

# Private Client

*Contributing editors*

**Anthony Thompson and Nicole Aubin-Parvu**



2016

GETTING THE  
DEAL THROUGH 

GETTING THE  
DEAL THROUGH 

# Private Client 2016

*Contributing editors*

**Anthony Thompson and Nicole Aubin-Parvu**  
**Wragge Lawrence Graham & Co LLP**

Publisher  
Gideon Robertson  
gideon.roberton@lbresearch.com

Subscriptions  
Sophie Pallier  
subscriptions@gettingthedealthrough.com

Business development managers  
Alan Lee  
alan.lee@lbresearch.com

Adam Sargent  
adam.sargent@lbresearch.com

Dan White  
dan.white@lbresearch.com

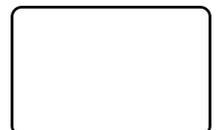


Published by  
Law Business Research Ltd  
87 Lancaster Road  
London, W11 1QQ, UK  
Tel: +44 20 3708 4199  
Fax: +44 20 7229 6910

© Law Business Research Ltd 2015  
No photocopying without a CLA licence.  
First published 2012  
Fourth edition  
ISSN 2051-5472

The information provided in this publication is general and may not apply in a specific situation. Legal advice should always be sought before taking any legal action based on the information provided. This information is not intended to create, nor does receipt of it constitute, a lawyer-client relationship. The publishers and authors accept no responsibility for any acts or omissions contained herein. Although the information provided is accurate as of November 2015, be advised that this is a developing area.

Printed and distributed by  
Encompass Print Solutions  
Tel: 0844 2480 112



## CONTENTS

<b>Overview</b>	<b>4</b>	<b>Jersey</b>	<b>59</b>
Anthony Thompson and Nicole Aubin-Parvu Wragge Lawrence Graham & Co LLP		Edward Devenport and Giles Corbin Mourant Ozannes	
<b>Bermuda</b>	<b>6</b>	<b>Liechtenstein</b>	<b>63</b>
Jane Collis and Louise Charleson MJM Limited		Philip Georg Raich Gasser Partner	
<b>British Virgin Islands</b>	<b>10</b>	<b>Monaco</b>	<b>66</b>
Hélène Anne Lewis SimonetteLewis		Peter Walford Wragge Lawrence Graham & Co LLP	
<b>Cayman Islands</b>	<b>14</b>	<b>Netherlands</b>	<b>70</b>
Carlos de Serpa Pimentel and Robert Lindley Appleby (Cayman) Ltd		Frank Deurvorst, Lourens de Waard, Jules de Beer and Dirk-Jan Maasland Bluelyn	
<b>England and Wales</b>	<b>17</b>	<b>Nigeria</b>	<b>76</b>
Anthony Thompson, Nicole Aubin-Parvu, Katie Coles and Alistair Robertson Wragge Lawrence Graham & Co LLP		Olufemi Adekeye and David Emagun Hughes Partners (Barristers, Solicitors & Arbitrators)	
<b>France</b>	<b>25</b>	<b>Russia</b>	<b>81</b>
Maryse Naudin Tirard, Naudin - Société d'Avocats		Kira Egorova, Olga Pimanova, Anastasia Petrova, Ekaterina Vasina and Elena Skoptsova ALRUD	
<b>Germany</b>	<b>31</b>	<b>Switzerland</b>	<b>86</b>
Andreas Richter and Katharina Hemmen P+P Pöllath + Partners		Natalie Peter, Michael Hamm and Gian Andri Töndury Staiger Schwald & Partner AG	
<b>Gibraltar</b>	<b>35</b>	<b>Ukraine</b>	<b>91</b>
Nyreen Llamas Hassans		Ivan Kasynyuk, Iryna Moroz and Dmitry Koval AGA Partners Law Firm	
<b>Guernsey</b>	<b>39</b>	<b>United Arab Emirates</b>	<b>96</b>
Matthew Guthrie, Catherine Moore and Mark Torode Mourant Ozannes		Anthony Thompson and Alastair Glover Wragge Lawrence Graham & Co LLP	
<b>Ireland</b>	<b>43</b>	<b>United States</b>	<b>100</b>
Aileen Keogan Aileen Keogan Solicitor & Tax Consultant		Stephen K Vetter and Eric Dorsch Kozusko Harris Duncan	
<b>Italy</b>	<b>48</b>		
Marco Cerrato and Alessandro Bavila Maisto e Associati			
<b>Japan</b>	<b>52</b>		
Kenichi Sadaka, Kei Sasaki and Akira Tanaka Anderson Mōri & Tomotsune			

