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COUNTRY

Doing Business in
Ukraine

Preface

This guide has been prepared by Baker Tilly Ukraine, an independent member of Baker Tilly International. It is designed to provide information on a number of subjects important to those considering investing or doing business in Ukraine.

Baker Tilly International is the world's 8th largest accountancy and business advisory network by combined fee income, and is represented by 138 firms in 104 countries and over 24,000 personnel worldwide. Its members are high quality, independent accountancy and business advisory firms, all of whom are committed to providing the best possible service to their clients, both in their own marketplace and across the world.

This guide is one of a series of country profiles compiled for use by Baker Tilly International member firms' clients and professional staff. Copies may be obtained from Baker Tilly Ukraine or any of our independent member firms.

Doing Business in Ukraine has been designed for the information of readers. Whilst every effort has been made to ensure accuracy, information contained in this guide may not be comprehensive and recipients should not act upon it without seeking professional advice. Facts and figures as presented are correct at the time of writing.

Up-to-date advice and general assistance on Ukrainian matters can be obtained from Baker Tilly Ukraine; contact details can be found at the end of this guide.


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1 Fact Sheet

Geography

Location	Eastern Europe, bordering the Black Sea, between Poland, Romania and Moldova to the west and Russia to the east
Area	603,700km ²
Land boundaries	Belarus, Hungary, Moldova, Poland, Romania, Russia and Slovakia
Coastline	2,782km
Climate	Temperate continental. Winters vary from cool along the Black Sea to cold farther inland; summers are warm across the greater part of the country
Terrain	Mainly fertile plains and plateaux; mountains are found only in the west (the Carpathians) and in the Crimean Peninsula in the extreme south
Time zone	GMT +2

People

Population	47,425,336
Ethnic groups	Ukrainian 77.8%, Russian 17.3%, Belarusian 0.6%, Moldovan 0.5%, Crimean Tatar 0.5%, Bulgarian 0.4%, Hungarian 0.3%, Romanian 0.3%, Polish 0.3%, Jewish 0.2%, other 1.8% (2001 census)
Language	Ukrainian is the official language. Russian is spoken by around 24% of the population; Romanian and Hungarian are spoken by a small minority

Government

Country name	Ukraine
Government type	Republic
Capital	Kiev
Administrative divisions	24 provinces, one autonomous republic and two municipalities with province status

Economy

GDP – per capita	US\$6,900 (2007 est.)
GDP – real growth rate	7.6% (2007)
Labour force	21.58 million (2007 est.)
Unemployment	2.3% officially registered
Currency (code)	Hryvnia (UAH)

2 Business Entities and Accounting

2.1 Joint Stock Companies (JSC)

A JSC is a common form of legal entity used in Ukrainian business. A joint stock company may be:

- A private joint stock company (ZAT)
- A public joint stock company (VAT)
- A national joint stock company (DAT).

2.2 Limited Liability Companies (LLC)

A popular form of corporate organisation is the LLC through which foreign companies can conduct business in Ukraine. LLCs have a slightly simpler registration process than joint stock companies and require a less complex capital and management structure.

2.3 Joint Activity without Establishment of a Legal Entity

A foreigner has the right to invest without creating a legal entity by entering into a joint production or joint co-operation agreement with Ukrainian partners. Foreign investors are granted the right to get back their investment and repatriate the profit from it.

2.4 Representative Offices of Foreign Companies in Ukraine

Non-resident legal entities which carry out their activities via a representative office in Ukraine are not afforded the status of a legal entity in Ukraine and are subject to the legislation of the country of their permanent establishment. The representative office executes all accounting and reporting in accordance with Ukrainian law.

2.5 Ukrainian Accounting System

The principal features of the accounting system are:

- Financial statements, with itemised schedules, are prepared on state-approved forms
- The chief accountant manages the accounting function and preparation of financial statements
- Foreign-owned Ukrainian entities must adopt and follow the Ukrainian chart of accounts and accounting principles (but simultaneously may use their own system)

- Accounts must be prepared in compliance with the chart of accounts and directions for making entries according to National Accounting Standards (NAS) promulgated by the government as law
- All “local” accounting material must be in Ukrainian
- The Hryvnia is the basic accounting currency unit. Any transactions denominated in foreign currency must also be recorded separately in Hryvnia (generally at the rate of exchange ruling on the date of the transaction) for official accounting purposes
- The financial year of a Ukrainian enterprise is the calendar year.

