



May 27, 2010

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Taxation of Dividends – Recent Changes



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On April 27th 2010 the President signed the Law of Ukraine No/2156-VI “On Introduction of Changes into the Law of Ukraine “On Taxation of profits of Enterprises” In Respect of Taxation of Dividends” (“**The Law**”). In brief the main changes are the following.

The Law provides for that advance corporate profit tax is not payable in case of payment of dividend within amounts of dividend received from legal entities which are controlled (*i.e.* qualify as ‘*the related party*’ in terms of tax law) by the dividend payer.

For reference, effective wording of the CPT Law establishes that the advance corporate profit tax is not payable in case of payment of dividend by a tax payer 90% income of which comprises of dividend received from legal entities (i) which are *residents* and (ii) which are controlled (*i.e.* qualify as ‘*the related party*’ in terms of tax law) by such tax payer.

The Law also provides for that resident legal entities which receive dividend from residents and *non-resident legal entities they control* (*i.e.*, once again, those qualifying as ‘*the related party*’) shall not include amounts of such dividend into the gross taxable income. *Exception* to this rule is established for:

- non-residents with *the offshore status* (*i.e.* dividend received from a non-resident legal entity having in terms of tax law the offshore status shall be taxable), and also for
- representative offices (permanent establishments) of non-residents.

Further, the Law also clarifies that in case of dividend received by a resident tax payer out of sources of *non-resident*, (such) a resident tax payer shall include amounts of dividend received into the gross taxable income. *Exception* is envisaged for dividend received from the *controlled* legal entities *and* those which are *not* non-residents with *the offshore status*. The dividend shall be included the gross taxable income in the tax reporting period of receipt.

For reference, currently the CPT Law contains rules prescribing that:

- resident legal entities which receive dividend shall not include amounts of dividend into the gross taxable income. This shall not apply to the representative offices of non-residents;
- if the dividend is received by a resident tax payer out of sources of non-resident, such dividend shall be taxable in the period of its receipt.

The Law will become effective from the date of its official publishing.

¹ The Law of Ukraine “On Taxation of Profits of Enterprises” (“**The CPT Law**”) envisages general rule that legal entities must remit to the budget advance corporate profit tax in respect of payments of dividend at the standard 25% rate. Advance corporate profit tax is charged on top of the dividend payment and is payable at the expense of the dividend payer.

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