

# PETERKA PARTNERS

THE CEE LAW FIRM

Czech Republic  
Poland

Slovakia  
Romania

Ukraine  
Belarus

Bulgaria  
Hungary

## HANDBOOK ON INCOME TAXATION

for Ukrainians residing and doing business in CEE countries

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## Introduction



Under what conditions does a Ukrainian become a tax resident of specific CEE countries? And what if he/she still has a business in Ukraine that they manage from specific CEE countries?

These and many other questions concerning international taxation are nowadays being asked by Ukrainian citizens as a result of the mass influx of displaced persons from the war in their country. This was the main reason we decided to prepare this handbook on the tax implications from the perspective of double tax treaties concluded between Ukraine and CEE countries and the local tax legislation.

In principle, the taxation of incomes of Ukrainian citizens residing in particular CEE countries (Poland, Bulgaria, the Czech Republic, Slovakia, Romania, and Hungary) depends on whether such individuals will be treated as tax residents of the respective CEE country or as Ukrainian tax residents.

In the standard situation, a Ukrainian citizen moving to one of the respective CEE countries as a result of the mass influx of displaced persons is in principle a Ukrainian tax resident.

However, a Ukrainian citizen may become a tax resident of a respective CEE country subject to specific conditions stated below according to the local tax legislation of the country.

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## Are you still a Ukrainian tax resident?



In most cases you will be taxed in PL/BG/CZ/SK/RO/HU from the income which has its source in PL/BG/CZ/SK/RO/HU and in Ukraine you will need to still fulfil your tax obligations from your worldwide income. The elimination of double taxation will be ensured by the application of the double tax treaty concluded between Ukraine and the respective country.

## Have you already become a tax resident of PL/BG/CZ/SK/RO/HU?



In most cases you will be taxed in PL/BG/CZ/SK/RO/HU from your worldwide income. And also from your Ukrainian income if you receive any. Again, double taxation of your income will be eliminated by the application of a double tax treaty.

Below you can find answers on how you will be taxed in respect to 8 model situations which may occur in practice.



# Poland

## Taxation of a Ukrainian individual who wishes to find a job in Poland

Taxation of a Ukrainian citizen working in Poland depends on his/her tax residency. The following variants are possible: (1) taxation of the Ukrainian citizen entirely in Poland, (2) entirely in Ukraine, (3) partly in Poland, i.e., only with respect to income earned in Poland.

As for option one, individuals considered as Polish tax residents are subject to Polish taxation with regard to their world-wide income, irrespective of where the income source is located (unlimited tax liability).

In situations when the Ukrainian citizen is considered a non-Polish resident, his/her income is subject to taxation in Poland only in connection with the performance of a job in Poland or from Polish sources (limited tax liability when option two or three is applied respectively).

For those who qualify for limited tax liability, income from Polish civil contracts may be taxed at a flat rate of 20%. Income of a Polish non-resident employed in Poland and performing a job in Poland is taxed in Poland under the general rules with the application of a progressive tax scale (17% and 32%), however, under certain conditions provided for in the Polish-Ukrainian Double Tax Treaty (presented further below) this income may be taxed only in Ukraine.

## Taxation of a Ukrainian individual residing in Poland and receiving employment remuneration from Ukraine

In the case of a Ukrainian citizen meeting the conditions of a Polish tax resident (as explained in section 1), the income from employment will be fully taxed in Poland. Foreign place of payment of remuneration, e.g., from Ukraine, does not exempt one from the tax obligation in Poland.

It would be different in the case of a Ukrainian individual who is not a tax resident in Poland (but who is a tax resident of Ukraine), if the following conditions provided for in the Polish-Ukrainian Double Tax Treaty are met:

- 1) the employee is present in Poland for a period or periods not exceeding, on aggregate, 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
- 2) the remuneration is paid by, or on behalf of, an employer who is not a tax resident of Poland; and
- 3) the remuneration is not borne by a permanent establishment which the employer has in Poland.

