Preferential rates apply to specific business activities.

The amount of the duty payable is calculated based on the actual use of water, water use limits, applicable duty rates and coefficients.

Electric power generating enterprises and fisheries must self-assess the duty on a cumulative basis quarterly, starting from the beginning of the year, whereas for water transportation enterprises, the self-assessment period starts from the first half of the year in which such enterprises began to use water resources.

Use of forest resources

Duty is imposed on use of timber and other wood materials stored up for a wide range of purposes by users of forest resources.

The rates of the duty vary, depending on the forest resources, region, and transportation distance.

Environmental tax

Environmental tax is imposed on the volumes and types of: pollutants emitted into the atmosphere and into water, waste disposals and radioactive waste. It also applies to the volumes of electric power generated by nuclear power plants.

The tax rates applicable to each of the above-listed taxable items may vary, depending on the type of pollutant, pollution hazard type, maximum permissible concentration of pollutants, location of waste disposal areas and adjusting coefficients (where applicable).

The basic reporting period is a calendar quarter. Environmental tax returns are submitted to the tax authorities within 40 calendar days following the end of each quarter.

Environmental tax liabilities must be paid within 10 calendar days following the deadline for submission of environmental tax returns.

5.8 Other taxes

A surtax is levied on payments for insurance and advertising services performed outside Ukraine by nonresident providers. The rate is 20% for income from advertising services and may be 0%, 4% or 12% for insurance income.

The obligatory state pension insurance duty applies to cash or noncash purchases of foreign currency by legal entities and individuals, at a rate of 2% of the transaction amount.

6.0 Taxes on individuals

Individuals are subject to personal income tax (PIT) and a temporary military contribution on income received both in cash and in kind, capital gains, inheritances and gifts; social security contributions and property tax.

Ukraine Quick Tax Facts for Individuals	
Income tax rates	5% (certain dividend income)/15%/18%
Capital gains tax rates	5%/18%
Temporary military contribution	1.5%
Basis	Worldwide income
Double taxation relief	Yes
Tax year	Calendar year
Return due date	1 May
Withholding tax	
– Dividends	5% / 18%
– Interest	18%
– Royalties	18%
Net wealth tax	No
Social security	No
Inheritance tax	0%/5%/18%
Property tax	Varies
VAT	20% (standard rate)/7% (reduced rate)

6.1 Residence

An individual will be considered resident in Ukraine for tax purposes if he/she has a permanent home in Ukraine, or if he/she has a permanent home in more than one country and has close personal and economic ties (his/her center of vital interests) in Ukraine. If it is impossible to determine the residence by either of these criteria, an individual will be deemed to be a Ukrainian tax resident if he/she is present in Ukraine for at least 183 days cumulatively during a calendar year (days of arrival and departure are each counted as separate days). If the tax residence still cannot be determined, the individual will be deemed to be a tax resident if he/she has Ukrainian citizenship. If the individual has a family in Ukraine, this is also taken into account for the purpose of determining tax residence. In addition, the Tax Code provides for a self-recognition procedure according to which an individual can voluntarily elect to be a Ukrainian tax resident. Tax residency is different from nationality, citizenship or residency for currency control purposes.

Domestic tax residency rules may be overruled by the relevant provisions of double tax treaties. Although the domestic rules used to define residence are similar in many ways to those suggested by the OECD Model Tax Convention, Ukraine is not a member of the OECD and the Ukrainian tax authorities may ignore the Commentary to the convention.

6.2 Taxable income and rates

Ukrainian tax residents are subject to PIT on their worldwide income, whereas nonresidents are subject to tax only on their Ukrainian-source income, namely:

- Employment income received for work on behalf of a Ukrainian entity/business regardless of whether a Ukrainian or foreign entity pays the income; and

- Personal income arising in Ukraine (e.g. interest income from deposits with Ukrainian banks, dividends received from Ukrainian companies, gains from the sale of property registered in Ukraine, etc.).

