



Smart decisions. Lasting value.

# Welcome

Special offers for Ukrainian business  
partners in Austria

Vanas & Partners

March 2022



# Entrepreneurs who **understand** entrepreneurs.

## **Speed.**

There is no long client acceptance procedure.

## **Flexibility.**

We understand and can adapt to your specific requirements.

## **Top Service.**

The top-tier technical expertise underlined by an entrepreneurial understanding.

# The Benefits for You



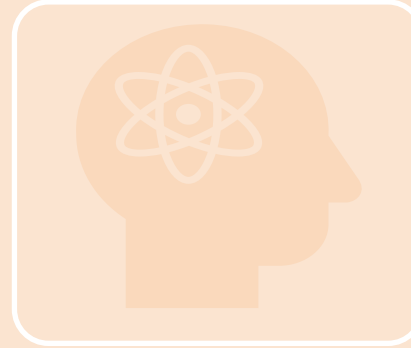
Vanas & Partner provides services to Austrian branch and is **acquainted with business model and reporting requirements**



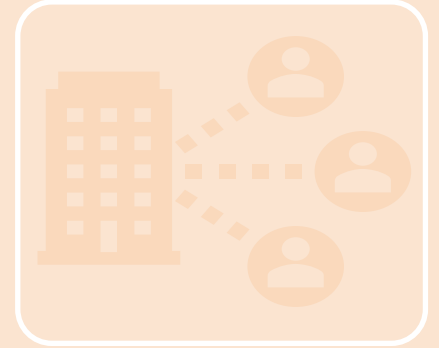
As a close cooperation network Crowe can deliver **streamlined and faster reporting**



Crowe Network can provide a cloud solution with almost **real time insight**



Our individual member firms are **experienced specialists** in NGO work and cross border consulting



Crowe can provide a **tailor made solution** for you

# Crowe Vanas & Partner's Ukrainian Desk in Vienna

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# Welcome to Austria

Our special range of services include:



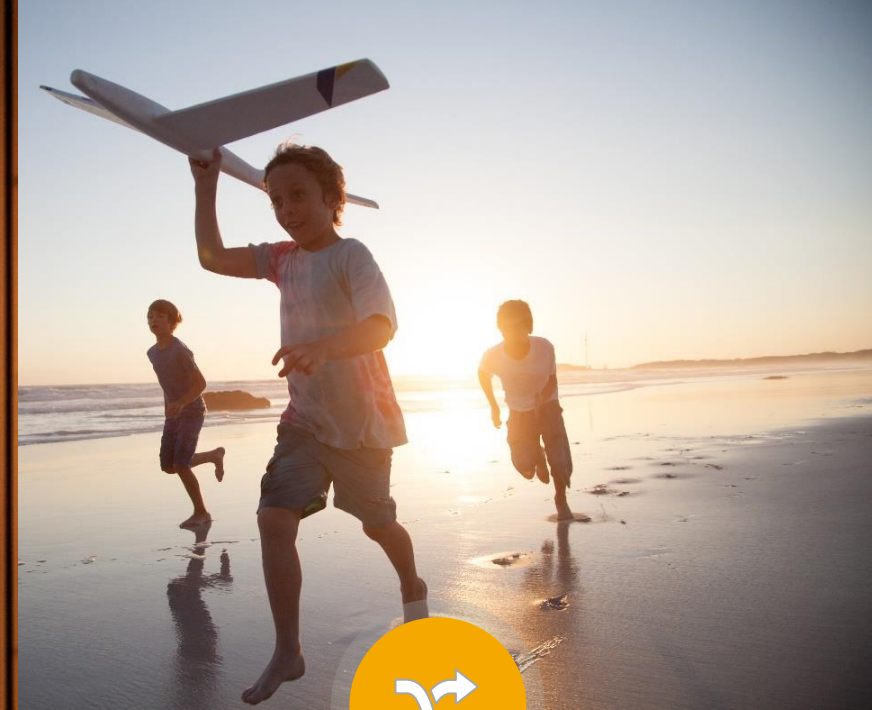
## Start-up services and compliance package

- Business registration
- Accounting, reporting, payroll, tax
- Optimisation of business structure
- Acquisition of existing business to buy and run



## Investments and business community services

- Integration to local business community
- Events to get together
- Face to face meetings
- Identification of opportunities and analyses of the Austrian market



## Society and lifestyle services

- Accommodation support
- Introduction to private schools, kindergardens;
- Introduction to medical services
- Cultural and society events