If all the above conditions are met, the income will be taxed in Ukraine only.



## An individual who manages his/her business in Ukraine from Poland

As long as a permanent establishment (PE) will not be created on the territory of Poland, profits from business operations in Ukraine are not subject to taxation in Poland. This principle is derived from the Polish-Ukrainian Double Tax Treaty.

The definition of PE is also included in the Double Tax Treaty and according to it, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on. It includes especially: (a) a place of management, (b) a branch, (c) an office, (d) a factory, (e) a workshop, (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources, as well as (g) a building site or construction or installation project if it lasts more than twelve months.

As can be seen from the above, the place from where the management is performed forms the PE, which would mean that the income of a business based in Ukraine would be taxable in Poland if the business is managed from Poland. However, not all the world-wide income of Ukrainian business is subject to taxation in Poland, but only so much of the income as is attributable to that PE in Poland.

## Sale/rent of real estate located in Poland

From the Polish perspective, profits from the sale or rent of real estate located in Poland will be taxable in Poland irrespective of the tax residency of the owner.

For sales of real estate owned by the seller for more than 5 full calendar years, the proceeds of the sale are exempt from income tax.

From the Ukrainian perspective, if an individual who is a Ukrainian tax resident buys real estate in Poland and he/she decides to rent it/sell it, his/her income (i.e., rent, purchase price) will be taxable both in Poland and Ukraine, with the credit method helping to eliminate double taxation (i.e., Polish personal income tax due from the lease fees/sales proceeds can be credited against Ukrainian income tax).

## Sale/rent of real estate located in Ukraine

In the case of sale or rent of real estate located in Ukraine, profits of the owner being a Polish tax resident according to the Double Tax Treaty are taxed only in Ukraine. However, a Polish resident taxpayer is obliged to include such income in his/her remaining worldwide income taxable in Poland in order to calculate the amount of tax (the exempted income has an impact on tax progression).

## Payment of dividends from a Ukrainian company to Poland

Dividends paid by a Ukrainian company to a Ukrainian individual who stays in Poland but is not a Polish tax resident, are not taxable in Poland because it is not Polish-sourced income.

In the case of a Polish tax resident, the dividends from a Ukrainian company are taxed in Poland with a 19% tax rate. According to the Polish-Ukrainian Double Tax Treaty, Ukraine may then withhold up to 15% tax at source upon payment of the dividend, which is then credited against Polish tax. The domestic Ukrainian personal income tax rate in this case varies from 5% to 9%, depending upon the circumstances.

Note that if a Ukrainian company is managed from Poland then such company is treated as a Polish tax resident and dividends from such company are taxed in Poland.

## Taxation of Ukrainian self-employed individuals working on a remote basis (e.g., IT specialists) for Ukrainian companies

If a Ukrainian individual is a tax resident in Poland, his/her income from remote work will be fully taxed in Poland.

If, on the other hand, this person is not a tax resident in Poland, he/she will not be taxed in Poland unless his/her activity would meet the definition of permanent establishment (as stated in section 2).



# Bulgaria

## **Taxation of a Ukrainian individual who wishes to find a job in Bulgaria**

Employment remuneration of a Ukrainian tax resident received as a result of performing “dependent activity” (employment functions) as an employee on the territory of Bulgaria for a Bulgarian employer (Bulgarian legal entity), will be taxable both in Bulgaria and Ukraine (although certain exceptions apply).

Double taxation of the employment remuneration can be eliminated by applying the “credit method”: the tax levied in Bulgaria is credited against the tax levied by Ukraine.

A Ukrainian citizen may qualify as a Bulgarian tax resident subject to certain conditions, e.g., if he/she has permanent address on the territory of Bulgaria (subject to certain exceptions); if he/she is present in Bulgaria for a period exceeding 183 days in any twelve month period; if the centre of his/her vital interests is in Bulgaria (defining the centre of vital interests depends on various factors, among others: family, property, the place where the individual performs his/her employment, professional or economic activity, the place of effective management of his/her property, etc.).