Taxable income

Income is taxable whether obtained in cash or in kind. Taxable income includes employment income (including benefits in kind); proceeds from trading or professional activities (including proceeds from intellectual property); proceeds from alienation 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. The taxable income equivalent of benefits in kind is determined based on the fair market value of the property, services or other benefits received. Certain types of income and a number of benefits received by an individual are specifically exempted from inclusion in the tax base. These include interest from certain state securities and bonds of the National Bank of Ukraine; alimony received from residents, as defined by a respective court ruling, or in accordance with the Family Code of Ukraine; compensation in the form of apartment and car rental costs for employees, where such benefits are provided under an employment agreement or collective agreement; amounts received from employers for certain types of medical treatment and services; and insurance payments from Ukrainian insurance companies under agreements other than life insurance or non-state retirement insurance agreements in accordance with the conditions prescribed by law.

The taxation of capital gains depends on the source of such gains (see 'Rates' below).

Deductions and reliefs

Ukrainian tax residents with remuneration from employment in Ukraine are entitled to deductions for social security contributions, mortgage interest (for real estate located in Ukraine), contributions to listed charities, educational expenses of the taxpayer and his/her immediate relatives, medical expenses (subject to limits) and contributions to voluntary life/pension insurance.

Rates

The general personal income tax rate on employment income is 18%.

A temporary military contribution of 1.5% of taxable personal income was introduced from August 2014 and remains applicable during 2016. The tax base is equal to the personal income tax base.

Dividend income received by resident individuals from resident entities payers of corporate income tax is taxed at a rate of 5%, other than dividends received from Ukrainian investment funds, which are taxed at 18%. Other passive income (including dividends from non-resident entities) is taxed at 18%.

A 18% rate applies to lottery prizes and winnings.

Gains derived from the first sale during the year of qualifying residential property and plots of land not exceeding the limit for free land transfers are tax-exempt, provided that the property has been owned for at least three years (other than for inherited property).

A 5% rate applies for residents (18% for non-residents) on gains arising from the:

- Sale of commercial property;
- Second and any subsequent sales of residential property within one reporting year ;
- Sale of land plots over the maximum area for free land transfers; and
- Sale of movable property (other than the first sale of a motor vehicle during the reporting year, which is tax-exempt).

6.3 Inheritance and gift tax

Inheritances of real estate, chattels, securities, corporate rights, etc. and gifts are taxable at the following rates:

- 0% if the recipient is a resident classified as a close relative (parent, spouse, parent of spouse, child/adopted child);

- 5% if the recipient is resident but not classified as a close relative; and
- 18% if the recipient is an nonresident but the testator was a resident (or vice versa).

6.4 Net wealth tax

Ukraine does not impose a net wealth tax.

6.5 Real property tax

The property tax is payable by both legal entities and individuals and has three components: land fee, immovable property tax and transport tax.

Land fee

The land fee is paid as either land tax or land rent, depending on the legal title to the land plot.

Land tax is imposed on the owners or users of land at a rate determined by the local tax authorities. The rate varies from 1% to 5%, depending on whether the land plot is agricultural land and whether it has a normative monetary value.

Land rent is imposed on those who rent land plots owned by the state or communities. The amount of rent is set by the parties to the lease agreement, within a specified range at a rate of up to 12% of the normative monetary value of such land.

The tax authorities calculate the amount payable annually by individuals.

Immovable property tax

Immovable property tax is imposed on owners (including nonresident owners) of residential or commercial real estate (excluding land). There are a number of exceptions, including industrial buildings, agricultural buildings designated for use directly in agricultural production, certain social services buildings, etc.

The yearly annual tax rate is set by local authorities but cannot exceed 3% of the minimum wage effective amount as of 1 January of the reporting year (UAH 41.34 for 2016 per square meter).

Additional tax in amount of UAH 25,000.00 is imposed on owners of residential real estate if its total area exceeds 300 square meters (for flats) and/or 500 square meters (for building),

The tax authorities calculate the amount payable annually by individuals.

