



Your Business in Ukraine

Tax & Legal Guide

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Foreword



Your Business in Ukraine will provide you with clarity on the opportunities and challenges in the Ukrainian legislation landscape. We will guide you through tax issues, currency control restrictions, dealing with licences and permits, protecting minority investors, and a range of other issues; helping you to simplify your day-to-day business decisions.

Our practical guide provides an insight into the basics. Think of it as a compass, guiding you through the establishment of your business in Ukraine: market entry, company registration, taxation, and other relevant information.

Our expertise will help you find effective practical solutions for your business in Ukraine and abroad.

We welcome you to our Kyiv and Lviv offices for face-to-face meetings, or for our workshops on topical issues and business events.

Sergiy Popov
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Starting a business in Ukraine



- 1.1 Market entry strategies
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Ukraine has introduced a series of legislative changes aimed at simplifying start-up and operation of businesses, specifically:

- establishment of a one-stop shop for corporate registration
- registration can be undertaken by a local council, a local state administration, or a notary
- establishment of an online personal office, allowing electronic submission of documents.
- online access to the Unified State Register of Legal Entities, Individual and Non-Government Organisations (USR, a national list of business entities, individual entrepreneurs, and non-governmental organisations) and the Unified Licence Register
- abolition of mandatory company seals for private companies, as well as the requirement to notarise copies of documents for registration purposes
- abolition of the annual requirement to confirm data about the legal entity
- simplification of liquidation and restructuring procedures
- enabling successors to legal entities, terminated by way of merger, accession, or change in legal form to carry out economic activities for a transitional period of up to six months, or until the new licence is obtained, under the licence issued to the terminated entity.

In addition, mandatory licensing or other authorisation by state bodies has been abolished in many industry sectors and replaced with a system of silent consent and declarations (i.e. a company may undertake certain types of business on making a relevant declaration to state authorities).



Business registration is simple

1.1 Market entry strategies

Foreign investors should consider the following options for entering the Ukrainian market:

- direct sales
- agency and commission arrangements
- joint venture with a Ukrainian partner
- registration of a representative office (commercial and non-commercial)
- registration of a Ukrainian subsidiary.

Choices made by foreign investors are usually motivated by business strategy, incorporation and maintenance costs, and the legal and tax risks involved.

1.1.1 Direct sales

The simplest option to enter the Ukrainian market is to conclude direct sales contracts with Ukrainian customers. In such circumstances, a foreign legal entity selling goods or services directly from abroad to customers (or distributors) in Ukraine would not be subject to Ukrainian tax on income. Depending on the agreed terms of delivery, Ukrainian customers (or distributors) would be responsible for customs clearance and would be liable to pay customs duties and taxes (VAT, excise, etc.), if any.

A properly drafted cross-border contract allows a foreign company to avoid taxation in Ukraine.



Direct sales contracts are the simplest way to trade with Ukrainian companies

Choosing your national law, or that of a respected international jurisdiction, to govern the contract makes direct sales a viable option for business. However, if doing so, one must nevertheless remain aware of the mandatory provisions of Ukrainian laws (e.g. currency control regulations, land regulations, licensing and permit requirements, etc.).

1.1.2 Agency and commission arrangements

Agency and commission contracts are another convenient alternative for structuring businesses in Ukraine. From a legal standpoint, such arrangements allow a foreign company to carry out commercial activities in Ukraine without setting up a corporate entity and bearing the associated costs and risks of employing personnel, or complying with local accounting and reporting rules. Agency and commission contracts may trigger taxation in Ukraine, specifically when an agent acts exclusively on behalf of a particular foreign company, and the supply of agency or commission services does not constitute its core business (as may be the case for securities, insurance brokers, etc.) Agency and commission contracts for activities of a preparatory or auxiliary nature (such as market research and analysis) should not generally create a permanent establishment of a foreign enterprise; therefore profits would only be taxed in the country of tax residence.

1.1.3 Joint venture with a Ukrainian partner

Ukrainian laws allow a foreign investor the right to enter into a joint venture with a Ukrainian partner (formally referred to as a "a joint activity agreement", which can take the form of a simple partnership agreement, a

production sharing agreement (PSA), or a co-operation agreement with a Ukrainian partner(s)). Investment of this kind may be subject to state guarantees and should be registered with the local state authorities in Ukraine. Specifically, the relevant forms of joint venture are PSA, Joint Activity Agreement (JAA), Production Enhancement Contract (PEC), and concession agreements.

1.1.4 Registering a representative office (commercial and non-commercial)

Day-to-day business in Ukraine can also be carried out through a representative office (RO). An RO is not a legal entity but a branch of a foreign company registered in Ukraine. The subsidiary's head office assumes all rights and obligations of the RO and has liability for its actions.

An RO that carries out commercial activities in Ukraine is deemed to be a commercial RO and becomes a permanent establishment of the foreign company in Ukraine for tax purposes. Consequently, if a double taxation treaty is in place between Ukraine and the jurisdiction of the

foreign company's tax residence; only the portion of the company's profits attributable to the RO will be taxed in Ukraine. An RO which undertakes activities of a preparatory or auxiliary nature is not usually regarded as a permanent establishment and is not subject to corporate income taxes in Ukraine. Generally, an RO is subject to registration with the Ministry of the Economy, the tax authorities, the State Statistics Service, and the State Pension Fund.



A representative office can be registered within 30 – 60 days

A foreign bank's RO is registered with the National Bank of Ukraine (NBU). There may be additional registration requirements in specific industries. Registration takes up to 20 business days after submission of the necessary documents and payment of any relevant state duties.

Establishing an RO of businesses from aggressor / invader countries may take up to 60 days. Preparing documents may also take additional time as in many cases they require approval, notarisation, and/or legalisation.

1.1.5 Registering a Ukrainian subsidiary

A foreign company may choose to establish a Ukrainian subsidiary to conduct business in Ukraine.

A Ukrainian subsidiary controlled by foreign companies or nationals generally enjoys the same legal treatment as legal entities without foreign participation. Such companies, with minor limitations (such as those affecting the purchase of land or state property), may enter into agreements, assume legal obligations, acquire property, and sue and be sued in their own name. They may be engaged in any commercial activity (within certain restrictions and limitations), envisaged in their charter (articles of incorporation). Some activities may require licences and permits or other authorisations (see the Licensing Requirements section). For more details on the available forms of incorporation, see the Company and Labour Law section below.



A Ukrainian subsidiary may be engaged in any commercial activity



Company and Labour Law



- 2.1 Company law
- 2.2 Corporate rights
- 2.3 Labour regulations
- 2.4 Immigration regulations

Statutory corporate regulations in Ukraine have changed for the better in recent years. Procedures for starting and winding-up a business and corporate governance have been simplified. Such changes should make Ukraine more attractive for investors.

2.1 Company law

Common corporate structures

In Ukraine, the most common corporate forms are a limited liability company (LLC) and a joint stock company (JSC).

General registration issues

An LLC can be registered within two to three business days (including registration with the fiscal, statistics, and social security authorities, and opening a bank account).



A company can be established within three business days

Submission, examination, and registration of documents with the State Registrar, the fiscal authorities and the pension fund can be completed in 24 hours. Once this stage is complete, the LLC is entered into the USR. At the request of the applicant, and on payment of an additional fee, the time taken can be reduced to between two to six hours.

Unlike an LLC, a JSC is entitled to issue shares, subject to registration with the National Securities and Stock Market Commission. Registration of a JSC is more time-consuming and usually takes between two and four months.

In the majority of cases, foreign investors prefer to set up an LLC rather than a JSC as, while both offer limited liability for shareholders, incorporation of an LLC is less onerous and its operation more straightforward.

Number of shareholders

An LLC may have an unlimited number of shareholders but may also be established with a single shareholder.

A JSC may either be public (when its shares are traded publicly) or private (when its shares are privately held).

Disclosure of ultimate beneficiaries

Since 2014, all Ukrainian companies have been obliged to disclose their ultimate beneficiaries in the course of incorporation, as well as regularly updating this information. This information is publicly available in the USR.

Minimum share capital

There is currently no minimum share capital requirement for an LLC. Founders of an LLC should contribute 100% of the declared share capital within six months of the date of incorporation unless an alternative period is stipulated in the charter.

The minimum share capital of a JSC is set at 1,250 minimum monthly salaries¹ as set by the state (approximately EUR243,324²).



There is no minimum share capital requirement for an LLC

Shares in a JSC should be fully paid up before registration with the state.

Share capital may be increased by converting retained earnings

Instead of making additional contributions to share capital, at the General Meeting of Shareholders (GMS) shareholders may decide to increase the share capital by converting retained earnings. In this case the proportion of each participants' holding will remain the same.

Prohibition on debt-to-equity lifted

Many foreign investors finance their Ukrainian LLCs by means of granting shareholder loans. The most widespread way of restructuring intra-group indebtedness is available to Ukrainian LLCs using an off-set: the company (the debtor) increases its share capital to the amount of indebtedness and the creditor is obliged to contribute the same amount to the share capital.

Grounds for exclusion of participants are very limited

The law stipulates that a participant in an LLC can only be excluded in the event that they fail to make payment for their shares or in the event of their death, or company liquidation.

Governing bodies

Both JSCs and LLCs are required to have three internal bodies, namely:

- a General Meeting of Shareholders (GMS)
- An executive body (either a Board of Directors or a sole Director)
- a Supervisory Board and Audit Committee (optional for LLCs, obligatory for banks, public JSCs, and all JSCs with more than 10 shareholders).



An executive body (either a board of directors or a sole director) is responsible for the day-to-day management of the company's business

The GMS is the highest decision-making body of an LLC and a JSC and has the ultimate authority to resolve issues arising in the course of the company's business. The GMS may alter the company's charter and bylaws, change the amount of its share capital, elect members of the executive body (or the sole director), approve annual reports (in a JSC), adopt decisions on re-organisation or

¹ All calculations based on minimum salaries relate to one minimum salary, or UAH6,000 (approximately EUR195), established as of 1 January 2021. Starting from 1 December 2021, the minimum salary will be increased to UAH6,500 (approximately EUR211).

² Amounts of EUR equivalents are indicative and are calculated based on the official EUR / UAH exchange rate of the National Bank of Ukraine as of 1 October 2021.

liquidation, and undertake a number of other functions. If an LLC / JSC has only one participant, there is no need to convene the GMS.

An executive body (i.e. a Board of Directors or a sole Director) is responsible for day-to-day management of the company's business.

Public JSCs, banks, and private JSCs with more than 10 shareholders should elect a Supervisory Board. This body is responsible for monitoring the activities of the executive body and protecting shareholders' rights. Recent amendments to legislation introduced the concept of Independent Directors (independent members of the supervisory board) in JSCs. A supervisory board may also be established in LLCs.

In addition, a JSC may decide to establish an Audit Committee or appoint an internal auditor within its corporate structure. Under recent legislative amendments, a Supervisory Board may establish an Audit Committee as an internal committee. An LLC is not required to establish an audit committee.

A public JSC should arrange for an annual external audit of its financial statements and file the audited financial reports with the National Securities and Exchange Commission. Any JSC can be required to arrange for an external audit at the request of shareholder(s) that hold at least 10% of its shares. Though an external audit is generally not mandatory for an LLC, shareholders with a holding of more than 10% have the right to request an audit of the company by an external audit firm.

The Supervisory Board of a JSC has the right to appoint a corporate secretary who is responsible for communication with shareholders and investors.

Corporate rights

A shareholder (participant) in an LLC may freely divest their shares

in the LLC's capital to a third party, unless the LLC's charter requires the approval of the GMS for such transactions. Other LLC participants have priority rights to the purchase of such shares.

A participant in an LLC holding less than 50% of the shares may exit the company at any time without the consent of other participants.



Ukrainian law protects the rights of minority shareholders

Shareholders in a public JSC may divest their shares without restrictions. Shareholders of a private JSC, however, may be restricted by the right of first refusal granted to other shareholders (should such a right be formalised in the JSC's charter).

In addition, the Law of Ukraine 'On Joint Stock Companies' contains a series of generally recognised legal instruments to protect the rights of minority shareholders, namely:

- a cumulative voting rule for electing the Supervisory Board and Audit Committee
- minority shareholders have the right to fair market price when selling their holding to a controlling shareholder
- a requirement that the company buy out the shares at the request of a minority shareholder (less than 5% holding) in the event of material changes related to the company's business (e.g. reorganisation, changes in share capital, etc.). As of 1 December 2016, the Law of Ukraine 'On Financial Restructuring' introduced a new provision concerning the inapplicability of compulsory buyout of shares by a JSC-debtor in the process of financial restructuring on the buyout request of the shareholder
- the company must comply with special requirements in respect

of material transactions and transactions with affiliated parties (also applies to LLCs)

- majority shareholders with at least a 95% holding may perform a squeeze-out and minority shareholders with less than 5% holdings may initiate a sellout.