Manual accounting is still in widespread use; the system is built around pre-prepared forms.

Under NAS, financial statements consist of the balance sheet, income statement and cash flow statement. These are now more in line with internationally recognisable formats; however, they are still on pre-printed forms and based on a specified chart of accounts.

2.6 Comparison with International Financial Reporting Standards (IFRS)

Many differences exist between accounts prepared according to Ukrainian NAS and those prepared according to IFRS. As both IFRS and Ukrainian NAS are constantly evolving, investors are encouraged to seek professional advice.

The introduction of the new NAS has not been a smooth transition and old practices are still being applied. Furthermore, the state tax administration does not accept financial statements prepared in accordance with NAS, and, therefore, separate reporting for tax purposes is required.

Companies listed on the Ukrainian stock exchange have had to present their financial statements in accordance with IFRS since 2003.

2.7 Audit and Filing Requirements

With the exception of financial institutions and open joint stock companies, statutory audit reports are generally not required by Ukrainian companies. On a quarterly basis, companies must file their commercial financial statements with the Ministry of Statistics and JSCs with the Commission on Securities and Stock Exchange. Quarterly taxation reports should be filed before the 25th of the month following the reporting quarter. The taxation reports for the financial year to 31 December must be filed with the tax inspectorate by 15 February.

3 Finance and Investment

3.1 Foreign Investors' Participation

Foreign investors may generally acquire up to a 100% participation in a Ukrainian business with virtually no restrictions.

3.2 Legal Regime for Foreign Investments

Generally, foreign investors, Ukrainian legal entities and individuals have equal rights and obligations. A Ukrainian legal entity is recognised as a company with foreign investment if it has at least 10% foreign ownership in its charter capital (ie share capital).

3.3 Types of Investments

Foreign investment can take place in a variety of forms, including:

- Formation of a joint venture company
- Acquisition of stock (shares) in an existing enterprise
- Acquisition of movable or immovable property
- Creation of a company wholly-owned by a foreign investor
- Acquisition of property rights by purchasing securities
- Buying the right to use land and concessions to exploit natural resources.

A number of rules apply to foreign investors, eg monetary investment should be made in Hyrvnia via an account opened with a Ukrainian bank.

Ukrainian legislation sets out effective protection for foreign investment in Ukraine against state confiscation, except for cases of national emergency.

Approval may be required for transactions which may lead to an economic concentration in a specific market segment.

3.4 The Banking System

The National Bank of Ukraine (NBU) controls the national currency, supervises the banking system and enables the creation of current banking regulations.

The current banking system is two-tiered, comprising the NBU and a number of commercial banks.

There are currently five main banking companies in Ukraine with foreign ownership: Calyon, Citibank, HVB Ukraine, ING and Raiffeisenbank.

3.5 Exchange Controls and Currency Regulation

The Hryvnia is the only legal tender within the territory of Ukraine.

Foreign currency can be purchased for the following main purposes:

- Payment to overseas suppliers of goods/works/services
- Payment of dividends, interest and royalties abroad
- Repayment of a hard currency loan registered with the NBU
- Purchase of hard currency denominated securities.

4 Employment Regulation and Social Security

The main body of laws covering the labour rules is the Labour Code of Ukraine (Labour Code). According to the relevant provisions of the Labour Code, an employee can conclude only one employment agreement with the same employer.

Ukrainian labour legislation is inherited from Soviet times; the emphasis is on protecting the rights of the employees rather than of the employers.

Legislation introduced in 1991 allows individuals to choose their place of work and enter into direct employment agreements with employers. Enterprises with foreign investment may hire Ukrainian employees and enter into collective agreements or individual employment agreements.

4.1 Entry Visas and Work Permits

Citizens of the following countries can enter Ukraine with a valid passport without a visa for periods of up to 90 days over a 180 day period: USA, Canada, Japan, EU nations, Switzerland, Liechtenstein, Andorra, Vatican, Iceland, Monaco, Norway, San Marino, Mongolia, Lithuania and the countries of the Commonwealth of Independent States (except Turkmenistan). A visa is required for longer stays.

To work in Ukraine a visa is required regardless of the length of visit. Visa descriptions and requirements can be found at the websites of Ukrainian consulates and embassies abroad.

