

TAX HANDBOOK INVESTING IN UKRAINE 2019

The purpose of this handbook is to provide basic legal information for investors seeking to conduct business in Ukraine. This is the fourth edition of the handbook first published in 2013.

The handbook is based on general principles of Ukrainian law and does not represent any kind of legal opinion. Should you require legal advice on a specific issue, please contact Wolf Theiss directly. The contents of this handbook were prepared by Wolf Theiss on the basis of information available and accurate as of 1 January 2019. The reader should note that the information contained herein may change on short notice. Wolf Theiss disclaims any responsibility for the completeness and accuracy of the content of this handbook and for any subsequent changes. This handbook was prepared by Wolf Theiss and is protected by copyright. Material appearing herein may only be reproduced or translated with an appropriate credit. For further information, please contact:

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WHY UKRAINE

Ukraine is one of Europe's largest countries having numerous competitive opportunities for businesses and investors. With quite a number of developed and diversified industries, large domestic market and significant export potential, Ukraine is an attractive place for foreign investment.

Ukraine is rich in natural resources. It has over 300,000 square kilometres of arable land, the largest in Europe. The largest manganese ore fields, the second largest mercury deposits and the third largest anthracite coal reserves in the world are located in Ukraine. Ukraine also has abundant mineral resources including iron, nickel, copper, zinc, titanium and uranium. Ukraine's important energy resources consist of coal, hydroelectricity and nuclear fuel resources. Besides, it has significant carbon reserves and great potential in alternative energy sector.

Ukraine's strategic location also makes it a key energy transit country for oil and natural gas (e.g. over 40,000 kilometres of oil and gas pipelines) from Russia, Kazakhstan and Turkmenistan to Central and Western Europe through its Black Sea access. There is also a developed support system, including compressors, pumping stations and oil and gas storage facilities.

Ukraine has universal literacy and high general school enrolment: its combined gross enrolment ratio is higher than in some OECD countries.

Ukraine's IT industry is rapidly growing and Ukraine has become one of the most popular outsourcing centres for Europe and the US.

With the aim of improving business environment and making the system of taxation more business-friendly and less administratively burdensome, as well as to correct the drawbacks and existing gaps, Ukrainian tax law is being further amended.

Ukraine has chosen a civilized and peaceful way of addressing the annexation of Crimea. Further, the country is being largely supported by the international community to resolve the military conflict in the eastern parts. Although these conflicts have strong negative effect on the country's investment and business climate, the government is making every effort not only to resolve them, but also to reform the country and particularly to fight corruption.

Major Economic / Political Indicators

Total population	42.221 (Q3 2018)
Employed population	16.408 million (Q3 2018)
Capital	Kyiv
Main exports	Agricultural and animal-breeding products, non-precious metals, machinery, mineral products, chemical industry products, timber, light industry products
Q3 2018 Real GDP change compared to Q3 2017 (%)	+2.8
Q3 2018 FDI (share capital and debt instruments) growth compared to 2017 (%)	+0.83
EU Countries share in FDI (%)	77.9 (Q3 2018)
Memberships	WTO
World Bank Ease of Doing Business Index Rank	71 (2018 shows a 5 point ▲ in rank from 76 in 2017)
Transparency International Corruption Perceptions Index (2017)	130 (in 2014 it was 142)

Sources: World Bank Group; Transparency International, State Statistics Committee of Ukraine

Key Industry and Investment Sectors

The OECD Ukraine Sector Competitiveness Strategy report¹ reviewed three key sectors designated by the Ukrainian government as having significant economic potential:

- Agribusiness (special focus on grain and dairy sectors)
- Alternative energy sources (with a focus on production of energy from biomass)
- Machinery and transport equipment manufacturing (with a focus on civilian aircraft manufacturing)

¹ The OECD Eurasia Programme was launched in 2008 to support Eurasian economies in developing more vibrant and competitive markets. The Programme's approach leverages OECD instruments and tools in order to assess where and how to enhance the competitiveness of countries, sectors and regions to generate sustainable growth. See www.oecd.org/globalrelations/eurasia.htm

Among the challenges Ukraine is facing today is the need for technology promoting energy efficiency in order to eliminate or reduce its exposure to rising energy costs in highly energy intensive industries.

The relying of its commoditized sectors on external demand makes Ukraine vulnerable to international pricing fluctuations in industries such as steel and resources.

EU Association and International Free Trade Agreements

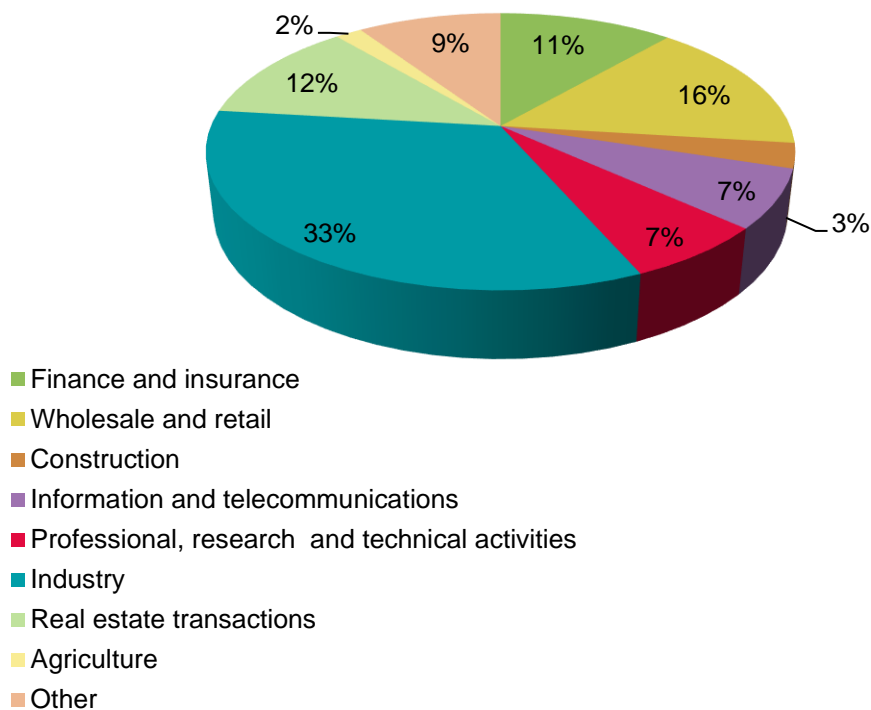
On 27 June 2014 Ukraine signed an Association Agreement with the European Union, which became effective in full on 1 September 2017. The Agreement provides for approximation of policies and legislation of Ukraine with the European Union and Ukraine's commitment to take determined measures towards convergence of policies, legislation, and regulations in the key areas of the reforms, such as the constitutional reform, election, judicial reforms, prevention and combating corruption, public administration reform, deregulation, public procurement, taxation, external audit and energy sector reform. In terms of the taxation reform, Ukraine shall undertake measures aimed at improving the efficiency of tax administration, including handling VAT refunds.

Starting 1 January 2016 the regime of free trade area between Ukraine and the European Union became effective.

While being a member of the World Trade Organization (WTO) and enjoying the WTO international trade regime, Ukraine has been developing bilateral free trade agreements (FTAs) with various countries. Since its independence, Ukraine has concluded 16 FTAs covering 45 countries. The recently concluded Canada-Ukraine Free Trade Agreement entered into force on 1 August 2017. Currently, Ukrainian Government is in the active negotiation phase for the FTAs with Turkey, Israel and Serbia.

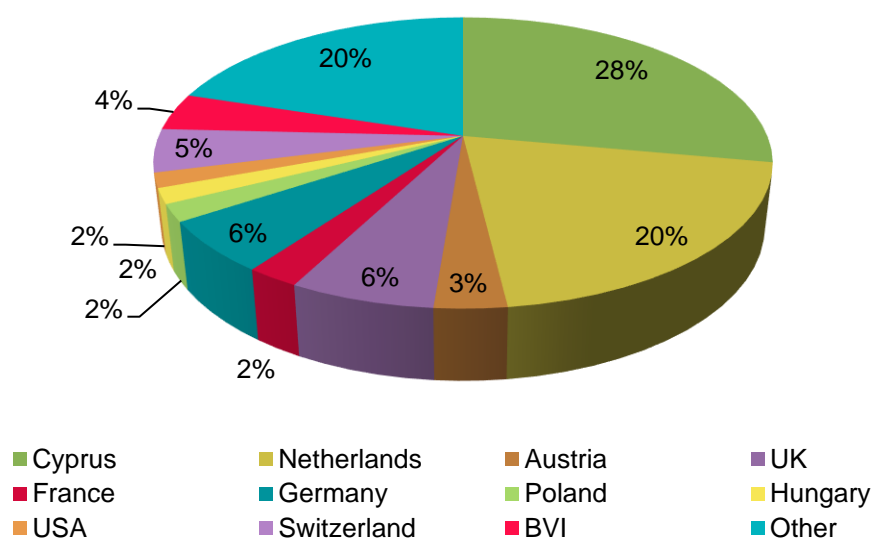
Foreign Direct Investment (share capital) into Ukraine

FDI by Industry Sector, 2018 (as of 1 October)



