

TO: Clients and Friends of the Firm  
FR: Frishberg & Partners  
RE: Corporate Taxation in Ukraine

## **I. Introduction**

As required by the Constitution of Ukraine, any taxes or levies, as well as sanctions for tax violations, may only be established by the laws enacted by the Ukrainian Parliament (the “Verkhovna Rada”). The Verkhovna Rada may not delegate its constitutional powers to establish a tax system, taxes or levies, and sanctions for tax violations to the government or any other authority.

In terms of the Constitution, the general laws and tax laws, in particular, enter into effect only after their proper promulgation (e.g. having been approved in a third reading by the Verkhovna Rada and signed by the President). Tax laws may not have a retroactive effect if their provisions adversely affect natural persons, but may have a retroactive effect in respect of legal entities.

Ukrainian taxes, levies, and general tax principles are established by the Law “On the Taxation System of Ukraine,” which classifies all taxes or levies either as national or local. Specifically, national taxes include corporate income tax, value added tax, personal income tax, customs duties, and excise taxes account for the largest portion of budget revenues, while local authorities collect revenue from a number of local taxes, such as advertisement tax, community development tax, hotel tax, parking tax, recreation tax, and other taxes.

Thus, the Ukrainian system of taxation contains the following principle taxes (mandatory payments):

- Corporate Income Tax (CIT);
- Value Added Tax (VAT);
- Personal Income Tax (PIT);
- Pension Fund and Social Security Fund Contributions;
- Excise Duty;
- Customs Duty;
- State Duty;
- Land Tax;
- Vehicle Owners Tax;
- Payments for Licenses/Patents;
- Other Taxes.

In this chapter, we will describe only the corporate income tax (CIT).

## II. Corporate Income Tax

### A. Tax Jurisdiction

Legal entities incorporated to and operating under the legislation of Ukraine are normally treated as tax *residents* and are taxable on their worldwide income.

Legal entities incorporated abroad and operating under the laws of another country are normally treated as foreign tax residents (“*non-residents*”) and are taxable on two sources of income:

- a. Business income received from carrying out trade or business in Ukraine, and
- b. Other non-business income received from Ukrainian sources.

According to the Law of Ukraine No. 334/94 “On Taxation of Profits of Enterprises,” dated December 28, 1994 (hereinafter the “Profit Tax Law”), the tax on companies is known as corporate income tax. Currently, this tax is calculated at a flat rate of 25% as of 1 January 2004. Please note, however, that separate tax rules pertain to agricultural enterprises, operations with securities and insurance companies.

### B. Taxation of Resident Entities

#### 1. Tax Accounting Rules

Under domestic tax accounting rules, tax items (including gross income and gross expenses) are normally recognized on the basis of the cash-or-accrual method (e.g. first event rule). Under this method, income is recognized within the reporting period upon the occurrence of one of the following events, whichever occurs earlier:

- a) the date of the transfer of funds from the purchaser (customer) to the bank account of the taxpayer as payment for goods sold or services (works) rendered or, in case of payment in cash, the date of receipt of cash as payment for such goods, works or services; OR
- b) the date of the unloading of the goods sold or, for works or services, the date of the factual provision of the results of the works or services by the taxpayer.

Expenses are recognized upon the occurrence of the one of the following events, whichever occurs earlier:

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