# Ukraine

Ivan Kasynyuk, Iryna Moroz and Dmitry Koval

AGA Partners Law Firm

## Tax

### 1 How does an individual become taxable in your jurisdiction?

According to Ukrainian law, an individual can be considered a tax resident of Ukraine if he or she meets the Ukrainian tax residency criteria, which are as follows:

- if the individual has a domicile in Ukraine;
- if the individual also has a domicile in another country, the individual is deemed a resident of Ukraine provided he or she has a permanent place of residence in Ukraine;
- if the permanent place of residence is also available in another country, the individual is deemed resident of Ukraine provided his or her centre of vital interests is situated in Ukraine (eg, the place of the permanent residence of the members of an individual's family or the place of an individual's registration as a business entity);
- if it is not possible to determine the actual centre of vital interests, or if the individual does not have a permanent place of residence in any country, the individual is deemed to be tax resident of Ukraine if he or she stays in Ukraine in excess of 183 days during a tax (calendar) year;
- if it is impossible to determine tax residency on the basis of the above provisions, then the individual will be a tax resident of Ukraine if he or she is a Ukrainian citizen;
- a person who fails to qualify as a Ukrainian tax resident will be considered a 'non-resident' for purposes of the Tax Code;
- the Tax Code also provides for a self-recognition procedure, according to which an individual can voluntarily elect to be a Ukrainian tax resident; and
- in conflict cases, the rules of the relevant double taxation treaties may be applied.

### 2 What, if any, taxes apply to an individual's income?

In Ukraine, individuals are subject to personal income tax, regardless of whether they are tax residents or not. Individuals as tax residents of Ukraine are taxed on their worldwide income, while non-residents are taxed on their Ukraine-sourced income only. Ukrainian laws determine Ukraine-sourced income as income derived by an individual as a result of any business activity performed in Ukraine, which, inter alia, includes remuneration for work performed in Ukraine, whether paid by a Ukrainian or a foreign company.

Both resident and non-resident individuals are taxable at the same tax rates, being 15 per cent and 20 per cent applied as follows:

- the 15 per cent rate applies to monthly income up to a threshold of 10 minimum wages per month (since 17 September 2015, 13,780 hryvnas); and
- the 20 per cent rate is applicable to monthly income in excess of a threshold of 10 minimum wages per month.

The individual's income is taxable whether it was obtained in cash or in kind. Taxable income includes employment income (with in-kind benefits), income from trading or professional activities (including operations with intellectual property), income from the alienation of property, winnings and prizes, insurance payments, interest and dividends, investment income and contributions to unqualified pension plans made on behalf of a taxpayer by another person or employer.

### 3 What, if any, taxes apply to an individual's capital gains?

The general rate applied to employment income is 15 per cent (to monthly income not exceeding 10 minimum wages) and the 20 per cent rate applies to monthly income exceeding that threshold.

All passive income (including royalties, bank deposit interest, but excluding dividends, except for those paid out by joint investment institutions), and investment income is taxed at a 20 per cent rate. Dividends, paid out by resident CPT payers are taxed at a 5 per cent rate, and those paid out by non-residents at 15 per cent. Winnings and prizes are subject to 30 per cent tax by both residents and non-residents, except winnings in the state lottery and those received from a gambling organiser. As an exception, cash winnings in sports (other than remuneration to athletes) are subject to the standard 15 per cent and 20 per cent tax rate.

Gains derived from the sale of a real estate are not subject to tax if the sale takes place once during the year, provided the owner has held legal title for at least three years before the sale (the three-year ownership period does not apply to inherited property). The rate is 5 per cent if the taxpayer makes more than one sale per year.