Source: State Statistics Committee of Ukraine

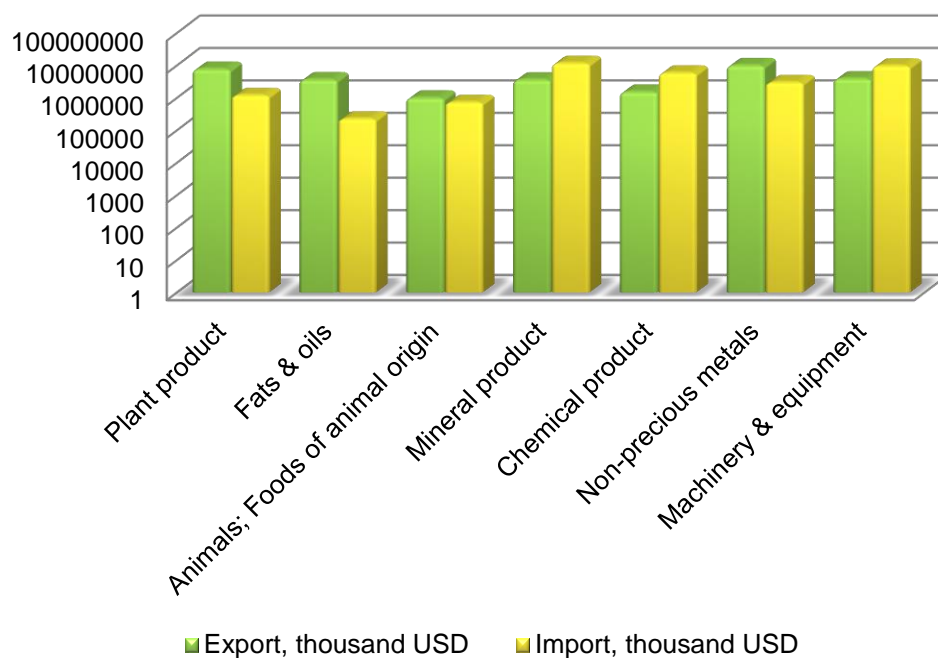
FDI Inflow by Country, 2018 (as of 1 October)



Source: State Statistics Committee of Ukraine

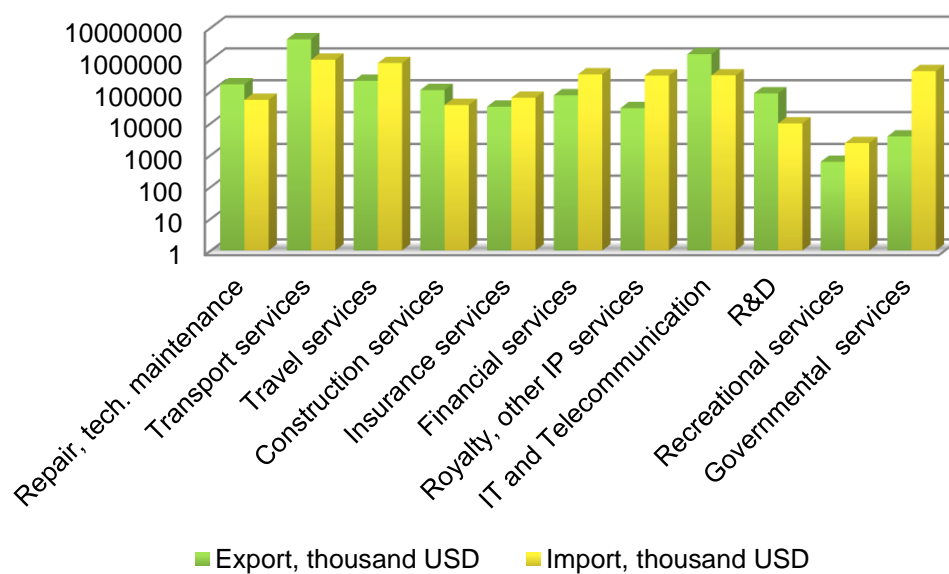
Cross-border Trading

Commodities, 2018 (as of 1 October)



Source: State Statistics Committee Of Ukraine

Services, 2018 (as of 1 October)



Source: State Statistics Committee Of Ukraine

TAXATION

Main Features

Corporate profit tax (CPT)	<p>Standard rate: 18%. Special tax rates exist for insurance, betting and lottery activities.</p> <p>Taxable profit is determined as financial result before tax calculated under the Ukrainian accounting standards or International Financial Reporting Standards (IFRS), subject to applicable adjustments. If a taxpayer's annual income does not exceed UAH 20 million, the taxpayer may opt not to make any adjustments to profit / loss before tax for CPT purposes.</p>
Capital gains	<p>No special regime exists. Capital gains (losses) are treated as ordinary business income (losses).</p> <p>Special tax rules apply to capital gains derived from securities transactions. In particular, financial results from such transactions are determined separately from other types of taxpayer's income.</p> <p>For non-residents, the tax on capital gains is levied in the form of final withholding on proceeds of disposal.</p>
Deductibility of expenses	<p>Expenses related to the company's business activity may in principle be deducted. Deductibility of certain expenses is limited.</p> <p>Deductibility of interest is limited for taxpayers whose borrowings from non-resident related parties exceed 3.5 debt-to-equity ratio (i.e. when the amount of such borrowings exceeds the borrower's equity by 3.5 times) (for financial companies and those providing exclusively financial lease services 10 debt-to-equity ratio applies). The deductibility of interest accrued for the use of such type of borrowings in the amount that exceeds 50% of EBITDA is limited to 5% per reporting year and subsequent years until the full amount is deducted.</p> <p>Also, a draft Law of Ukraine has been developed aimed, among other things, to amend the Tax Code of Ukraine in order to implement <i>inter alia</i> BEPS Action 4 (interest deductions and other financial payments).</p> <p>Generally, the deductibility of royalty payments to foreign entities is limited to 4% of the taxpayer's income for the previous year plus the taxpayer's own royalty income. This rule, however, does not apply if the taxpayer proves the arm's length level of royalties (in this case the transaction may either be controlled or non-controlled for</p>

	<p>transfer pricing purposes). In certain cases the deductibility of royalties (including payments made at arm's length) is completely limited, e.g. if (i) the rights to the underlying intellectual property originated in Ukraine, or (ii) the royalties are not subject to tax in the country the recipient's residency.</p> <p>For goods, assets and services purchased from certain entities, including non-residents located in low-tax jurisdictions (e.g. where corporate profit tax is by 5% or more lower than in Ukraine; the list of such countries is approved by the Cabinet of Ministers of Ukraine), taxpayers should increase their pre-tax financial result by 30% of the value of such goods, assets or services. This restriction does not apply if the taxpayer proves the arm's length level of the price (in this case the transaction may either be controlled or non-controlled for transfer pricing purposes).</p>
Carryforward of losses	<p>Losses may in principle be carried forward indefinitely. There is no provision for group taxation or consolidation.</p>
Transfer pricing (TP) rules	<p>TP rules apply for CPT purposes (VAT is outside TP control) to the controlled transactions. Transactions are recognized as controlled if they are entered into by a taxpayer with:</p> <ul style="list-style-type: none"> • a non-resident related party (including through independent intermediaries with no substantial functions); • an unrelated non-resident person acting as intermediary (agent) in the transactions on the sale or purchase of goods / services; • entities registered in or being residents of low-tax jurisdictions (the list of such jurisdictions is approved by the Cabinet of Ministers of Ukraine); or • non-residents in specified corporate forms which do not pay corporate tax or are not tax residents of the country where they are registered (the list of relevant corporate forms is approved by the Cabinet of Ministers of Ukraine). <p>A transaction is also recognized as controlled if it is entered into by the non-resident and its permanent establishment in Ukraine.</p> <p>The referred transactions (except for between the non-resident and its permanent establishment in Ukraine) are treated as controlled if: (i) the annual taxpayer's revenue exceeds UAH 150 million for the corresponding tax year,</p>

	<p>and (ii) the volume of such transactions of the taxpayer with each counterparty exceeds UAH 10 million for the corresponding tax year.</p> <p>A taxpayer taking part in the controlled transaction shall determine its taxable income pursuant to the arm's-length principle. The TP methods and documentation requirements closely follows the respective OECD guidelines.</p> <p>The deadline for submission of the TP report is 1 October of the year following the reporting year.</p> <p>Penalties for violation of TP rules are quite significant. Failure to file the TP report shall be subject to a fine of 300 living wages (UAH 528,600 for 2018 and UAH 576,300 for 2019 reporting years, approx. USD 16,200 and USD 21,000 respectively); late filing of the TP report – 1 living wage per each day of delay (UAH 1,762 for 2018 and UAH 1,921 for 2019 reporting years, approx. USD 64 and USD 70 respectively) (but not more than 300 living wages). Non-disclosure of any controlled transaction in the TP report results in a penalty of 1% of the amount of undisclosed transactions (but not more than 300 living wages for all undisclosed transactions); late disclosure of the controlled transaction in the TP report – 1 living wage per each day of delay (but not more than 300 living wages).</p>
Advanced CPT	<p>Distribution of dividends shall be subject to advanced CPT (at the standard 18% CPT rate) payable on top of dividends by a distributing legal entity (there are special rules for the basis of calculation of the advanced CPT).</p> <p>Exemptions are available, <i>inter alia</i>, for dividends payable to individuals, to shareholders in the amount of dividends received by the paying company from its subsidiaries. Advanced CPT paid at dividend distribution may be credited against CPT liabilities of the distributing entity and may be carried forward.</p> <p>Advanced CPT is an integral part of CPT and cannot be considered as a separate tax or the Ukrainian withholding tax. All dividends to foreign shareholders are subject to Ukrainian withholding tax, which may be reduced or eliminated based on the applicable double tax treaty.</p>
Domestic Anti-Avoidance Rules	<p>Ukraine has not enacted a general statutory anti-avoidance rule, but the Ukrainian tax authorities and courts do apply a "substance over form" approach to tax planning to disregard transactions that do not have real substance and nature and are aimed at</p>