Re-organisation

Under Ukrainian law, a re-organisation can be carried out through merger, acquisition, split-up, spin-off, or transformation of a corporate body. Re-organisation is usually initiated by a resolution of the GMS. In certain instances (e.g. when a company is abusing its monopoly position), the Antimonopoly Committee of Ukraine may require the company to institute a split-up procedure.



Re-organisation can be effected through acquisition, split-up, spin-off, or by transformation of the corporate body.

As a result of a re-organisation, all rights and liabilities of a company are transferred to its successors.

Re-organisation requires a number of stages to be followed: a tax audit should be conducted by the tax authorities, a written notification forwarded to creditors, outstanding obligations should be settled and, in certain cases, clearance should be sought from the Ukrainian antimonopoly authorities.

Anti-corruption measures

Ukrainian companies are required to implement a number of anti-corruption measures in their activities. Managers and owners of businesses are obliged to assess corruption risks in their business activity on a regular basis and apply adequate measures to prevent and mitigate such risks. Management can engage external specialists to implement such measures, which may include appointing external auditors. Implementing anti-corruption

measures is mandatory for companies involved in state procurement, where an exhaustive list of mandatory measures is prescribed by law.

Additional measures can be implemented at the discretion of businesses. A Compliance Officer should be appointed, as the person responsible for implementing anti-corruption measures.

The law establishes criteria applicable to Compliance Officers, including conflict of interest and independence requirements.

2.2 Corporate rights

Shareholders' agreement (SHA)

An SHA may oblige parties to vote in a defined manner at the GMS regarding the procedure and conditions on which the participants are entitled or obliged to buy or sell shares or define the procedure for committing other actions.

Ukrainian legislation allows shareholders / participants to issue an irrevocable Power of Attorney (PoA) in order to fulfil or ensure fulfilment of shareholders' / participants' obligations under an SHA as a corporate dispute resolution mechanism. Furthermore, to facilitate M&A transactions, escrow accounts may be set up for squeeze out.

2.3 Labour regulations

The main legislative act regulating employment relations in Ukraine is the Labour Code of Ukraine (Labour Code).

The Labour Code applies to all companies, institutions, and organisations in Ukraine, irrespective of their legal form, type, or area of activity, and to individual entrepreneurs who hire employees. Employment of foreign nationals in Ukraine is generally subject to Ukrainian labour and immigration laws, unless otherwise

provided for in international treaties to which Ukraine is a party.

Employment agreements

Employment can be formalised through an employment agreement or an employment contract which must be concluded in writing.



Employees are entitled to annual leave of at least 24 calendar days

Employee rights

The length of a working week in Ukraine should not exceed 40 hours. Overtime may not exceed four hours in two consecutive days or 120 hours per year, with compensation provided at triple rates.

Employees are entitled to annual leave of at least 24 calendar days.

Women are entitled to paid maternity leave of 70 calendar days prior to and 56 (or up to 70 in exceptional circumstances) calendar days after childbirth. A woman is also entitled to unpaid leave until the child reaches the age of three (in rare cases, up to the age of six) with the payment of financial support required by the law for this period.

Ukrainian labour legislation also provides for a range of other employee rights, such as:

- wages for time spent off work during a trade union mission, appearing in court, voting and fulfilling other state or social responsibilities
- the right to keep one's position when on a training programme
- wages while hospitalised for medical examination (when such examination is prescribed by the law)
- additional payments in a range of other less common cases.

Employees are entitled to organise trade unions and participate in the management of a company (although

in practice this rule is not strictly applied often).

Salaries

Employee remuneration may not fall below the statutory minimum salary.

As of 1 January 2021, the threshold was set at UAH6,000. According to Ukrainian law, the salary of a foreign national should be no less than 10 minimum monthly salaries.



The minimum monthly salary is UAH6,000 (approximately EUR195)

However, there are certain exceptions where a higher salary threshold may apply: for instance, if a qualified foreign national is employed, the threshold is set at 50 minimum monthly salaries. The State Labour Service should maintain a list of qualified occupations but has not provided one. You should be aware that compliance with minimum salary requirements is a prerequisite for obtaining a work permit.

Salary should be paid at least twice a month, with no more than 16 days between payments, and must be paid within seven calendar days of the end of the period to which it is attributable.

Labour book

Ukrainian labour legislation requires that a labour book should be kept for each employee that works for more than five days with a company. The labour book is a basic document containing the employee's work history.



Employees must give two weeks' written notice of their intention to resign

Termination of employment

The Labour Code lays down specific grounds for the termination of employment. If an employee wishes to terminate their employment, they

should give the employer two weeks' written notice.

If the employer wishes to terminate employment, they must demonstrate the grounds for termination by reference to one of the specific legal grounds for dismissal stipulated in the Labour Code. The most common legal grounds are as follows:

- layoff or redundancy
- liquidation of the employer or re-organisation of the employer's corporate structure
- an employee's incompatibility with their role (e.g. due to insufficient qualifications or poor health)
- an employee's systematic failure to perform their duties without good reason, provided that the employer has previously issued disciplinary warnings
- absence from work without good reason (including absence from work for more than three hours during a business day), or
- dismissal of members of official company bodies.

In some cases, the employer must pay compensation (for instance, if the company dismisses an official; e.g. a director). In such cases, compensation of not less than six months' salary is payable.

Employment may also be terminated by the mutual agreement of the employer and the employee, or in the event of circumstances outside of the parties' control.

Liability under labour laws

While there are some exclusions as to employers subject to special kinds of taxation, employers violating labour laws can be subject to financial penalties (from one to 30 minimum salaries, i.e. from UAH6,000 – UAH180,000, or approximately EUR195 – EUR5,840). One of the highest penalties (30 minimum salaries for every violation) is prescribed for permitting an employee to work without a formalised employment agreement.



If you intend to work in Ukraine, you should apply for a long-term visa

An employee is not generally responsible for the financial losses of the company and in any event can be required to only pay compensation for direct damages incurred to the company in an amount not exceeding their average monthly salary. However, recent changes to the Labour Code mean that senior company managers can be held liable for the financial performance of their company.

2.4 Immigration regulations

Registration and visa requirements for foreigners entering Ukraine

There are three types of entry visas for Ukraine (depending on the purpose of visit): long-term, short-term, and transit visas.

Foreigners who wish to stay in Ukraine for more than 90 days within a 180-day period need to obtain a long-term visa.



A work permit for a foreign national is usually granted within 15 days

Those foreigners who intend to work in Ukraine (either in a Ukrainian company or in the RO of a foreign company) are required to apply for a work permit and a long-term visa. Holders of this type of visa may obtain a temporary residence permit, that allows unrestricted entry to and exit from Ukraine for the period of the permit's validity (usually one year). Foreign nationals who do not need a visa to enter Ukraine (i.e. citizens of visa-exempt countries) or those entering Ukraine on a short-term visa may stay in the country for a cumulative total of up to 90

calendar days within any 180-day period.

Currently, citizens of 66 states are not required to obtain a visa to enter the territory of Ukraine. These include: member states of the European Union, the United Kingdom, Switzerland, Norway, the USA, Canada, Japan, Israel, Turkey, Panama, and Serbia.

All foreign nationals intending to stay longer than 90 days in any 180-day period who do not hold a long-term visa should consult the local immigration authorities.

Obtaining a work permit

A foreigner may only work in Ukraine if they hold a valid work permit, except for certain cases as defined in Ukrainian legislation (e.g. a resident of Diia City may receive works (services) performed (provided) by foreigners as part of a gig-contract without obtaining a permit). An application should be made to the State Employment Centre of Ukraine. Some categories of foreigners are considered especially desirable and can obtain a work permit for not one but three years (e.g. the founder of a Ukrainian company who will hold a managing position in the company, a graduate from one of the world's Top-100 universities (as defined by the Ukrainian Authorities)).

It usually takes up to 15 days to receive a work permit. Work permits are usually granted for a period of one year but can be extended annually an unlimited number of times.

A foreigner who is employed without a valid work permit can be immediately deported at the expense of their employer and the employer will additionally be liable for a penalty of UAH120,000.

Competition Law



Ukrainian competition legislation is largely aligned with global regulatory frameworks and seeks to combat anti-competitive activities such as economic concentration, concerted actions, and unfair competition.

Economic concentration

In order to protect Ukrainian markets from monopolies and avoid adverse effects resulting from abuse of a dominant position, Ukrainian anti-monopoly laws require prior approval from the Antimonopoly Committee (AMC) for any transaction which leads to, or could lead to, economic concentration through the direct or indirect acquisition of either 25% of the shares or 50% of the voting rights in a company, or acquisition of control through any other means.

As of 1 December 2016, the Law of Ukraine 'On Protection of Economic Competition' introduced new financial thresholds and AMC approval is now required when the following conditions are met (two step-appraisal procedure):

- the aggregate value of assets or the gross revenues of the participants (including offshore transactions) exceeds EUR30,000,000 (or equivalent in any other currency) in the previous financial year, as well as if the aggregate value of assets (in Ukraine) or the gross Ukrainian revenue of at least two participants exceeds EUR4,000,000 (or equivalent in any other currency) in the previous financial year, or
- the aggregate value of assets (in Ukraine), or the gross Ukrainian revenues of a target (or owner of assets to be acquired, or founder of a joint venture), including affiliated or related companies, exceeded EUR8,000,000 in the previous financial year and, simultaneously, the gross revenue of at least one other participant (including offshore transactions) exceeded EUR150,000,000 in the previous financial year.

For the purposes of calculating the aforementioned values, the aggregate value of revenues or assets of the entire target / purchaser group should be considered. The entire group of a participant includes all legal entities / individuals connected by relationships of control to the relevant participant, i.e. with the target or with the purchaser.

The law also establishes a simplified procedure that allows for approval by the AMC within 25 days, provided that:

- just one participant operates within the territory of Ukraine, or
- the aggregate market share of all the participants in the same product market does not exceed 15%, or
- the combined market share of the participants does not exceed 20% and the business sector in which the concentration operates is vital to its business interests.

AMC approval may also be required, even where a transaction takes place between non-residents of Ukraine. It is therefore important to consider the potential antitrust implications of any merger / acquisition transaction with substantial linkage to Ukraine.

A participant in a deal which would result in a substantial concentration and which completes such transaction without AMC approval may be subject to a fine of up to 5% of its turnover in the previous financial year (see also the fines policy section below).

Concerted actions

Concerted actions include any covenants concluded between competitors or any other action which may prejudice market competition.

In general, Ukrainian law forbids any concerted actions which are likely to adversely affect market competition (i.e. arrangements concerning prices for goods and

services, production limitations, agreed allocation of goods, etc.) Thus, the prior approval of the AMC or the Cabinet of Ministers of Ukraine (as a second possible option) is necessary before commencement of any concerted actions. Financial sanctions for carrying out unauthorised concerted actions amount to 10% of the previous financial year's turnover (see also the fines policy section below). An applicant for approval of either economic concentration or concerted action should submit a package of documents specified in the law. It may take several months to obtain such an approval.



Approval of the AMC or the Cabinet of Ministers of Ukraine is required prior commencing any concerted actions

Under the legislation, participants of concentrations and concerted actions may apply for approval from the Cabinet of Ministers within 30 days of refusal by the AMC. Approval may be granted if the Cabinet of Ministers believes that the planned activities have a positive countervailing impact on social interests which outweighs the consequences of the restriction of competition.

Abuse of dominant position

An entity that holds a monopoly position in the market that has led or may lead to the prevention, removal, or restriction of competition, or violate the interests of other economic entities or consumers (e.g. set excessive prices) in a way that would be impossible under normal competitive market conditions will be regarded as having abused its dominant position and will be liable for sanctions of up to 10% of income from the previous financial year under the relevant legislation.

Unfair competition

Unfair competition encompasses all actions contrary to fair market principles of business and trade. Advertising which makes false claims or comparisons with a competitor's products, as well as unlawful use of company names, trademarks, or advertising material in such a way as to create confusion between the advertiser and a competitor may be considered unfair competitive practices. If the actions of a business entity are recognised as unfair competition by the AMC then the liable business entity will be subject to a fine of up to 5% of the previous financial year's turnover.

State Aid

In summer 2017, a state aid law came into force with the aim of bringing Ukrainian legislation into compliance with its obligations under the EU-Ukraine Association Agreement.