4.2 Employment Agreements

Labour legislation provides a pro-forma employment agreement and provisions to be included in such an agreement. Employers may be required to honour employees' requests to conclude a collective agreement even if there is no trade union presence at the enterprise.

4.3 Employee Rights

Certain guarantees are provided by law to employees, including:

- The right to reinstatement in a prior job upon the expiration of the term of an elected office
- Wages for time spent away from work for performing functions of a trade union officer, appearing in court, voting and fulfilling other state or social responsibilities
- The right to keep one's job when on a training programme
- Wages while hospitalised
- Compensation for the depreciation in value of an employee's tools when used for the purpose of employment
- Severance payment in certain situations
- Certain social benefits, including maternity leave and paid holiday
- Minimum pay guidelines.

In addition, the following protection is provided for by the labour legislation:

- The working week should not exceed 40 hours
- Overtime may not exceed four hours over two consecutive days or 120 hours per year. In practice, many employees of foreign firms work different hours subject to voluntary individual agreements with the employer
- In general, employees are entitled to annual leave of at least 24 days
- Women are entitled to paid maternity leave.

A labour book must be kept for each employee working for an enterprise for longer than five days. This contains information on the employee's activities, reasons for dismissal etc.

4.4 Duration of Agreements

A labour agreement may be concluded for an indefinite period of time, a specific term which is settled through mutual consent of the parties, or for the time necessary to perform the work.

Generally, the probation period of an employee is between one and three months. During the probation period the employee is entitled to all rights and protection under Ukrainian law.

Grounds for termination of employment include:

- Agreement by both parties
- Expiry of the term of the employment agreement
- Drafting or enlistment of a worker into military service
- Criminal conviction and incarceration of an employee which prevents them from continuing their work
- The transfer of a worker, with the worker's consent, to other work or to another position
- Refusal of a worker to be transferred to work in another location upon the employer's relocation
- Termination of an employment agreement at the employee's initiative
- Termination of a labour agreement at the initiative of an employer.

Salaries of employees are determined in accordance with the employment agreement and are subject to the statutory minimum salary. Additional compensation is payable for overtime, holidays and night work. Salaries must be paid at least once every two weeks.

5 Taxation

5.1 Overview

Ukraine's tax system at present contains 22 types of national taxes. The principal taxes and compulsory payments include:

- Corporate profits tax
- Value added tax (VAT)
- Personal income tax
- Pension fund charge
- Excise tax
- Land tax
- Tax on owners of motor vehicles
- Import duty
- Stamp duty
- Charge on environmental pollution
- Royalties for extraction of oil, natural gas and gas condensate
- Charge for the use of radio frequency.

There are 14 local taxes that may be levied at the discretion of the local authorities. Few of them apply to business entities. The principal local taxes include advertisement tax, municipal tax and charge for use of local symbols.

5.2 Tax Audits

The tax authorities may carry out scheduled and non-scheduled audits of businesses. The tax inspector must present a written order outlining the scope and period of the tax audit.

5.3 Corporate Profits Tax

A uniform tax at the rate of 25% applies to taxable profits earned by resident entities and permanent establishments of foreign companies.

Interest paid is generally deductible if incurred for business purposes. However, a limitation for deductibility of interest expense applies if 50% or more of the borrower's capital belongs to non-residents and the interest is payable to non-residents (and related entities) who have holdings in the borrower's capital.

Quarterly depreciation charges are computed on the basis of the reducing-balance method at prescribed rates.

Tax losses may be carried forward against future profits. In 2008 the period for which losses may be carried forward was restricted to two years.

The payment of dividends generates a liability to pay advance tax at the rate of 25%; this may be off-set against the corporate profits tax liability. Dividends paid to a non-resident business entity are subject to a 15% withholding tax unless a double tax treaty provides otherwise.

Withholding tax applies at the rate of 15% to a wide range of payments to non-residents, including dividends, royalties and rentals.

Gains earned by non-residents from transactions with discounted bonds and treasury bills are subject to withholding tax at the rate of 25% and income from freight services is subject to withholding tax at the rate of 6%.

Resident entities that pay non-residents for advertising services performed in Ukraine must pay, from their own funds, a 20% tax based on the value of such services.

Taxable profits of a Ukrainian permanent establishment can be determined by applying one of three calculations: the direct method, the allocation method or the notional method.

It is necessary to register as a payer of corporate profits tax with the tax authorities.

