Deloitte.

International tax

Ukraine Highlights 2016

Investment basics:

Currency – Ukrainian Hryvnia (UAH)

Foreign exchange control – Only local currency generally may be used in business transactions between residents. Foreign currency may be used in cross-border transactions between residents and nonresidents. Foreign currency proceeds received by a company from its foreign clients must be credited to a local bank account no later than 90 calendar days after the date goods or services are exported. Similarly, goods generally must be imported into Ukraine within 90 calendar days after prepayments have been made by a Ukrainian company to a foreign supplier. Additionally, 75% of foreign currency income must be converted into Ukrainian currency upon receipt.

A Ukraine resident generally must obtain a license to invest abroad. In certain cases, a Ukraine entity can make payments abroad using its own foreign currency (borrowed funds or purchased foreign currency may not be used).

Accounting principles/financial statements – Ukrainian accounting standards apply. These standards generally are in line with IFRS, but differ in certain areas. Financial statements must be prepared on a quarterly basis.

Joint stock companies, banks, insurance companies and certain other companies (as listed in a government decree) must prepare financial statements in accordance with IFRS. Other companies may opt to prepare financial statements in accordance with local GAAP or IFRS.

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

Corporate taxation:

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

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

Taxable income – Taxable income is calculated based on accounting data, by adjusting profit (loss) before tax by the amount of relevant differences. Taxpayers with income not exceeding UAH 20 million may calculate taxable income based only on accounting data, without any adjustments for “tax” differences (except for losses carried forward from previous periods).

Taxation of dividends – Dividends received by a domestic company from another domestic corporate income taxpayer are not subject to corporate income tax. Dividends received by a domestic company from a nonresident are considered taxable income.

Dividends paid by a Ukraine company are subject to an advance corporate income tax (ACT) at the general rate of corporate income tax. The base for ACT is the excess amount of dividends over the amount of taxable income for the year in which such dividends are payable. ATC must be paid at the time the dividends are paid. If the corporate income tax liability for the year has not been settled, ACT is calculated based on the entire amount of dividends payable.

A Ukraine company may use ACT paid to reduce its corporate income tax liability for future periods. If the taxpayer does not have a sufficient corporate income tax liability for the period, ACT paid may be carried forward indefinitely.

The amount of ACT paid on dividends is not refundable to the taxpayer and may not be offset against other taxes.

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

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

Losses – Tax losses generally may be carried forward indefinitely. Restrictions sometimes are imposed for certain periods. The carryback of losses is not permitted.

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

Surtax – No

Alternative minimum tax – No

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

Participation exemption – No

Holding company regime – No

Incentives – Incentives are granted only to certain nonprofit institutions.

Withholding tax:

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

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

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

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

Branch remittance tax – There is no branch profits tax specifically imposed in the corporate income tax section of the tax code, and the Ukrainian tax authorities generally agree that no tax should be withheld if there is a tax treaty between the country of the head office of the branch and Ukraine. In the absence of a treaty, the tax authorities may require payment of a 15% tax on the repatriation of after-tax branch profits.

Other – A 20% surtax applies to payments made for advertising services performed outside Ukraine by nonresident providers.

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – Land tax is imposed on the owner/user, with the rate determined based on the location and use of the land. Settled land with an assessable value is taxed at a rate of 3% of the estimated value; otherwise, the rate is up to 5% of the assessable value of the land. Agricultural land is taxed at rates of up to 1% of the estimated value.

Legal entities (including nonresidents) that own real estate (residential or nonresidential) are subject to tax at a rate equal to 2% of one minimum salary as of 1 January of the reporting year. The tax is determined by multiplying relevant rate by the square meters of the property.

Social security – Salary or similar employment compensation paid to an employee is subject to a unified social security contribution at a rate that ranges from 36.76% to 49.7%, depending on the taxpayer's risk category.

Stamp duty – No

Transfer tax – No, but see "Other" below for state duty and mandatory pension fund contributions triggered by transfers of real estate.

Other – A 1% state duty is imposed on the transfer of real estate, as is a mandatory pension fund contribution of 1%.

Anti-avoidance rules:

Transfer pricing – The transfer pricing rules generally are based on the OECD transfer pricing guidelines. The rules apply to taxpayers with annual revenue (less indirect taxes) of at least UAH 50 million that carry out the following controlled transactions exceeding UAH 5 million with one counterparty: (1) transactions with nonresident related parties; (2) sales of goods under nonresident commission arrangements; (3) transactions with related parties (one of which is a nonresident) through one or more unrelated intermediaries that do not perform significant functions; or (4) transaction with nonresidents in black list countries (i.e. countries with a corporate tax rate at least 5% lower than the rate in Ukraine or countries that have not concluded an agreement with and exchange of information provision with Ukraine). The transfer pricing rules provide for five transfer pricing methods: comparable uncontrolled price method, resale price method, cost-plus method, transactional net margin method and profit-split method.

The reporting period for transfer pricing purposes is the calendar year. Taxpayers must submit a report on controlled transactions, as well as transfer pricing documentation, within one month of a request by the tax authorities.

Thin capitalization – The thin capitalization rules apply to all loans received by resident companies from nonresident related parties where the debt is more than 3.5 times greater than the company's equity. Interest paid on such loans is limited to 50% of profits before tax (plus the amount of financing expenses and depreciation) in the relevant tax period. Nondeductible interest may be carried forward to future periods, but subject to an annual limit of 5% of such interest.

Controlled foreign companies – No

Disclosure requirements – Individual shareholders (beneficial owners) must be disclosed at the time a legal entity registers with the state and at the time of a merger or acquisition.