The employment remuneration of a Bulgarian tax resident received as a result of performing dependent activity (employment functions) as an employee on the territory of Bulgaria for a Bulgarian employer (Bulgarian legal entity) will be taxable in Bulgaria.

## **Taxation of a Ukrainian individual residing in Bulgaria and receiving employment remuneration from Ukraine**

Employment remuneration of Ukrainian tax resident received as a result of performing dependent activity (employment function) as an employee on the territory of Bulgaria for a Ukrainian employer (Ukrainian legal entity), will be taxable both in Bulgaria and Ukraine (although certain exceptions apply).

Double taxation of the employment remuneration can be eliminated by applying the “credit method”: the personal income tax levied in the Bulgaria is credited against the personal income tax levied by Ukraine (importantly, not against the Ukrainian defence contribution of 1.5%, which is not considered personal income tax and therefore is not formally covered by the double taxation treaties).

The employment remuneration of a Bulgarian tax resident received as a result of performing dependent activity as an employee on the territory of Bulgaria for a Ukrainian employer (Ukrainian legal entity) will be taxable in Bulgaria.

## An individual who manages his/her business in Ukraine from Bulgaria

If an individual (shareholder and executive) is residing in Bulgaria but managing his/her company, which is registered and operating in Ukraine, the company's income will not be taxable in Bulgaria unless permanent establishment will arise in Bulgaria. Permanent establishment may arise in Bulgaria in some circumstances and taxation in such case needs to be considered separately.

## Sale/rent of real estate located in Bulgaria

If an individual who is a Ukrainian tax resident buys real estate in Bulgaria and he/she decides to rent it/sell it to a Bulgarian tax resident, his/her income (i.e., rent, purchase price) will be taxable both in Bulgaria and Ukraine, with the credit method helping to eliminate double taxation (i.e., the personal income tax levied in Bulgaria is credited against the personal income tax levied by Ukraine).

If an individual who is a Bulgarian tax resident buys real estate in Bulgaria and he/she decides to rent it/sell it to a Bulgarian tax resident, his/her income (i.e., rent, purchase price) will be taxable in Bulgaria.

## Sale/rent of real estate located in Ukraine

If an individual who is a Ukrainian tax resident decides to rent/sell his/her real estate located on the territory of Ukraine, his/her income (i.e., rent, purchase price) will be taxable in Ukraine.

If an individual who is a Bulgarian tax resident decides to rent/sell his/her real estate located on the territory of Ukraine, his/her income (i.e., rent, purchase price) will be taxable in Ukraine.

## Payment of dividends from a Ukrainian company to Bulgaria

Dividends paid by a Ukrainian company to an individual who is a Ukrainian tax resident will be taxable in Ukraine.

Dividends paid by a Ukrainian company to individual who is a Bulgarian tax resident will be taxable in both Ukraine (currently, Ukrainian personal income tax rate in this case varies from 5% to 9%) and Bulgaria (the tax paid in Ukraine will be deducted from the tax to be paid in Bulgaria; personal income tax on dividends in Bulgaria amounts to 5%).

The above scenarios may differ if permanent establishment of a Ukrainian company will arise in Bulgaria. This needs to be assessed on an individual basis.

## Taxation of Ukrainian self-employed individuals working on a remote basis (e.g., IT specialists) for Ukrainian companies

The income of a Ukrainian self-employed tax resident, working on the territory of Bulgaria on a remote basis for a Ukrainian company, will be taxable both in Bulgaria and Ukraine.

Double taxation of the income can be eliminated by applying the "credit method": the tax levied in Bulgaria is credited against the tax levied by Ukraine.