Gains derived from the sale of moveable property by a resident are subject to a 5 per cent rate; gains derived by a non-resident are subject to a 15 per cent or 20 per cent rate. As an exception, income derived by the taxpayer from the sale (exchange) during the year of one of the objects of personal moveable property, such as a car or motorcycle, is not subject to taxation. Sale of two or more motor vehicles by the same person during the year will be taxed at rates of 5 per cent for residents, and 15 per cent and 20 per cent for non-residents.

### 4 What, if any, taxes apply if an individual makes lifetime gifts?

In Ukraine, funds, property or property rights, and the cost of work or services presented to the taxpayer as a gift shall be taxable in the same way as inheritance.

Inheritance (real estate, chattels, securities, corporate rights, cash, insurance, etc) and gifts are taxable at the following rates:

- zero per cent if the recipient is a resident defined as a close relative (parent, spouse, children, etc);
- 5 per cent if the recipient is a resident not qualified as a close relative; and
- 15 per cent (or 20 per cent on income which exceeds 10 minimum wages per month) if the recipient (non-relative) is a non-resident but the testator was a resident (or vice versa).

### 5 What, if any, taxes apply to an individual's transfers on death and to his or her estate following death?

See question 4.

### 6 What, if any, taxes apply to an individual's real property?

Property owners in Ukraine are subject to land tax and real estate tax.

The owner of the land (other than the state) is required to pay land tax. Under a land lease agreement, the lessee must pay a rent payment, but is not responsible for the payment of land tax. Land tax rates are established by local councils up to the following maximum rates (from the normative valuation):

- a land plot in any location, the normative valuation of which is held: up to 3 per cent;
- agricultural land: up to 1 per cent;

- a land plot used by a private business: up to 12 per cent; and
- a land plot located outside of human settlements, the normative valuation of which is not held: up to 5 per cent.

The objects of real estate tax are apartments and houses that exceed an area of 60 square metres and 120 square metres respectively, and 180 square metres of mixed residential property (apartments and houses simultaneously owned by a person). Apartments and houses with a smaller area are subject to tax benefits. Consequently, this tax is calculated on the actual number of metres that exceeds such an exemption value, which is not taxed. However, these tax benefits are removed immediately once it is proven that the owner gains income from property, either from renting it out, leasing or commercial use.

Tax rates are set by local councils depending on the type and location of the property, and do not exceed 2 per cent of the minimum salary for 1 square metre of real estate, and 1 per cent for non-residential property:

#### **7 What, if any, taxes apply on the import or export, for personal use and enjoyment, of assets other than cash by an individual to your jurisdiction?**

Personal items that are directly imported in accompanied baggage by any means of transport to the customs territory of Ukraine or sent in unaccompanied baggage, declared orally or in writing by the owner, or at the request of a customs officer, are not taxed. The list of an individual's personal items is given in the Customs Code of Ukraine.

An individual may import into the customs territory of Ukraine, in hand luggage or accompanied baggage, goods (except for excisable goods and personal belongings) of which the total value does not exceed the equivalent of €1,000, through checkpoints across the state border of Ukraine opened for air traffic, without paying VAT. They may also import goods to the equivalent of €500, and a total weight not exceeding 50kg, VAT-free through non-air connection checkpoints across the state border of Ukraine.

An individual may import into the territory of Ukraine food for their own consumption of a total value not exceeding the equivalent of €200 per person, in amounts established by the government.

Goods sent in international mail, addressed to one recipient (legal or natural person) in one cargo express carrier from one sender in international express shipments where the total invoice amount does not exceed the equivalent of €150, are not subject to customs duties.

As regards personal motor vehicles, non-residents are allowed to import them into Ukraine for the period of up to one year. Such vehicles must be registered with the competent bodies of foreign state and are not subject to a written declaration and are exempt from the submission of documents needed for customs control.

#### **8 What, if any, other taxes may be particularly relevant to an individual?**

There is no wealth tax or stamp duty in Ukraine.

Income generated by individuals through the conduct of business or independent professional activity is taxed at the basic rate of 15 or 20 per cent.

