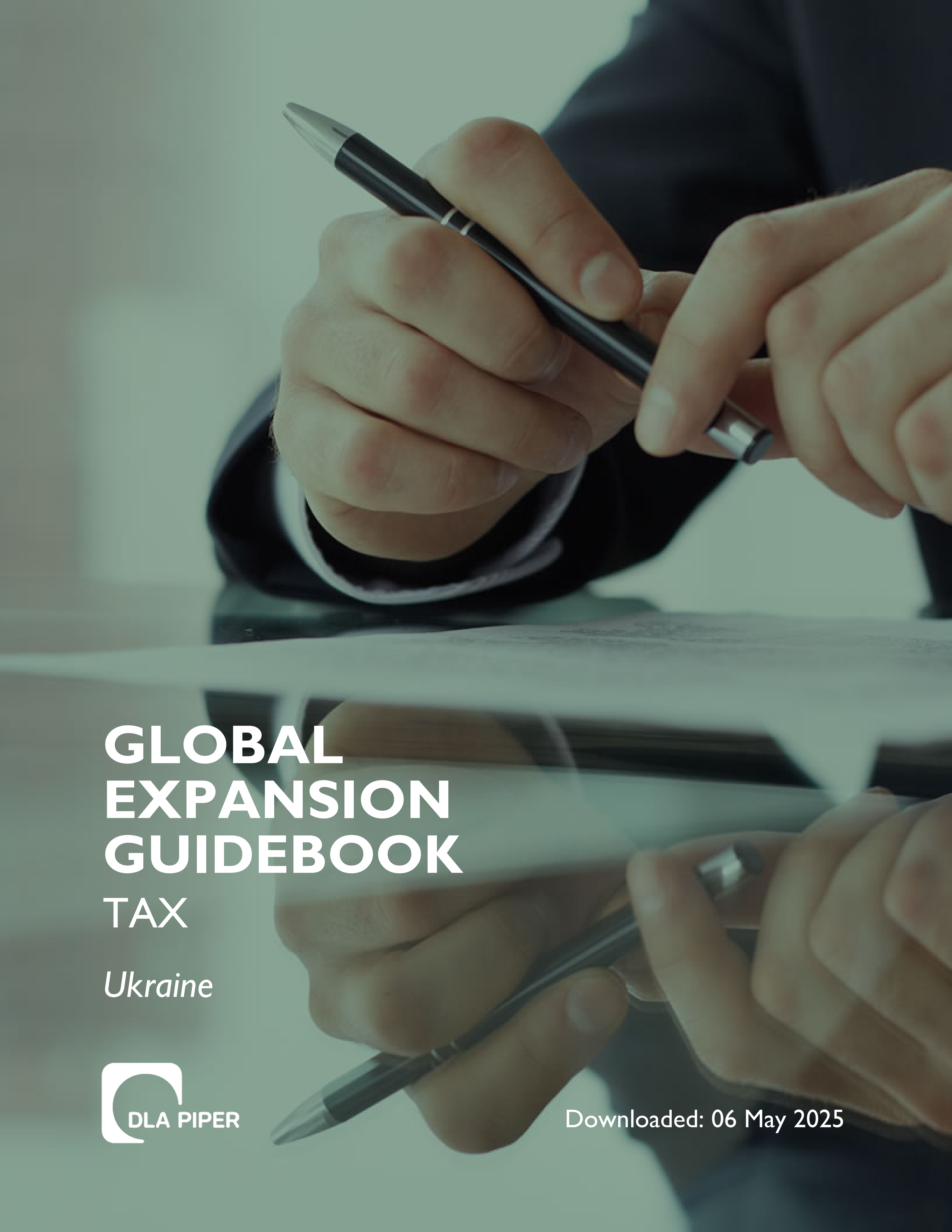

GLOBAL EXPANSION GUIDEBOOK

TAX

Ukraine

DLA PIPER

INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Tax.*

GLOBAL EXPANSION GUIDEBOOK SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics companies need to know.