The income of a Bulgarian self-employed tax resident working on the territory of Bulgaria on a remote basis for a Ukrainian company will be taxable in Bulgaria. There are certain issues which may arise with regard to "self-employed" status under Ukrainian law in this case, which need to be addressed to separately.





# Romania

## **Taxation of a Ukrainian individual who wishes to find a job in Romania**

Employment remuneration of a Ukrainian tax resident received for performing a dependent activity, as an employee, on the territory of Romania for a Romanian employer may be taxable in Romania and Ukraine. Moreover, for the avoidance of the double taxation of the employment income, the personal income tax paid in Romania may be credited against the personal income tax which should be paid in Ukraine.

After acquiring Romanian tax residency all the worldwide income (including employment remuneration) will be taxable in Romania.

## **Taxation of a Ukrainian individual residing in Romania and receiving employment remuneration from Ukraine**

Employment remuneration of a Ukrainian tax resident received as a result of performing a dependent activity, as an employee, in the territory of Romania for a Ukrainian employer will be taxable both in Romania and Ukraine.

However, if the Ukrainian individual is present in Romania for a period not exceeding 183 days in any 12-month period and the Ukrainian employer has no permanent establishment in Romania, the remuneration will be taxable only in Ukraine.

For the avoidance of the double taxation of the employment income, the personal income tax paid in Romania may be credited against the personal income tax which should be paid in Ukraine.

Notwithstanding the above-mentioned, if the Ukrainian individual becomes a tax resident in Romania, the employment remuneration for performing a dependent activity (employee functions) in Romania for a Ukrainian employer will be taxable in Romania.

## **An individual who manages his/her business in Ukraine from Romania**

If an individual (shareholder or executive) is residing in Romania and managing a company registered and operating in Ukraine, then the existence of a permanent establishment should be determined.

In the situation in which a permanent establishment will be created in Romania, then the profits of the such Ukrainian company may be taxed in Romania, but only so much of the products as are attributable to the permanent establishment created in Romania.

## Sale/rent of real estate located in Romania

From the Romanian perspective, regardless of the person's tax residency, the income from the leasing/selling of Romanian real estate assets is taxable in Romania.

From the Ukrainian perspective, if an individual who is a Ukrainian tax resident buys real estate in Romania and he/she decides to rent it/sell it, his/her income (i.e., rent, purchase price) will be taxable both in Romania and Ukraine, with the credit method helping to eliminate double taxation (i.e., Romanian personal income tax due from the lease fees/sales proceeds can be credited against Ukrainian income tax).

## Sale/rent of real estate located in Ukraine

Irrespective of the person's tax residency, the income from the leasing/selling of Ukrainian real estate assets is taxable in Ukraine. However, the Romanian taxpayer is obliged to include such income in his/her remaining worldwide income taxable in Romania in order to calculate the amount of tax.

## Payment of dividends from a Ukrainian company to Romania

Dividends paid by a Ukrainian company to an individual currently residing in Romania who is still a Ukrainian tax resident will be taxable in Ukraine.

The above will differ if permanent establishment of a Ukrainian company will arise in Romania. This needs to be assessed on an individual basis.

Dividends paid by a Ukrainian company to an individual who is a Romanian tax resident will be taxable in Ukraine (up to 15% calculated from the gross amount of the dividends). The domestic Ukrainian personal income tax rate in this case varies from 5% to 9%, depending upon circumstances. In Romania, currently, for individuals the tax on dividends is 5% calculated from the gross amount of the dividends, thus, no tax on dividends will be paid in Romania. Double taxation is eliminated via the credit method (tax paid in Ukraine can be credited against Romanian tax due from dividends).

## Taxation of Ukrainian self-employed individuals working on a remote basis (e.g., IT specialists) for Ukrainian companies

Income of a Ukrainian self-employed tax resident, working from Romania on a remote basis for a Ukrainian company, will be taxable only in Ukraine. In the case the Ukrainian self-employed person has a fixed base regularly available to him/her in Romania for the purpose of performing his/her activities (this needs to be assessed on an individual basis), the resulting income will be also taxable in Romania. The tax levied in Romania will be credited against the tax levied by Ukraine.

