

# Track Changes

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December 2021

## UKRAINE: DIIA CITY – NEW TAX REGIME APPROVED

On 18 December 2021, the law "On Amendments to the Tax Code of Ukraine On Stimulating the Development of the Digital Economy in Ukraine" (the "Diia City Tax Law") was signed into law by the President of Ukraine.

As 2022 approaches, the Diia City regime remains in the spotlight for Ukraine's entire IT industry. The Diia City regulation package comprises three fundamental laws in order to create a unique IT legal environment providing companies (which would opt for registering as Diia City residents) with tax benefits and protection against possible misconduct by law enforcement authorities.



**Diia City regime** launch (came into effect in August 2021)



The recently enacted **Diia City Tax Law**;



The **law improving certain measures in criminal proceedings** (which is still pending a reading in the Parliament of Ukraine).

The Diia City regime has also introduced the following new concepts into Ukrainian law:



the concept of **gig-specialists**, who are individuals engaged under gig-contracts, which is a 'hybrid model' of an employment contract (regarding a 40-hour work week and social benefits, probation period, etc.) and a services contract



**non-compete agreements**, setting out the compensation for a specialist in lieu of incurring non-compete obligations



**option agreements** (i.e. share acquisition under condition precedent)



**debt-to-equity conversion** for Diia City residents and their creditors



English law contractual tools, such as **representations and warranties**, the failure of which to perform which will trigger a penalty or fees



the option for Diia City residents to appoint another **company as an executive body**.

### The Diia City Tax Law has introduced the following principal changes in taxation for Diia City residents as well as their gig-specialists:

- **18% or 9% corporate taxation:** Diia City residents are free to choose between (i) paying corporate income tax (at an 18% rate), or (ii) becoming taxpayers on special terms (the so-called 'Distributed Profits Tax' – at a 9% rate).

Should a company opt for taxation at the 18% rate, the corporate income tax shall be paid under the general taxation system. Whilst for residents of Diia City who prefer special terms of taxation, only certain operations would be taxable at the 9% rate (e.g. paying dividends, royalties, interests; joint venture contributions return; payments to shareholders in the case of exit or liquidation; financial aid (non-repayable or provided to the company's affiliates regardless of the obligation to repay); some payments for goods and services, etc.).

- **Dividends at a 0% rate:** to accelerate the company's growth through reinvestments, it has been proposed to exempt dividends from taxation and tax them at a 0% rate, provided that dividends are paid no more than once in two years.
- **Tax rebate:** it shall be granted to individuals should they acquire a share in a startup company or another company, prior to that company obtaining a Diia City residency.
- **Reduction of expenses for hiring independent contractors:** a transition period is introduced until 2024 for companies to switch from hiring IT professionals as independent contractors to hiring them as gig-contractors and employees under the labour agreements. As a result, starting from financial year 2024, all expenses of the Diia City company resident for hiring independent contractors that exceed 50% of the company's overall expenses will be subject to a 9% tax. Starting from 2025, the level of the expenses triggering a 9% tax will be further reduced to 20%.
- **The possibility to be exempt from the reduction of expenses for hiring independent contractors:** Notwithstanding the point above, companies which opt for a 18% tax rate will not be subject to the tax consequences and limitations regarding hiring independent contractors.

A special tax regime is envisaged for the employees and gig-specialists of Diia City residents concerning payments made to the employees and gig-specialists:



**Personal Income Tax**  
5%



**Unified Social Contribution**  
22%  
(of the minimum wage)



**Military Duty**  
1.5%  
(of the employee's salary /  
gig-specialist's remuneration).



The income of an employee / a gig-specialist  
exceeds EUR 240,000/per annum

**+18%**  
the amount exceeding this  
threshold will be taxed at a  
18% rate of personal income  
tax

In this context, Diia City residency does not automatically entail the above tax benefits and does not change the company's taxpayer status. Simply being recorded in the register as a resident of Diia City shall not be deemed sufficient for a company for the purposes of benefiting from 'special terms taxpayer' status, but rather a company must specifically apply to the tax authorities for this status.

The Diia City Tax Law provides for the Diia City tax regime for 25 years since the date of the first Diia City resident entry record in the register.

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