Resident companies and non-resident entities that have a permanent establishment in Ukraine are obliged to keep accounts in accordance with Ukrainian accounting standards. Tax returns must be filed both by resident and non-resident taxpayers on a quarterly basis within 40 days of the last day of the reporting quarter (ie by 10 May, 9 August, 9 November and 9 February).

Tax should be paid quarterly within ten days of the date by which the tax return must be filed.

5.4 VAT

All turnover from the sale of goods and services in Ukraine is within the scope of VAT (subject to specific exemptions or exclusions), as well as imports of goods and services (subject to certain exemptions or exclusions).

The standard rate of VAT is 20%. This applies to all goods and services apart from the exceptions set out below subject to zero-rate VAT.

The list of transactions subject to zero-rate VAT primarily includes sales of goods outside Ukraine (export of goods) and sales of services which are intended to be used or consumed outside of Ukraine.

Non-VATable transactions include: fixed assets contributed in exchange for shares in enterprises with foreign investment; transfer of property for leasing from a Ukrainian lessor to a lessee and its return to the lessor on the termination of the lease; rent payments under financial leases; insurance and reinsurance transactions, social and pension insurance; most banking services, etc.

VAT-exempt transactions include: education services; artistic and cultural services; healthcare services; certain mass media services; privatisation services etc.

VAT registration is required for entities with a volume of VATable transactions in excess of UAH300,000 per annum, importers of goods, services or works, or entities engaged in trade for cash regardless of the volume of sales.

Foreign companies terminating their activities in Ukraine are obliged to file a final tax return with the relevant tax authorities.

5.5 Taxation of Individuals

Individuals are subject to personal income tax at a 15% flat rate. There are certain exceptions to the 15% tax rate, and lower as well as higher tax rates (30%) may be applied to certain types of income.

Employers, whether a Ukrainian business entity or a permanent establishment of a foreign entity, are generally required to make monthly contributions to the State Pension Fund, Employment Fund, Disease Security Fund and Accident Insurance Fund.

The statutory payments are made in one lump sum for all employees and are calculated as a percentage of the employees' cumulative gross monthly salary as follows:

Pension fund contributions	33.2%
Employment fund contributions	1.3%
Social security fund contributions	1.5%
Accident insurance fund contributions (depends on activity)	0.5% -13.6%

Employers must withhold from monthly employees' taxable income the following contributions to social funds:

State pension fund contribution	2%
Employment fund contribution	0.5%
Social security fund contributions	1%

5.6 Other Taxes and Charges

5.6.1 Excise duty

Excise duty is paid by producers and importers of luxury and monopolised goods and is included in the price of the goods to the consumer.

Excise duties are not levied when excisable goods are exported for foreign currency.

5.6.2 Customs duties

The following customs duties are payable by an importer on importation of goods into Ukraine:

- Customs fees at the rate of 2% (up to a maximum of US\$1,000) of the customs value of the goods
- Customs duty in accordance with the unified customs tariff
- Reduced rates of customs duties may apply depending on the country of manufacture/origin
- The reduced duty rates generally apply to goods manufactured in countries that have signed trade agreements with Ukraine for most favoured nation status.

5.6.3 Tax on owners of motor vehicles

Owners of motor vehicles registered in Ukraine pay this tax. The tax rate depends on the power output of the vehicle's engine and currently varies from UAH0.5 to UAH40 per 100cc of engine displacement.

5.6.4 State duty

State duty is levied on legal entities as well as on individuals for the issue of certain documents by specified authorities (ie notaries and state authorities). The rate of duty varies depending on the deed executed. A pension fund duty of 1.3% is also due with respect to certain purchases of hard currency.

5.6.5 Rent payments

Entities that conduct business activities connected with gas and oil extraction in the territory of Ukraine are required to make rent payments. Currently, the rate for rent payment is UAH30.6 per 1,000 cubic metres of gas extraction and UAH300 per ton of oil extraction. Entities that transport either oil or gas by pipeline in the territory of Ukraine should also pay rent payments specified in the relevant legislation.

5.6.6 Local taxes and duties

There are certain rather immaterial local taxes and duties, the principal ones being advertising tax and municipal tax. Advertising tax is levied at the rate from 0.1% to 0.5% based on the value of advertising installation and placement services. Municipal tax is currently paid monthly at the rate of UAH1.70 per employee.

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