The income of a Ukrainian self-employed person who has already become a tax resident in Romania and working from Romania on a remote basis for a Ukrainian company, will be taxable only in Romania.



## Czech Republic

### **Taxation of a Ukrainian individual who wishes to find a job in the Czech Republic**

Income from dependent activity (employment) performed in the Czech Republic for a Czech employer is taxable in the Czech Republic regardless of the tax residency of the employee (Czech or Ukrainian). A Czech employer deducts tax advances on a monthly basis regardless of the tax residency of the employee (CZ or UA). Tax allowances depend on tax residency. Ukrainian tax residents are liable to tax their worldwide income in Ukraine. The Double Tax Treaty concluded between the Czech Republic and Ukraine eliminates double taxation.

Ukraine will also tax employment income paid out by a Czech employer to a Ukrainian tax resident, and to avoid double taxation in such a case, personal income tax paid in the Czech Republic can be credited against Ukrainian personal income tax (but not against the defence contribution).

Tax residency is a crucial criterion for taxation in the Czech Republic. A Ukrainian refugee becomes a Czech tax resident only once he/she has a permanent home available to him in the Czech Republic; if he/she has a permanent home in both Ukraine and the Czech Republic, the refugee is a tax resident in the state in which he has the centre of vital interests (where economic and personal relations are closer). Otherwise, the habitual abode is decisive.

### **Taxation of a Ukrainian individual residing in the Czech Republic and receiving employment remuneration from Ukraine**

In the case of a Czech tax resident, the income will be taxed in the Czech Republic. The Ukrainian employer becomes a taxpayer once a permanent establishment arises or the employee is employed for more than 183 days in the Czech Republic.

In the case of a Ukrainian tax resident, the income will be taxed in the Czech Republic if the employee performs in the Czech Republic for more than 183 days in any 12-month period, or if costs are borne/remuneration is paid by the Czech permanent establishment of the Ukrainian employer.



## An individual who manages his/her business in Ukraine from the Czech Republic

The tax domicile of the company (place of effective management) shall be determined. Czech tax residents are liable to tax from their worldwide income in the Czech Republic.

Eventually, permanent establishment may be created in the Czech Republic, usually based on an office located in the Czech Republic, rendering services in the territory of the Czech Republic for a period or periods exceeding, on aggregate, 6 months in any 12-month period, or a dependent agent in the Czech Republic. Once a permanent establishment arises, Czech accounting, registration, payment and filing duties need to be observed.

## Sale/rent of real estate located in the Czech Republic

Irrespective of the person's tax residency, income from the leasing or selling of Czech real estate will be taxable in the Czech Republic. Tax exemption rules for income from the sale of real estate apply for both Czech and Ukrainian tax residents. Gains from the sale of non-business real estate are exempt if it was held for at least 10 years prior to the sale. Gains from the sale of a dwelling are also exempt if the dwelling was used for residence purposes for at least 2 years.

## Sale/rent of real estate located in Ukraine

Irrespective of the person's tax residency, income from the leasing or selling of Ukrainian real estate will be taxable in Ukraine. Czech tax residents are liable to include such income in their worldwide income taxable in the Czech Republic and are entitled to credit Ukrainian tax paid. The tax exemption rules specified above apply.

## Payment of dividends from a Ukrainian company to the Czech Republic

In the case of a Ukrainian tax resident, Ukraine will have the right to tax dividends (regardless of the tax residency of the recipient). The domestic Ukrainian personal income tax rate in this case varies from 5% to 9%, depending upon the circumstances.

If the Ukrainian refugee manages his/her business from the Czech Republic (a place of effective management in the Czech Republic), and the Ukrainian company is a Czech tax resident, then the Czech Republic will have a right to tax dividends.