	<p>avoidance/reduction of taxation.</p> <p>Ukraine also applies the beneficial owner concept as relevant to determine whether a non-resident company receiving Ukrainian-source income (including dividends, royalties and interest) may benefit from a double tax treaty and whether a Ukrainian resident making certain designated payments to a foreign party may deduct such payments for CPT purposes. The non-resident company must be qualified as a "beneficial (actual) recipient (owner) of the income". Beneficial owners include recipients having a formal right to receive the income. An entity or an individual acting as an agent, a nominal bearer or an intermediary with regard to income is not considered to be a beneficial owner. The concept of beneficial ownership is being developed by the tax authorities and the courts. In particular, the authorities are against the literal interpretation of the term "beneficial owner" and they determined that the beneficial owner should be understood not only as a person legally entitled to income but also as a person enjoying the economic entitlement to such income. It was emphasized that the preferential withholding tax rates should not be available for companies acting merely as conduit ones.</p>
Controlled foreign corporation legislation	<p>While presently there is no controlled foreign corporation legislation, this situation may change in the future. A draft Law of Ukraine has been developed aimed, among other things, to amend the Tax Code of Ukraine in order to implement <i>inter alia</i> BEPS Action 3 (taxation of controlled foreign corporations).</p>
Value added tax (VAT)	<p>Tax rates:</p> <ul style="list-style-type: none"> • 20% - standard tax rate (almost all domestic supplies and imports); • 7% - import / supply within Ukraine of medicines and medical equipment; • 0% - export of goods, export-related services, certain other services (e.g. consultancy, IT, certain telecommunication services, etc.). <p>The VAT system provides input credits for the VAT paid. Various VAT incentives are available.</p>
Withholding tax (WHT)	<p>Standard rate: 15% (applies to most types of passive Ukrainian-source income of a non-resident company).</p> <p>Special WHT rates (0 - 18%) apply to certain Ukrainian-source income. 20% surtax applies to payments for advertisement services.</p>

Simplified tax regime (unified tax)	<p>Subject to certain requirements (e.g. types of activities, level of revenues, number of employees), legal entities and individuals registered as entrepreneurs are entitled to use the simplified tax regime and pay unified tax instead of CPT / PIT.</p> <p>There are four groups of the unified tax payers. Groups 1 and 2 of the simplified tax regime are available for individual entrepreneurs only, Group 3 – for both legal entities and individual entrepreneurs having annual income (revenues) up to UAH 5 million (approximately USD 181,800), and Group 4 – for qualifying agricultural producers (both legal entities and individuals).</p> <p>The law provides for certain limitations, when an individual / legal entity is not entitled to opt for the simplified tax regime. For instance, a Ukrainian subsidiary of a foreign entity can not be registered as a unified tax payer.</p> <p>Group 3 of the simplified tax regime is widely used by individual contractors, e.g. consultants, software developers, etc.</p> <p>Under Group 3 of the simplified tax regime, individual entrepreneur shall be subject to the following taxation (the taxes and duties specified below shall be payable by the entrepreneur):</p> <ul style="list-style-type: none"> • Unified tax: the entrepreneur may chose either (i) 3% of revenue + VAT (to be paid on the general basis), or (ii) 5% of revenue (VAT inclusive); • Unified social contribution (USC): the minimum monthly amount required by law (regardless of whether any revenue was received during a month) - 22% of the minimum salary established by law (for 2019 this amount of USC shall constitute UAH 918.06, which is approx. USD 33). <p>However, an entrepreneur may, at his/her sole discretion, pay USC in the bigger amount then specified above. The maximum amount of the monthly USC constitutes 22% of 15 minimum salaries established by law (for 2019 this amount of USC shall constitute UAH 13,770.90, which is approx. USD 500).</p>
Employment taxation	<p>Employment income is subject to the following taxation:</p> <ul style="list-style-type: none"> • Unified social contribution (USC): 22% of

	<p>employee's remuneration – payable by the employer out of its own funds and charged on top of the employee's remuneration. The maximum employee's monthly remuneration to which the USC applies is equal to 15 minimum salaries established by law (for 2019 this shall constitute UAH 62,595, which is approx. USD 2,275); the amount of the employee's remuneration exceeding this threshold is exempted from USC. The maximum amount of USC in 2019 shall constitute UAH 13,770.90, which is approx. USD 500;</p> <ul style="list-style-type: none"> • Personal income tax (PIT): 18% of the employee's gross remuneration – to be withheld by an employer on employee's behalf, as tax agent, from the employee's remuneration; • Temporarily military charge: 1.5% of the employee's gross remuneration – to be withheld by an employer on employee's behalf, as tax agent, from the employee's remuneration.
Land tax	Payable by owners or "permanent users" of land at rates which generally depend on (i) the category of land, (ii) its location (e.g. within or outside the city boundaries), and (iii) whether the monetary valuation of a land plot was conducted.
Real estate tax	<p>Applies to residential and commercial real property owned by taxpayers (both individuals and legal entities, and residents and non-residents). The tax is payable on an annual basis at the rate established by local councils. The maximum tax rate shall not exceed 1.5% of the minimum salary established by law per 1 sq. m. of the taxable base (the maximum rate per 1 sq. m. for 2018 reporting year shall constitute UAH 55.85, and for 2019 reporting year – UAH 62.60).</p> <p>Certain incentives are provided for individual taxpayers owning residential property. At the same time, certain residential real property should in addition to the above tax be subject to fixed real estate tax of UAH 25,000 (approx. USD 910).</p>
Customs duties (import / export)	Customs duties vary from 0% to 20% and depend on the particular type of goods and their origin.
Stamp duty	No
Incentives to	Yes (please see relevant sections below)

investments	
Tax residency status	<p>Special rules exist for determining tax residency status of individuals.</p> <p>No special requirements exist for legal entities (such as e.g. tax residency of the director, place of management or place of holding General Meetings, etc.). A legal entity registered in Ukraine is considered a tax resident of Ukraine.</p>

Incentives to Investment

Ukraine offers a broad range of tax incentives, which include industry specific investment incentives, incentives to small businesses and large investment projects, special tax regime to the exploitation of mineral resources under the Product Sharing Agreements (PSA).

Industry Incentives

Development of certain industries is facilitated by the state including, among others, by provision of tax incentives, such as the following:

(a) Renewable Energy

For renewable energy companies some VAT and customs duty exemptions are provided. In particular, import of: (i) certain equipment powered with renewable energy; (ii) equipment and materials for the production of energy from renewable energy sources; (iii) materials, equipment, components for manufacturing of equipment powered with renewable energy; and (iv) energy saving equipment are all exempt from VAT and import customs duties, provided that they are used by taxpayers for their own production purposes and that no domestic alternatives of such goods are available in Ukraine. The list of such equipment and materials is provided by the Cabinet of Ministers of Ukraine.

(b) IT industry

For IT industry companies a VAT exemption is available for the supply of software until 1 January 2023. Similar exemption exists for operations with the software, the payment for which is not considered as royalties.

(c) Agriculture

Special advantageous tax regime is available for agricultural companies. Specifically, agricultural companies, whose revenues from sales of agricultural production constitute at least 75% of their total income for the previous year, have a right to opt for a simplified tax regime - Group 4 of the unified tax payers.

This tax regime allows agricultural companies to enjoy a relatively small tax burden due to unified tax rates linked to the size and value of the agricultural

land owned and/or leased by a tax payer, rather than to its profits. Thus, unified taxpayers are exempt from CPT and also from the land tax (except for land plots that are not used for agricultural production) and special water use duty.

The unified tax rate varies from 0.19% to 6.33% of the normative value of the land per hectare ("normative" value of the land is the value determined by the state, which is usually significantly less than its market value). For example, the unified tax rate for plough land, hayfield and pastures is 0.95% per hectare of normative land value.

(d) Shipping industry

VAT and customs incentives are also provided for shipping industry. Specifically, with respect to import by Ukrainian shipbuilders of certain equipment, materials and components required for their own production purposes, shipbuilders are entitled to defer payment of import VAT (instead of paying VAT at customs) by means of issuance of VAT promissory note to the controlling authorities, provided that no domestic alternatives of such goods are available in Ukraine. The list of such equipment and materials is provided by the Cabinet of Ministers of Ukraine.

(e) Aircraft manufactory industry

Until 1 January 2025 VAT and customs incentives, as well as special CPT regime are available for certain aircraft manufacturing companies.

CPT regime

Under the special CPT regime, instead of paying CPT to the treasury, the aircraft companies, engaged in the development and / or manufacture (with the final assembly) of aircrafts / engines to them, are entitled to use the amount of CPT *inter alia* for R&D works, upgrading the material and technical base, introduction of new technologies.

VAT / import customs duties

Import of certain aircraft components and numerous other goods for aircraft manufacturing industry are exempt from VAT and import customs duties. VAT exemption is also available for domestic supplies of the results of R&D works for the purposes of aircraft industry.

(f) Automotive industry

Until 31 December 2022, a VAT exemption is available for the import into and / or supply within the territory of Ukraine of vehicles equipped exclusively with electric engine(s). Import of such vehicles is also exempted from import duties.