The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, intellectual property and technology, global equity and tax laws in key jurisdictions around the world.

TAX

Multinational companies continue to expand globally at an ever faster pace. Successful expansion depends, in part, on strategic and effective tax planning and compliance. This guide, brought to you by DLA Piper's Tax group summarizes the key features of tax laws in 41 popular jurisdictions.

This guide addresses common tax questions, by jurisdiction, including:

- Taxation of resident companies and non-resident companies
- Availability of tax holidays, rulings, and favorable tax regimes
- Ability to use losses to offset income
- Anti-deferral (ie CFC) rules
- Withholding taxes
- Employment tax issues

With more than 300 tax lawyers and economists in offices throughout the Americas, Europe and Asia Pacific, DLA Piper's global tax advisory services help multinational companies address the complex challenges of international commerce and business operations as well as manage and resolve tax audits. Our global tax group also assists clients in structuring a wide range of transactions, from private equity deals to corporate acquisitions and disposals. We provide these tax services across our global platform, while at the same time offering clients the benefits of the attorney-client and work-product privileges.

The information in this guide is an accessible, high-level summary of the tax laws in each jurisdiction. This is not a substitute for legal or tax advice. If you have specific questions or require detailed advice, we encourage you to contact one of the attorneys listed in the contributors section of this guide.

We hope that you find this guide valuable and we welcome your feedback.

This publication is provided to you as a courtesy, and it does not establish a client relationship between DLA Piper and you, or any other person or entity that receives it.

This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

DLA Piper and any contributing law firms accept no liability for errors or omissions appearing in this publication and, in addition, DLA Piper accepts no liability at all for the content provided by the other contributing law firms. Please note that tax law is dynamic, and the legal regime in the countries surveyed could change.

UKRAINE

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RESIDENCE AND BASIS FOR TAXATION

All companies incorporated in Ukraine are considered residents for corporate income tax purposes (ie, the incorporation principle).

Foreign companies as well as their representative offices registered in Ukraine are treated as nonresidents for corporate income tax purposes.

Domestic

Residents are taxed on their worldwide income. Residents may also use some simplified tax regimes envisaging lower tax rates.

Foreign

Nonresidents are taxed on Ukraine-sourced income. Permanent establishments of nonresidents are taxed in part on profits attributable to their activities in Ukraine under local rules.

Double tax treaties may reduce or eliminate taxation provided relevant conditions envisaged therein are met.

TAXABLE INCOME

Domestic

Taxable income of a resident is defined as profit calculated under local GAAP or IFRS, whichever is applicable, subject to adjustments envisaged in the Tax Code.

Generally, all expenses supported by primary source documents may be deducted upon the computing of taxable income.

Foreign

Ukraine-sourced income of a nonresident generally consists of passive income paid by Ukrainian residents.

Where a nonresident has permanent establishment in Ukraine, profit attributable to such permanent establishment is calculated under one of the following methods:

- Under the same rules applicable to Ukrainian residents (ie, the direct method)
- As total revenues of permanent establishment multiplied by 30 percent (ie, the indirect or deemed profitability method)
- Under a separate balance sheet of nonresident approved by local Ukrainian tax authority (ie, the separate balance sheet method)

TAX RATES

Corporate income tax rate is 18 percent. Lower tax rates are applicable to income from insurance and gambling activities.

TAX COMPLIANCE

Quarterly tax returns must be submitted no later than the 40th calendar day following the end of reporting quarter. Yearly tax returns must be submitted no later than the 60th day following the end of reporting year.

ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

A 0-percent tax rate is applicable to small companies declaring gross annual income below UAH3 million and that pays wages to each employee which exceeds 2 minimal statutory wages, under the following conditions:

- A company is newly established
- Such company declares gross annual income below UAH3 million and has 5 to 20 employees on average for 3 consecutive years

Tax rulings

Tax rulings (ie, tax consultations) are generally of 2 types:

- Generalized
- Individual

Generalized tax consultations are issued by the Ministry of Finance and provide guidance on most problematic issues.