In the meantime, after a Ukrainian individual becomes a Czech tax resident, Ukraine has the right to tax dividends (currently, the domestic Ukrainian personal income tax rate in this case varies from 5% to 9%) as does the Czech Republic (taxable by 15%). Ukrainian personal income tax withheld from the dividends may be credited against Czech personal income tax.

## Taxation of Ukrainian self-employed individuals working on a remote basis (e.g., IT specialists) for Ukrainian companies

In the case of a Czech tax resident, the income will be taxed in the Czech Republic. There are certain grounds not to tax service fees payable from Ukraine in Ukraine, but this issue will depend upon numerous specific circumstances to be studied on a case-by-case basis.

In the case of a Ukrainian tax resident, the income will be taxed in Ukraine, and in the Czech Republic – but once the permanent establishment is created in the Czech Republic.



## Slovakia

### **Taxation of a Ukrainian individual who wishes to find a job in Slovakia**

Employment remuneration of a Ukrainian tax resident received for performing dependent activity as an employee on the territory of Slovakia for a Slovak employer may be taxable in Slovakia and Ukraine as well. In order to avoid double taxation of employment income, the personal income tax paid in Slovakia may be credited against the personal income tax which should be paid in Ukraine (but not the defence contribution of 1.5%).

After acquiring Slovak tax residency all the worldwide income (including employment remuneration) will be taxable in Slovakia; Ukraine should have no taxing rights in this case.

A Ukrainian citizen may qualify as a Slovak tax resident if he/she has a permanent residence in the territory of Slovakia or is domiciled or usually resides there.

Domicile means the possibility of accommodation which is not only occasional, and with regard to all related facts and circumstances, including personal ties and economic ties of the natural person to the territory of Slovakia and the intention of the natural person to reside permanently in this residence is obvious. A natural person usually stays in the territory of Slovakia if he/she stays there for at least 183 days in the relevant calendar year, continuously or in several periods.

### **Taxation of a Ukrainian individual residing in Slovakia and receiving employment remuneration from Ukraine**

Employment remuneration of a Ukrainian tax resident received as a result of performing dependent activity (employment function) as an employee in the territory of Slovakia for a Ukrainian employer will be taxable both in Slovakia and Ukraine. However, in the case a Ukrainian individual is present in Slovakia for a period not exceeding 183 days in any twelve-month period and the Ukrainian employer has no permanent establishment in Slovakia, the remuneration will be taxable only in Ukraine.

In order to avoid double taxation of employment income, the tax paid in Slovakia may be credited against the tax which will be paid in Ukraine (credit is allowed for Ukrainian personal income tax only, not against the defence contribution of 1.5%).

If a Ukrainian individual becomes a tax resident of Slovakia, the employment remuneration for performing dependent activity on the territory of Slovakia for a Ukrainian employer will be taxable in Slovakia and Ukraine should have no taxing rights in this case.

## An individual who manages his/her business in Ukraine from Slovakia

If an individual (shareholder or executive) is residing in Slovakia and managing a company registered and operating in Ukraine, the income of such Ukrainian company will not be taxable in Slovakia unless permanent establishment will arise in Slovakia. Permanent establishment may arise in Slovakia in some circumstances that need to be considered separately. Permanent establishment, e.g., includes place of management, office, branch, workshop, etc.

## Sale/rent of real estate located in Slovakia

If an individual owns real estate in Slovakia and decides to rent it or sell it, income from such rent or sale of real estate will be taxable in Slovakia. This applies irrespective of whether the individual is a Ukrainian or Slovak tax resident.

Also, this income will be taxable in Ukraine, if the individual is considered as a Ukrainian tax resident. Double taxation is eliminated via the credit method (the same as described above).

## Sale/rent of real estate located in Ukraine

If an individual who is a Ukrainian tax resident decides to rent/sell his/her real estate located on the territory of Ukraine, his/her income will be taxable in Ukraine only.

