



Ukraine Update

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I. Regulatory

Simplifying Export of Services from Ukraine

Starting from 3 January 2017, new simplified rules for export of services are in effect.¹ In particular:

- Contracts between Ukrainian service providers and their foreign counterparties may now be concluded in electronic form, including by means of public offer acceptance, exchange of correspondence or issuance of invoice. This rule does not apply to contracts for transportation services.
- It is no longer required that the services be paid within 120 days after their rendering. This, however, does not apply to transportation and insurance services.
- Contracts and other related documents (such as invoices) in English no longer require Ukrainian translation.
- Invoices may now be issued in electronic form.

NBU Currency Limitations

On 13 December 2016, the National Bank of Ukraine (NBU) enacted new Regulation No. 410 regarding Ukraine's monetary and foreign currency markets.²

The new regulation extends the restrictions introduced by the previous NBU regulation pertinent to legal entities, including:

- Mandatory sale of foreign currency cash receipts from abroad at the level of 65%
- Term for payments under export-import transactions – 120 calendar days
- A limit for cash withdrawals in foreign currency or bank metals from client's current or deposit bank accounts up to £250,000 (approx. US\$9,000) per day
- Early repayment of loans in foreign currency (with certain exceptions) and others.

Regulation No. 410 will be in effect for an indefinite term until cancelled by NBU, except for the restrictions indicated in paragraphs (i) and (ii) above, which will be in effect until 15 June 2017, inclusive.

License Requirements to Certain Financial Services

Effective 10 December 2016, the Cabinet of Ministers of Ukraine with its Resolution No. 913 approved the license conditions for providing financial services (except for professional activities in the securities market).³

¹ Law of Ukraine on Amendments to Certain Legislative Acts of Ukraine (Regarding Elimination of Administrative Barriers to Export of Services), dated 3 November 2016, No. 1724-VIII.

² NBU Resolution on Regulating the Situation in the Monetary and Foreign Currency Markets of Ukraine, dated 13 December 2016 No. 410, as amended.

³ Resolution of the Cabinet of Ministers of Ukraine on Approval of Licensing Conditions for Conducting Business Activity on Providing Financial Services, dated 7 December 2016 No. 913.

Resolution No. 913 establishes requirements for obtaining a license to provide the following financial services:

- Granting guarantees and suretyships
- Financial leasing
- Factoring
- Trust management of financial assets
- Specific types of insurance as defined by the legislation
- Lending funds with their further return
- Granting loans including financial credits
- Administration of private pension funds
- Administration of financial assets for purchase of goods for groups of purchasers
- Property management for financing constructions or real estate transactions

Entities having licenses for the above types of activities must bring their activity in compliance with the new license conditions before 10 February 2017, except for entities that provide services on financial leasing, granting loans, including financial credits, granting guarantees and suretyships, factoring and trust management and were registered before 10 December 2016 in the State Register of Financial Institutions or the register of persons, which are not financial institutions but have the right to provide certain financial services. To such entities, the new license conditions will apply from 10 June 2017.

License Requirements to Services of Cryptographic and Technical Protection of Information

Effective 30 November 2016, the Cabinet of Ministers of Ukraine adopted new license conditions for entities that provide services of cryptographic (except for digital signature) and technical protection of information.⁴

A license is required for the following services:

- Development and implementation of engineering and other technical documentation, manufacturing of cryptosystems and tools for cryptographic protection of information
- Supply, installation, setup, technical maintenance, repair and/or utilization of cryptosystems and tools for cryptographic protection of information
- Special and expert studies of cryptosystems and tools for cryptographic protection of information
- Evaluation of security level for information that is not state secret
- Evaluation of security level for information of all types, including state secret
- Detection of unauthorized devices and apps

⁴ Resolution of the Cabinet of Ministers of Ukraine on Certain Issues of Licensing of Economic Activity on Providing Services in Sphere of Cryptographic Protection of Information (Except for Digital Signature) and Technical Protection of Information according to the List Envisaged by the Cabinet of Ministers of Ukraine, dated 16 November 2016, No.821.

II. Corporate

Expansion of Mandatory Disclosure by Joint Stock Companies

The National Securities and Stock Market Commission expanded the scope of information to be mandatorily disclosed by joint stock companies.⁵

In particular, from 19 December 2016, joint stock companies have to disclose the following additional information:

- Change of their type
- Making decisions on securities placement of value more than 10% of the charter capital
- Security of debt securities issue (if secured by third parties)

III. Tax

Amendments to the Tax Code

Effective 1 January 2017, a new law providing amendments to the Tax Code of Ukraine to attract foreign investors to Ukraine came into force.⁶ Some of the changes will become effective later.

The new law introduces a number of important changes, including:

Online Office. With the help of online offices, taxpayers will be able:

- To complete and submit tax reporting
- To register their tax invoices
- To carry on correspondence with tax authorities, etc.

Major Taxpayers. Criteria for major taxpayers are changed to the following:

- Over £1 billion proceeds from activities (increased from £500 million)
- More than £20 million paid to the state budget (increased from £12 million)

Both amounts are calculated for the last four quarters.

Tax Holidays. To the taxpayers, having an annual income not more than £3 million and paying monthly salaries to each of its employees not less than two minimal salaries (£6,400 (approx. US\$240)), 0% income tax applies until 31 December 2021 if a taxpayer:

- Is established after 1 January 2017
- Is acting, with an annual income during the last three years not exceeding £3 million and with 5-20 employees staff
- Was registered as single tax payer before 1 January 2017 and during the last year and (a) its volume of proceeds was not in excess of £3 million and (b) staff was from 5-50 employees

⁵ Decision of the National Securities and Stock Market Commission of Ukraine on Amending Certain Statutory and Regulatory Acts of the National Securities and Stock Market Commission, dated 14 September 2016, No. 923.

⁶ Law of Ukraine on Amending Tax Code regarding Improvement of Investment Climate in Ukraine, dated 21 December 2016 No. 1797-VIII.

Controlled Transactions. The criteria for considering transactions to be controlled are increased as follows: (i) over £150 million (earlier £50 million) (approx. US\$5.55 million and earlier US\$1.85 million) annual income of a taxpayer; and (ii) over £10 million (earlier £5 million) (approx. US\$370,000 and earlier US\$185,000) of annual volume of transactions with the same contractor.

Tax Individual Consultations. From 1 April 2017, the term to provide individual consultations by tax authorities is reduced from 30-25 days.

Contacts

Peter Teluk

Partner, Corporate

T +380 44 591 3140

E peter.teluk@squirepb.com

Olena Bilozor

Of Counsel, Corporate

T +380 44 591 3140

E olena.bilozor@squirepb.com

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