The state aid law establishes the legal framework for monitoring state aid to economic entities (as well as the admissibility of such assistance) and is aimed at ensuring protection and development of competition, increasing transparency in the functioning of the state aid system, and keeping Ukraine's international obligations in the field of state aid.

For the purpose of this law, the term state aid means support of economic entities by state or local bodies which distorts or threatens to distort

economic competition; creating preferences for the production of certain types of goods or the conduct of certain types of economic activity.

State aid is deemed to be permissible in the following cases:

- providing consumers with socially necessary goods, provided that such aid is granted without discrimination regarding the source of the product concerned
- compensation for damage caused by natural or technological disasters.

In other cases, the permissibility of state aid is decided on a case-by-case basis in accordance with the relevant state aid law.

Fines policy

The AMC has adopted recommendations on the calculation of fines for the violation of competition legislation as follows:

- The basis for the fine is limited to Ukrainian turnover (or other income) received from activities in the relevant market sector, or related sectors, for the period of the violation or until the AMC fining decision (but no longer than the applicable statute of limitations)
- The maximum amount of any fine can vary between up to 5% or up to 10% of global group-wide turnover depending on the nature of the violations, in particular:

- 45% of the income derived from the violation for (i) hard-core horizontal concerted practices, including bid rigging, and (ii) abuse of dominance resulting in prevention, elimination, or substantial restriction of competition
- 30% of the income derived from the violation for (i) other concerted anticompetitive practices, (ii) other cases of abuse of dominance, (iii) failure to implement an AMC decision, (iv) unauthorised concentration, and (v) failure to implement undertakings conditional to issued AMC authorisation resulting in monopolisation or substantial restriction of competition
- 5% of the income derived from any violation for less severe violations
- Certain aggravating factors (repeat offences, lasting violations, failure to co-operate with the AMC investigation, etc.) and mitigating actions (voluntary termination of violation or compensation of damages, co-operation, etc.) may significantly increase or decrease the amount of the fine
- The maximum fines envisaged by the law (with reference to global turnover or that achieved in a non-relevant market) may be imposed only under exceptional circumstances to achieve a deterrent effect.

Licensing requirements



Economic activities subject to licensing

As part of government deregulation initiatives since 2015, the list of business activities, subject to licensing has been reduced from about 60 to 30.

Among others, licences are still required for the following business activities:

- financial services (including insurance)
- medical and veterinary practice
- tourism services
- cargo, passenger, and baggage transportation
- educational activities
- transport of oil and petroleum products via long-distance pipelines and activities in the natural gas market, as covered by the Law of Ukraine 'On the Natural Gas Market'.



Certain business activities are subject to mandatory licensing

Licensing procedures for some business activities are governed by specific laws. Such activities include the following:

- banking
- professional stock market activity
- business activities in telecommunications, TV, and radio broadcasting
- manufacturing and sale of ethanol, cognac and fruit spirits, alcoholic beverages, and tobacco
- construction activity (for complex objects)
- certain types of cross-border business activity
- production, import, and sale of pharmaceuticals.

Companies may submit documents for a licence electronically. The licensing authority may not require documents from the applicant other

than those prescribed by the relevant legislation and may not require original documents except for the application for licensing itself.

A licence may be issued both in electronic and hard copy forms. In addition, information about a licence will be added to the aforementioned USR which is open to public.



A separate licence should be obtained for each activity

Unless the legislation states otherwise, a standard application and the necessary documents should be submitted to the relevant licensing authority in order to obtain a licence. A decision will usually be issued within 10 days. Issuance of a licence is subject to a state duty, usually one minimum monthly salary (UAH6,000).

A separate licence should be obtained for each type of activity. Transfer of licences is prohibited. A licence terminates when a business winds up, or if it is cancelled by the issuing authority as a result of the company violating the licensing conditions.

Carrying out a licensed activity without a licence will incur administrative sanctions.

Investors should note that certain projects may require special permits and/or authorisations (e.g. land allocation approvals, construction permits, and permits for outdoor advertisement) over and above the standard business licensing requirements.

Conversely, for some types of activities a declaration certifying that a business is in compliance with licensing requirements that is submitted to the relevant state authority should suffice to start operations. The principle of implied consent (in which a business is

deemed to have obtained a licence if the deadline for the relevant state authority to issue a licence has expired without a decision having been made) also applies in Ukraine.

New requirements for environmental impact assessments

The Ukrainian Law 'On Environmental Impact Assessments', came into force on 18 December 2017. This law stipulates that before starting business activities likely to be harmful to the environment (such as refineries and gas plants, thermal power plants, mining, and chemical production facilities) an environmental impact assessment and permission to perform the planned activity should be obtained. The cross-border impact of the most dangerous types of activities on the environment should also be assessed.

In order to obtain the necessary approval, the following activities must be undertaken:

- Notification on intention to conduct an activity which falls under the legislation
- Preparation of an environmental impact assessment
- A public hearing should be arranged
- Obtaining of necessary approval
- The most dangerous types of activities are also subject to post-project monitoring.

The law fulfils the requirements set out in the EU-Ukraine Association Agreement and allows Ukraine to fulfil a number of other international obligations. The environmental impact assessment procedure is aimed at preventing environmental damage, ensuring environmental safety, and ensuring the rational use and reproduction of natural resources, and is integral to the process of making decisions on economic activities that can have a significant impact on the environment while taking into account state, public, and private interests.

Taxation



- 5.1 Corporate income tax
- 5.2 Withholding tax
- 5.3 Double tax treaties
- 5.4 Value-added tax
- 5.5 Transfer pricing rules
- 5.6 Property tax
- 5.7 Personal income tax
- 5.8 Unified social security contribution
- 5.9 Administration of taxes

The general principles of the Ukrainian tax system, and the taxes and duties levied, are set forth in the Tax Code of Ukraine (TCU) and the Law of Ukraine 'On Unified Social Security Contributions'.

The TCU provides details on tax rates, exemptions, and administrative procedures which are generally subject to annual improvement. The Parliament of Ukraine may introduce changes or amendments to the TCU through adoption of a new law not less than six months before the beginning of a new tax year.

The main taxes in Ukraine are: corporate income tax (CIT), value-added tax (VAT), personal income tax (PIT), property tax, and the unified social security contribution.

5.1 Corporate income tax

Tax rates

The basic CIT rate is 18%.

The taxable base is determined based on the taxpayer's financial statements as calculated according to the Ukrainian National Accounting Standards (UNAS) or International Financial Reporting Standards (IFRS), subject to adjustments and limitations envisaged by the TCU.

The basic corporate income tax rate is 18%

Main adjustments and limitations

The main adjustments and limitations envisaged by the TCU include the following:

1. Tax depreciation difference
2. Reserves recorded for accounting purposes
3. Thin-cap rule limitation
4. Transfer pricing adjustments
5. Royalty adjustments, etc.

Tax depreciation and amortisation

Fixed asset costs used by a taxpayer in business activities are capitalised and depreciated. An asset is treated as fixed if its cost exceeds UAH20,000 and its useful economic life exceeds one year. Each fixed asset is accounted for separately and depreciated on a monthly basis.

The taxpayer can determine the period of a fixed asset's useful economic life in internal accounting policies provided that such a period is not less than the minimum period prescribed by the TCU. The minimum statutory periods vary from two years (for computers and similar electronic devices) to 20 years (for real estate).

Taxpayers can determine the period of a fixed asset's useful economic life

The cost of land and natural resources are not subject to depreciation. There are special accounting rules for land, land improvements, and expenses incurred for the exploration, development, and mining of natural resources. Taxpayers may choose one of the following five tax depreciation methods:

- Straight-line
- Declining balance
- Accelerated declining balance (for machinery and vehicles only)
- Cumulative
- Production

Tax losses

In Ukraine, tax losses may be carried forward for an indefinite period but may not be carried back.

Foreign tax credit

To avoid double taxation of income derived from international sources, a taxpayer may apply a tax credit. A tax credit applies to foreign taxes paid up to the amount of the Ukrainian tax due on such income, but only if there

is a double tax treaty with the state where the tax was paid and provided that documentation confirming payment of tax liabilities in the source state is presented.

5.2 Withholding tax

Any Ukraine-sourced income of a non-resident company is subject to a withholding tax (WHT) at a rate of 15%. Such income includes (among others) dividends, interest, royalties, capital gains, lease payments, brokerage, and agency commission.

Other income of a non-resident (such as freight, insurance premium paid abroad, and advertising fees) is subject to WHT at differentiated rates.

Income paid by a Ukrainian resident to a non-resident for works and supply of goods and certain services is WHT-exempt.

Ukraine-sourced income of a non-resident company is subject to a withholding tax in Ukraine at a rate of 15%

Interest paid to non-residents is subject to a 5% WHT if the following requirements are met:

- if loans are granted using funds generated from bonds placed on an international stock exchange included in the list approved by the Cabinet of Ministers of Ukraine
- if the purpose of the loan is to finance a resident entity
- if non-resident recipients of Ukraine-sourced interest are not residents of a low-tax jurisdiction included in the list approved by the Cabinet of Ministers of Ukraine.

A non-resident may be required to register in Ukraine for tax purposes in order to pay WHT in certain instances.

5.3 Double Tax Treaties

Ukraine has a network of effective double tax treaties (DTT). Rules envisaged by DTTs ratified by the Parliament of Ukraine prevail over those contained in Ukrainian domestic tax legislation. DTTs concluded by the USSR are effective by virtue of state succession rules (namely the DTTs with Spain, Japan, Malaysia). However, the majority of DTTs have already been replaced or are currently under revision in line with the base erosion and profit sharing (BEPS) action plan. The most recent DTTs concluded by Ukraine are those with Malta (2017) and Qatar (2018).

Please refer to Annex 1 for a full list of DTTs and rates.

MLI Convention

On 23 July 2018, Ukraine signed the Protocol to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI Convention). The Protocol to the MLI Convention was ratified by the Parliament of Ukraine on 28 February 2019 and entered into force on 1 December 2019.

Based on the Protocol to the MLI Convention, Ukraine undertook to introduce the following concepts to its current DTTs:

- the principle purpose test which denies DTT benefits if obtaining those benefits was the only reason for the transaction
- inclusion in DTTs of capital gains tax arising from any method of transfer or sale of shares directly or indirectly deriving more than 50% of their value from immovable property during any 365-day period preceding the divestment
- improvement of the permanent establishment concept
- other minor changes.

The introduction of changes to each particular DTT depends on whether

the other contracting state is also a party to the MLI Convention and the approaches chosen by both states when signing the MLI Convention. If their approach differs from the approach chosen by Ukraine, amendments must be negotiated separately by signing a new protocol to the relevant DTT.

FATCA

On 7 February 2017, the Governments of Ukraine and the United States of America signed an Intergovernmental Agreement to implement FATCA. The agreement was ratified by the Parliament of Ukraine on 29 October 2019 and entered into force on 15 November 2019.

In order to comply with FATCA's requirements, the Parliament of Ukraine adopted amendments to the TCU that entered into force on 29 December 2019.

The majority of Ukrainian banks have already updated their policies to meet FATCA's reporting requirements.

Ukraine applies the indirect reporting approach under FATCA (i.e. all reports from Ukrainian financial companies are collected by the Ukrainian tax authorities and transferred to authorised bodies in the USA)

Failure to comply with FATCA's requirements can result in the application of a 30% WHT that must be withheld by the United States Internal Revenue Service from all US-sourced payments (the obligation to withhold 30% WHT is imposed on US financial companies and financial companies from other states that are parties to FATCA).

Anti-tax avoidance rules

To take advantage of benefits envisaged by any DTT to which

Ukraine is a party, a non-resident recipient of Ukraine-sourced income must, among other things, comply with the beneficial ownership and principal purpose tests.

Under the TCU, a beneficial owner is a person who has the right to receive the relevant Ukraine-sourced income and is not an agent, nominee, or intermediary (conduit). For the purposes of determining a non-resident recipient of Ukraine-sourced income as the beneficial owner, the criteria provided by the TCU should be applied, as well as consideration for court practice regarding interpretation of the beneficial ownership concept in compliance with OECD Commentaries.

The tax deductibility of certain fees can be subject to limitations

According to OECD Commentaries to the OECD Model Tax Convention, if a person is the legal owner of income but in reality has limited powers in respect of such income and acts as a mere fiduciary or administrator for the benefit of other interested parties, this person is treated as a conduit and not entitled to treaty benefits.

The principal purpose test shall be applied considering rules established by the relevant DTT.