If an individual who has already become a tax resident of Slovakia decides to rent/sell his/her real estate located on the territory of Ukraine, his/her income will be taxable in Ukraine and also in Slovakia as a worldwide income with the right to credit Ukrainian tax paid.

In Slovakia the income from the sale of real estate owned by the seller – natural person for more than 5 full calendar years, is exempt from income tax.

## Payment of dividends from a Ukrainian company to Slovakia

Dividends paid by a Ukrainian company to an individual currently residing in Slovakia but still having the status of a Ukrainian tax resident will be taxable in Ukraine. The above will differ if permanent establishment of a Ukrainian company will arise in Slovakia. This needs to be assessed on an individual basis.

Dividends paid by a Ukrainian company to an individual who is a Slovak tax resident will be taxable in Ukraine (max. 10% of the gross amount of dividends according to the double-tax treaty, but Ukrainian domestic rates are even lower and vary from 5% to 9%, depending upon the circumstances) and in Slovakia by a rate of 7%. The personal income tax (but not the defence contribution of 1.5%) paid in Ukraine will be credited against personal income tax to be paid in Slovakia.

## Taxation of Ukrainian self-employed individuals working on a remote basis (e.g., IT specialists) for Ukrainian companies

The income of a Ukrainian self-employed tax resident, working from the territory of Slovakia on a remote basis for a Ukrainian company, will be taxable only in Ukraine. If a Ukrainian self-employed person has a fixed base regularly available to him/her in Slovakia for the purpose of performing his/her activities (this needs to be assessed on an individual basis), this income will be also taxable in Slovakia. The personal income tax levied in Slovakia will be credited against the personal income tax levied by Ukraine (but not the defence contribution of 1.5% and simplified tax, if used by this person).

The income of a Ukrainian self-employed person who has already become a tax resident of Slovakia and works from the territory of Slovakia on a remote basis for a Ukrainian company, will be taxable in Slovakia. There are certain grounds not to tax service fees payable from Ukraine in Ukraine, but this issue will depend upon numerous specific circumstances to be studied on a case-by-case basis.





# Hungary

## **Taxation of a Ukrainian individual who wishes to find a job in Hungary**

### UA tax resident scenario:

Both countries have the right to tax. Employment income is generally taxed where the work is performed, that is, the Hungarian employer will withhold, pay and file the monthly related tax returns concerning personal income tax. The Hungarian tax authority, according to the information at its disposal, shall prepare the yearly personal income tax return for the person. Ukraine will also have taxing rights over the Hungarian employment income of its tax resident, and double taxation will be eliminated via the credit method (the same as described above).

### HU tax resident scenario (worldwide income taxed in HU):

Hungary has a specific approach towards identifying its tax residency. In particular, a Ukrainian citizen may qualify as a Hungarian tax resident subject to certain conditions (dual citizenship with residence in Hungary, EEA member citizenship, certain types of immigration/establishment permits, or having their centre of vital interests in Hungary – meaning close personal, family and economic ties).

Hungary would have the right to tax the income. The Hungarian employer will withhold, pay and file the monthly related tax returns

concerning personal income tax. The Hungarian employer will withhold, pay and file the monthly related tax returns concerning personal income tax. The Hungarian tax authority, according to the information at its disposal, shall prepare the yearly personal income tax return for the person.

Ukraine should have no taxing rights in this case.

## **Taxation of a Ukrainian individual residing in Hungary and receiving employment remuneration from Ukraine**

### UA tax resident scenario:

Both countries have the right to tax. Pursuant to the Hungarian-Ukrainian double tax treaty rule, employment income is generally taxed where the work is performed. In this case, Hungary shall have the right of taxation unless special circumstances apply (i.e., the person concerned does not spend more than 183 days in Hungary in any 12-month period, and the employer is not a Hungarian tax resident, and the remuneration is not attributed to the employer's permanent establishment in Hungary). Personal income tax is calculated, paid, and quarterly tax returns are filed by the person concerned. The Hungarian tax authority, according to the information at its disposal, shall prepare the yearly personal income tax return for the person. Ukraine would also have taxing rights over such income, double taxation would be eliminated via the credit method (as described above).