Transport tax

Transport tax is imposed on owners of cars which used for up to five years from the date of its production and whose average market price amounts to more than 750 minimal wages effective as of 1 January of the reporting year (UAH 1,033,500.00 as for 2016). The mechanism of a car price assessment is prescribed in the methodology approved by the government of Ukraine. The annual tax is UAH 25,000 per car. The tax authority calculates the amount payable annually by individuals.

6.6 Social security contributions

A salary or similar employment compensation paid to a local employee (including compensation to individuals under civil contracts) is not subject to USSC.

6.7 Other taxes

See 'Transport tax' in 6.5 'Real property tax' above.

6.8 Compliance

Employers and other taxable entities are considered to be tax agents of individuals and are responsible for withholding personal income tax, the military contribution from salaries and other types of remuneration. These taxes must be remitted before or at the time the income is paid. If income is paid in kind, the tax agent must remit the tax on the banking day following the date of payment. It is the tax agent's responsibility to make timely payments of withholding taxes on salaries and file personal income tax reports on a quarterly basis.

If an individual receives taxable income from sources other than the tax agent (e.g. foreign income), he/she must file a personal income tax return by 1 May of the year following the reporting year, and pay the tax due by 1 August. An annual tax return is also required to be filed if the individual wishes to claim a tax deduction for certain expenses incurred during the calendar year.

Joint filing is not allowed in Ukraine; each individual must file his/her own return. There is no filing obligation if: (i) all income is received from Ukrainian tax agents; (ii) income is derived from the sale/exchange of real property or gifts, and personal income tax has been paid at the time of notarization of such transactions; or (iii) income is derived by way of an inheritance that is taxed at a 0% rate.

Penalties are imposed for late payments and understatements.

7.0 Labor environment

7.1 Employee rights and remuneration

In Ukraine, relations between employees and employers are primarily governed by the Labor Code of Ukraine and a number of labor by-laws.

Every legal entity has to disclose its internal regulations specifying the rights and obligations of the employer and employees.

In general, under the employment agreement, the employer undertakes to ensure timely payment of salary and provide a safe workplace to the employee. In turn, the employee is obliged to perform the job functions envisaged by the employment contract and job description, as well as to respect the internal regulations of the employer.

The employment contract may be concluded in written form for an indefinite period, for a fixed term (applicable to limited cases) or for the period of performance of a particular scope of work only.

If the employment agreement is concluded between a Ukrainian national and a foreign legal entity, or a Ukrainian legal entity and a foreign national, the parties are entitled to choose the law that will apply to the agreement. However, according to the conflict rules of the private international law of Ukraine, as the work is to be performed in Ukraine, the Ukrainian labor law provisions may be applied if called upon by either of the parties.

Employers are obliged to report to the tax authorities on each newly hired employee.

Working hours

The normal working hours are 40 hours per week (8 hours per day). Part-time working hours may be established for certain categories of employee, upon agreement of the parties.

Sometimes, the parties may agree on a non-fixed working day given the nature and/or the character of work performed.

All work performed in excess of normal working hours is subject to remuneration at double the employee's usual hourly rate and/or a day-off (depending on the case). Overtime hours cannot exceed four hours over two consecutive days and 120 hours per year.

The minimum annual vacation period is 24 calendar days for full-time employees. An additional vacation of up to 7 days may be provided to employees who work during irregular (non-fixed) working hours, at the discretion of the employer. Other types of additional vacation may be provided to the employee in certain cases.

Legal entities are required by law to employ disabled people. The required rate of employed disabled persons is 4% of the average number of employees. If a legal entity employs 8 to 25 individuals, one member of the workforce must be a disabled person.

7.2 Wages and benefits

Ukrainian companies pay wages to their employees in accordance mainly with the Labor Code of Ukraine and the Law of Ukraine "On Labor Payment".

The wage may include the following elements:

- Basic wage: calculated according to the established labor standards (tariff rates for workers and salaries for employees).
- Additional wage: paid for work performed over established norms, for ingenuity and success in special working conditions.
- Other compensation payments: may include bonuses (based on annual results), compensation, and other non-monetary and material benefits that are not prescribed by effective legislation.