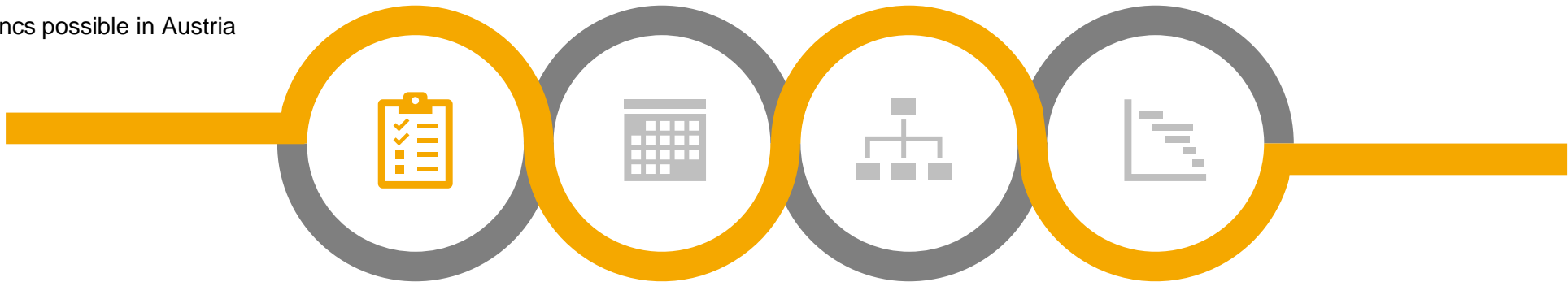
# I. Asset Protection in Austria

## Austria as a Business Hub

- Extensive tax treaty Network in Place (DTT with around 90 countries); Member of the MLI
- Quick set up of bank accounts possible – however subject to money laundering compliance
- Secure banking system;
- Trading in Swiss francs possible in Austria

## Advantages in comparison to Switzerland

- No property tax in Austria
- No inheritance tax in Austria
- No gift tax in Austria



## Asset Protection

- Asset protection using Trusts possible
- A Trust is an ownerless special-purpose asset, set up for fulfilling a specific purpose (i.e. asset-management for a certain beneficiary).
- The sale profit of shareholdings (hidden reserves) can be transferred to a new shareholding. This reduces the acquisition costs of the new shareholding in the transferred amount, leading to taxation only when the new shareholding is sold.
- The settlor cannot be in the management of the trust.

## Advantages in comparison to Germany

- Austrian Group taxation regime not possible in Germany
- More comprehensive reorganization regime in Austria
- More extensive dividend and capital gains exemptions for corporations in Austria
- More effective trust regime in Austria than in Germany
- Labour law more employer friendly in Austria

## II. FAQs

1	The costs and timelines for registering of new or purchasing a shelf company; minimum amount of the share capital, amount of stamp duty if required;	Our costs: approx EUR 5.000 Timeline: approx 4 weeks Minimum amount of share capital EUR 35.000
2	The possibility of registering a company without physical presence of the owner (UBO) in your country;	No physical presence of owner in Austria required Opening of bank account requires for physical attendance of owner
3	The possibility of appointing an Ukrainian director without his physical presence in your country. The need to obtain a residence permit;	Managing directorship irrespective of nationality (residence title "permanent resident EC" or "permanent resident family member", must be domiciled in an EEA state or Switzerland
4	The possibility and timelines for opening accounts in local banks, the requirements for the personal presence of the beneficiary and the director;	0,5 hours for individual persons
5	Minimum requirements for substance established by the authorities or local banks;	No minimum requirements for substance required by the Austrian Tax Authorities for AT Corporation

## II. FAQs

6	The possibility of obtaining temporary permits for personnel and their subsequent official employment;	Informal and efficient access to Austrian labour market
7	Personal income tax and social securities for an employee and self-employed person;	Progressive income tax rate from 25%-55% Social Sec employed: 21,23% cap EUR 1.203,74 pm Social Sec self-employed: 6,8%+EUR 10,09+18,5%
8	CPT rates; application of transfer pricing rules for transactions with parent/subsidiaries and revenue/ transactions thresholds for TP application;	25% CIT rate (planned reduction to 23% by 2024) TP OECD rules apply/ CBCR threshold MEUR 750 Master & Local File threshold MEUR 50
9	Tax incentives in Austria aimed at the new business development.	Payroll tax benefits; Real estate transfer tax and duties and levies in connection to new businesses not levied
10	Trust-structures in Austria as an effective tools of property and assets securitization.	Sale profit of shareholdings can be transferred to a new shareholding. This reduces the acquisition costs of the new shareholding in the transferred amount; taxation only when the new shareholding is sold.



# III. Tax rates & other important aspects

## CIT

- 25% CIT rate (planned reduction to 23% by 2024)
- Minimum CIT EUR 500 - 1.750

## VAT

- Standard VAT rate 20%
- Input VAT can be recovered
- E-invoicing is possible

## WHT

- WHT on dividends is generally 27,5%. However, reductions due to a the DTT UKR-AT are possible at source.
- Austrian domestic law provides for WHT on technical services and advisory services provided by foreign businesses which perform their services physically in Austria, unless they perform the services through a permanent establishment in Austria. 20% WHT has to be withheld by the Austrian entity.

