

Royalty Payment via an agent: withholding tax on non-resident income from Ukrainian sources

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The Ministry of Finance of Ukraine (hereinafter – the "Finance Ministry") by Order No. 132 dated 4 March 2026 approved a generalised tax consultation regarding the withholding of income tax of non-residents from sources originating in Ukraine.

This document is of significant importance for businesses, as it establishes a unified official position regarding the application of tax legislation governing the taxation of payments in favour of non-residents.

The document addresses a fairly common business scenario where a Ukrainian company pays royalties to a non-resident for the use of intellectual property via an agent in Ukraine rather than directly.

1. Essence of the request

Under licence agreements, royalties are often payable to a non-resident (licensor), while funds are transferred to the account of an authorised agent – a resident of Ukraine, who subsequently accumulates and remits them to the non-resident.

This model has been clarified by the Finance Ministry.

2. Qualification of payments

The Finance Ministry clearly states that transferring funds to an agent does not change the substance of the transaction.

In practice, this means that a payment through an agent is equated to a direct payment of income to a non-resident. At the same time, the agent is not the recipient of income, performs exclusively an intermediary function and acts in the interests of the non-resident under a relevant agreement.

3. Who withholds the tax

The key conclusion of the consultation is that the obligation to withhold tax rests with the resident payer (licensee). It is this party that acts as the tax agent, regardless of the fact that funds are transferred not directly to the non-resident, but to its representative.

4. Arising of tax liability

The tax must be withheld when the royalties are transferred to the agent's account. The tax obligation therefore arises at the stage of the initial payment, without waiting for further movement of funds.

The basic tax rate is 15%, unless otherwise provided by an international treaty on the avoidance of double taxation. When applying an international treaty, the taxpayer must comply with the requirements of Article 103 of the Tax Code of Ukraine regarding confirmation of the non-resident's residency.

The Finance Ministry separately emphasises that when the agent subsequently transfers funds to the non-resident, no repeated taxation is applied, as the tax obligations have already been fulfilled at the time of income payment.

5. Reporting

The Ukrainian payer must reflect the amount of the non-resident's income and the withheld tax in the appendix to the corporate income tax return.

6. Practical significance

The consultation effectively establishes an important approach:

- the involvement of an agent does not affect the tax nature of the payment;
- the tax obligation remains with the payer;
- the moment of taxation is the first payment in the chain.

7. Conclusion

The position of the Finance Ministry is unequivocal: if the income belongs to a non-resident, the tax must be withheld regardless of who the payment is made through.

For businesses, this means the need to carefully structure payments and not to consider agency mechanisms as a means of avoiding tax obligations.