Fees for goods / services / works

A taxpayer is required to increase its taxable income by 30% of the contractual price of goods / services / works received from and/or provided to non-residents registered in tax havens defined by the Cabinet of Ministers of Ukraine, provided that the relevant transactions are deemed not to be controlled for the purposes of Ukrainian transfer pricing rules or the taxpayer did not opt to voluntarily confirm the arm's-length level of prices.

Royalties

Royalties of up to 4% of turnover from the sale of goods and services paid to non-residents in the previous reporting year are tax deductible. This limitation should not apply if the market level of royalty payments is in accordance with transfer pricing rules (even if the relevant transactions are not deemed to be controlled for Ukrainian transfer pricing purposes).

The following royalty payments are not considered tax deductible:

- Royalties paid to non-residents who are not the beneficial owners of such payments, except when the beneficial owner has vested the right to receive such payments to the other person
- Royalty payments for intellectual property, the rights to which first arose in Ukraine
- Royalty payments made to persons where such payments are not subject to tax in their state of residence
- Royalty payments to persons who pay tax on royalties as part of other taxes, except for individuals who are taxable in the manner prescribed in Section IV of the Tax Code
- Royalty payments to legal entities exempt from CIT or which pay CIT at a rate other than 18%.

According to the TCU, the following payments are not treated as royalties:

- remuneration for the use of a computer program, if the terms of use are limited to the functional purpose of such a program and its reproduction is limited to the number of copies
- payments for the acquisition of samples of intellectual property (such as DVD media) in physical form or samples for resale
- payments for the acquisition of items containing installed software payments for the transfer of intellectual property rights to information on industrial, commercial, or scientific experience

(know-how); or a transfer of such rights allowing the further sale of rights or the publishing (disclosure) of secret drawings, models, formulae, or processes,

- payments for the transfer of the right to distribute samples of software products without the right to reproduce them, or if their reproduction is limited to use by the end user.

Interest

Interest paid by a Ukrainian taxpayer is subject to unlimited deductibility, unless paid to a non-resident. Tax deductibility of interest payable by a Ukrainian resident to a non-resident is limited to 30% of the resident's profit before tax, financial expenses, and depreciation deductions (i.e. 30% of a resident's EBITDA), provided that the outstanding loan exceeds the net assets of the resident by a factor of 3.5.

Non-deductible interest can be carried forward and deducted in a subsequent tax period subject to the same limitation. Non-deductible interest carried forward is decreased by 5% annually.

In 2018, the Parliament of Ukraine introduced the possibility of applying the provisions of DTTs to the country of each lender in the event that interest is paid to a syndicated lender.

5.4 Value-Added Tax Transactions subject to VAT

The following transactions are subject to VAT in Ukraine:

- sale of goods / provision of services within the customs territory of Ukraine
- import of goods into the customs territory of Ukraine
- export of goods out of the customs territory of Ukraine
- provision of services by a non-resident to VAT registered payers.

Tax rates

The basic VAT rate is 20%. VAT liabilities are assessed on the contractual value of the relevant goods / services.

The TCU has provisions for other VAT rates; for example, a 14% VAT applies to the supply of certain agricultural goods. A 7% VAT applies to the sale and import of medicines and medical devices approved by the Cabinet of Ministers of Ukraine, as well as to certain services. Export of goods is subject to 0% VAT.



Basic VAT rate is 20%

The import of electric vehicles (cars, lorries) is also temporarily VAT-exempt (until 1 January 2026).

The TCU also provides for other temporary VAT exemptions.

VAT Registration

Registration as a VAT payer is compulsory for all Ukrainian companies, individuals, and commercial representative offices of non-residents if the volume of VATable transactions exceeds UAH1 million for any previous 12-month period of operations.

Within a few days of registration, a VAT account is assigned which the taxpayer should use for settlements with the state budget.

Voluntary registration as a VAT payer is also available for Ukrainian residents.

Non-residents of Ukraine may be required to register as VAT payers in Ukraine if they provide certain digital services domestically (special rules apply).

VAT mechanism

A VAT payer may credit input VAT up to the amount recorded in a VAT invoice if the VAT invoice is registered in the Electronic Register of VAT Invoices.

In order to issue and register a VAT invoice, a VAT payer must have sufficient funds available in its electronic VAT account. If the account is insufficiently funded, the amount of VAT liabilities should be transferred from a bank account.

Input VAT amounts in excess of VAT liabilities may be offset against VAT liabilities, refunded from the state budget, or offset against future VAT liabilities.

Certain services acquired from non-residents are subject to VAT through a reverse-charge mechanism. This mechanism requires self-assessment and payment of 20% VAT by the Ukrainian importer in (or for) the tax period (month) when the services are imported into Ukraine. The VAT paid can usually be reclaimed by the Ukrainian importer as a VAT credit in the same tax period (month).

VAT reporting

VAT reports may only be submitted in electronic form.

The Ukrainian tax authorities are prohibited from cancelling VAT credits for minor errors in VAT invoices.



VAT reports can only be submitted via the Ukrainian electronic tax system

VAT refund

VAT refunds can only be claimed by VAT payers and can be obtained:

- as a cash refund from the state budget, provided that the VAT payer submits a VAT refund application and does not have VAT liabilities
- as an offset against VAT liabilities due
- as an offset against future VAT liabilities.

Cash refunds may be made via submission of cash refund

applications entered in the single register and become publicly available data. In such cases, the VAT payer will be subject to a desk audit.

5.5 Transfer pricing rules

As of 1 September 2013, transfer pricing (TP) rules have applied in Ukraine. These TP rules employ the concept of controlled transactions which must be undertaken using the arm's-length principle and are subject to oversight by the Ukrainian tax authorities.



Only business transactions with non-residents are deemed to be controlled

The following business transactions carried out by Ukrainian taxpayers are deemed to be controlled:

- transactions with non-resident related parties
- transactions with non-resident agents
- transactions with non-residents that are registered in, or that are residents of, jurisdictions listed by the Cabinet of Ministers of Ukraine and where:
 - the state (territory) has an income tax rate five or more percentage points lower than that in Ukraine
 - the state does not publicly disclose information on the ownership of legal entities
 - the state is not a party to international agreements with Ukraine containing provisions on information exchange
- transactions with non-residents that do not pay income tax, including income received outside the state of registration of such non-residents, and/or which are not tax residents of the state in which they are registered as legal entities

- transactions carried out between a non-resident and their permanent representative office in Ukraine.

The abovementioned transactions, other than transactions between a non-resident and their permanent establishment, are deemed to be controlled if both of the following conditions are met:

- annual income exceeds UAH150 million (net of indirect taxes) for the reporting year
- the volume of such transactions with one counterparty exceeds UAH10 million (net of indirect taxes) for the reporting year.

Transactions between a non-resident head office and its permanent establishment are deemed to be controlled if the volume of such business transactions, determined in accordance with the accounting rules, exceeds UAH10 million (except for indirect taxes) for the relevant tax (reporting) year.

Similar to OECD rules, Ukrainian TP rules provide for five methods to determine whether the conditions of a commercial and financial relationship between related parties satisfies the arm's length principle. These are:

- comparable uncontrolled price method (the primary method)
- resale price method
- cost-plus method
- transactional net margin method
- profit split method

A combination of two or more of the methods can be used to substantiate the price used in a controlled transaction.

Large taxpayers have the option of concluding an advance pricing agreement (APA) with the Ukrainian tax authorities in which an approach to the pricing of controlled transactions can be agreed in advance. The APA is an instrument aimed at resolving potential TP disputes in a proactive and co-operative manner. Opting for

an APA should guarantee that the tax authorities accept the selected TP methodology for controlled transactions.



The Ukrainian tax authorities are authorised to audit compliance with TP rules

To monitor a taxpayer's compliance with TP rules, Ukrainian tax authorities are authorised to conduct specialised TP audits. Such audits may last for a period of 18 months and may be further prolonged for a further 12 months in certain cases.

All taxpayers are required to report their controlled transactions to the tax authorities and submit notifications about participation in international groups of companies before 1 October of the year following the tax (reporting) year, as well as prepare and keep transfer pricing documentation and submit it within one month of the request of the Ukrainian tax authorities. Additionally, it is expected that the requirements to submit country-by-country reports and master files in certain instances should become effective after 2021.

The Ukrainian tax authorities are also authorised to request additional information regarding discrepancies between the market price and the price in a controlled transaction, and to request further information regarding any omissions in TP documentation. The taxpayer is required to submit the additional information no later than 30 days after receipt of the request.



All taxpayers are required to report their controlled transactions to the Ukrainian tax authorities before October 1st of the year following the tax (reporting) year

Failure to submit a TP report will result in a tax penalty in the amount of 300

minimum Cost of Living amounts as of 1 January of the reporting year, (UAH681,000 (approximately EUR22,094) for 2021).

Failure to include any item within a report will result in a penalty of 1% of the value of each transaction (but not more than 300 minimum Cost of Living amounts).

Failure to submit a TP report by the deadline, or to include all controlled transactions into the report, will result in a minimum penalty of one Cost of Living amount as of 1 January of the reporting year (UAH2,270 (approximately EUR74) for 2021) for each day of delay (but not more than 300 minimum Cost of Living amounts).

Should the TP report still not be submitted to the Ukrainian tax authorities 30 calendar days after the due date, an additional daily penalty in the amount of five minimum Cost of Living amounts as of 1 January of the reporting year will apply (UAH11,350 (approximately EUR368) for 2021).

5.6 Property tax

Property taxes include the following:

- real estate tax
- transport tax
- land tax

Real estate tax is levied on residential property held by individuals or legal entities. The tax rate is established annually by individual municipal authorities as a percentage of the minimum monthly salary established on 1 January of the reporting year (UAH6,000 for 2021) per square metre but not exceeding 1.5% of the minimum monthly salary.

If a property is owned by an individual (both residents and non-residents of Ukraine) and its size exceeds 60m² (in case of an apartment) or 120m² (in case of a house), each additional square metre will be subject to real

estate tax at a rate up to 1.5% of one minimum monthly salary (this will also be the case if an individual holds more than one property item, the total size of which exceeds 180m²). Furthermore, owners of apartments exceeding 300m² or houses exceeding 500m² should pay an additional UAH25,000 annually.

Individuals should pay real estate tax within 60 days of the date of a tax assessment. Legal entities should file tax returns on a quarterly basis.

In addition to real estate tax, there are also certain statutory charges levied on the sale / purchase of real estate (state duty and a contribution to the State Pension Fund, each at 1% of the contract price).



Individuals should pay real estate tax within 60 days of the date of a tax assessment.

Transport tax is levied against cars with a market value exceeding 375 minimum monthly salaries established on 1 January of the reporting year (UAH2,250,000 (approximately EUR77,000) for 2021) which are less than five years old and held by individuals (both residents and non-residents of Ukraine). The amount of tax is UAH25,000 per each car.

Land tax is levied against land plots owned or used by individuals or legal entities in the form of a direct land tax or lease payments (in the case of state-owned land). The taxable base is the registered value of the land or the size of the land plot if the plot has not been valued. The tax rate depends on the location and use of the land plot and may vary. In most cases it will not exceed 5% of the value of the plot annually.

Until 1 January 2023, tax rates for the extraction of natural gas amount to 29% for gas drawn from wells no deeper than 5,000 metres, and 14% for gas drawn from wells deeper

than 5,000 metres. Rates for gas condensate are 31% for wells up to 5,000 metres and 16% if the wells are deeper than 5,000 metres.

5.7 Personal income tax

Individuals are subject to PIT, regardless of whether or not they are a tax resident in Ukraine. Tax resident individuals are taxed on their worldwide income while non-residents are taxed on their Ukraine-sourced income only.

According to Ukrainian legislation, an individual is treated as a tax resident of Ukraine if they meet the following criteria:

- they are domiciled in Ukraine
- if the individual also has a residence in another state, then they are deemed to be resident in Ukraine for tax purposes if they have a permanent place of residence in Ukraine
- if the individual has a permanent place of residence in another state, the individual is deemed to be a tax resident of Ukraine
- if their centre of vital interests (family, employer, etc.) is situated in Ukraine
- if it is not possible to determine the actual centre of vital interests or if the individual does not have a permanent place of residence in any state, the individual is deemed to be a tax resident of Ukraine
- if they are in Ukraine for at least 183 days during a tax (calendar) year, where days are calculated as including every day of physical presence in Ukraine (including entry and departure days).

If tax residence still cannot be determined, the individual will be deemed to be a tax resident if they have Ukrainian citizenship.

The TCU determines Ukraine-sourced income as income derived by an individual as a result of any business activity performed in Ukraine which,

among other things, includes remuneration for work in Ukraine, whether paid by a Ukrainian or a foreign company.

Resident and non-resident individuals are taxable at the same flat tax rate: 18%.