## Financing

- Financing options should be checked concerning the Austrian interest barrier and other interest deductibility limitations in connection with interest paid to associated enterprises

## UBO Register

- UBO register (WiEReG): 4 weeks after registration of a new corporation in the companies register, yearly update necessary (no specific deadline for the update, but maximum 1 year between the reports)

## PIT

- Limited tax liability/Unlimited tax liability depending on residency in Austria
- Individuals resident in Austria are subject to Austrian income tax with their worldwide income. An individual is resident in Austria if he/she has either a permanent accommodation or his habitual abode in Austria.
- However, foreign source income may be exempt from Austrian tax under the respective double tax treaty. If an individual is resident in more than one jurisdiction the double tax treaty determines where the individual has his main residence for the purpose of the tax treaty.
- If a foreign individual has a holiday home in Austria, he will not be taxed as a resident if he uses the holiday home for less than 70 days per annum and keeps appropriate records on the use. However, he may opt to be taxed as a resident of Austria.
- Progressive income tax rates:

up to EUR 11,000.00	0%
EUR 11,001.00 through EUR 18,000.00	25%
EUR 18,001.00 through EUR 31,000.00	35%
EUR 31,001.00 through EUR 60,000.00	42%
EUR 60,001.00 through EUR 90,000.00	48%
EUR 90,001.00 through EUR 1,000,000.00	50%
over EUR 1,000,001.00	55%

Capital gains relating to investments are subject to a 27.5% capital gains tax.  
Capital gains from the sale of real estate attract a 30% capital gains tax.
- Exit taxation

# IV. Setting up an AT Corporation

## Government Support

- Research
- Education
- Start-Ups
- Tax Holidays for Start Up's
- Promotions for production facilities and buildings

## Director rights of third country citizens e.g. Ukraine

- Pursuant Austrian trade law regulations the managing director under trade law must meet the personal requirements for exercising the trade. These include self-entitlement, the absence of certain convictions by the courts or financial authorities or certain insolvency or trade law offences, and the possession of certain residence rights in Austria.
- The managing director position is notwithstanding the nationality.
- Furthermore, a managing director must generally be domiciled in Austria. However if this is not the case, the trade law regulations foresee that the managing director - irrespective of his/her nationality – must be domiciled in a state in which the service of the imposition and enforcement of administrative penalties is ensured by convention, or that the managing director under trade law, if he is a **third-country citizen** with a residence title "permanent resident EC" or "permanent resident family member", must be domiciled in an EEA state or Switzerland.

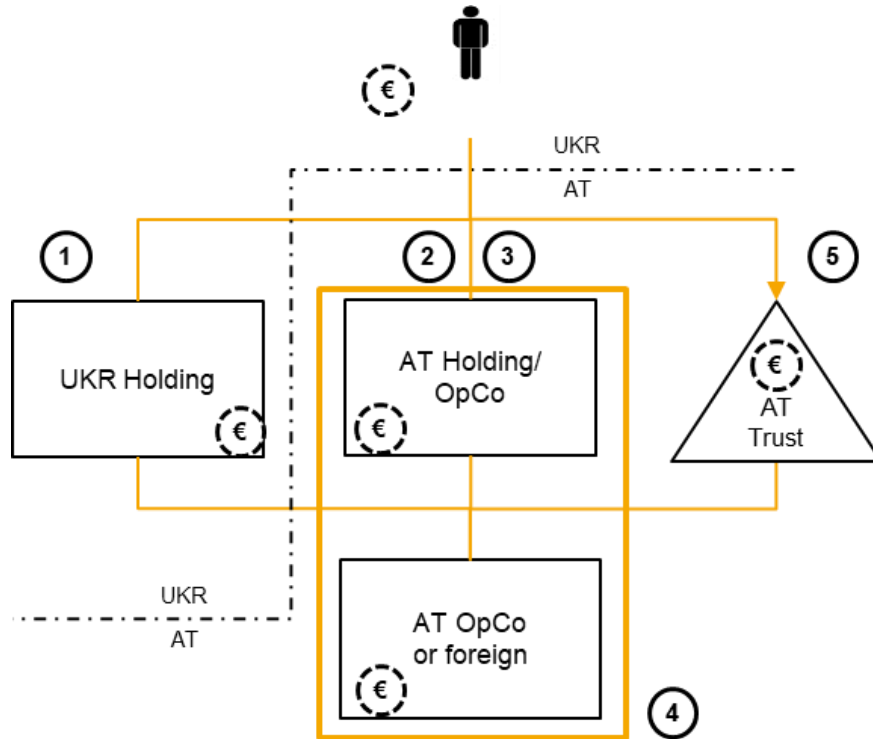
## Important aspects to consider when setting up an Austrian corporation

- The articles of association for a corporation have to be notarized in Austria.
- Minimum Capital requirement EUR 35.000.
- An Austrian bank account is necessary. A signature has to be given in person in Austria, no power of attorney possible.
- Registration of the business for trade law purposes is necessary.
- Chamber of commerce contribution is triggered by the registration.
- Possibly a certified representative for trade law purposes has to be appointed.

## New Business Subsidy

- If a new business is set up by way of an Austrian Limited, it is possible to receive certain tax benefits upon request. These benefits include:
  - Duties and levies connected with setting up the new business, including duties for registration in the companies register, are not levied
  - Real estate transfer tax in certain circumstances, including duties for registration in the real property register (cadaster), are not levied
  - Certain payroll tax benefits are granted
- These benefits apply only for a limited timeframe, the length of which depends on the specific benefit.

