



Hot Topics Ukraine

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Hot Topics – Ukraine

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MLI

What? Ukraine has ratified Multilateral Convention (MLI), which entered into force on 1 December 2019.

For whom? International groups having presence in Ukraine.

Risk: PPT, clarification of the rule of capital gain.

Our support: tax advisory and revision of tax structuring models.

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FATCA, CRS

What? Ukraine has ratified FATCA and CRS, which will presumably enter into force in 2021 for 2020 year.

For whom? International groups having presence in Ukraine.

Risk: PPT, clarification of the rule of capital gain.

Our support: tax advisory and revision of tax structuring models.

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THIN CAPITALIZATION RULE

What? On January 16, 2020 the Ukrainian Parliament adopted the vast set of amendments to the Tax Code, aiming at implementation of BEPS rules (Draft Law No.1210), in particular, **thin capitalization rule was adjusted**

For whom? International groups having presence in Ukraine.

Risk: additional limitations were implemented: for the interest accrued in favor of non-residents only 30% of EBITDA (instead of 50% before) can be deducted by a Ukrainian borrower

Our support: tax advisory and revision of the corporate and operational models and, if required, respective restructuring in order to comply with new rules/ mitigate tax risks arisen.

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BENEFICIARY OWNER RULE

What? On January 16, 2020 the Ukrainian Parliament adopted the vast set of amendments to the Tax Code, aiming at implementation of BEPS rules (Draft Law №1210), in particular, **beneficiary owner rule was adopted.**

For whom? International groups having presence in Ukraine,
Ukrainian companies having transactions with non-residents

Risk: the Ukrainian taxpayer can not enjoy the benefits of the Double Tax Treaties' (reduced WHT rate) **in case of lack of the substance** (assets, personnel, other resources, risks and functions) on the side of non-resident.

Our support: tax advisory and revision of the corporate and operational models and, if required, respective restructuring in order to comply with new rules/ mitigate tax risks arisen.

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CFC RULES

What? On January 16, 2020 the Draft law №1210 was adopted, and CFC rules were implemented both for the Ukrainian **entities** and **individuals**, who hold the shares in foreign controlled entities

For whom? international groups having holding presence in Ukraine,
individuals-owners/beneficiaries of:
-foreign companies,
-foreign trusts/foundations (in some cases).

Risk: Taxation of undistributed profits of a CFC at:
- individual level: 18% PIT +1,5 % military fee;
- corporate level: 18% CIT.

Our support: tax advisory and revision of the corporate and operational models and, if required, respective restructuring in order to comply with new rules/ mitigate tax risks arisen.

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TRANSFER PRICING RULES

What? On January 16, 2020 the Ukrainian Parliament adopted the vast set of amendments to the Tax Code, aiming at implementation of BEPS rules (Draft Law №1210), in particular, TP rules were amended.

For whom? Ukrainian companies (including part of the international group)

Risk: reporting on controlled transactions and TP documentation, including **master file and country-by-country reporting**

Our support: tax advisory and revision of the corporate and operational models, preparation of reports on controlled transactions and TP documentation.

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ASSUMED DIVIDENDS RULE

What? On January 16, 2020 the Ukrainian Parliament adopted the vast set of amendments to the Tax Code, aiming at implementation of BEPS rules, in particular, assumed dividends rule was implemented

For whom? Ukrainian companies having transactions with certain non-residents (related parties on low-tax jurisdictions)

Risk: in case of non-market sale or purchase of goods/ services within the transactions with related parties or low-tax jurisdiction the shifted profit can be taxed as dividends for the purpose of **withholding tax**

Our support: tax advisory and revision of the corporate and operational models and, if required, respective restructuring in order to comply with new rules/ mitigate tax risks arisen..

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PERMANENT ESTABLISHMENT

What? On January 16, 2020 the Ukrainian Parliament adopted the vast set of amendments to the Tax Code, aiming at implementation of BEPS rules, in particular, **the definition of PE was widened** due to the BEPS recommendations.

For whom? international companies having presence in Ukraine.

Risk: Warehouses and intermediaries shall bear more risks to be treated as PE.

Our support: tax advisory and revision of the corporate and operational models and, if required, respective restructuring in order to comply with new rules/ mitigate tax risks arisen.

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CAPITAL GAINS

What? On January 16, 2020 the Ukrainian Parliament adopted the vast set of amendments to the Tax Code, aiming at implementation of BEPS rules, in particular, the rules preventing **the tax free sale of the Ukrainian shares (including those that directly or indirectly derive most of their value from the Ukrainian real property) between non-residents were adopted.**

For whom? International groups having presence in Ukraine.

Risk: taxation of share alienation at WHT rate 15%

Our support: tax advisory and revision of the corporate and operational models and, if required, respective restructuring in order to comply with new rules/ mitigate tax risks arisen..