Incentives for Small Businesses

Temporarily, until 31 December 2021, CPT exemption (0% CPT rate) is available for small businesses with (i) the annual income not exceeding UAH 3 million (approx. USD 109,100), and (ii) the salary level of employees exceeding the minimum salary by 2 times (for 2019 this figure constitutes UAH 8,346). To qualify for the incentive program, the above businesses shall meet certain additional requirements (e.g. period of incorporation, number of employees or amount of income for the previous three subsequent years).

Incentives for Large Investment Projects

Temporarily, until 31 December 2022, certain tax incentives are available for large investment projects, both for new enterprises and for reconstruction or modernization of existing enterprises in qualifying industries. The list of industries is defined by the Cabinet of Ministers of Ukraine and includes specific sectors in agriculture, machine-building industry, transport infrastructure, house and utility sector, processing industry and tourism. The incentives provide that import of certain equipment, materials and components required for the investment project implementation is exempt from import customs duty. In addition, a taxpayer may defer payment of import VAT (instead of paying VAT at customs) due on import of such goods by means of issuance of VAT promissory note to the controlling authorities.

The conditions to qualify for the incentive program are:

- The investment value must exceed EUR 3 million for large businesses, EUR 1 million - for medium business and EUR 500,000 - for small businesses;
- New jobs must be created: for large business – 150, for medium business – 50 and for small business – 25;
- The salary level of employees must also exceed the minimum salary set as of 1 January of the relevant year by 2.5 times (for 2019 this figure shall constitute UAH 10,432.50); and
- an investment project must be approved by the appropriate governing bodies.

Resource Sector Taxation

Special tax incentive regime may apply to the exploitation of mineral resources of the state and local significance under the Product Sharing Agreements (PSA) regime. PSA is a special arrangement which applies in specially designated areas of Ukraine and facilitates the exploration and production of natural resources. Under this regime the investor carries out the activities at its own cost and risk and is reimbursed for its investment from production. Remaining production is then shared on an agreed basis between the state of Ukraine and the investor.

Non-tax advantages of PSAs include simplified procedures for the issuance of required authorizations, the right to receive land allocations in Ukraine and the length of time during which the PSA may govern the parties (*i.e.* up to 50 years).

For Ukrainian tax purposes, the investor under the PSA pays only CPT, VAT and a special charge for the use of subsoil for extraction of resources and is exempt from other taxes and charges. With respect to employment taxation, the investor continues to act as a tax agent for the purposes of withholding the personal income tax due on employee remunerations as well as for payment of applicable unified social contribution. Other taxes and duties are substituted for production sharing.

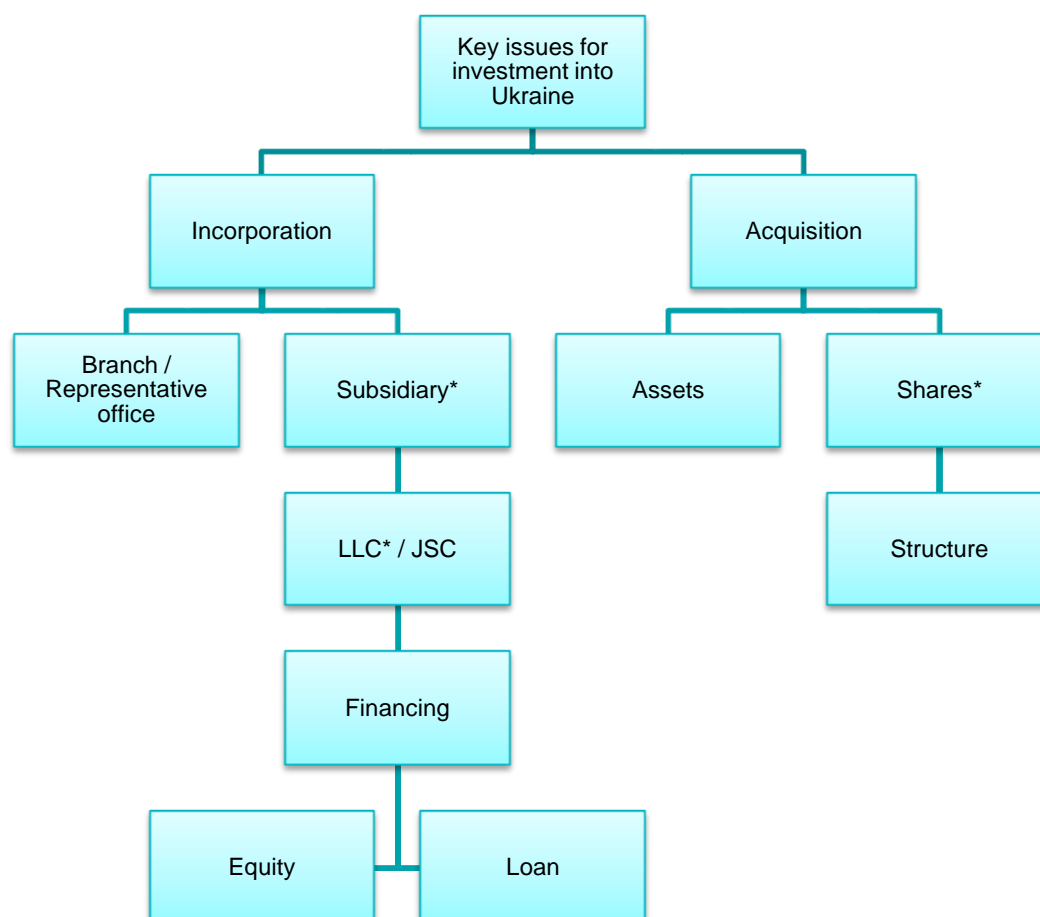
Goods imported by investors and subcontractors, as well as works and services provided to the investor by a non-resident party, if necessary to perform work under the PSA, are not subject to VAT or customs duty, and the production is not subject to tax, customs duty or excise tax when exported outside Ukraine. VAT for such export is rated at zero. If the production is sold within Ukraine, VAT must be paid according to the generally applicable rules for domestic sales.

Foreign investors in PSA's must establish a Ukrainian representative office (branch). A benefit of this requirement is that PSA production profit distributions (in cash or in kind) by that branch are exempt from withholding tax. Any financing provided by a foreign investor to its Ukrainian branch for the purposes of performing the PSA is not subject to CPT.

Ukraine's Tax Code contains a stabilization clause in which the government guarantees that the tax laws effective as of the date of a PSA's execution will apply during the entire term of the agreement, except the rates of taxes and duties which are reduced or abolished.

FOREIGN DIRECT INVESTMENT / FINANCING

Choosing a Structure for the Investment



**Asterisk indicates generally preferred options*

Many foreign business enterprises trade with Ukraine annually. These business dealings may be carried out in many cases without attracting Ukrainian CPT or withholding tax on the payments made from Ukraine to a foreign business.

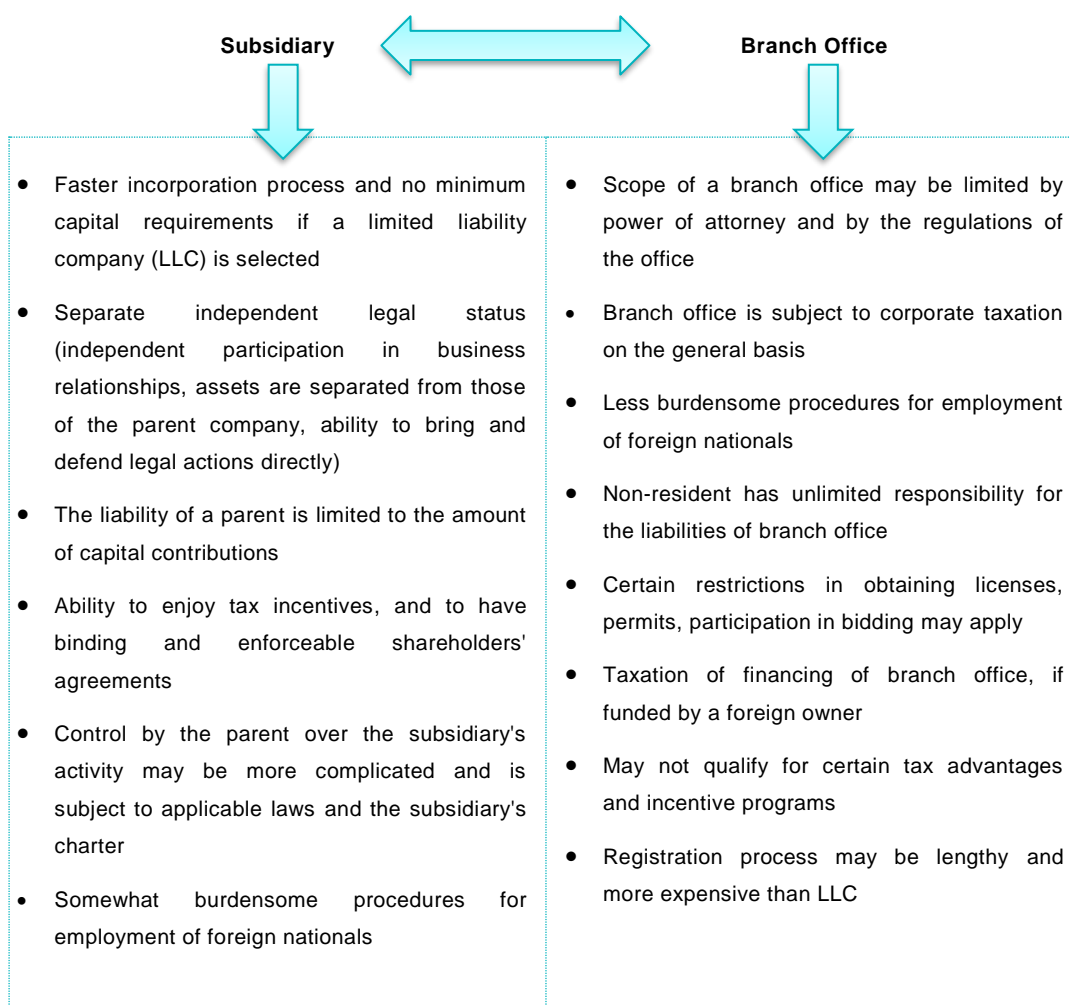
If, however, a foreign business enterprise or a foreign investor makes a decision to carry out business in Ukraine, the choice as to the manner of carrying out such business and the way in which it will be financed must be addressed. For example, should a foreign party establish its own business entity, alone or in conjunction with local or other foreign partners, or acquire an existing business? Should business be established through a branch office (permanent establishment) or through a subsidiary company, or a simple non-commercial (representative) office will suffice? If through a subsidiary, should that subsidiary be a joint stock company or a limited liability company? How should the subsidiary be financed, e.g. through equity capital or debt financing?