# V. Overview Common Structures



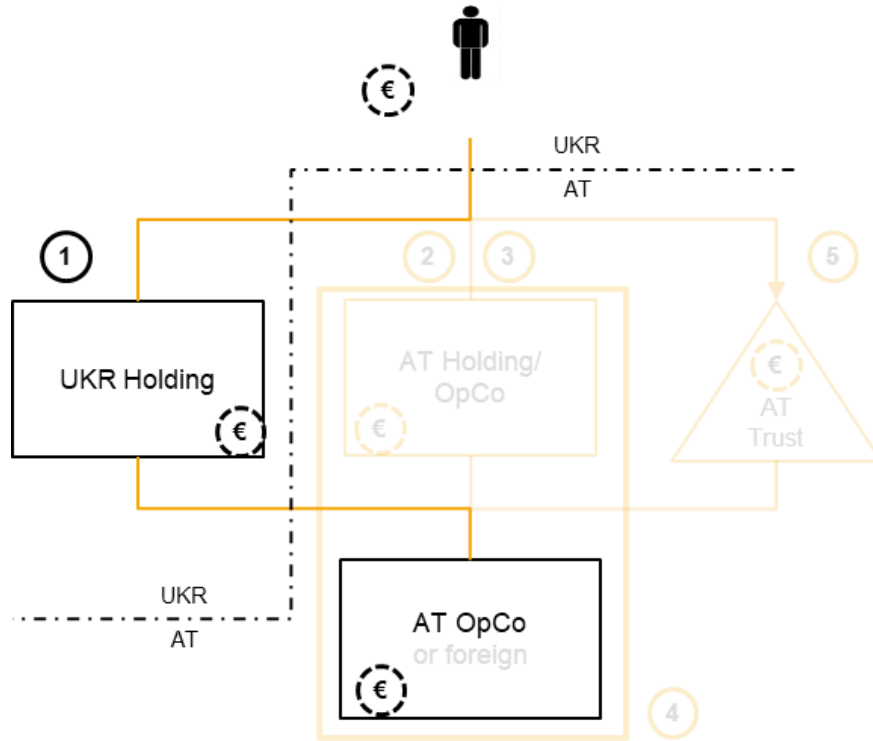
## Options

- ① UKR Holding held by Ukrainian citizen resident in Ukraine invests in Austrian AT OpCo
- ② Ukrainian citizen resident in Ukraine founds AT Holding which invests in AT OpCo.
- ③ Ukrainian citizen resident in Ukraine directly founds or invests in AT OpCo.
- ④ Tax Group possible with an AT Holding as group parent and AT OpCo or foreign subsidiaries as group members, if the shareholding exceeds 50%.
- ⑤ Ukrainian citizen resident in Ukraine founds AT Trust which invests in AT OpCo.

## Risks

- Unlimited tax liability in Austria due to residence in Austria (family and temporary stay in Austria). In this case the DTT UKR-AT is not applicable for Austrian income and all income of the individual is taxed in Austria.
- In this case exit taxation applies (27,5%), if Austria loses its taxing rights on the shareholdings invested in.
- Austria loses its taxation right, if the individual moves to another country (e.g. back to Ukraine) and the DTT allocates the taxation right to the state of residence.

# V. Option 1 – UKR Holding and AT OpCo



## Option 1

- Ukrainian capital in Ukrainian Holding is used to acquire Austrian OpCo.

### CIT - Operational profits at AT OpCo

- 25% CIT rate (planned reduction to 23% by 2024)

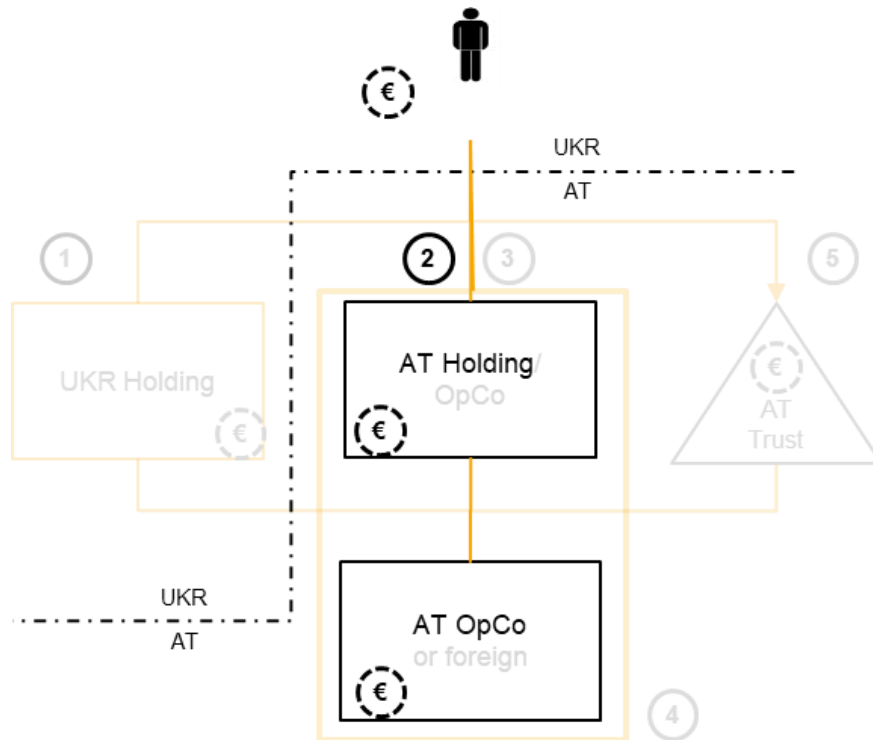
### Taxation of Distributions to UKR Holding