Generally, any benefit provided by an employer or any refund of an employee's expenses is subject to tax in Ukraine, unless any benefit and/or reimbursement of expenses is provided by the Ukrainian employer and is connected with the duties of the employee according to their employment agreement or as prescribed in a collective agreement.

Based on the TCU, income received from foreign sources or income originating from Ukraine which was not taxed at source is subject to taxation in Ukraine based on an annual tax return. The obligation to report this income in Ukraine and pay the tax rests with the individual.

However, if an individual's remuneration (either tax resident or non-resident) is paid through the payroll of a Ukrainian entity, the tax is withheld at the source of payment. In this case, the individual is not required to submit tax returns in Ukraine. If international treaties (i.e. double taxation treaties) provide a tax treatment other than the one established by the TCU, the rules of international treaties will prevail over domestic legislation.



Both resident and non-resident individuals are subject to a personal income tax at a rate of 18%

Annual tax returns are due on 30 April of the year following the end of the tax (calendar) year. Self-assessed tax is due on 31 July of the year following the end of the tax (calendar) year. PIT can only be paid in UAH.

Currently, salaries and other forms of individual income are subject to

an additional temporary military tax; levied at 1.5%.

5.8 Unified social security charge

The Unified social security contribution (USSC) is a regular mandatory payment made by employers to the Pension Fund of Ukraine. The USSC provides employees access to state benefits; including payments for retirement, loss of productivity, state health insurance, work-related accidents or illness, and unemployment.

Salaries and similar payments made to employees (either Ukrainian or foreign nationals) through the payroll of a Ukrainian entity or a local representative office are subject to the USSC and are due from the employer. USSC is paid at a 22% rate of the gross income / or up to a cap.

The taxable base for USSC is capped at 15 monthly minimum salaries: UAH90,000 (approximately EUR2,920).

Individual entrepreneurs are obliged to pay a minimum social security contribution of one minimum salary, even if they have not made a profit in the current month.

5.9 Administration of taxes Tax assessment and reporting

Depending on the tax and the class of taxpayer, tax returns may be required annually, quarterly, or monthly and should be filed within a specified time period (e.g. within 40 days of the end of the period for a quarterly tax return). Certain tax returns can be filed electronically.

As well as a tax return, CIT payers (companies and permanent establishments of non-residents) are usually required to submit quarterly financial statements.

Tax payers now have access to an online system for managing their tax affairs; the Electronic Tax Payer's Office.

Settlements with the state budget

Self-assessed tax liabilities are due within 10 days of the filing deadline (with specific limited exceptions). If liabilities assessed by the tax authorities are challenged by a taxpayer administratively or through the courts, settlement is postponed until the end of an administrative review or court proceedings.

Tax audits

The authorities may conduct desktop audits, documentary audits (scheduled and unscheduled; field and non-field), as well as impromptu audits.

During a desktop audit, the only data audited is that in the taxpayer's tax returns, in the Electronic VAT system, in the Unified register of excise duty invoices, and in the electronic system for monitoring the sale of fuel.

Scheduled audits are conducted according to an approved schedule but, as the name suggests, an unscheduled audit may be held at any time if at least condition is met from a detailed list given in the TCU. Field audits and impromptu audits are carried out at the premises of the taxpayer. The TCU lays down specific procedures conducting a tax audit.

A scheduled field audit can last from 10 business days (in the case of a small taxpayer, i.e. the taxpayer that employs fewer than 50 employees and whose annual income does not exceed EUR10 million) to 30 business days (in the case of a large taxpayer, i.e. a taxpayer that pays more than EUR1.5 million of tax liabilities annually, except for customs payments, or whose income for any four consecutive calendar quarters exceeds EUR50 million) business days and may be prolonged for five (small taxpayer) to 15 (large taxpayer) business days.

The duration of an unscheduled audit is three business days (for individual entrepreneurs), five business days (for a small taxpayer), 15 business days (for a large taxpayer), and 10 business days for all other taxpayers (i.e. that are not small or large taxpayers), and may be prolonged for additional two / five / 10 business days for small / other / large taxpayers, respectively.



The tax authorities may conduct desktop audits, documentary audits (scheduled and unscheduled; field and non-field), as well as impromptu audits

An impromptu audit is scheduled for up to 10 business days and may be prolonged for a further five days.

Administrative and court appeal

The tax authorities' decisions may be challenged through administrative or court proceedings. A taxpayer may opt for either, though administrative proceedings may no longer be taken once a court appeal has been submitted.



Decisions of the Ukrainian tax authorities may be challenged via administrative or court proceedings

An administrative appeal against a decision of the local tax authorities should be submitted to the central tax office within 10 business days of receipt of the original decision. Should the 10-business-day period expire without appeal, the amount assessed by the tax authorities falls due.

Deliberations on administrative appeals can take from 20 to 60 days from the date of submission. Decisions taken at an administrative appeal by the principal tax authorities' office can be further

contested in court if the necessary documents are lodged no later than one month after the conclusion of the administrative appeal procedure.

Tax pledge and tax debt collection

If a taxpayer fails to settle their tax liabilities, a tax pledge will usually be executed over the taxpayer's property in an amount equal to the tax debt.

A tax official will be specifically assigned to compile an inventory of goods.

Certain kinds of property (e.g. property held on terms of lease) may not be the subject of a tax pledge.

The taxpayer may continue to use the property subject to a tax pledge, though they may only dispose of the property with the permission of the tax authorities. A tax pledge may only be executed if the total tax debt of the taxpayer exceeds 180 tax-free minimum incomes (UAH3,060, given that a tax-free minimum income is UAH17). Under certain circumstances, as identified in the TCU, the tax authorities may impose an administrative arrest on the taxpayer's property. In this case, the taxpayer would have to seek prior permission from the tax authorities to exercise ownership rights (conditional arrest) or else would be debarred of the right to use or dispose of the property (full arrest).

Once 30 days lapse from the date when a taxpayer is notified about their tax liabilities, the tax authorities may recover tax debt through forfeiture of taxpayer property placed under tax pledge or from funds available in their bank accounts.

The state authorities may also open criminal proceedings against the taxpayer's officials under Article 212 of the Criminal Code of Ukraine (tax evasion) if the amount of unpaid tax liabilities exceeds a minimum of 3,000 non-taxable personal incomes (UAH3,568,500).

Financial reporting



6.1 Ukrainian accounting principles

6.2 Statutory reporting requirements

6.3 Audit requirements

Taking effect from 1 January 2000, Ukraine implemented the Ukrainian National Accounting Standards (UNAS) which are primarily based on the International Financial Reporting Standards (IFRS) but with certain differences and omissions.



A Ukrainian financial year runs from January to December

The principal features of UNAS are as follows:

- financial statements with itemised schedules are prepared using state approved forms
- the chief accountant is responsible for accounting and preparation of financial statements
- foreign-owned Ukrainian entities must adopt and follow the Ukrainian chart of accounts and accounting principles for statutory reporting (but simultaneously may use their own chart of accounts for management reporting purposes)
- accounts must be prepared in compliance with the chart of accounts and directions for making entries as envisaged by UNAS
- all local accounting materials must be in Ukrainian
- the basic accounting currency unit is UAH
- any transactions denominated in foreign currencies must also be recorded separately in UAH at the official exchange rate according to the National Bank of Ukraine (NBU) at the date of the transaction for statutory accounting and tax purposes
- the financial year is a calendar year.

Companies mostly use special accounting software which enables them to complete forms and ledgers automatically. However, manual accounting (journal sheets, memorandum sheets, ledgers, etc.) are still often used in Ukraine.

6.1 Ukrainian accounting principles

The key Ukrainian accounting principles are:

- accounting is based on historical cost and cost in the past is subject to inflation adjustments
- accounting directives are aimed at uniformity and continuity
- the prescribed form of accounts is established by UNAS
- the form of a transaction, rather than its substance, dictates its accounting

Comparison with IFRS

Although there are still many differences between accounting under UNAS and IFRS, such differences are regularly being reduced in number.

The TCU allows use of IFRS for certain tax purposes (e.g. for the definition of terms not specified in the TCU).

Compliance with IFRS is mandatory for the preparing of financial statements and consolidated financial statements in the following enterprises:

- enterprises of public interest (companies, issuers of securities whose securities are traded on stock markets, banks, insurers, non-state pension funds, other financial institutions)
- public joint stock companies, enterprises engaged in the extraction of minerals of national importance
- enterprises conducting a business activity outlined by the Cabinet of Ministers of Ukraine (resolution of the Cabinet of Ministers of Ukraine No. 419 dated 28 February 2000) such as financial services companies, non-state pension funds, companies providing supporting financial and insurance services
- Large companies (see chart below)

Other enterprises that are not listed above can also voluntarily use IFRS instead of UNAS if they so choose.

6.2 Statutory reporting requirements

Companies file commercial financial statements with the Ukrainian tax authorities and the Ministry of Statistics on a quarterly basis within 25 calendar days of the end of the reporting quarter. Additionally, stock issuers should provide annual reports to the Ukrainian National Securities and Exchange Commission.





6.3 Audit requirements

Statutory audit reports are required for Ukrainian companies such as financial institutions, security issuers and public joint stock companies, companies engaged in the extraction of minerals of national importance, natural monopolies on the national market, and large and medium enterprises as outlined below.



An audit report is required for financial institutions, security issuers, and public joint stock companies

The criteria for qualifying as a Micro / Small / Medium / Large enterprise are as follows:

 Category of company	 Total assets EUR'000	 Revenue EUR'000	 Average number of employees
Micro	< 350	< 700	< 10
Small	350 – 4,000	700 – 8,000	10 – 50
Medium	4,000 – 20,000	8,000 – 40,000	50 – 250
Large	> 20,000	> 40,000	> 250

A company should meet at least two out of three criteria to fall into the respective category.

Companies that qualify as financial institutions, security issuers, and public joint stock companies, as well as companies engaged in the extraction of minerals of national importance, subjects of natural monopolies on the national market, or large companies that are issuers of securities, are likewise required to publish their financial statements and an auditor's report on their website before 30 April of the year following the reporting year.

Large- and Medium-sized companies are required to publish their financial statements and auditors report on their website before 1 June of the year following the reporting year.

Qualified statutory auditors can either be an individual with appropriate qualifications or a firm employing registered auditors.

A list of such audit firms and individual auditors is maintained by the Ukrainian Chamber of Auditors and is available on the Chamber's website.



Property rights



7.1

Land

7.2

Real estate (other than land)

7.3

Intellectual property

7.1 Land

In Ukraine, different regulations apply to land relations depending on the type of land in question. Land is classified according to its designated purpose. Each category has a specific legal status.

Such categories include:

- agricultural land
- land for residential and urban construction
- nature reserves and other lands with nature-oriented purposes
- land with natural springs or other features that provide health benefits
- recreational land
- land for historical and cultural purposes
- land-forming lakes or river-beds
- forestry, and
- land for industrial, transport, communications, energy, or defence purposes.

Land is classified according to its designated purpose. Each category has a specific legal status and different regulations apply to different classifications of land use.

Title to land

The effective land laws and regulations stipulate a number of restrictions on foreign entities acquiring titles to land in Ukraine. For instance, foreign companies and individuals are prohibited from owning agricultural land.

Non-agricultural land may be acquired by foreign persons only within urban areas, or outside urban areas when a foreigner owns real estate on the land. In urban areas, foreign entities may acquire land for the acquisition or construction of business-related facilities. These rules also apply to joint ventures with foreign persons or entities.

In the event that a foreign entity purchases state-owned or municipal land, they are required to register a commercial representative office in Ukraine. Furthermore, the approval of the Parliament of Ukraine is required (for the purchase of state-owned land) or the Cabinet of Ministers of Ukraine (for municipal land).

Lease

Foreign entities may hold a lease for both agricultural and non-agricultural land without significant limitations. Lease rights to land can be granted for up to 50 years. A minimum period of seven years is set for such leases of agricultural land or land for the purposes of manufacturing agricultural goods, farming, and holding of personal agricultural estate.

In general, the law governing Ukrainian land leases grants rather broad rights to lessees, such as:

- priority right to extend a lease
- priority right to purchase the land plot
- right to sell, contribute into share capital, and pledge private land plots held under lease.

Foreign entities may hold a lease for both agricultural and non-agricultural land without significant limitations

Lease rights to the state and municipal land under a property are transferable in the event of the sale of the property.

The list of material clauses necessary for a lease to be registered, and therefore enter into force, is limited to a description of the land plot, the term of the agreement, and the amount of the lease payment. Other clauses may be added if the parties agree. In addition to state registration of titles to agricultural land, registration can also be provided by notaries.