Other – Ukraine does not have a general anti-avoidance rule. However, to prevent tax avoidance, restrictions are imposed on the deductibility of expenses in certain cases.

Compliance for corporations:

Tax year – Calendar year

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

Filing requirements – The corporate income tax return must be submitted within 40 days following the quarterly reporting period. Companies that have not reported tax losses for the previous reporting period may submit only an annual return that must be submitted by 1 June of the year following the reporting period.

Companies with annual taxable income for the previous year exceeding UAH 20 million (except for newly established companies) that file an annual corporate income tax return must make monthly advance payments in an amount not less than 1/12 of the previous year's tax liability. Taxpayers that file quarterly corporate income tax returns must pay any tax due within 10 days of the submission deadline.

Penalties – Penalties and/or fines apply for late payments, failure to comply with filing requirements and understatements of income.

A penalty equal to 3% of the transaction value (but not exceeding UAH 243,600) will apply for failure to submit transfer pricing documentation.

Rulings – A taxpayer may request an explanation of the tax treatment of a particular issue.

Personal taxation:

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

Residence – An individual will be considered a tax resident in Ukraine if he/she has a permanent home in Ukraine; if he/she has a permanent home in more than one country if he/she has closer personal and economic ties (center of vital interests) with Ukraine; and if it is impossible to determine residence under either of the preceding tests, an individual will be deemed to be tax resident in Ukraine if he/she is present in Ukraine at least 183 days cumulatively during a calendar year (the day of arrival and the day of departure are calculated separately). If tax residence still cannot be determined, the individual will be deemed to be a tax resident if he/she is Ukraine national. The presence of the individual's family in Ukraine is a factor in determining tax residence.

Filing status – Joint filing is not allowed in Ukraine; each individual must file his/her own return.

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

Capital gains – The taxation of capital gains depends on the source of the gains.

Deductions and allowances – Deductions are available 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 and medical expenses (limited amounts).

Rates – The general personal income tax rate applied to employment income is 15% or 20%. The 15% rate applies to monthly income not exceeding 10 minimum salaries, and the 20% rate applies to monthly income exceeding this threshold.

A temporary military duty of 1.5% of taxable personal income applies to salary, incentives and compensatory payments and other benefits and remuneration accrued (paid or provided) to a taxpayer.

Dividend income received by resident individuals from resident entities is taxed at a rate of 5% or 18%. Passive income is taxed at an 18% rate. A 30% rate applies to lottery prizes and winnings.

Capital gains derived from the sale of movable property by a resident are subject to a 5% rate; the rate is 15% or 20% for gains derived by a nonresident. Gains derived from the sale of a house, apartment (or part thereof), room or village house (including a land plot) are not subject to tax if only one such sale takes place during the year, provided the owner has held legal title for at least three years before the sale (the three-year ownership period does not apply to inherited property). The rate is 5% if the taxpayer makes more than one sale per year.

Other taxes on individuals:

Capital duty – No

Stamp duty – No

Capital acquisitions tax – No

Real property tax – Separate taxes apply for buildings and for land. An individual must pay tax annually if one of the following conditions is satisfied: (1) the area of his/her apartment(s) is more than 60 square meters; (2) the area of his/her dwelling house(s) is more than 120 square meters; or (3) the total area of his/her apartments and houses is more than 180 square meters. If an individual owns real estate with an area below any of the above, no tax is due. Otherwise, the excess over the above measurements is taxed at a rate of up to 2% of the minimum wage per square meter.

Land tax is imposed on the owner/user, with the rate determined depending on the location and use of the land. Settled land with an assessable value is taxed at 3% of the estimated value; otherwise, the rate is up to 5% of the assessable value of the land. Agricultural land is taxed at rates up to 1% of the estimated value.

Inheritance/estate tax – Inheritances and gifts are taxable at the following rates: 0% if the recipient is a resident classified as a close relative (i.e. parent, spouse, parent of spouse, child/adopted child); 5% if the recipient is a resident not qualified as a close relative; and 15%/20% if the recipient (not a relative) is a non-resident, but the testator was a resident (or vice versa).

Net wealth/net worth tax – No

Social security – A salary or similar employment compensation paid to a local employee (including compensation paid to individuals under civil law contracts) is subject to the unified social security contribution, amounting to 3.6% of the salary (2.6% of the compensation/fee under civil law contracts), which is withheld by the employer. Social security contributions are subject to monthly caps.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Employers and other taxable entities are considered to be tax agents of individuals and are responsible for withholding personal income tax and unified social security contributions 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 payment is made. The tax agent is responsible for making timely payments of withholding taxes on salaries and filing personal income tax reports on a quarterly basis.

If an individual receives taxable income from sources other than from a 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 also must be filed if an individual wishes to claim a tax credit for certain expenses incurred during the calendar year.

Penalties – Penalties are imposed for late payments and understatements of income.

Value added tax:

Taxable transactions – VAT is levied on the supply of goods and services in Ukraine and on the import/export of goods and auxiliary services.

Rates – The standard VAT rate is 20%. A reduced rate of 7% is applied 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. Certain supplies are not subject to VAT (e.g. the issuance of securities, insurance services, etc.). VAT-exempt supplies include domestically published periodicals and books.

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

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

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

Source of tax law: Tax Code of 2 December 2010 (as amended); Law No. 996-XIV of 16 July 1999 "On Accounting and Financial Reporting in Ukraine"

Tax treaties: Ukraine has more than 60 tax treaties

Tax authorities: State Fiscal Service

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