#### HU tax resident scenario (worldwide income taxed in HU):

Hungary would have the right to tax the income. This is because employment income is generally taxed where the work is performed, so Hungary shall have the right of taxation unless special circumstances apply (i.e., the person concerned does not spend more than 183 days in Hungary in any 12-month period, and the employer is not a Hungarian tax resident, and the remuneration is not attributed to the employer's permanent establishment in Hungary). Personal income tax is calculated, paid and quarterly tax returns are filed by the person concerned. The Hungarian tax authority, according to the information at its disposal, shall prepare the yearly personal income tax return for the person. Ukraine should have no taxing rights in this case.

#### **An individual who manages his/her business in Ukraine from Hungary**

The company would be a tax resident in Hungary. If a Ukrainian company is managed from Hungary, under Hungarian corporate income tax rules it can be regarded as a Hungarian tax resident. Thus, if it is also a Ukrainian tax resident company under Ukrainian internal rules, the double tax treaty resolves this issue by saying that the company is a Hungarian tax resident due to its place of effective management, thus its worldwide income can be taxed in Hungary.

As a related matter, should the company be regarded as having a permanent establishment in Hungary (either due to its fixed place of business, or its representatives qualifying as "dependent agents"), Hungary shall have the right of taxation over income attributable to this permanent establishment.

#### **Sale/rent of real estate located in Hungary**

Irrespective of the person's tax residency, income from the leasing or selling of Hungarian real estate will be taxable in Hungary. In the case of a Ukrainian tax resident individual, both countries have the right to tax, so Ukraine will also have taxing rights over such income, with the following credit of personal income tax paid in Hungary against Ukrainian personal income tax (but not the defence contribution of 1.5%).

#### **Sale/rent of real estate located in Ukraine**

Irrespective of the person's tax residency, income from the leasing or selling of Ukrainian real estate will be taxable in Ukraine only in the case of Hungarian tax residents, thanks to the double taxation elimination mechanism included in the double tax treaty.

#### **Payment of dividends from a Ukrainian company to Hungary**

Dividends paid by a Ukrainian company to an individual who is a Ukrainian tax resident will be taxable in Ukraine only (currently, domestic Ukrainian personal income tax rate in this case varies from 5% to 9%).

Dividends paid by a Ukrainian company to an individual who is a Hungarian tax resident will be taxable in both Ukraine (currently, the domestic Ukrainian personal income tax rate in this case varies from 5% to 9%) and Hungary (the tax paid in Ukraine will be deducted from the tax to be paid in Hungary; the personal income tax rate on dividends in Hungary amounts to 15%).

#### **Taxation of Ukrainian self-employed individuals working on a remote basis (e.g., IT specialists) for Ukrainian companies**

##### UA tax resident scenario:

Both countries have the right to tax. Hungary shall have the right to tax the self-employment income insofar as it is attributable to the person's fixed base in Hungary. Ukraine will tax this income anyway (as a world-wide income of its tax resident). The personal income tax levied in Hungary will be credited against the personal income tax levied by Ukraine (but not the defence contribution of 1.5% and simplified tax, if used by this person).

##### HU tax resident scenario (worldwide income taxed in HU):

Self-employment income will be taxable in Hungary. There are certain grounds not to tax service fees payable from Ukraine in Ukraine, but this issue will depend upon numerous specific circumstances to be studied on a case-by-case basis.



## Ukrainian Desk

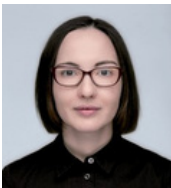
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