7.2 Real estate (other than land)

Foreign entities are generally allowed to acquire any real estate other than unencumbered or agricultural land (buildings, installations) situated in Ukraine. The rights to real estate (e.g. ownership), as well as any encumbrances related to such property (e.g. mortgage), are subject to state registration. The Unified State Register of Immovable Property incorporates information on real estate ownership, long-term lease, mortgages, liens, and other related encumbrances. The registration of immovable property rights can be undertaken either by the state registrar through the administrative services centre or by a notary in the region where the property is located. Information from the register may be provided by a notary, state registrar, or the administrative centre, and can be issued either on paper or electronically from the web-portal of the Ministry of Justice.

Real estate can be acquired through an asset or share deal agreement. An asset deal agreement is likely to be the most straightforward way of acquiring real estate in Ukraine. Such an agreement is subject to notarisation and the rights arising in connection with this agreement should be registered in the State Register of Proprietary Rights to Immovable Property. In addition to 20% Ukrainian VAT, USSC and a state duty (each at 1% of the contract price or appraised value, whichever is higher) are due on these kinds of transactions.

Real estate can also be acquired by means of construction. Construction projects require a complex and time-consuming administrative process that involves submitting an extensive list of documents and engaging external advisors. The title to newly constructed real estate is issued upon completion of the construction, its commissioning,

and its subsequent registration in the State Register of Proprietary Rights to Immovable Property.



Acquisition of an operating business is usually structured via a share or asset deal agreement and may require authorisation of the Ukrainian competition authorities

Real estate may also be held on lease. A written contract is deemed sufficient to establish a lease over property. However, notarisation and state registration of lease rights is required if the lease term is three years or longer.

An enterprise as a going concern is recognised as an aggregate real estate object under Ukrainian laws. However, the concept of an enterprise as a going concern is under-developed in Ukraine. Thus, acquisition of an operating business is usually structured via a share or asset deal agreement and may require authorisation by the Ukrainian competition authorities.

7.3 Intellectual property Background

The Ukrainian system of intellectual property (IP) safeguards combines both national laws and regulations, and international standards (Ukraine is a party to a number of international treaties on IP protection). Should international treaties conflict with Ukrainian laws, the provisions of the treaties will prevail.

Ukraine has taken important steps towards harmonising its national IP legislation with EU and WTO standards, with a view to increasing the efficiency of the national IP protection system and eliminating IP piracy.

Copyright and related rights

Ukrainian copyright laws protect literary, dramatic, and musical works, as well as works of architecture, audio-visual and photographic works, computer software and databases, and other artistic and scientific works from illegal copying regardless of whether such works exist in a written or oral form.

Copyright protection arises by virtue of the creation of the work concerned, regardless of formal registration.

Ukrainian copyright laws recognise two types of copyright: non-proprietary and proprietary rights. Non-proprietary rights appertain to the author regardless of proprietary rights and cannot be transferred to others or inherited. Non-proprietary rights are permanently protected and include:

- the right to claim authorship
- the right to prohibit revealing the author's name during public performances of the work if the author wishes to remain anonymous
- the right to use a pseudonym
- the right to object to any distortion, mutilation, or other modification of the work

Proprietary rights also include:

- the exclusive right of use over the work
- the exclusive right to authorise the reproduction of the work.

Proprietary rights may be transferred or licensed by the copyright owner to another person. Upon such transfer, a transferee becomes the owner of the proprietary rights. Upon licensing, the licensee obtains the right of use over the work to the extent set forth in the license agreement (either exclusive or non-exclusive).

Under Ukrainian copyright law, if a person creates a work as part of their work duties, they are considered to be the author of such work and should be entitled to any non-proprietary rights arising from it. However, exclusive property rights to any work belong to the employer, unless otherwise agreed in the employment agreement. The employee shall, nevertheless, be entitled to remuneration for the creation and further use of the work to the extent set forth in the employment agreement.

Ukrainian copyright law also details that proprietary rights to a work of art remain in force for the life of the author and a further 70 years after their death.

Trademark protection

Under Ukrainian trademark law, legal protection is granted to any mark for goods or services not contravening public order, principles of humanity, and morals, regardless of whether such mark was registered in Ukraine or in another jurisdiction, by virtue of the international trademark protection treaties to which Ukraine is a party.

A certificate of trademark registration confirms title to a trademark. The certificate is issued for 10 years and can be prolonged for another 10 years for an indefinite number of times.



The proprietary rights of an author are protected during their life and for a further 70 years after their death

A registered trademark owner is entitled to use their trademark:

- to indicate a trademark on any goods for which it has been registered, on packaging, signboards, labels, or other objects attached to them, as well

as to store goods bearing the trademark and offer them for sale, and sell, import, and export such goods

- in the course of supplying a service for which the trademark has been registered, and
- in business documentation, for advertising, or on the Internet.

A certificate of trademark registration grants the owner the right to forbid any usage of the trademark by any parties without prior consent.

Inventions, utility models, and industrial design

In Ukraine, rights to inventions, utility models, and industrial design are subject to patent registration with the State Intellectual Property Service. A patent is a protective document confirming priority, authorship, and title to an invention, utility model, or industrial design.

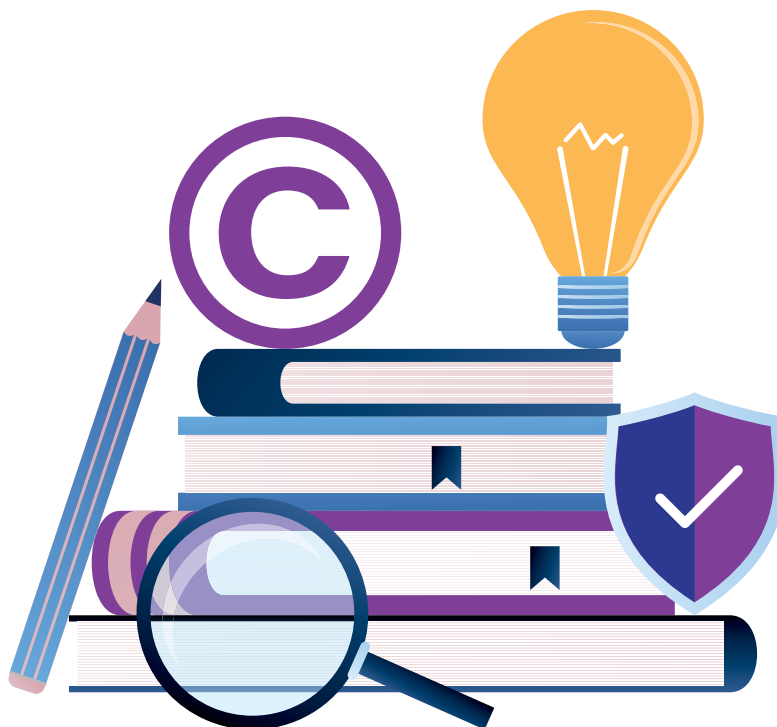
Generally, an invention (a product or a process in any area of technology)

is patentable provided it is innovative, has an inventive step, and is suitable for industrial use. A utility model (a product or a process in any area of technology) is patentable if it is innovative and suitable for industrial use. Rights to a design (a form, a drawing, a painting, or their combination that defines the appearance of an industrial product and is assigned for meeting aesthetic and ergonomic needs) is patentable should the innovative condition be met. There are a number of objects exempt from patentability (e.g. new varieties of plants and breeds of animals, biological processes for the reproduction of plants and animals, topography of integrated circuits, and the results of industrial design). An invention patent should be valid for 20 years, while a declarative patent for a utility model is valid for 10 years. A patent for design is issued for 10 years and may be extended for a further five years on the written request of the owner.

A patent for an invention or utility model entitles the owner to have exclusive use of the IP, to produce goods using the inventions or utility models, and to deploy the process protected by the patent. A patent for industrial design grants its owner the right to use the protected design.

Patent holders, among other things, have the following rights:

- to produce goods with the use of objects protected by patents,
- offer goods for sale (including via the Internet),
- import, export, and transfer of any such goods,
- prohibit usage of IP objects by any person without authorisation, and
- to assign the rights protected by the patent, or to grant IP rights, to any person under an exclusive or non-exclusive license agreement.



Currency regulations



Update of the currency control legislation

On 7 February 2019, the Law of Ukraine 'On Currency and Currency Operations', and eight National Bank of Ukraine (NBU) regulations came into force. Their purpose is to liberalise currency regulation and enhance Ukraine's attractiveness as an investment destination.

Since 2019, the NBU introduced the following easing measures:

- the settlement period under transactions involving export / import of goods and certain types of service contracts has been extended up to 365 calendar days instead of the prior 180
- the restriction on Ukrainian citizens under contracts with non-residents repaying credit and loans early in foreign currency has been abolished
- non-resident legal entities are now allowed to open current accounts in Ukrainian banks, not just investment bank accounts
- foreign currency dividends for all periods may be repatriated
- individual licences to undertake currency transactions have been cancelled and replaced by a system of e-limits (EUR2 million a year for legal entities and EUR200,000 a year for individuals)

- supervision over export / import operations generating less than UAH400,000 has been cancelled
- sanctions for breach of settlement deadlines in the form of termination of international economic activity have been ended.

However, there are still a range of currency control restrictions, namely:

- legal entities are still allowed to transfer no more than the equivalent of EUR2 million in currency per year for the purpose of depositing it abroad
- residents are banned from crediting, investing, or depositing in an aggressor / invader country, off-shore areas, and jurisdictions violating FATF recommendations or which have significant deficiencies in that area.

Purchase of foreign currency

Foreign currency can be purchased for the following purposes:

- payment to foreign suppliers for goods / works / services
- payment of interest and royalties abroad
- repayment of foreign currency loans, etc.

Authorised banks can buy foreign currency on the next banking day following the date when the relevant amount of UAH for such a purchase has been deposited.

Risk-Based Currency Supervision approach

The NBU has introduced a new approach to currency supervision over transactions based on the principle of 'fewer risks, less attention, more risks, more attention'.

Foreign currency transactions up to UAH400,000 are subject to simplified currency monitoring, while transactions exceeding this amount are subject to mandatory financial monitoring in accordance with anti money-laundering legislation.

During an initial review of documents for currency transactions, banks identify whether the transactions warrant suspicion based on specific indicators (such as fragmented transactions, transactions not usual for business activities of a client, transactions without an obvious business purpose, transactions with 'risky' jurisdictions, etc.) Should such indicators be present, authorised persons will conduct additional analysis of documents.

An authorised bank carries out a currency transaction if, based on the results of the additional analysis, there are no reasons to believe that the transaction is suspicious.

Customs regulations



One of the key acts regulating legal treatment of goods moving through the customs border of Ukraine is the Customs Code of Ukraine.

It establishes different types of customs regimes, namely:

- import / export
- re-import / re-export
- transit
- temporary export / import
- processing of goods inside / outside the customs territory of Ukraine
- bonded warehouses
- free customs zones
- duty-free trade stores
- destruction or damage of goods, and
- waiver of goods in favour of the state.

In order to declare goods moving through a Ukrainian customs border post, an importer / exporter of goods (or an authorised person) is generally required to file a customs declaration with the customs authorities. The customs declaration usually includes a description of goods including their specification, customs value (which may differ from that stated in the relevant invoice), volume of goods, customs procedures, etc. Ukrainian customs authorities may make adjustments to the declared customs value of goods.

No customs duties and no declaration are required if hand luggage / accompanied baggage does not exceed:

- EUR1,000 (by plane)
- EUR500 (other transport)
- 50 kg

Customs duties and charges are usually calculated and paid based on the data indicated in the customs declaration submitted, although other expenses may be included; such

as transport expenses, royalty fees, agency fees, and others. If the total value of goods crossing the customs border of Ukraine as hand luggage and / or as accompanied baggage does not exceed a specified amount (EUR1,000 for travel by air, and EUR500 for other means of transport) and their weight does not exceed 50 kg, no customs declaration is required and no customs duties need to be paid.

In June 2014, Ukraine and the EU signed an Association Agreement. In the Agreement, Ukraine undertook to bring its legislation into compliance with EU regulations and to carry out institutional reform in various sectors of the local economy and public governance. The Agreement contains the following commitments:

- parties to the Agreement shall reduce or cancel import duties in relation to goods originating from the other party in accordance with the Schedules of the Agreement (a 10-year period is provided for transition to a fully-fledged free trade zone)
- the parties should abstain from maintaining existing (or introducing new) duties, taxes, or any other measures having equivalent effect, in connection with the export / import of goods to / from the other party
- upon their import into Ukraine / the EU, goods originating from the EU / Ukraine will be subject to treatment established in the Agreement provided one of the following documents is produced:
 - a movement certificate, No. EUR.1
 - an invoice declaration (in certain cases).