In the case of an acquisition of an existing business, should a foreign investor acquire the assets of the business or the shares in its capital stock? If the latter, what form of financing and what type of structuring should be put in place to best accommodate the objectives of a foreign business enterprise?

These decisions will generally be made based on the industry sector, government requirements for market entry and other business and economic factors. To the extent that tax minimization is also an objective, a review of the financial forecasts and tax positions of the investor and of the business to be undertaken / acquired as well as the domestic laws both in home jurisdiction of the investor as well as in Ukraine will be crucial.

Branch Office or Subsidiary

One of the first decisions a foreign business enterprise or a foreign investor in Ukraine will face is the form which the business activity will take.



Acquisition of a Ukrainian Target

Acquisition Structuring and Financing

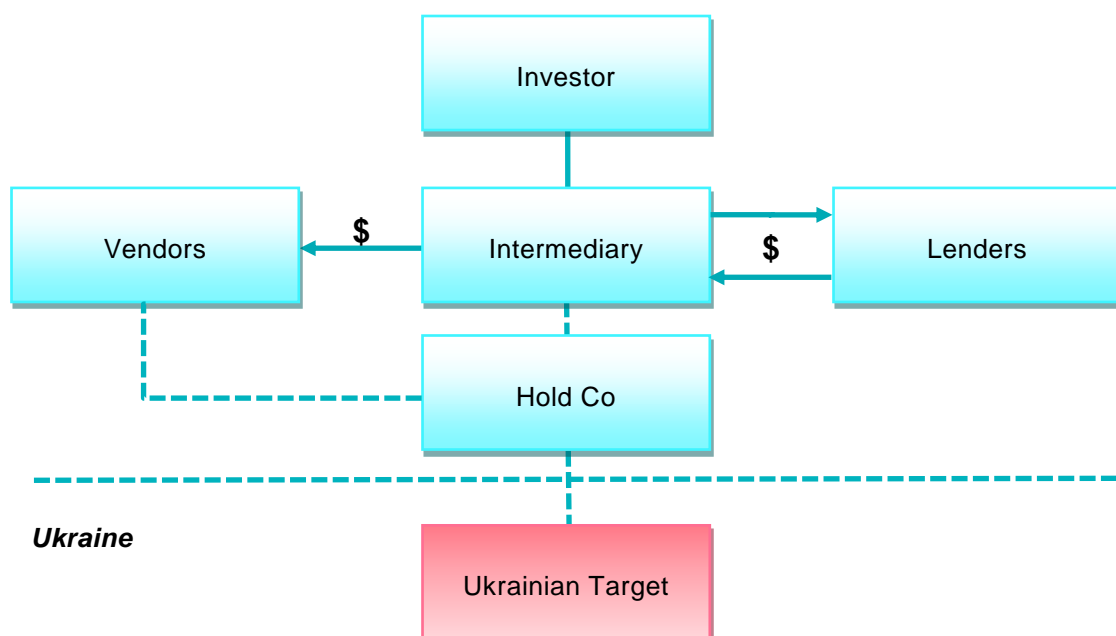
Where a foreign business enterprise or investor has found a specific Ukrainian business (the Target) which it wishes to acquire, there will be a question whether to acquire the assets of the Target, directly or indirectly through the acquisition of the shares of the Target itself.

Again, the decision to acquire assets directly or indirectly and the manner in which they will be acquired as well as decisions as to how the purchase price will be financed by the acquirer will be primarily influenced by an industry sector, type of assets to be acquired, the amount of the investment, and relative objectives and financial and economic expectations of the acquirer and the vendor.

For example, if the vendor is a non-resident of Ukraine, it will normally wish the actual acquisition transaction to formally occur between non-residents of Ukraine to eliminate the Ukrainian withholding tax on the proceeds from the transaction.

From the perspective of the acquirer, the acquisition is usually financed partly with equity and partly with debt which normally occurs at an intermediary level.

Acquisition Structuring / Financing



Debt push-down transactions usually do not work in Ukraine as there is no tax consolidation or fiscal unity regime. There is little flexibility to permit assignment of debt obligations. A cross-border merger is not permitted.

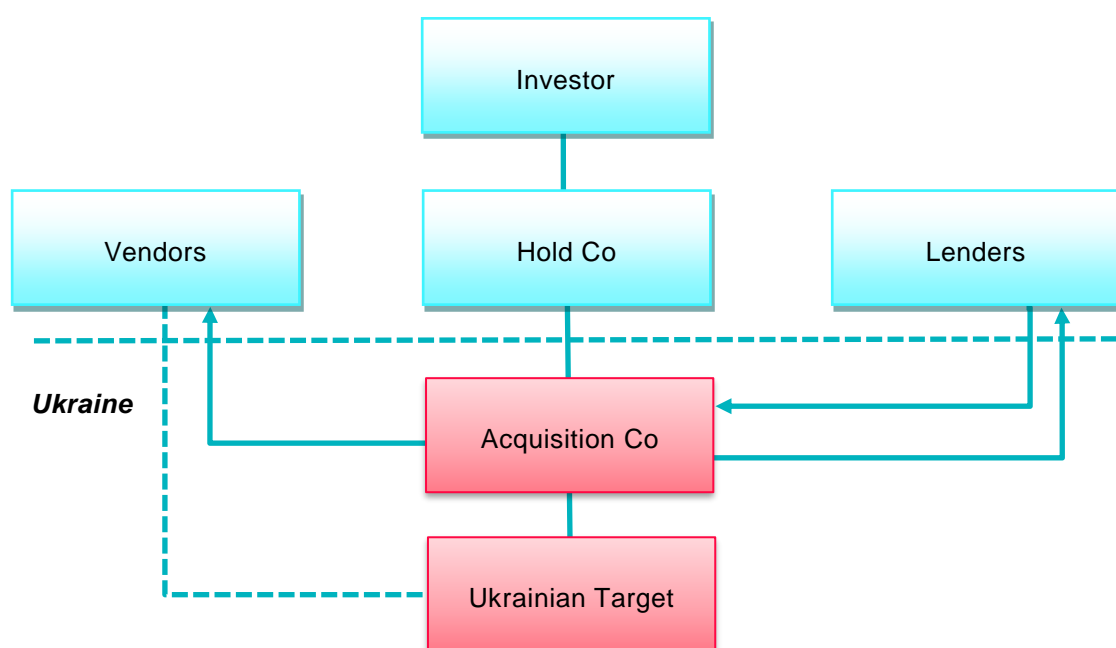
It is possible, however, to up-stream cash flows from a Ukrainian subsidiary to fund the servicing of debt payments, through, e.g. deductible service fees or interest payments.

If an independent third party financing is required, the structuring also has to satisfy security considerations of the financing parties.

Advantages of Using a Ukrainian Acquisition Company

For a number of reasons, a foreign business enterprise or a foreign investor, after reviewing the impact of the domestic tax laws in its home jurisdiction, its tax position and the economics of the investment may wish to consider the use of a Ukrainian acquisition company to hold the shares of a Ukrainian Target or its assets.

Ukrainian Acquisition Company Structure



A Ukrainian acquisition company offers a number of advantages to a foreign investor:

- it facilitates post-acquisition re-organizations;
- it allows for an exemption for intercompany dividends;

- where a real property acquisition is the objective, it provides for a step-up cost-base for amortization allowances and input VAT;
- it provides flexibility in financing the Target operation within Ukraine;
- it may provide for improved access to the Target assets for security purposes, depending on particular circumstances of the acquisition.

Post-Acquisition Reorganizations

Use of a Ukrainian acquisition company to either acquire the shares or the assets of the Ukrainian Target facilitates considerably the flexibility of the foreign investor in implementing post-acquisition reorganizations or restructurings of the business or assets of the Target to meet its business objectives on a tax effective basis.

Potentially, there are the following ways to combine the operations of the acquisition company and the Target after the acquisition has occurred and thus to make the interest deductions associated with the acquisition financing available to the Target, and/or to make income from profitable activities of the Target available to the acquisition company.

Merger

The Ukrainian acquisition company may liquidate into the Target, the Target may be liquidated into the Ukrainian acquisition company, or the two companies may merge under Ukrainian law to form a new legal entity.

Corporate reorganizations are generally tax-neutral, but vaguely regulated, complicated and time-consuming. Tax rulings are available and will be advantageous where certainty as to tax treatment is an issue.