In Ukraine, the minimal wage is established by the Government for each particular calendar year. In 2016, the minimum wage amounts to UAH 1,378 (approximately EUR 51) for the period from 1 January to 30 April 2016, UAH 1450 (approximately EUR 54) from 1 May to 30 November 2016, UAH 1,550 (approximately EUR 57) from 1 December to 31 December 2016.

The minimum wage is the basis for the calculation of social benefits, the personal income tax cap, taxable minimum income and other limits set by the government.

Pensions

The Ukrainian social security system provides for the following unified social security contributions (USSC):

- Unemployment social security;
- Social security for temporary disability and burial expenses;
- Social security for industrial accidents and occupational diseases; and
- Pension social security.

The administration and management of USSC is vested in the State Fiscal Service of Ukraine, Pension Fund of Ukraine, Unemployment Obligatory State Social Insurance Fund, Social Insurance Fund of Ukraine (the latter is responsible for management of two types of social insurance: social insurance for temporary disability and social insurance for industrial accidents and occupational diseases).

USSC are paid to the State Fiscal Service of Ukraine, which subsequently distributes and directs the payments to the funds, as prescribed by law.

Voluntary participation in the unified state social security system is allowed in Ukraine. For this purpose, individuals have to enter into a separate agreement with the Pension Fund of Ukraine.

Both obligatory and personal voluntary USSCs are paid to the State Fiscal Service of Ukraine.

Individuals may be entitled to the following types of state pension:

- Age pension;
- Disability pension due to general illness (including injury that is not related to disability from childhood);
- Survivor's pension (as a result of loss of the supporter); and/or
- Length-of-services pension.

Individuals can benefit from the age pension once they reach 60 years old. Representatives of certain professions can benefit from the age pension at a younger age on preferential conditions.

Social insurance

USSC are withheld from remuneration paid via a Ukrainian payroll. Ukrainian employers (companies, other legal entities, and representative offices of foreign companies) are considered to be tax agents. As such, Ukrainian companies withhold USSC (both the employer and employee contributions) and remit the payment to the State Fiscal Service of Ukraine, which, in turn, distributes the amounts between state social security funds. If employment is terminated, USSC are no longer payable.

USSC are paid to the Ukrainian tax authorities on the date of the payroll payment to the employee (if paid in cash) or the day following that on which income is paid or provided (for benefits in kind).

The effective employer USSC rate amounts to 22%.

The base for USSC is capped at 25 times the minimal cost of living varying during the year. For 2016, the cap is as follows: from 01 January 2016 to 30 April 2016 - UAH 34,450.00 (approx. EUR 1,277), from 1 May 2016 to 31 October 2016 - UAH 36,250.00 (approx. EUR 1,343), from 1 December 2016 to 31 December 2016 - UAH 38,750.00 (approx. EUR 1,436).

Other benefits

Additional benefits may be provided to an employee in cash or in nonmonetary form (benefits in kind).

If a Ukrainian company provides any benefit to an individual, it is obliged to report the benefit to the state authorities and withhold USSC and personal income tax (if required).

7.3 Termination of employment

Ukrainian legislation sets out an exhaustive list of grounds for termination of employment relations, among which the following are the most common:

- Mutual agreement of the parties;
- At the initiative of the employee;
- At the initiative of the employer; or
- The end of the term of a fixed-term employment contract.

If the employment contract is terminated at the initiative of the employee, two weeks' prior written notice must be provided to the employer.

The employer may initiate termination of employment relations based on a number of grounds, including but not limited to:

- Changes in organization and labor, including liquidation, reorganization, bankruptcy, and/or change of industry sector of the legal entity;
- The discovery that the employee is not sufficiently qualified to hold the position;
- Systematic failure of the employee to perform the duties of the role without a justifiable reason and to comply with the internal regulations of the employer where other disciplinary sanctions have already been applied to the employee ;
- Absence from work for more than four hours without due reason;
- The appearance of the employee at the work place under the influence of alcohol, drugs, or other intoxicants;
- Theft in the workplace confirmed by a decision of the court;
- Failure to successfully pass the probation period; or
- Decision of the managing body of the company on the appointment/dismissal of the executive body (e.g. chief executive and financial officers, etc.)