Customs duties and taxes

Import of equipment, machinery, materials, and other goods is usually subject to Ukrainian import duties. No import duties apply if a foreign shareholder (investor) contributes equipment and machinery to the share capital of its Ukrainian

subsidiary, provided that the Ukrainian company does not dispose of the contributed equipment or machinery within three years. However, in-kind capital contributions are subject to Ukrainian VAT at 20%.

Import (customs) duties are levied on the customs value of imported goods and are calculated as a percentage of customs value of the imported goods (ad valorem duty), as a certain fixed amount per imported item (specific duty), or as a combination of the two (mixed duty). Regular Ukrainian customs duty rates on the import of specific goods are set out in the Law of Ukraine 'On the Customs Tariffs of Ukraine'.



Export of goods from Ukraine is generally not subject to Ukrainian VAT and in most cases is exempt from customs duties

Standard customs duty rates can be reduced or mitigated based on the relevant certificate of origin (or invoice, or other transportation document identifying the country of origin). Import of goods is subject to 20% VAT, paid using a reverse-charge mechanism. The amount of VAT liabilities is assessed based on the customs value of the imported goods, plus import customs duties and excise duties. Export of goods from Ukraine is not generally subject to Ukrainian VAT and is generally exempt from customs duties.

Payment for customs clearance of goods

Customs clearance of goods outside of the customs authorities' offices or beyond their business hours is subject to special fees.

Generally, payments for customs clearance of goods are minimal.

Authorised economic operator

On 2 October 2019, Parliament amended the Customs Code of

Ukraine by introducing the status of an Authorised Economic Operator (AEO).

Ukrainian companies that meet the following criteria can obtain AEO status (AEO-B, AEO-C, or both):

- demonstration of compliance with Ukrainian tax and custom legislation. Company directors and senior officials must not have convictions for serious crimes
- accurate accounting, commercial, and transport documentation
- stable financial position
- practical standards for competence (professional) for the relevant person in charge
- compliance with security and sustainability standards.

The Customs Code of Ukraine allowed only 10 Ukrainian companies that are both producers and exporters of a particular class of goods to apply for AEO status in 2020, and will

allow 20 companies in 2021 and 30 companies in 2022. Starting from 2023, all other Ukrainian companies are allowed to apply for AEO status.

AEO status generally grants the following benefits:

- simplified customs clearance and declaration procedures
- opportunity to import goods using a simplified pre-import declaration
- reduced financial guarantee for companies with AEO status (50%, 30%, or 0% of the regular financial guarantee)
- priority for customs formalities
- permission to use a special traffic lane (commercial vehicles only) to cross the border.

Common transit of goods

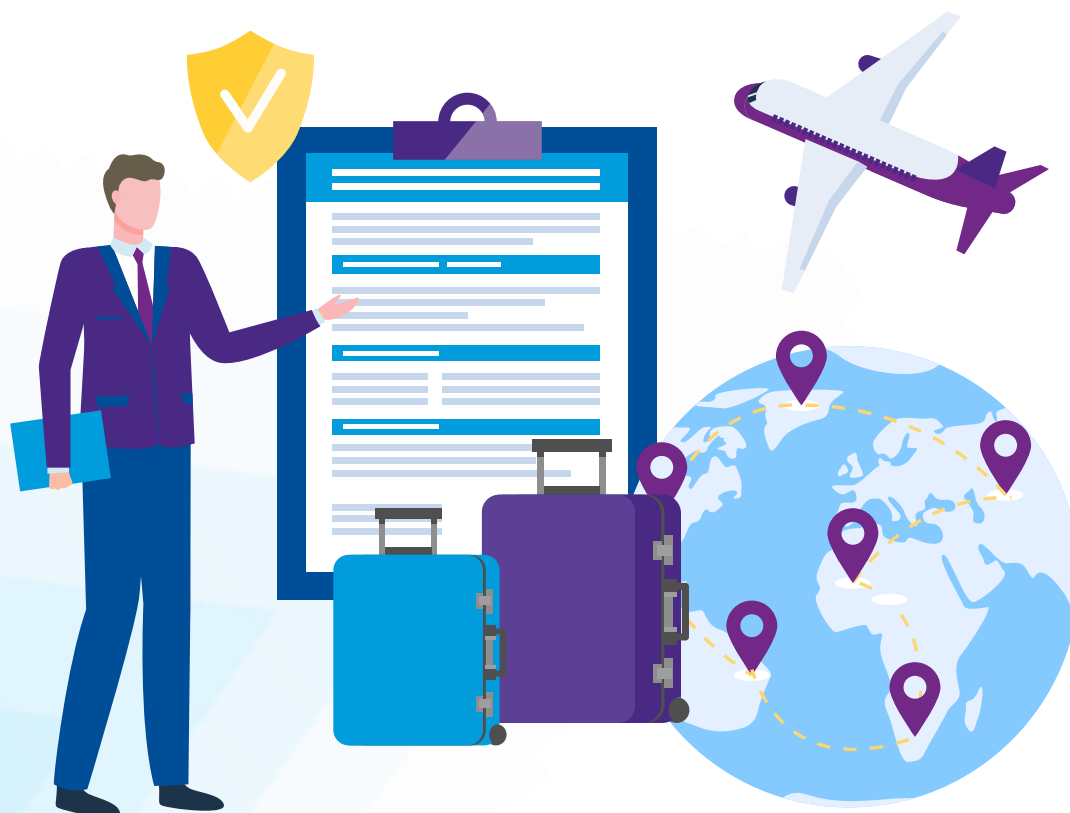
The Parliament of Ukraine has adopted the Law of Ukraine 'On a Common Transit Regime' in order to comply with EU standards

regarding common standards for the transit of goods, electronic transit systems, and electronic financial guarantee management. This law became effective starting from 25 March 2020.

The Law introduced the following:

- a procedure for regulating the common transit system
- opportunities to exchange customs information with certain other states in real time
- use of a unified declaration for the common transit of goods from origin state to destination state through third states under the Convention On Common Transit
- the chance to obtain special benefits (e.g. authorised shipper status, simplified filling procedure, financial guarantee etc.) etc.

Additionally, the Law of Ukraine 'On a Common Transit Regime' provides for a range of other benefits available only to AEO scheme members.



Winding-up / Liquidation



10

Winding up a business in Ukraine can be done through either voluntary or forced liquidation.

Ukrainian laws stipulate several legal grounds for initiating liquidation procedures for a business, including:

- in the event of expiry of the period for which it was set up or after achieving the objectives the business was created for
- following a decision of the highest decision-making body of the company
- based on a court judgment.

Voluntary liquidation

A company may be liquidated by a decision of its highest decision-making body (GMS for a JSC or a general meeting of participants for an LLC). Liquidation of a company is conducted by a liquidation committee established by the company's owner(s).



Voluntary liquidation may take from six months to two years to complete

The liquidation committee takes over governance and control over the company, prepares an interim liquidation balance sheet, estimates the asset value of the company, pays the company's creditors, and prepares the final liquidation balance sheet to be submitted to the owners.

Voluntary liquidation may take from six months to two years to complete. The liquidation procedure is rather complicated, with many procedural actions required to complete this process.

Bankruptcy

On 21 October 2019, the Ukrainian Code of Bankruptcy Procedures became effective and has brought essential changes to local bankruptcy regulation.

Insolvency is defined as a failure of a legal entity or an individual to meet claims advanced by its creditors and/or settle its tax liabilities within a prescribed time period.



Alleged insolvency of a debtor should be closely examined by a commercial court as a condition for commencing bankruptcy procedure

There is no minimum level of indisputable debts to be proven by debtor / creditors. However, insolvency of a debtor should be proven before the courts.

Bankruptcy proceedings may be initiated by submitting a written claim to the commercial court. Any creditor (including an individual) may initiate bankruptcy proceedings upon advance payment of fees for the services of an insolvency officer in an amount of not less than three minimum salaries (UAH18,000, or approximately EUR584). A debtor may bring an action to the commercial court on their own initiative if the debtor is insolvent. In both cases, the court should undertake a detailed examination regarding whether the business is actually insolvent before commencing proceedings.

Bankruptcy cases are initiated against legal entities or individuals (both private and entrepreneurs), rather than against separate structural units of a legal entity (such as representative offices, departments, or branches). However, bankruptcy against a private individual can only be initiated by a debtor themselves.

Forced liquidation

A company may also be liquidated by a court decision in the event of insolvency or in specific cases set forth in Ukrainian legislation (e.g. failure to comply with the numerous requirements of Ukrainian regulatory authorities, annulment of registration due to irregularities in the registration procedures, etc.)

Dispute resolution



Litigation

In Ukraine, legal disputes (including civil, commercial, administrative, criminal, and other law cases) are resolved by courts of general jurisdiction which, alongside the Constitutional Court of Ukraine, form the Ukrainian judicial system.

Administrative courts are endowed with powers to resolve disputes with public administrative agencies (i.e. with state and municipal authorities). This includes appeals against unlawful acts or omissions committed by state officials. Commercial courts resolve disputes of a commercial nature between legal entities and/or individual entrepreneurs. The exclusive jurisdiction of the commercial courts includes:

- corporate disputes
- disputes related to the record of title to securities
- privatisation disputes
- certain anti-trust disputes
- bankruptcy proceedings.

Companies wishing to defend their rights in a court of law should normally file claims with the local courts of their general jurisdiction. Judgments may be appealed against to courts of second instance (appeal courts). The rulings of these courts may be further contested in the Supreme Court of Ukraine.



Generally, precedents are not recognised as a source of law. However, courts will take the legal position of the Supreme Court into account in typical cases

The law allows submission of a case to the Supreme Court for a cassation appeal in the event of matters regarding the incorrect application of substantive law by the court or violations of procedural law.

The Grand Chamber of the Supreme Court is mainly aimed at formation of unified court practices.

Plans for judicial reform envisage the establishment of a High Court on Intellectual Property Issues and a High Anti-Corruption Court of Ukraine in the near future.

The Convention for the Protection of Human Rights and Fundamental Freedoms and decisions of the

European Court of Human Rights are considered to be sources of law in Ukraine and their implementation is obligatory.

Recent judicial reform provides for the reformation of the whole system, creation of new courts, and raising the level of qualifications for judges.

Changes to procedural legislation are designed to speed up the process of judicial hearings and introduce penalties for abuse of procedural rights. These changes are also intended to promote peaceful settlement of disputes through judicial mediation and other alternative dispute resolution methods.

Arbitration

Commercial disputes (except for disputes in which the commercial courts of Ukraine hold exclusive jurisdiction) which arise between Ukrainian companies and do not involve a foreign element may be settled in local arbitration courts as an alternative to state courts. Resorting to international commercial arbitration (either in Ukraine or abroad) in disputes between local companies (except for companies with foreign investment) is prohibited.

Commercial disputes involving both Ukrainian and foreign entities can be adjudicated by arbitration courts (institutional or ad hoc) either in Ukraine or abroad. Under Ukrainian laws, disputes between companies with foreign investment and their shareholders, and between such companies and other Ukrainian entities, can be settled in international commercial arbitration courts in Ukraine.

There are two major institutional arbitration courts in Ukraine: the International Arbitration Court of Ukraine and the Maritime Arbitration Commission. Both institutions act under the auspices of the Ukrainian Chamber of Commerce and Industry and operate under their own rules of procedure.

As noted before, foreign investors can choose to lodge appeals before the International Centre for Settlement of Investment Disputes (ICSID) as an alternative to international arbitration; specifically when a dispute does not arise out of a mere failure to abide by the party's contractual obligations but amounts to an assault of the investor's rights by the State acting through its agencies or controlled persons.

Recognition and Enforcement of Foreign Judicial Decisions and International Arbitral Awards

Foreign court judgments can generally be recognised and enforced in Ukraine, provided that there is an effective international treaty on co-operation in civil and criminal matters between Ukraine and the foreign state.

In the absence of such a treaty, foreign court judgments can be enforced based on the reciprocity principle, as acknowledged by Ukraine and the other state.