- **Dividends** are subject to WHT in Austria of 25% for corporations resident in third states (Ukraine).
- The DTT UKR-AT allows for a reduction of WHT to 5%, if the shareholding in the Austrian entity exceeds 10%.
- In all other cases (i.e. shareholding of less than 10%) the DTT UKR-AT reduces the WHT reduced to 10%.
- Upon request, a reduction of WHT at source is possible.
- **Repayment of Equity** to the shareholder can be tax neutral in the amount of the equity contributed by a shareholder and limited by the acquisition costs.

### Taxation of sale of AT OpCo

- Sale of UKR Holding not taxable in AT.
- The DTT UKR-AT allocates the taxation right for the sale of AT OpCo to the residence state of the shareholder, i.e. Ukraine in this case.

# V. Option 2 – AT Holding and AT OpCo



## Option 2

- Ukrainian citizen founds AT Holding (assumption 100%) which acquires or invests in AT OpCo.

### CIT - Operational profits at AT OpCo

- 25% CIT rate (planned reduction to 23% by 2024)

### CIT - profits at AT Holding

- Interest for loans taken to acquire OpCo is tax deductible.
- Distributions from AT OpCo on the level of AT Holding are tax neutral.
- The sale of AT OpCo by AT Holding is taxed at 25% CIT in Austria.

### Taxation of Distributions to UKR citizen

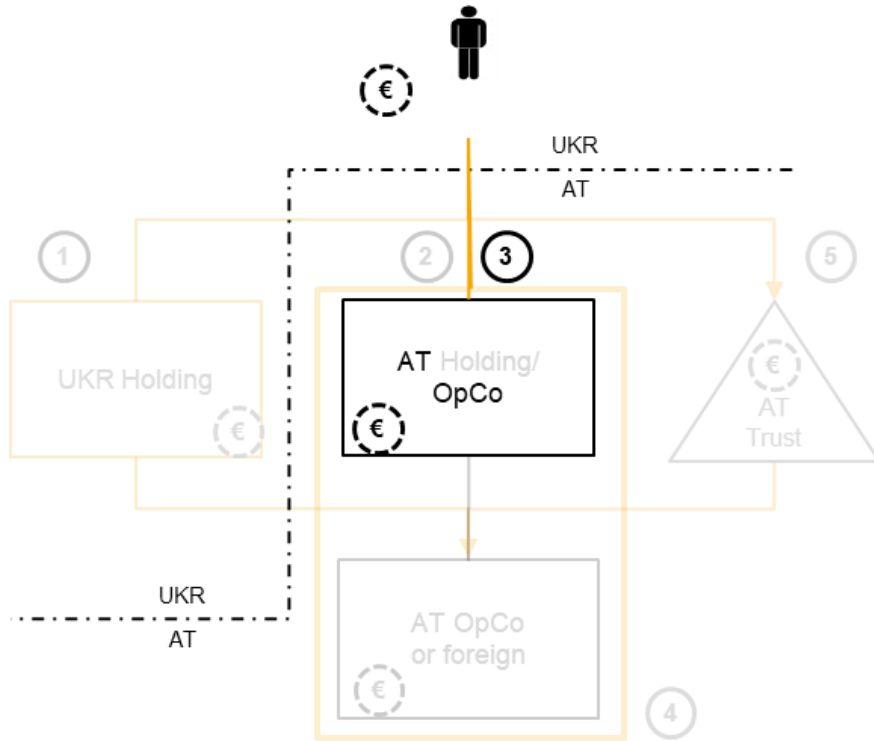
- **Dividends** are subject to WHT in Austria of 25% for corporations resident in third states (Ukraine).
- The DTT UKR-AT allows for a reduction of WHT to 10%.
- Upon request, a reduction of WHT at source is possible.
- **Repayment of Equity** from AT Holding to the shareholder can be tax neutral in the amount of the equity contributed by a shareholder and limited by the acquisition costs.

### Taxation of sale of AT Holding

- The DTT UKR-AT allocates the taxation right for sale of AT Holding to the residence state of the shareholder, i.e. Ukraine in this case.



# V. Option 3 – Direct investment in AT OpCo



## Option 3

- Ukrainian citizen founds/acquires AT OpCo.