Individuals who own registered (passenger) cars that have been in use for up to five years, with an engine volume of 3,000 square centimetres or more, must pay an annual fixed tax rate of 25,000 hryvnas.

Value added tax (VAT) is levied on the import and export of goods and auxiliary services, and on the supply and sale of goods and services in Ukraine. The standard VAT rate is 20 per cent. In some circumstances, a reduced rate or exemption may apply. For example, import or export operations in the customs territory of Ukraine, regardless of the chosen customs regime of goods and where the customs value of the goods does not exceed €150 are not subject to VAT.

Temporary war tax at the rate of 1.5 per cent is paid by residents from Ukrainian and foreign-source personal income and by non-residents from their Ukrainian-source income.

#### **9 What, if any, taxes apply to trusts or other asset-holding vehicles in your jurisdiction, and how are such taxes imposed?**

Trusts are not recognised in Ukraine. However, representative offices (permanent establishments) of trusts may be established in Ukraine. Such offices are subject to corporate income tax. The basic rate of this tax is 18 per cent.

#### **10 How are charities taxed in your jurisdiction?**

In general, charity (in the sense of 'aid'), received by the taxpayer in the form of money or property donated, or work or services performed, is not taxable. However, it is subject to the purpose of the charity.

For tax purposes, charity is divided into targeted and non-targeted charity. Neither type of charity is subject to tax when given to a taxpayer who has suffered due to particular circumstances, in limited amounts established by the government.

Non-targeted charity is not taxable when given by individuals in favour of a taxpayer during the year in an aggregate amount not exceeding 1,710 hryvnas.

Targeted charity is not taxable when given by resident individuals in any amount, but only to the exclusive list of taxpayers established by the Tax Code.

#### **Trusts and foundations**

##### **11 Does your jurisdiction recognise trusts?**

Trusts do not exist in Ukraine in their pure form. Ukrainian legislation has introduced a contract of property management, which may create trust property rights of a trustee. However, this kind of agreement is far from the concept of a trust that is established in common law jurisdictions. Ukraine, which belongs to states with a continental legal system, has entirely different principles of property management. Thus, trusts are not recognised by the Ukrainian jurisdiction.

Foreign entities, such as trusts, with or without the intention to carry out economic activity in Ukraine, are able to open non-commercial representative offices (which are not taxable) and commercial representative offices (also known as 'permanent establishments', which are subject to taxes such as corporate income tax, etc).

##### **12 Does your jurisdiction recognise private foundations?**

Charitable funds in Ukraine are subject to special tax treatment. Pursuant to the Tax Code of Ukraine, the following income is exempt from tax:

- funds or property received free of charge or as irrevocable financial aid or donations;
- passive income;
- funds or property received by a fund from the performance of its main activity; and
- grants or subsidies from the state, local budgets and funds or through technical, charitable and humanitarian aid (subject to exceptions).

Other income received by charities is taxed in the general manner. Notably, in the case of the winding up of a fund, its assets must be transferred to another non-profit organisation or included in the state budget, unless otherwise provided by the law that governs the activities of such an entity.

VAT exemptions for charitable funds are: charitable aid, including supplying goods and services to such funds free of charge, and providing such aid by these funds to recipients.

Charitable aid in the form of excise goods, securities (subject to exceptions) and intangible assets and goods and services for use in economic activities are not exempt from taxes. Other taxes and charges are imposed in the usual order.

Foreign charity organisations may open representative offices in Ukraine. Such offices must undergo the procedure of accreditation. This procedure is carried out according to the accreditation of a separate subdivision of a foreign non-governmental organisation without providing the status of legal entity.

#### **Same-sex marriages and civil unions**

##### **13 Does your jurisdiction have any form of legally recognised same-sex relationship?**

A same-sex relationship is not recognised in Ukraine.

##### **14 Does your jurisdiction recognise any form of legal relationship for heterosexual couples other than marriage?**

In Ukraine, a civil union is partially recognised. On the one hand, a couple, living as a family without registering a marriage, will not obtain the rights and responsibilities of spouses. On the other hand, the property obtained by such a couple during the time they lived together belongs to them by right of joint ownership, unless otherwise provided by written agreement between them. Thus, in cases of separation or the death of one of the

couple, their partner will have the right to half of the property obtained during the time they lived together.