Taxpayers may also request an individual tax ruling applicable to their individual case.

Taxpayers who act in accordance with a generalized and/or individual tax ruling may not be imposed with sanctions. Tax consultations issued by tax authorities may be contested by a taxpayer in the court.

Tax incentives

There are tax incentives envisaged for certain businesses (eg, for companies established by organizations of people with disabilities and companies financed via international technical aid).

CONSOLIDATION

No consolidated tax returns are envisaged. Consolidated financial reporting is obligatory for certain groups.

PARTICIPATION EXEMPTION

Domestic dividends received from payers of Ukrainian corporate profit tax are exempt from taxation. Dividends received from nonresidents are included in the taxable income of Ukrainian companies.

CAPITAL GAIN

Capital gain is treated as a part of taxable income and is subject to standard 18-percent corporate income tax rate. The Tax Code provides for special adjustment of taxable profit in respect of capital gain.

DISTRIBUTIONS

Upon distribution of a dividend, a company may be required to pay advance corporate income tax on the dividend (ACIT) at a 18-percent tax rate. ACIT is paid only if certain conditions are met and may further be credited against corporate income tax due for future periods.

LOSS UTILIZATION

Declared losses may be carried forward without limitations.

TAX-FREE REORGANIZATIONS

A reorganization of a Ukrainian resident company is generally tax neutral. Tax attributes should also be generally transferable to successor entities within reorganizations.

ANTI-DEFERRAL RULES

CFC

Not applicable for this jurisdiction.

PFIC

Not applicable for this jurisdiction.

FOREIGN TAX CREDITS

Upon availability of a valid and legalized certificate confirming payment of taxes abroad, such taxes may be credited against taxes due in Ukraine; however, the credit may not exceed the amount of domestic tax due.

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Residents and nonresidents pay property tax on real property they own and on leased land. Reporting and payment of property tax is separate for land and real estate.

Property tax on land is set by local authorities depending on the type of land and its monetary evaluation. Tax on leased land is paid in the form of rent.

Property tax on real estate is established by local authorities as a fixed rate per 1 square meter of real estate.

TRANSFER PRICING

Ukrainian rules are based on OECD guidelines. Arm's-length principles are generally applied under Ukrainian tax law to qualifying controlled transactions.

The following transactions may be qualified as controlled:

- With related nonresidents
- With nonresident commission agents
- With nonresidents registered in low-tax jurisdictions (the list of such jurisdictions is approved by the government)
- With nonresidents of certain legal organizational forms (eg, pass-through entities such as a UK LLP or Danish KS) which do not pay corporate income tax or are not tax residents in the country of incorporation (the list of legal forms is approved by the government)

WITHHOLDING TAX

Dividends, royalties, interest, rents, etc

Dividends, royalties, interest and rents paid to a nonresident are subject to standard 15-percent withholding tax unless relief is granted by relevant double tax treaty. Other rates are envisaged for certain types of income such as insurance payments or freight.

Service fees

Generally, service fees payable to nonresidents are exempt from withholding tax. Exceptions are:

- Engineering fees, which are subject to a 15-percent withholding tax (avoided under most double tax treaties in force for Ukraine)
- Advertising fees, which are subject to a 20-percent withholding tax paid on top of income and at the expense of Ukrainian company (and which is not relieved under double tax treaties)

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

State duty and pension duty are applicable to certain transactions such as the sale of real estate, vehicles and some other transactions.

EMPLOYMENT TAXES

Employers act as tax agents in relation to their employees and pay the following taxes:

- 18 percent of personal income tax is withheld from paid income
- 1.5 percent of military duty is withheld from paid income
- 22 percent of unified social contribution is paid on top of income at the cost of employer (subject to minimum and maximum caps)

OTHER TAX CONSIDERATIONS

A simplified taxation system is available for Ukrainian companies upon certain conditions and allows for payment of a single tax at the rate of 5 percent applied on turnover or 3 percent (if the company is a VAT payer).

KEY CONTACTS

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