The employer is not allowed to dismiss an employee who is on vacation or temporarily unable to work.

In some cases, the employer is obliged to pay a severance payment to the employee, the amount of which can vary from one to six times the employee's average monthly wage.

7.4 Labor-management relations

In Ukraine, trade unions are organized by industry and may have a primary, local, regional, or all-Ukrainian status in order to represent employees and protect their labor, social and economic rights and interests.

The Trade Unions Federation of Ukraine is the biggest Ukrainian trade union association cooperating with other foreign trade unions and the International Labor Organization. In practice, trade unions are not typically found in private commercial legal entities but are more common in state-owned enterprises.

According to the Law of Ukraine "On the Procedure for Settling Collective Labor Disputes", employees and trade unions are entitled to gather at the local, regional, territorial or national levels in order to protect their interests. Trade unions are entitled to protect employees' interests if labor dispute is in place.

According to Article 44 of the Ukrainian constitution, all working individuals have the right to strike to protect their economic and social interests. A strike may take place if collective labor disputes

cannot be settled by conciliation and negotiation. In order to validate the strike, employees have to arrange a conference meeting and hold a vote. The strike is considered valid if the majority of the employees/participants or two-thirds of the delegates present at the conference agree to hold the strike.

7.5 Employment of foreigners

A Ukrainian entity wishing to engage a foreign national to perform work in Ukraine must obtain a work permit for the individual in advance.

The type of permit required depends on whether the host party is a Ukrainian legal entity or a representative office of a foreign legal entity (RO).

Ukrainian legal entity

- Work permits (WP) for foreign nationals are issued upon the application of a company in Ukraine based on the:
 - Employment agreement between the host company and a foreign national; or
 - Service agreement between the foreign legal entity and the host company (most commonly, personal lease (secondment) agreement).
- The WP is valid for one year and subject to annual renewal.
- There are no statutory limitations to and/or quotas on the number of foreign nationals that may be directly employed by Ukrainian legal entities.

RO

- Engagement of foreign nationals by ROs is subject to prior obtaining of a Service Card (a kind of work permit) for the assignee.
- The Service Card is issued for three years and must be extended when it expires.
- The number of foreign nationals engaged by an RO is limited by what is stated in the Registration Certificate of the RO. Most commonly, the number is up to three persons; however, it can be increased upon application of the RO.

Engagement of foreign nationals by a Ukrainian host party for the implementation of projects in Ukraine may be formalized through either direct employment with a Ukrainian company or provision of personnel based on a service agreement (secondment).

In the case of direct employment by a Ukrainian legal entity, the remuneration of the foreigner cannot be less than the minimum salary of UAH 1,378 (approximately EUR 51).

Based on the WP or Service Card, a foreign national will be able to apply for a long-term D-type visa and Temporary Residence Permit to enter and stay in Ukraine without limitations.

The Temporary Residence Permit (TRP) is issued to an individual for one year. If a TRP is issued based on the WP, it is valid for the same period as the WP. If a WP is subject to annual renewal, the TRP is also renewed every year. If a TRP is issued based on the Service Card, it is valid for one calendar year from the date of submission of the TRP and is subject to annual renewal.

8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

Connect to the source and discover:

A database that allows users to view and compare tax information for 65 jurisdictions that includes –

- Corporate income tax rates;
- Historical corporate rates;
- Domestic withholding tax rates;
- In-force and pending tax treaty withholding rates on dividends, interest and royalties;
- Indirect tax rates (VAT/GST/sales tax); and
- Information on holding company and transfer pricing regimes.

Guides and Highlights – Deloitte’s Taxation and Investment Guides analyze the investment climate, operating conditions and tax systems of most major trading jurisdictions, while the companion Highlights series concisely summarizes the tax regimes of over 130 jurisdictions.

Jurisdiction-specific pages – These pages link to relevant DITS content for a particular jurisdiction (including domestic rates, tax treaty rates, holding company and transfer pricing information, Taxation and Investment Guides and Highlights).

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