As regards succession by persons who are in a civil union, it should be borne in mind that the inheritance may be carried out by law or according to the will. If the testator left a will, the rights and obligations regarding all property belonging to him or her shall pass to his or her civil spouse and they will get his or her share of the inheritance.

However, if a will is not drawn up, the inheritance procedure will take place according to the law, in order of priority provided by the legislation. In this case, a civil partner may be recognised as an heir of the fourth line (there are five lines) of succession only, if he or she lived with the testator as a family for at least five years before the time of the opening of the inheritance (the death of the testator). The fact of living as a family without marriage can be established by the court with enough relevant evidence.

## Succession

### 15 What property constitutes an individual's estate for succession purposes?

Under the law, the inheritance includes all the testator's rights and responsibilities that existed at the time of its opening, that may appear in future and that have not stopped due to the testator's death. It means that all property rights of an individual constitute his or her estate for succession purposes.

As regards co-ownership rights, the testator's share in joint ownership is passed on a common basis. Moreover, an individual is able to bequeath his or her share in common property before the identification and allocation of his or her part in kind. Further, the heirs acquire all rights and obligations under the lease-buyout housing agreement that the testator had.

Notably, the testator may oblige the successor of property to give another person the right to use it. The right to use such property shall be valid even if the owner has changed. However, such right is not transferable to the heirs of the successor.

### 16 To what extent do individuals have freedom of disposition over their estate during their lifetime?

Individuals have freedom of disposition over their estate from the age of 18 and as long as they are not recognised by the court as partially or fully incapable of committing any action. Importantly, the further loss of capacity by a testator after drawing up a will does not make it invalid. The testator has the freedom to make changes to the will, cancel it or make a new will (which would override the previous one) without specifying the reasons for such changes or cancellation.

As regards marital property disposition, the ownership title is passed on a common basis and can be inherited by heirs under the will and also by law. If any of the heirs acts simultaneously as a co-owner of such common property, it does not give him or her any significant advantages in succession.

### 17 To what extent do individuals have freedom of disposition over their estate on death?

Regardless of the contents of the will, minors, juveniles, adult disabled children of the decedent, disabled widows or widowers, or disabled parents are entitled to a compulsory share in the inheritance. Such persons inherit half of the share that belongs to each of them in the case of inheritance by law. However, the size of the compulsory share may be reduced by the court in certain circumstances.

### 18 If an individual dies in your jurisdiction without leaving valid instructions for the disposition of the estate, to whom does the estate pass and in what shares?

Succession procedure by law or by a will depends on the existence of the latter. In its absence, inheritance distribution is conducted in the order of priority established by law. There are five succession lines of heirs and each subsequent line is entitled to inherit in the absence of heirs of the previous line, if they are deprived of their rights to inherit, if they miss the deadline or if they refuse to accept the heritage. Such a priority order may be changed by mutual agreement of the heirs or by a court decision in certain cases. The succession lines are as follows:

- first line: the decedent's children (including ones conceived during his or her lifetime and born after his or her death), the spouse who survived him or her, and his or her parents;
- second line: the decedent's brothers and sisters and his or her

grandfather and grandmother, both from the father's and mother's side;

- third line: the uncles and aunts of the decedent;
- fourth line: persons who lived with the decedent as one family for at least five years by the time of the opening of the inheritance; and
- fifth line: other relatives of the decedent to the sixth degree of kinship inclusive, as well as dependents of the decedent who were not members of his or her family.

Shares in the inheritance of each of the heirs are equal. However, the size of the shares in the inheritance may be changed by mutual agreement of the heirs.

### 19 In relation to the disposition of an individual's estate, are adopted or illegitimate children treated the same as natural legitimate children and, if not, how may they inherit?

In relation to inheritance law, adopted children are equal to the natural children of their adoptive parents. Importantly, adopted children do not inherit after the death of their biological parents or other natural relatives in the ascending line.