Transfer of Assets

A foreign investor may wish, having acquired the shares of the Target through the Ukrainian acquisition company, to reorganize the business operations of the two companies through the transfer of a portion or of all of the Target's business assets to the acquisition company.

Such transaction may increase the cost-base of the transferred assets for amortization purposes of the acquisition company, but could also give rise to taxable income for the Target if the sale occurs at a price higher than the book value. The transfer will also result in an input VAT for the acquisition company but output VAT for the Target at the amount not less than the assets' book value.

Holdco / Opco Structures

Use of a Ukrainian acquisition company to acquire the Target may also be advantageous if a foreign investor wishes to create a holding structure to facilitate further expansion of the business or acquisition of other business interests in Ukraine.

The use of certain of the Target assets may, in this case, be provided to the acquisition company under a lease. This will only be available if licenses or other permits are transferable or are not difficult to be reissued or obtain. Such planning will avoid the need for immediate substantial funds to change hands.

The strategy may also assist in achieving risk diversification for a foreign investor.

Certain Issues of Business Financing and Currency Control

From the taxation standpoint, financing of the business in Ukraine either via equity (capital contribution) or a cross-border loan will not attract Ukrainian CPT. At the same time, financing via cross-border loan may be a preferable option, including from the standpoint of further repatriation of funds abroad and deductibility of interest payments.

It should also be noted, that beginning 7 February 2019, pursuant to the new Law of Ukraine "On Currency and Currency Operations" No. 2473-VIII, dated 21 June 2018 (the "**Currency Law**"), registration of cross-border borrowings by Ukrainian residents with the National Bank of Ukraine will no longer be required.

The Currency Law provides for a general framework for currency transaction regulations which are subject to further specification and implementation by the regulations of the National Bank of Ukraine.

Ukrainian residents conducting cross-border trading activities will benefit from the following principal novelties / amendments to the existing currency control regime introduced by the Currency Law:

- Cancellation of individual licensing regime. The Currency Law will replace the 25-year old Decree of the Cabinet of Ministers of Ukraine "On Currency Regime and Control" (the "**Currency Decree**") and will abolish a so-called "individual licensing regime" requirement. Namely, the Currency Decree provides the general rule that any transfer in foreign currency from Ukraine requires an individual license of the National Bank of Ukraine, unless such transfer falls under the express exemption provided in the Currency Decree. Hence, if the payment does not expressly fall under any exemption, the bank may refuse to proceed with the transfer requesting additional documentation / justification for the transfer or an individual license if the justification provided is not sufficient to fall under the exemption.

- Transactions subject to currency control. Ukrainian banks (which will remain currency control agents) will perform currency control only with respect to the transactions which are subject to mandatory financial monitoring. As of 1 January 2019, these are the transactions for the amount exceeding UAH 150,000 (approx. USD 5,500).
- Terms of cross-border settlement. The Currency Law will abolish the Law of Ukraine "On the Procedure for Settlements in Foreign Currency", which establishes the deadlines for settlements by Ukrainian exporters and importers with their foreign counterparties (irrespective of the amount of the transaction). Instead, the National Bank of Ukraine will be authorized to set forth such mandatory deadlines and thresholds, as well as exemptions to specific goods or economic sectors.
- Cancellation of mandatory FX exchange. Under the new Currency Law, the proceeds from export transactions will not be subject to mandatory exchange. Ukrainian residents will be able to acquire foreign currency irrespective of their contractual obligations in foreign currency. It should be noted, though, that the National Bank of Ukraine will be authorized to set forth mandatory exchange requirement depending on the situation on the FX market or in the banking sector, etc.

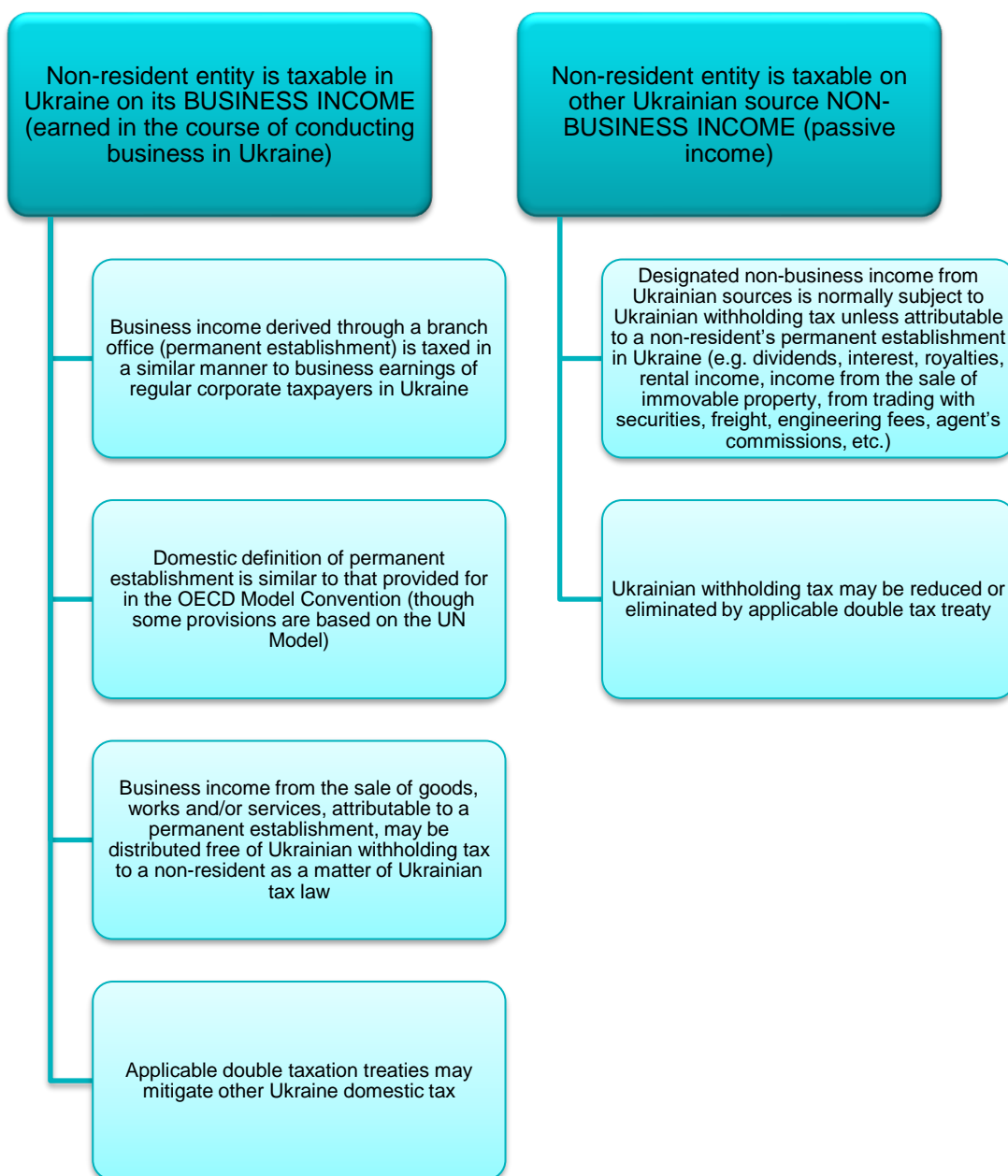
At the same time, the National Bank of Ukraine will be vested with rather broad authorities to introduce restrictive measures depending on the situation at the currency market or in the banking sector or based on other grounds.

INTERNATIONAL TAXATION

Tax Treatment of Non-Residents of Ukraine

A "*non-resident*" legal entity is defined for Ukrainian tax purposes as an entity established and operating under foreign law. In respect of individuals, they are defined as non-residents in case such individuals are not treated as residents of Ukraine (non-resident individuals are subject to Ukrainian PIT with respect to their Ukrainian source income only).

The Tax Code of Ukraine provides for specific provisions for the taxation of non-resident entities (summarized below).



Ukraine Double Tax Treaties

Ukraine has concluded 74 double tax treaties, 73 of which are currently in force (the treaty with Cuba has been ratified but has not yet entered into force). These double tax treaties are important for foreign investors in that they generally mitigate the effects of Ukrainian domestic tax law. Ukraine generally follows the OECD Model Convention in concluding its double tax treaties and has adopted the OECD Commentaries as the basis for interpreting them, though not itself an OECD member. As with treaties in general, the key provisions of Ukraine's double tax treaties allocate taxing entitlements between Ukraine and its treaty partners in key areas such as permanent establishment, withholding tax on dividends, interest and royalties and taxation of capital gains. The double tax treaties also provide for exchange of information. No unilateral relief is available domestically in Ukraine for foreign taxes paid on foreign source income. However, reciprocal credits are available under double tax treaties, but generally limited as to carryovers and with no "pick up" for underlying corporate tax in a source jurisdiction.

Ukraine is also a party to the OECD/Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Starting from 1 January 2017 Ukraine became a member of the Inclusive Framework on the Base Erosion and Profit Shifting (BEPS) project and committed to implement four minimum standards of the BEPS package: (i) Action 5 ("Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance"), (ii) Action 6 ("Preventing the Granting of Treaty Benefits in Inappropriate Circumstances"), (iii) Action 13 ("Transfer Pricing Documentation and Country-by-Country Reporting"), and (iv) Action 14 ("Making Dispute Resolution Mechanisms More Effective").