In Ukraine, there are two major institutional arbitration courts: the International Arbitration Court of Ukraine and the Maritime Arbitration Commission

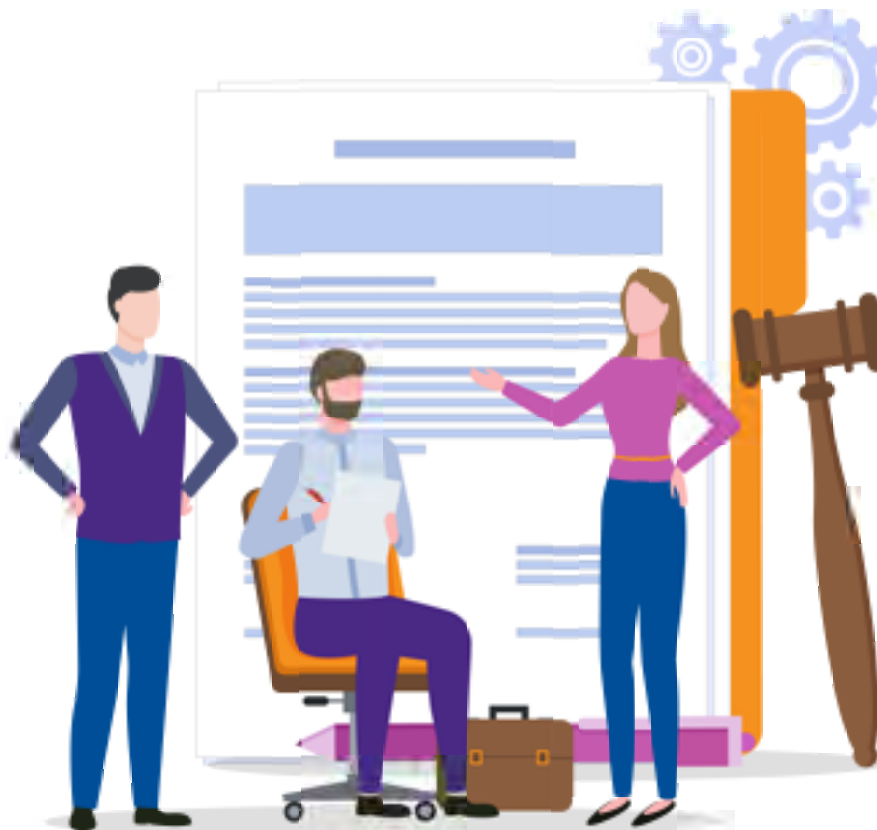
The Law of Ukraine 'On International Commercial Arbitration' is generally consistent with the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration and provides for a series of grounds when recognition and enforcement of an arbitral award

can be denied by a Ukrainian court (provided the judgment in question was delivered by a State not party to the 1958 New York Convention or the 1961 European Conventions). Such cases concern material defects in the award, of its adoption procedure (in particular, violations of the defendant's right to present its position), and defects of the arbitration clause, as well as the award's incompatibility with the Ukrainian legal order. This includes such cases as:

- cases where arbitration of a dispute is not permitted (e.g. corporate disputes, bankruptcy proceedings), and
- conflict with the public order of Ukraine (i.e. enforcement of judgment would threaten the interests of Ukraine).

Ukrainian courts sometimes interpret the public order concept very broadly and employ this interpretation to deny recognition and enforcement of arbitral awards should they be inconsistent with Ukrainian laws.

Importantly, awards rendered by ICSID tribunals are not subject to special enforcement proceedings in Ukraine and are recognised automatically (by virtue of Ukraine's international undertakings).



Appendix 1

Chart of withholding tax rates

The following chart presents a list of withholding tax rates as applicable to certain types of Ukraine-sourced income derived by non-residents of Ukraine.

Notes:

(1) Figures in the brackets in the Dividends column indicate the minimum share of a foreign shareholder in a Ukrainian company for the reduced WHT rate to be applied (provided the shareholder is the beneficial owner of the dividends).

In the chart, reduced WHT rates on dividends paid in respect of investment with a specific connection to either of the contracting parties of a relevant Double Taxation Treaty (including to any of its public bodies or agencies) are omitted.

(2) Figures in the table below separated by a backslash (/) suggest that different WHT rates may apply to particular types of income under the relevant double taxation treaty.

Double Taxation Treaties / Recipient residing in	Withholding tax rates (WHT)		
	Dividends, %	Interest, %	Royalties, %
Algeria	5 (25) / 15	10	10
Armenia	5 (25) / 15	10	0
Austria	5 (10) / 10 (15 from 1 Jan 2022)	2 / 5 (2% rate will be abolished from 1 Jan 2022)	0 / 5 (5 / 10 from 1 Jan 2022)
Azerbaijan	10	10	10
Belarus	15	10	15
Belgium	5 (20) / 15	2 / 10	0 / 10
Brazil	10 (25) / 15	15	15
Bulgaria	5 (25) / 15	10	10
Canada	5 (20) / 15	0 / 10	0 / 10
China	5 (25) / 10	10	10
Croatia	5 (25) / 10	10	10
Cyprus ¹	5 (20) / 10	5	5 / 10
Czech Republic	5 (25) / 15	0 / 5	10
Denmark	5 (25) / 15	0 / 10	0 / 10
Egypt	12	0 / 12	12
Estonia	5 (25) / 15	10	10
Finland ²	0 / 5 (20) / 15	5 / 10	0 / 5 / 10
France ³	0 / 5 (20 / 10) / 15	2 / 10	0 / 10
Georgia	5 (25) / 10	10	10

Double Taxation Treaties / Recipient residing in	Withholding tax rates (WHT)		
	Dividends, %	Interest, %	Royalties, %
Germany	5 (20) / 10	2 / 5	0 / 5
Greece	5 (25) / 10	0 / 10	10
Hungary	5 (25) / 15	10	5
Iceland	5 (25) / 15	10	10
India	10 (25) / 15	0 / 10	10
Indonesia	10 (20) / 15	0 / 10	10
Iran	10	10	10
Ireland	5 (25) / 15	0 / 5 / 10	5 / 10
Israel	5 (25) / 10 (10) / 15	5 / 10	10
Italy	5 (20) / 15	0 / 10	7
Japan	15	10	0 / 10
Jordan	10 (20) / 15	10	10
Kazakhstan	5 (25) / 15	10	10
Korea	5 (20) / 15	5	5
Kuwait	5	0	10
Kyrgyzstan	5 (50) / 15	10	10
Latvia	5 (25) / 15	10	10
Lebanon	5 (20) / 15	10	10
Libya	5 (25) / 15	10	10
Lithuania	5 (25) / 15	10	10
Luxemburg	5 (20) / 15	5 / 10	5 / 10
Macedonia	5 (25) / 15	10	10
Malaysia	15	15	10 / 15
Malta	5 (20) / 15	10	10
Mexico	5 (25) / 15	10	10
Moldova	5 (25) / 15	0 / 10	10
Mongolia	10	10	10
Montenegro	5 (25) / 10	0 / 10	10
Morocco	10	10	10
Netherlands ⁴	0 (50) / 5 (20) / 15 (5 (20) / 15 since 1 Jan 2022)	2 / 10 (0 / 5 since 1 Jan 2022)	0 / 10 (5 / 10 from 1 Jan 2022)
Norway	5 (25) / 15	0 / 10	5 / 10
Pakistan	10 (25) / 15	10	10
Poland	5 (25) / 15	10	10
Portugal	10 (25) / 15	0 / 10	10
Qatar	5 (10) / 10	5 / 10	5 / 10
Romania	10 (25) / 15	10	10 / 15
Russia	5 / 15	10	10
Saudi Arabia	5 (20) / 15	10	10
Serbia	5 (25) / 10	0 / 10	10
Singapore	5 (20) / 15	0/10	7.5

Double Taxation Treaties / Recipient residing in	Withholding tax rates (WHT)		
	Dividends, %	Interest, %	Royalties, %
Slovakia	10	10	10
Slovenia	5 (25) / 15	5	5 / 10
South Africa	5 (20) / 15	10	10
Spain	18	0	0 / 5
Sweden	0 / 5 (20) / 10	10	0 / 10
Switzerland	5 (10) / 15	0 / 5	5
Syria	10	10	18
Tajikistan	10	10	10
Thailand	10 (25) / 15	10 / 15	15
Turkey	10 (25) / 15	10	10
Turkmenistan	10	10	10
United Arab Emirates	5 / -	0 / 3	0 / 10
United Kingdom	5 (20) / 15	5	5
USA	5 (20) / 15	0	10
Uzbekistan	10	10	10
Vietnam	10	10	10

¹ if the beneficial owner holds at least 20% or the direct investment is EUR100,000 or more

² if the capital invested is no less than USD1,000,000 or its equivalent in Finnish Markkas (FIM) and the recipient holds at least 50% of the equity capital of the company

³ if the beneficial owner directly or indirectly holds at least 50% of the company's equity and the total investment in that company is no less than five million French Francs or the equivalent in Ukrainian currency (according to clarifications made by the Ukrainian tax authorities, five million French Francs should be equal to approximately EUR762,245 according to the historical French Franc / EUR exchange rate as of the date of the Franc's replacement by EUR)

⁴ if the beneficial owner holds at least 50% of the capital of the company paying dividends and provided that the investment amounts to at least USD300,000 or its equivalent in the national currency.

Appendix 2

About KPMG in Ukraine

KPMG is a global network of professional firms providing Audit, Tax, and Advisory services. We have 227,000 dedicated professionals working together to deliver value in 146 countries worldwide.

KPMG has been working in Ukraine since 1992 and our goal has always been to use KPMG's global intellectual capital combined with the experience of Ukrainian professionals to assist leading Ukrainian companies and KPMG's multinational clients to achieve their business aims. KPMG in Ukraine has its offices in Kyiv and Lviv, collectively employing over 500 people. KPMG provides a supportive environment that helps inspire our people to develop their careers and reach their professional goals.

We provide audit, tax, legal, and advisory services to major Ukrainian and global companies, as well as to a broad range of non-governmental organisations and financial institutions. We help our clients exploit new opportunities, improve performance, manage risk, and enhance value.

Our vision is simple: to turn knowledge into value for the benefit of our clients, people, and our capital markets.

Visit our corporate website to get to know more about:

- Services
- Industries
- Insights
- News
- Corporate Social Responsibility

Our Awards

- KPMG Law Ukraine is ranked in the first tier for Tax services by The Legal 500 EMEA 2021. KPMG's Private Client Practice is ranked as a Tier 2 Firm. Energy Practice, Dispute Resolution Practice, Commercial Practice, Corporate Practice and M&A Practice demonstrated stable results, ranking as Tier 3 firms.
- KPMG Law Ukraine has been recognised as a leader in Tax Law by Chambers Europe 2021.
- IFLR1000 2021 recommended KPMG Law Ukraine's Banking and Finance, and M&A practices; recognising KPMG Law Ukraine as one of the leading Ukrainian companies in these domains.
- KPMG in Ukraine has been recognised as being among the leaders of the World Tax 2022 rankings: in Tier 1 for Tax and Transfer Pricing and Tier 3 for the Tax controversy categories for Ukraine.
- KPMG Law Ukraine is highly ranked by the annual research publication 'Ukrainian Law Firms 2021: A Handbook for Foreign Clients'. KPMG Law Ukraine is traditionally recognised as being a market leader in Tax Advisory and Tax Dispute Resolution, and for having one of the most reputable Transfer Pricing practices. KPMG Law Ukraine is also highly ranked in the Corporate Law and M&A, Energy and Natural Resources, and Private Client practice areas.
- KPMG Law Ukraine was shortlisted for "Law Firm of the Year in Taxation" according to the Legal Awards 2021 organised by weekly Ukrainian newspaper Yuridicheskaya Praktika.
- KPMG Law Ukraine is one of the most prominent Ukrainian firms in transfer pricing according to the ITR EMEA Tax Awards 2021.
- According to the national rating LIGA ZAKON AWARDS 2020, KPMG Law Ukraine won in the Tax controversy nomination.
- KPMG Law Ukraine has been recognised as being among the 50 Leading Legal Companies in Ukraine 2020. This ranking is conducted by Yuridicheskaya Praktika publishing house.

Industries

Industry focus is fundamental to KPMG's approach. We invest continuously to build our knowledge of the industries we serve.

To provide higher quality services to our clients, we have developed specialised, industry-specific practice groups: Consumer Markets, Financial Services, Agribusiness, Energy & Natural Resources, Healthcare & Pharmaceuticals, Infrastructure, Technology, Automotive, Transport & Infrastructure.



Market Entry support

Success when entering any foreign market depends on making a thorough analysis of the local market, preparing an appropriate development strategy, and a smooth business set-up process that meets the requirements of constantly changing legislation.

KPMG can provide turnkey support for starting your business and maintaining day-to-day operations in Ukraine.



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Tax and Legal

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- Customs Dispute Resolution
- Global Mobility Services
- Transfer Pricing Services
- Customs and International Trade

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- White Collar Crimes
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- Valuation
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- Restructuring



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