Illegitimate children have the same rights to inheritance as natural legitimate children. The only requirement for them to obtain such rights is the record of the decedent parents in a birth certificate. If the testator is not recorded as the child's father, paternity may be established through the court.

### 20 What law governs the distribution of an individual's estate and does this depend on the type of property within it?

If the testator in his or her will has not selected the law of the country of his or her citizenship, then the law of the country in which the testator had his or her last place of residence governs inheritance. However, such choice of law by a testator will be invalid if his or her citizenship changed after drawing up a will.

Inheritance of real estate is governed by the law of the country where such property is situated. Property that is subject to state registration in Ukraine is governed by the law of Ukraine.

### 21 What formalities are required for an individual to make a valid will in your jurisdiction?

The will shall be in writing, specifying the place and time of its compilation and signed by a testator personally. If the person is unable to sign it personally (due to illness, etc), another person may sign it on the testator's behalf. Such signature of another person must be certified by a notary public or an official competent to do this.

A notary public or other competent officials must certify the will. Such wills are subject to state registration in the hereditary registry according to the procedure established by the government.

### 22 Are foreign wills recognised in your jurisdiction and how is this achieved?

In 2009, Ukraine ratified the Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions, according to which a foreign will is valid in Ukraine if the form complies with the domestic law of:

- the place where the testator made it; or
- the nationality of the testator at the time of making the will or time of his or her death; or
- the domicile of the testator at the time of making the will or time of his or her death; or
- the habitual residence of the testator at the time of making the will or time of his or her death; or
- the location of such property insofar as it relates to real estate.

In 2011, Ukraine ratified the Convention on the Introduction of a System of Registration of Wills, according to which, both Ukrainian and foreign wills are subject to registration in the hereditary registers of Ukraine and foreign countries. This means that any person may send a request to the competent national body of a foreign state or Ukraine concerning the availability of a foreign or Ukrainian will, certified and registered in Ukraine or any other state that is party to this Convention.

**23 Who has the right to administer an estate?**

The testator may entitle an individual or legal entity to administer an estate. If the testator does not appoint the executor or if the person appointed refuses to administer an estate, the new executor may be appointed by the heirs.

If there is no mutual consent as to whom to appoint, the court may appoint an executor at the request of one of the heirs. The executor of the will may also be appointed by a notary public if the heirs demand such assistance.

**24 How does title to a deceased's assets pass to the heirs and successors? What are the rules for administration of the estate?**

The successor has the right to accept the inheritance or not to accept it. The law sets a period of six months from the decedent's death during which the successor must accept the inheritance. This deadline may be extended by the court in certain circumstances.

An heir who lived with the testator at the time of opening the inheritance shall be deemed to have accepted the inheritance if, within the period of six months, he or she does not refuse it. An heir who wishes to accept the inheritance, but at the time of opening of the inheritance has not been living with the testator, must submit an application for acceptance of the inheritance to the notary public.

After a six-month period, the heirs who successfully accepted the inheritance receive the certificate of inheritance. The absence of such a certificate does not deprive an heir of the right to inherit. However, it should be noted that an heir who accepted the inheritance that included real estate is obliged to apply to the notary public for the issuing of a certificate of inheritance of real property.

**25 Is there a procedure for disappointed heirs and beneficiaries to make a claim against an estate?**

Where there is a dispute between the heirs, the contents of the will shall be interpreted by the court. Upon the complaint of an interested person, the court also may find the will or a separate point within the will invalid if it determines that the expressing of the testator was not free and independent.

A person who cared for a decedent for a long time or provided material or other help to a decedent who was in a helpless condition due to his or her age, serious illness or injury, may ask the court to give the right to inherit within the succession line, which has the right of inheritance.

Where the heir inherited the obligation to compensate material or moral damage or to pay any fines or penalties that were caused by the testator, he or she may appeal to the court asking for a reduction if such an amount is excessively large compared to the value of property he or she inherits.

**Capacity and power of attorney****26 What are the rules for holding and managing the property of a minor in your jurisdiction?**

Parents manage the property of a minor without special powers, and they must care for its safety and the use of property in the child's interests. If parents do not properly perform their duties to manage the child's property, they must reimburse the child who suffered pecuniary damage. The competent custody and care authorities have to monitor such cases.

