

NEWSLETTER

MONTHLY EDITION | UKRAINE

1 JUNE 2017

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CORPORATE LAW

Distribution of dividends for 2016

According to the Resolution of the National Bank of Ukraine No. 33 "On Amendments to Several Legislative Acts of the National Bank of Ukraine" dated 13 April 2017, in line with further relaxation of foreign exchange regulations, the NBU greenlighted the distribution of dividends for 2016 and simplified the procedure for distribution thereof.

Thus, the NBU allowed the transfer of foreign currency to foreign investors to repatriate dividends for corporate rights / shares for 2014-2016 in the amount of up to USD 5,000,000 within one calendar month.

In addition, pursuant to the Law of Ukraine "On Amendments to the Tax Code concerning the Improvement of the Investment Climate in Ukraine" of 21 December 2016, since 1 January 2017, the dividends paid by the non-resident companies, institutions for joint investment and companies that are not subject to corporate income tax, shall be taxed with the income tax imposed on the income of natural persons at the rate of 9%.

It should be noted that the dividends are also subject to a 1.5% military tax.

DOING BUSINESS

Ratification of the Free Trade Agreement with Canada

On 14 March 2017, the Ukrainian Parliament ratified the Free Trade Agreement with Canada.

The document lays the legal basis for the free trade regime between Ukraine and Canada, enabling the Ukrainian business to take advantage of the opportunities of the customs free access to the new market.

According to the agreement, Canada undertook to cancel the customs fee for 98% of the Ukrainian import, and Ukraine – for 86% on the import from Canada. The rest of 12% of the market shall be opened gradually, within a seven-year transition period. Import customs duties on agricultural products will be cancelled (except for 108 rate cards to be accessed within quotas), as well as on all industrial goods (except for cars with a seven-year transition period of cancelling import customs duties).

The agreement also involves providing Ukraine with technical assistance, aimed at improving Ukrainian goods access to the market of Canada and contributing to the agricultural complex development. In the long-term outlook, the agreement provides for an increase in high tech equipment and manufactured goods deliveries.

Alongside raising the trade turnover between the countries, the Agreement is expected to contribute to the foreign investment influx to Ukraine, creating new jobs, positively affecting the growth of the GDP of Ukraine.

Current foreign exchange regulations

On 4 April 2017, the National Bank of Ukraine further relaxed the foreign exchange regulations by its Resolution No. 30 "On Amendments to the Regulation of the Board of the National Bank of Ukraine of 13 December 2016".

Thus, the National Bank reduced the requirement for mandatory sale of the foreign currency proceeds received by legal entities from 65% to 50%. The restrictions on the sale of cash in foreign currency to natural persons have also been amended. Starting from 5 April 2017, the maximum amount of cash in foreign currency that may be purchased by natural persons was increased to UAH 150,000 per day.

In addition, according to the Resolution of the NBU Board No. 41 "On Amendments to Several Legislative Acts of the National Bank of Ukraine" dated 25 May 2017, the National Bank lifted the temporary provision which provided for shortening of the term for settlements under export and import contracts to 120 days. Now, the maximum term for payments is set to 180 days.

It should be noted that the NBU cancelled the prohibition to buy and transfer foreign currency abroad with the purpose of repatriating funds received by foreign investors from the sale of corporate rights, certain types of securities, from reducing authorized capital of legal entities, from the withdrawing of foreign investors from economic entities. Moreover, the NBU also lifted the prohibition of early repayment of loans granted by non-residents where undertakings of international financial institutions had been provided as security for payments in these transactions (i.e., bank guarantees, standby letters of credit, through authorized banks and/or foreign banks).

However, the following restrictions are still in force:

- prohibition to transfer foreign currency abroad in the amount exceeding UAH 15,000 per day and UAH 150,000 per month (until 12 June 2017);
- prohibition to settle payments with natural persons in the amount exceeding UAH 50,000 per day;
- maximum amount of cash in foreign currency that may be withdrawn from bank accounts is limited to UAH 250,000 per day;
- one day term of UAH reservation for purchase of foreign currency on the interbank currency market;
- restriction on mutual settlement of claims under export contracts.

It should also be mentioned that the NBU made the Resolution "On settlement of the situation on monetary and foreign exchange markets of Ukraine" permanent. Thus, the effective period shall not be set for the requirement on mandatory sale of foreign currency proceeds, which will be valid until June 15, 2017, as well as for the restrictions set by the Law of Ukraine "On the procedure for settlement of payments in foreign currency".

Under to the resolution of the NBU of 25 May 2017, the key policy rate was decreased to 12.5%.

LABOUR LAW

Changes in foreigners' employment procedure in Ukraine

On 3 February 2017, the changes to the Procedure of issuing, prolongation and annulling the work permit for foreigners and stateless persons in Ukraine came into force.