On 23 July 2018, Ukraine has signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) and made relevant reservations and notifications thereunder. Upon ratification of the MLI, Ukraine will comply with actions 6 and 14 of the BEPS action plan.

Ukraine Double Tax Treaties (as of 1 January 2019)

Algeria	Armenia	Austria
Azerbaijan	Belarus	Belgium
Brazil	Bulgaria	Canada
China	Croatia	Cyprus ²
Czech Republic	Denmark	Egypt
Estonia	Finland	France
Georgia	Germany	Greece

² On 11 December 2015 Cyprus and Ukraine signed a Protocol amending the existing tax treaty; the Protocol has not yet been ratified.

Hungary	Iceland	India
Indonesia	Iran	Ireland
Israel	Italy	Japan
Jordan	Kazakhstan	Korea, Republic
Kuwait	Kyrgyzstan	Latvia
Lebanon	Libya	Lithuania
Macedonia	Malaysia ³	Mexico
Moldova	Mongolia	Morocco
Netherlands	Norway	Pakistan
Poland	Portugal	Romania
Russia	Saudi Arabia	Serbia/Montenegro ⁴
Singapore	Slovak Republic	Slovenia
South Africa	Spain	Sweden
Switzerland	Syria	Tajikistan
Thailand	Turkey	Turkmenistan
UAE	UK	USA
Uzbekistan	Vietnam	Cuba ⁵
Luxembourg	Malta	

³ The new treaty with Malaysia has been signed in 2016, but has not yet been ratified. The relevant double tax treaty of the former USSR with Malaysia applies.

⁴ This treaty was concluded between Ukraine and the former Yugoslavia (Fed. Rep.).

⁵ The treaty with Cuba has been ratified but has not yet entered into force.

Withholding Taxes

The Ukrainian WHT rate is generally established at 15%. It is levied on passive Ukrainian-source income of non-residents, such as dividends, most interest payments, royalties.

Special WHT rates varying from 0% to 18% apply to certain Ukrainian-source income, such as gains on interest free bonds and treasuries, international freight fees and insurance payments. 20% surtax applies to payments for advertisement services.

Also, WHT rate on interest paid to non-residents on loans is reduced to 5% if (i) the loan was generated from the issuance of bonds listed on an international stock exchange recognized by the Cabinet of Ministers of Ukraine, and (ii) the bonds were issued for the purposes of providing such loan (directly or indirectly), and (iii) the non-resident recipient of interest is not registered in a low-tax jurisdiction.

Ukraine uses the UN Model definition of royalties in most of its treaties but excludes payments for the use of industrial, commercial or scientific equipment.

Other payments, such as rent, proceeds from the sale of Ukrainian real property, profits from trading in securities, engineering fees, agent's commissions and other Ukrainian source income of a non-resident, with some limited exceptions, are also subject to WHT.

Ukrainian WHT may be reduced or eliminated in certain cases based on applicable Ukraine's double tax treaties. Indicative rates for several of Ukraine's major trading partners are set out in the chart below.

Ukraine Indicative Treaty Withholding Tax Tables – Corporate

Country	Dividends		Interest ⁶	Royalties ⁷
	Corporate Substantial Ownership ⁸	Others		
Austria	5	10	0/2/5	0/5

⁶ The 0% rate generally applies to interest paid to government institutions of the contracting state. In some cases, 0% rate also applies to interest paid to entities authorized by government institutions, on debt claims that are warranted, insured or directly or indirectly financed by the state or a financial institution wholly owned by the state. The list is indicative only. Therefore, it is recommended that readers review the relevant treaty between their country and Ukraine specifically to determine what particular rates may be applicable.

⁷ The lower rate generally refers to industrial royalties or agreed categories of payments. The list is indicative only and should not be relied upon by readers without independent verification. Therefore, it is recommended that readers review the relevant treaty between their country and Ukraine specifically to determine what particular rates may be applicable.

⁸ The test for substantial ownership is generally 20%; in some treaties a higher ownership will result in a zero rate of withholding. There are various tests and the list is indicative only. Therefore, it is recommended that readers review the relevant treaty between their country and Ukraine specifically to determine what particular rates may be applicable.

Country	Dividends		Interest ⁶	Royalties ⁷
	Corporate Substantial Ownership ⁸	Others		
Belgium	5	15	0/2/10	0/10
Brazil	10	15	0/15	15
Bulgaria	5	15	0/10	10
Canada	5	15	0/10	0/10
China (mainland)	5	10	0/10	10
Croatia	5	10	0/10	10
Cyprus	5	15	0/2	5/10
Finland	0/5	15	0/5/10	0/5/10
France	0/5	15	0/2/10	0/10
Germany	5	10	0/2/5	0/5
Hungary	5	15	0/10	5
Kuwait	5	5	0	10
Netherlands	0/5	15	0/2/10	0/10
Poland	5	15	0/10	10
Russia	5	15	0/10	10
Singapore	5	15	0/10	7.5
Slovenia	5	15	5	5/10
Spain	18	18	0	0/5
Sweden	0/5	10	10	0/10
Switzerland	5	15	0/10	0/10
UK	5	10	0	0
USA	5	15	0	10

Direct Investment from Home Jurisdiction Compared with Indirect Investment through Intermediary Holding Structures

Direct investment into Ukraine will often be an attractive option for foreign investors residing in countries which have concluded a double tax treaty with Ukraine and are entitled to the benefits which such treaty affords.

Holding companies may not always improve tax efficiencies and a final determination of whether to use an intermediary regime should only be made after carefully weighing all risks and costs of an intermediary structure against the financial reporting results and the value of tax benefits which may be achieved.

For this purpose, it is advisable to review not only the tax regime of the intermediary but also the tax regime of the ultimate investment and of the investor's home jurisdiction, as well as banking requirements and regulations, to determine in real terms the all-in after tax return to the ultimate investor both before and after the intermediary is interposed.

It is also necessary to weigh into the analysis the additional financial costs of maintaining the structure, political and socio-economic risks associated with the addition of another jurisdiction.

Finally, it is necessary to consider and plan in advance for an exit strategy even where the investment is expected to be long term and to factor in the tax costs / risks involved in exiting the intermediary structure in the event there is an adverse change in law.

The answer will not be standardized and will largely depend on a number of factors including the foreign investor's business objectives, the industry sector in which the investment will be made, the projected financial and tax positions of both the investor entity and the investment, whether and if so, how the investor expects to carry out the return on the investment and over what period of time, whether the investment will be internally or externally financed and if so, the impact of intermediary structures on financial reporting and access to capital sources.

Tax authorities are becoming increasingly aggressive in the application of domestic anti-avoidance and abuse rules, as well as in challenging treaty shopping in the context of interpretation of double tax treaties. They are also becoming more active in improving disclosure and exchange of information procedures and in collaborative joint projects to audit and enforce tax compliance and reporting in the international area. Risks of challenge increase with the complexity of international intermediary structures. They may still be very attractive in specific situations which will depend very much on the facts and circumstances of a particular investor.

Where this is the case, a foreign investor may consider indirect investment through an intermediary regime. Where the investment is in Ukraine, the double tax treaties between Ukraine and Cyprus, Ukraine and the Netherlands, Ukraine and Austria may offer some attractions in certain circumstances.

Ukraine-Cyprus Double Tax Treaty

Royalties	Interest	Dividends	Investment Co	Exit
<p>↑</p> <p>NO WHT</p> <p>2.5% effective CPT⁹</p>	<p>↑</p> <p>NO WHT</p> <p>12.5% CPT on margin (credit for Ukrainian WHT is available) / reduced effective CPT under the Notional Interest Deduction regime¹⁰</p>	<p>↑</p> <p>NO WHT</p> <p>NO CPT</p>	<p>Cyprus</p> <p>Cypriot Intermediary</p>	<p>Sale on Cypriot level: No tax</p> <p>Sale on Ukrainian level: No tax</p>
<p>↑</p> <p>5/10% WHT</p>	<p>↑</p> <p>2% WHT (5% under the new Protocol to the Tax Treaty)</p>	<p>↑</p> <p>(5% WHT if > 20% shareholding or EUR 100,000 investment;¹¹ otherwise - 15%)</p>	<p>Ukraine</p> <p>Ukrainian Subsidiary</p>	<p>Sale on Ukrainian level: No WHT¹²</p>