### CIT - Operational profits at AT OpCo

- 25% CIT rate (planned reduction to 23% by 2024)

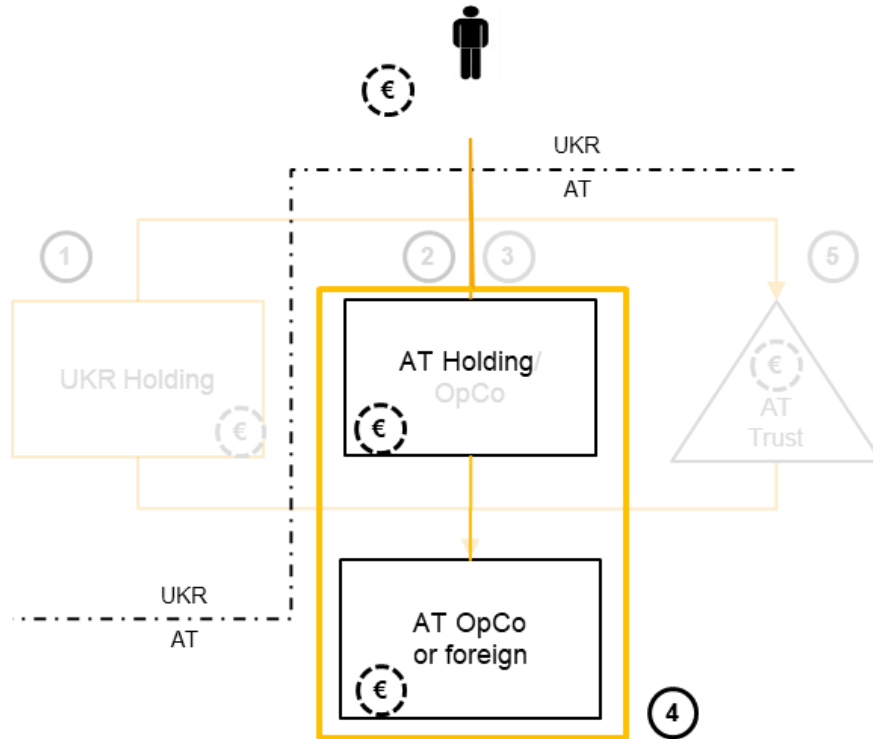
### Taxation of Distributions to UKR citizen

- **Dividends** are subject to WHT in Austria of 27,5% for individuals resident in Austria or in third states (Ukraine).
- The DTT UKR-AT allows for a reduction of WHT to 10%.
- Upon request, a reduction of WHT at source is possible.
- **Repayment of Equity** from AT Holding to the shareholder can be tax neutral in the amount of the equity contributed by a shareholder and limited by the acquisition costs.

### Taxation of sale of AT OpCo

- The DTT UKR-AT allocates the taxation right for sale of AT OpCo to the residence state of the shareholder, i.e. Ukraine in this case.
- In case the individual is considered a resident in Austria, the sale is subject to 27,5% income tax.

# V. Option 4 – AT Holding with AT Tax Group



## Option 4

- Ukrainian citizen founds AT Holding (assumption 100%) which acquires or invests in AT OpCo. AT Holding and AT OpCo form a tax group.

### CIT - Operational profits at AT OpCo and profits of AT Holding

- Income of AT Holding and AT OpCo is taxed at the level of AT Holding with 25% CIT rate (planned reduction to 23% by 2024). Losses can therefore be offset with positive income of the other entity.
- Interest for loans taken to acquire OpCo is tax deductible (debt push down).
- Distributions from AT OpCo on the level of AT Holding are tax neutral.
- The sale of AT OpCo by AT Holding is taxed at 25% CIT in Austria.

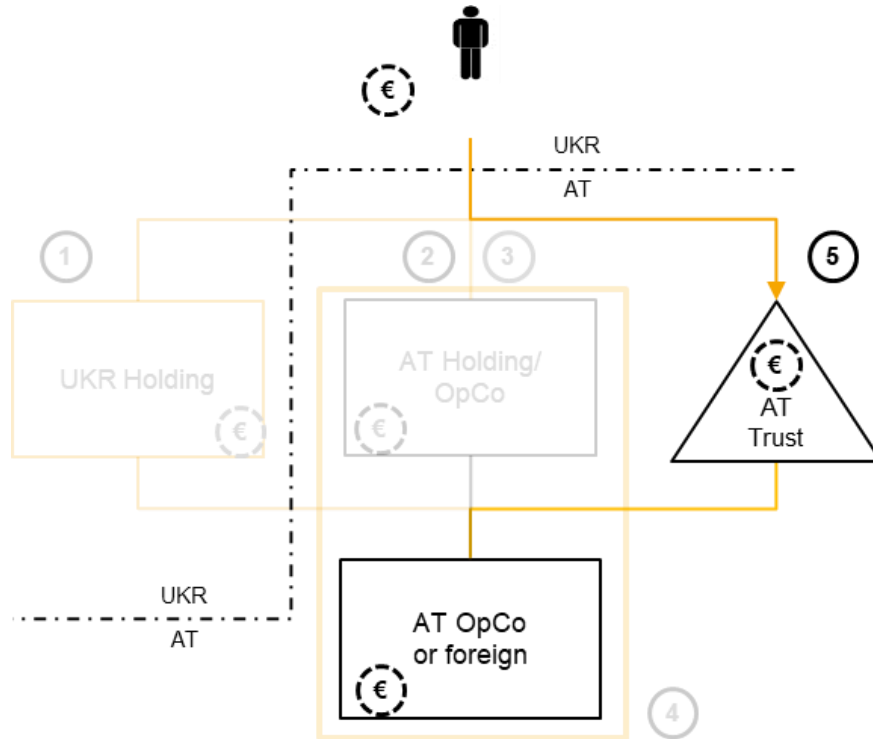
### Taxation of Distributions to UKR Citizen

- **Dividends** are subject to WHT in Austria of 25% for corporations resident in third countries (Ukraine).
- The DTT UKR-AT allows for a reduction of WHT to 10%.
- Upon request, a reduction of WHT at source is possible.
- **Repayment of Equity** from AT Holding to the shareholder can be tax neutral in the amount of the equity contributed by a shareholder and limited by the acquisition costs.