According to the changes, employers are entitled to employ a foreign expert in several management positions (concurrently), which is important for enterprises, founded with the foreign investment involvement.

An employment agreement with a foreign employee shall be concluded within 90 days after the foreign employee has obtained a work permit in Ukraine. Thus, the term for submitting a copy of the employment agreement, concluded between an employer and a foreigner, has been prolonged from 7 business days to 10 calendar days.

A regulation on the mandatory return of the documents submitted for the purpose of the work permit prolongation to the employer (provided the regional employment centre has refused to issue a work permit) has been introduced.

In addition, now the employment centre registers and issues a work permit not later than 3 business days from the date of credit of funds for the work permit into the account of the State insurance fund of Ukraine.

The terms of submitting documents by an employer for the purpose of prolonging the validity term of the permit for employment have also been specified. The documents should be submitted not later than 20 and not earlier than 40 calendar days before the permit expiration.

Also a procedure and terms of reviewing the regional employment centres decisions has been introduced. Now, a decision about the refusal to issue a permit, prolong its term and cancel the permit can be reviewed at the State Employment Service not later than 10 calendar days following the date of its receipt by the employer or in court.

Employers will be paid compensation for mobilized employees

On 12 April 2017, the Cabinet of Ministers of Ukraine made amendments to Ruling № 105, dated back to 4 March 2015 on the procedure of paying compensation to enterprises, institutions and organizations within the average earning of employees, called up for military service.

Under the decision, the employers, not having received full compensation from the state budget in 2015, may receive it at the expense of 2017 state budget.

Thus, to receive the above mentioned compensation an enterprise shall submit to the social welfare authority reports of actual expenditures on compensation payment from the employees' average earning budget, agreed by the military registration and enlistment office or a military unit (the reports, submitted in 2015, taken into

consideration), as well as the accumulated report of the actual expenditures on compensation payment from the employees' average earning budget.

It is worth mentioning that according to article 119 of the Labour Code of Ukraine, employees, called up for military service during mobilization, for a special period, retain their jobs, positions and their average wages at the enterprise, institution or organization they were working for at the mobilization time, with the wages being compensated from the budget, regardless of the enterprise, institution, organization's subjection and form of ownership.

TAX LAW

Ukrainian Parliament ratifies Double Taxation Convention with Malta

On 13 April 2017, the Ukrainian Parliament adopted the Law of Ukraine "On the Ratification of the Convention between the Government of Ukraine and the Government of the Republic of Malta for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Protocol thereto", which was signed by the President of Ukraine and came into force on 15 May 2017.

Now businesses of both countries have received assurances that the income derived from business in the other country as well as from other sources in that country in the form of dividends, interest and royalties is not subject to double taxation.

The Convention provides for the following tax rates on dividends, interest and royalties:

- dividends – standard rate of 15%;
- dividends received by a company which directly owns an interest of at least 20% in the company paying the dividends – 5%;
- interest and royalties – 10%.

Moreover, the Convention and Protocol are aimed at preventing possible tax evasion and will ensure that entrepreneurs are taxed in the both countries under the same conditions.

DLF PRACTICE

DLF attorneys-at-law co-organized the Ukrainian Middle East Business Forum in Kuwait

April 25-26, DLF attorneys-at-law and the Ukrainian Middle East Concord Company co-organized the Ukrainian Middle East Business Forum in Kuwait City, Kuwait. The event was held under the patronage of the Ministry of Commerce and Industry of the

State of Kuwait and the Embassy of Ukraine to the State of Kuwait with the aim of establishing strong business connections between the Gulf Countries and Ukraine, facilitating investments and export of goods.

This was the first business event of such a scope to bring together Ukrainian exporters and investors from the Gulf Countries. Welcoming around 200 business representatives from the Saudi Arabia, the UAE, Kuwait, Qatar, Bahrain, and Oman, the forum testified the great interest of the region investors towards Ukraine.

[Read more about the Ukrainian Middle East Business Forum in Kuwait](#)

DLF PUBLICATIONS

Ukraine: Investment Guide



The Investment Guide focuses on the general regulations in the most commonly referred areas of the Ukrainian law, including foreign investment protection, corporate law, M&A, customs regulations, labour law, real estate, taxes, IP protection, dispute resolution, etc.

[View Ukraine: Investment Guide \(pdf\)](#)

Arabic-English Issue of Ukraine: Investment Guide



The Arabic-English issue focuses on the general regulations in the most commonly referred areas of the Ukrainian law, including foreign investment protection, corporate law, M&A, customs regulations, labour law, immigration issues, real estate, taxes, etc.

[View the Arabic-English Issue of Ukraine: Investment Guide \(pdf\)](#)

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