The parents of a minor do not have rights to make any significant deals on behalf of the child without the permission of the custody and care authority. Minors aged between 14 and 18 years may commit the transactions only with the consent (for vehicles or property this must be written and notarised consent) of the parents (including adoptive parents or guardians).

**27 At what age does an individual attain legal capacity for the purposes of holding and managing property in your jurisdiction?**

An individual attains full legal capacity at the age of 18 and, therefore, legal capacity to hold and manage property independently.

**28 If someone loses capacity to manage their affairs in your jurisdiction, what is the procedure for managing them on their behalf?**

If a person loses capacity to manage their affairs, the court or custody and care authority have to appoint a guardian or a trustee that will manage them on their behalf. Guardians or trustees are appointed mostly from relatives, taking into account personal relations between them and the decedent, as well as the capability of the person who is to serve as guardian or trustee.

The guardian or trustee must take care of the person, create the desired conditions, ensuring care and medical treatment, take measures to protect the civil rights and interests of the person and carry out legal action on behalf and in the interest of the incapacitated person.

The guardian or trustee does not have the right to conclude any significant deals on behalf of the ward or with his or her property without the permission of the custody and care authority. The guardian also cannot make gifts on behalf of the person or incur debts on his or her behalf by the surety.

**Immigration****29 Do foreign nationals require a visa to visit your jurisdiction?**

The requirement for a visa depends on the nationality of a visitor. Citizens of Armenia, Azerbaijan, Belarus, Georgia, Moldova and Uzbekistan can enter Ukraine without a visa for an indefinite stay.

Holders of passports of Andorra, Argentina, Brazil, Canada, the European Union, Israel, Japan, Kazakhstan, Kyrgyzstan, Macedonia, Monaco, Montenegro, Panama, Paraguay, Russia, San Marino, South Korea, Tajikistan, the United States and Vatican City can enter Ukraine without a visa for a stay of up to 90 days within a 180-day period.

For all stays longer than the above-mentioned period, foreign nationals need a visa or valid Ukrainian residency permit. Visas are also required for foreign nationals of states not listed above.

There are three types of visa in Ukraine: a transit visa (the allowed period of stay is five days), a short-term visa (the allowed period of stay must not exceed 90 days within 180 days from the date of first entry) and a long-term visa (issued for entry to Ukraine with the purpose of the processing of documents, which entitles a stay or residence in Ukraine for a period exceeding 90 days).

It should be noted that Crimea is under de facto Russian control and the visa policy of Russia applies. From June 4 2015 foreigners may enter and exit the Crimea from the mainland territory of Ukraine only through special checkpoints, with a passport and a permit issued by the regional office of the State Migration Service of Ukraine. It is worth noting that tourism or recreation is not a reason for the issuance of such a permit. Individuals breaking the order will incur the liability established by law.

**30 How long can a foreign national spend in your jurisdiction on a visitors' visa?**

For all citizens (listed above) who enter Ukraine, if the period of their stay in Ukraine is longer than permitted for their nationality, visas are required.

A foreign national visiting Ukraine for the purpose of tourism may apply for a short-term visa, which is issued for up to 90 days within 180 days from the date of first entry. It can be issued for a single, double and multiple entry for a period of six months or the period specified in the documents that are the basis for issuing such a visa, but not more than five years.

**31 Is there a visa programme targeted specifically at high net worth individuals?**

There is no special visa programme targeted specifically at high net worth individuals.

For investment purposes, a foreign investor may apply for a short-term visa. A short-term visa may be issued if a foreign national makes an investment in Ukraine in an amount of no less than US\$50,000.

For employment and immigration purposes, an individual may apply for a long-term visa. This visa's aim is to enable the foreign national to prepare documents to stay or reside in Ukraine for a period exceeding 90 days (ie, applying for a temporary or permanent residence permit). It may be issued as a single visa for 45 days or a single, double or multiple visa for up to three years.