### Taxation of sale of AT Holding

- The DTT UKR-AT allocates the taxation right for sale of AT OpCo to the residence state of the shareholder, i.e. Ukraine in this case.
- In case the individual is considered a resident in Austria, the sale is subject to 27,5% income tax.

# V. Option 5 – AT Trust



## Option 5

- Ukrainian citizen (settlor) resident in Ukraine founds AT Trust (minimum capital 70.000) which invests in AT OpCo.

### Trust foundation tax

- 2,5% Trust foundation tax on the FMV of the assets contributed to the trust.

### CIT - Operational profits at AT OpCo and profits of AT Trust

- Interest for loans taken to acquire AT OpCo is not tax deductible at level of AT Trust.
- Distributions from AT OpCo on the level of AT Trust are tax neutral.
- The sale of AT OpCo by AT Holding is taxed at 25% CIT equivalent for trusts in Austria. This can be credited against tax on distribution to the beneficiary.
- The sale profit of shareholdings (hidden reserves) can be transferred to a new shareholding. This reduces the acquisition costs of the new shareholding in the transferred amount, leading to taxation only when the new shareholding is sold.

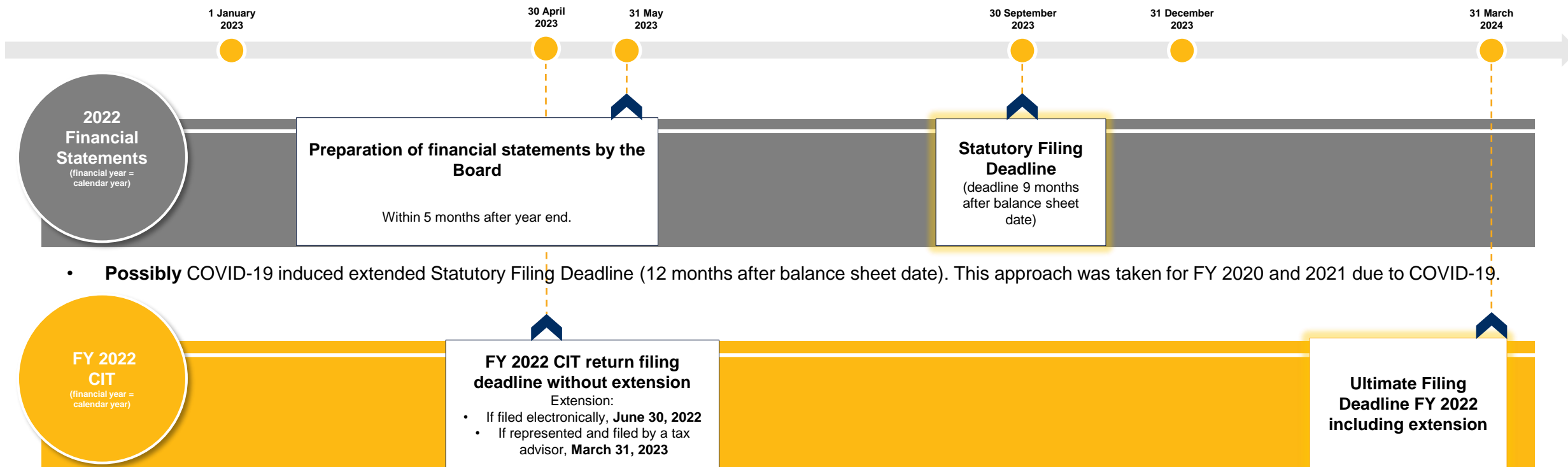
### Taxation of Distributions to UKR Citizen

- Distributions to beneficiaries are generally subject to WHT in Austria of 27,5%.
- The DTT UKR-AT allocates the taxation right to Ukraine. Therefore no tax is levied in Austria.

### Legal form of AT Trust

- Ownerless special-purpose assets, set up for fulfilling a specific purpose (i.e. asset-management for a certain beneficiary).
- The settlor cannot be in the management of the trust.