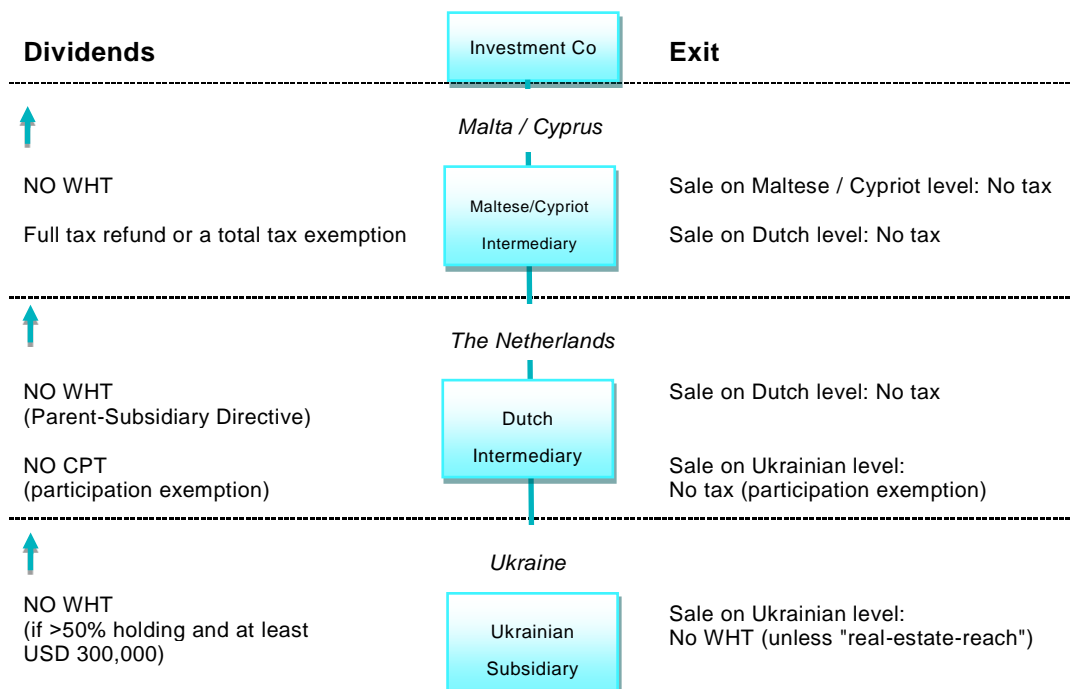
⁹ In 2016 (effective as of 1 July 2016) the Cypriot IP regime was amended. The amended legislation provides for a five-year transitional period. The IP regime applicable before 1 July 2016 can be maintained for income tax purposes for a transitional period until 30 June 2021, provided certain conditions are satisfied. As per the new IP box regime, qualifying taxpayers will be eligible to claim a tax deduction equaling 80% of qualifying profits resulting from the business use of the qualifying assets. A taxpayer may elect not to claim the deduction or only claim a part of it. The qualifying profits shall be calculated by using a special ratio.

¹⁰ The Notional Interest Deduction (NID) is effectively a notional interest tax deductible expense that arises upon the introduction of new share capital employed in the production of taxable income by a Cyprus company, or an overseas company with a Cyprus PE. The NID rate is the yield on the 10 year government bonds (as at 31 December the year preceding the tax year the NID is claimed) of the country where the funds are employed (e.g. Ukraine) in the business of the company plus a 3% premium. This is subject to a minimum amount which is the yield of the 10 year Cyprus Government bond (defined similarly as above) plus a 3% premium. The use of NID can achieve effective tax rate in Cyprus of as low as 2.5%.

¹¹ Under the new Protocol to the tax treaty both criteria shall be met.

¹² New Protocol introduces a provision whereby any profit deriving from the sale of shares / participatory interest will not be exempt from WHT in Ukraine if more than 50% of the shares / participatory interest value is derived directly or indirectly from the immovable property located in Ukraine.

Ukraine – Netherlands Double Tax Treaty / Netherlands – Malta / Cyprus Double Taxation



Ukraine-Austria Double Tax Treaty

Royalties	Interest	Dividends	Investment Co	Exit
<p>↑</p> <p>NO WHT - if Interest and Royalties Directive applies</p> <p>20% - in other cases (may be reduced under tax treaty)</p> <p>25% CPT</p>	<p>↑</p> <p>Generally no WHT</p> <p>25% CPT</p>	<p>↑</p> <p>NO WHT - if Parent-Subsidiary Directive applies</p> <p>27.5%/25% - in other cases (may be reduced under tax treaty)</p> <p>NO CPT (if > 10% holding for at least 1 year)</p>	<p>Austria</p> <p>Austrian Intermediary</p>	<p>Sale on Austrian level: No tax (under most treaties)</p> <p>Sale on Ukrainian level: No tax (participation exemption)</p>
<p>↑</p> <p>NO WHT - for commercial IP</p>	<p>↑</p> <p>5% WHT or 2% (for lending by financial institutions)</p>	<p>↑</p> <p>5% WHT (if > 10% holding)</p>	<p>Ukraine</p> <p>Ukrainian Subsidiary</p>	<p>NO WHT (unless "real-estate-reach")</p>

Bilateral Investment Treaties

Bilateral investment treaties are intended to establish a favourable, safe and effective investment regime as well as to reduce the political risks for foreign investors in host countries. They also may provide, relative to double tax treaties, a more effective dispute resolution mechanism to address issues which arise with a host country in regard to foreign investments. Under Ukrainian law, bilateral investment treaties, once enacted generally take precedence over domestic law. The number of the countries with which Ukraine has effective bilateral investment treaties is significant and includes all of the "capital export" countries. Currently, Ukraine is a party to 72 bilateral investment treaties with:

Albania	Argentina	Armenia
Austria	Azerbaijan	Belarus
Belgium and Luxemburg	Bosnia and Herzegovina	Brunei
Bulgaria	Canada	Chile
China	Congo	Croatia
Cuba	Czech Republic	Denmark
Egypt	Equatorial Guinea	Estonia
Finland	France	Gambia
Georgia	Germany	Greece
Hungary	India	Indonesia
Iran	Israel	Italy
Japan	Jordan	Kazakhstan
Korea	Kuwait	Kyrgyzstan
Latvia	Lebanon	Libya
Lithuania	Macedonia	Moldova
Mongolia	Morocco	Netherlands
Oman	Panama	Poland
Portugal	Russia	San Marino
Saudi Arabia	Singapore	Slovak Republic
Slovenia	Spain	Sweden
Switzerland	Syria	Tajikistan
Turkey	Turkmenistan	UAE
UK	USA	Uzbekistan
Vietnam	Yemen	Yugoslavia

ABOUT WOLF THEISS

WOLF THEISS – A LEADING LAW FIRM IN CEE AND SEE

Since starting out in Vienna nearly 60 years ago, we have grown into one of the largest and leading commercial law firms in Central, Eastern and South-Eastern Europe (CEE/SEE). We now employ over **340 lawyers**, working across numerous practice areas in **13 countries** including Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Hungary, Poland, Romania, Serbia, the Slovak Republic, Slovenia and Ukraine. Drawing on the legal skills and know-how in our 13 offices, we are uniquely positioned to handle our clients' legal and business needs either in a single country or throughout the entire region. Apart from our local-offices, we use a well-established network of contacts with well-respected local lawyers and other service providers to advise and assist our clients in other countries in the region, such as Kosovo, Macedonia, Moldova, Montenegro and Turkey.



We offer our clients a wealth of knowledge and expertise in the following areas:

- Banking & Finance
- Competition & Antitrust
- Compliance
- Corporate/Mergers & Acquisitions
- Dispute Resolution
- Employment Law
- Insurance
- IP & IT
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- Restructuring & Insolvency
- Tax

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Law Firm of the Year: Austria, 2014 & 2017
 Law Firm of the Year: Central Europe, 2010 & 2014
 Law Firm of the Year: Eastern Europe and the Balkans, 2009, 2012 & 2015



Austrian Law Firm of the Year, 2008, 2009, 2012, 2013 & 2018
 Austrian Client Service Law Firm of the Year, 2011
 Eastern European Law Firm of the Year, 2006
 Central & Eastern European Law Firm of the Year, 2017



Austrian Law Firm of the Year, 2003, 2006, 2007, 2011, 2012, 2015, 2016 & 2018
 Hungarian Law Firm of the Year, 2009
 Czech Republic Law Firm of the Year, 2007 & 2010
 European Restructuring Deal of the Year, 2017



CEE M&A Legal Advisor of the Year, 2016



Austrian Tax Law Firm of the Year, 2006, 2007, 2009, 2010, 2011 & 2014



Austrian firm of the Year, 2014 (LMG Life Sciences Award)



Highly Commended in the category "Innovation in Business Development and Knowledge Sharing" (FT Innovative Lawyer Awards, 2016)
 Highly Commended in the category "Innovation in M&A" (FT Innovative Lawyer Awards, 2016)
 Highly Commended in the category "Innovation in Corporate Strategy" (FT Innovative Lawyer Awards, 2014 & 2013)



Second place in the category "Business Development" (PMN Management Awards, 2016)
 Second place in the category "Communication" (PMN Management Awards, 2016)



Austrian Law Firm of the Year, 2012, 2013, 2014, 2015, 2016 & 2017



Best in Austria Award, 2012, 2013, 2014, 2015, 2016, 2017 & 2018 (European Women in Business Law Awards)
 Best in Croatia Award, 2013, 2014, 2015, 2016, 2017 & 2018 (European Women in Business Law Awards)
 Best in Romania Award, 2014, 2015 & 2016 (European Women in Business Law Awards)
 Best national firm for pro bono work, 2014 (European Women in Business Law Awards)



ILO (International Law Office) Client Choice Awards 2010 – Country Winner for Austria



ILO (International Law Office) Client Choice Awards 2013 – Individual Winner for Austria – Information Technology
 ILO (International Law Office) Client Choice Awards 2015 – Individual Winner for Austria – Healthcare & Life Sciences



Romanian Capital Markets transaction of the year for 2010
 Romanian Litigation Law Firm of the Year, 2010



Legal Marketing Gala: Energy Law Firm of the Year, 2016



Romanian Energy Law Firm of the Year, 2012



Worldwide Entertainment & Media Law Team of the Year 2009
 Special Award for "Excellence in trademark practice/litigation in private practice" in 2008
 Special Award for "Excellence in IP Litigation" in 2007



SEE Real Estate Award "Law Firm of the Year", 2007, 2008, 2010 & 2018



ÖGV-Entrepreneur 2011



First Place Winner Practice Development, 2011



Austrian Law Firm of the Year, 2009 & 2010



Best Law Firm in Austria for White Collar Law Work, 2009



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