# VI. Calendar – Austrian key accounting, tax compliance and reporting deadlines



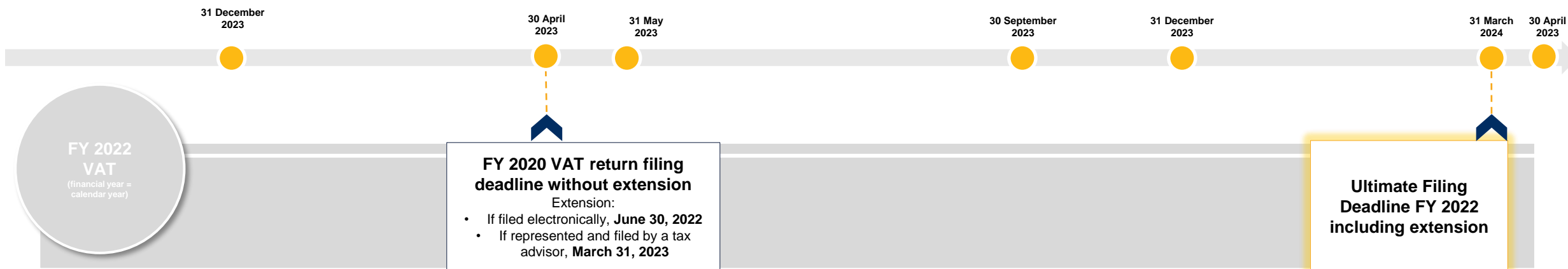
## Corporate income tax

- Quarterly CIT prepayments on February 15, 2022, May 16, 2022, August 15, 2022, November 15, 2022 (starting October 1, 2022 interest is calculated)
- CIT rate 25%
- Minimum CIT EUR 500 – 1.750

## Withholding taxes

- Dividend withholding tax ( 27,5% WHT): Return to be filed within 1 week after making the dividends available. Reduction due to DTT or EU-PSD possible.

# VI. Calendar – Austrian key accounting, tax compliance and reporting deadlines – indirect Tax



## Quarterly/Monthly VAT returns

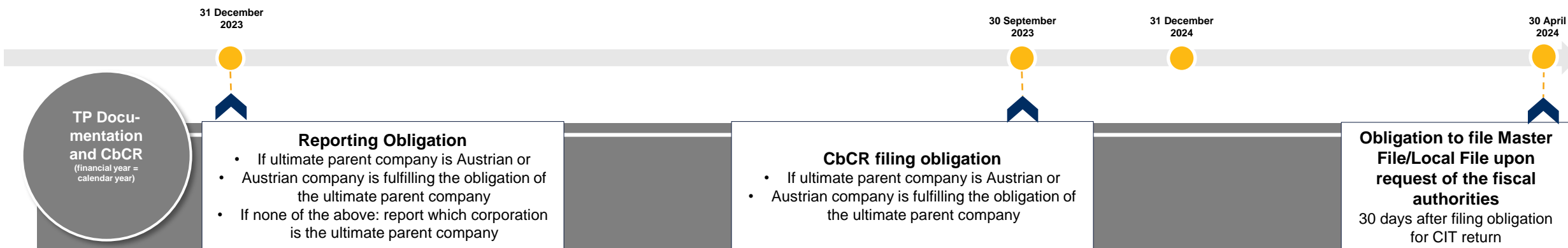
- **Quarterly VAT returns** have to be filed if the expected revenue in the first year does not exceed EUR 100,000. Deadline for **filing and payment** is the **15. of the second following month**. E.g. May 15, 2022 for Q1 2022.
- **Monthly VAT returns** have to be filed if the expected revenue in the first year exceeds EUR 100,000. Deadline for **filing and payment** is the **15. of the second following month**. E.g. March 15, 2022 for January 2022.

## ESL and Intrastat

- European Sales List (ESL) to be filed if intra community supplies/services are made from Austria. Filing obligation monthly or quarterly depending on the VAT return filing deadlines. The deadline is the last day of the following month, e.g. for January 2022 on February 28, 2022.
- Intrastat-reporting: Monthly reports must be filed on the 10th workday of the following calendar month. The obligation is triggered following the month in which the yearly threshold of EUR 750,000.00 is exceeded.



# VI. Calendar – Austrian key accounting, tax compliance and reporting deadlines – TP & other



## Payroll

- Declaration and payment of taxes and social security contributions (wage tax, contributions to the company employee provision fund employer's contribution, surcharge to employer's contribution) to the fiscal authorities until the 15. of the following month, i.e. for January 2022 February 15, 2022.
- Payment of taxes and duties (municipal tax and employer contribution) to the municipality until the 15. of the following month, i.e. for January 2022 February 15, 2022.
- Declaration of monthly base for social security contributions and payment to the OeGK (social security agency) until the 15. of the following month, i.e. for January 2022 February 15, 2022.
- Filing of pay slips for the full year until end of February of the following year, i.e. for the year 2022 February 28, 2023.
- Filing of municipal tax and employer contribution returns for the full year until end of March of the following year, i.e. for the year 2022 March 30, 2023.
- Registration of employees at the OeGK (social security agency) before they start working.
- Deregistration of employees at the OeGK (social security agency) within 7 days after the end of the employment contract.

## Miscellaneous:

- UBO register (WiReG): 4 weeks after registration of a new corporation in the companies register, yearly update necessary (no specific deadline for the update, but maximum 1 year between the reports)
- DAC-6 (EU-MPFG): Notifications on the Mandatory Disclosure directive (DAC-6) must be filed within 30 days after making it available for implementation.



# Disclaimer

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