### Update and trends

Since September, conditions for foreigners' stays in Ukraine have changed. Now, border guards must deduct 180 days from the date of entry or exit to find out whether the person in question exceeded the permitted 90-day stay within the period of 180 days. The same calculation is carried out from the time of departure. If the foreigner has exceeded the permitted period of stay, he or she will not be allowed to cross the state border, and may face a warning or fine of up to 850 hryvnas (approximately US\$40).

It should be noted that the permitted period of stay in Ukraine remains unchanged: foreign nationals eligible for visa-free entry can temporarily stay in Ukraine for no more than 90 days within a 180-day period, unless a different period of time is established by international treaties signed by Ukraine.

Tax reform in Ukraine has been in discussion since December. A vote is expected to be passed in parliament in October 2015 that will

introduce a new tax system from January 2016. This should lead to a decrease of the shadow economy, attract investments and increase the number of workplaces.

Currently, there are two versions of the model of taxation under which Ukrainians will pay taxes from 1 January 2016.

According to the first model, it is proposed that the four main taxes should all be changed to 20 per cent. Under this proposal, unified social tax rate will decrease from the current 41 per cent (average 36 per cent) to 20 per cent, corporate income tax will increase from 18 per cent to 20 per cent, personal income tax will increase to 20 per cent, and VAT will remain unchanged.

Another project proposes to change personal income tax to 10 per cent, unified social tax to 20 per cent, and VAT and corporate income tax to 15 per cent, wherein profits reinvested in fixed assets and capital construction will not be taxed.

### 32 If so, does this programme entitle individuals to bring their family members with them? Give details.

There is no special visa programme and individuals can bring their family members under the general requirements. When the individual gets a temporary or a permanent residence permit in Ukraine, his or her family members may apply for a long-term visa if relevant legalised documents verifying their family member status (marriage certificate, birth certificate, etc), a copy of the relevant permit for temporary or permanent residence in Ukraine and a document that confirms the presence of sufficient funds for the maintenance of family members in Ukraine are provided.

### 33 Does such a programme give an individual a right to reside permanently or indefinitely in your jurisdiction and, if so, how?

There is no special visa programme. Individuals may reside in Ukraine permanently or indefinitely if they have received a permanent residence permit (PRP) or an immigration permit.

In order to obtain a PRP, an individual must first obtain an immigration permit, which is issued within the immigration quota. Once such a permit is obtained, a person will get a permanent residence permit.

In order to obtain a PRP, an individual must invest in the economy of Ukraine not less than US\$100,000 or be a highly qualified specialist, the need for whom is tangible for Ukraine's economy.

If the person applying for the PRP is in Ukraine, then he or she is issued simultaneously with an immigration permit. A person who permanently resides outside Ukraine must first obtain an immigration permit. Following this, the diplomatic agency or consular office of Ukraine, at his or her request, issues an immigrant visa. An immigrant visa is valid for one year from the date of its issuance.

### 34 Does such a programme enable an individual to obtain citizenship or nationality in your jurisdiction and, if so, how?

There is no special programme for obtaining citizenship. A foreign national may be granted the citizenship of Ukraine, subject to the following conditions:

- a recognition of and adherence to the Constitution and the laws of Ukraine;
- an obligation to terminate foreign citizenship within two years from the date of Ukrainian citizenship registration;
- permanent lawful residence in the territory of Ukraine during the previous five years. This requirement is not applicable to foreign nationals if married to a citizen of Ukraine for over two years or to foreign nationals who were married to a citizen of Ukraine for over two years and their marriage has terminated because of the death of the spouse;
- obtaining an immigration permit;
- knowledge of the national language or its understanding to an extent sufficient for communication; and
- the existence of lawful sources of living.



Ivan Kasynyuk  
Iryna Moroz  
Dmitry Koval

[kasynyuk@agalawyers.org](mailto:kasynyuk@agalawyers.org)  
[moroz@agalawyers.org](mailto:moroz@agalawyers.org)  
[koval@agalawyers.org](mailto:koval@agalawyers.org)

Kuznetsky Business Center  
64/16 Gorkogo Street  
03150 Kiev  
Ukraine

Tel: +380 44 237 79 33  
Fax: +380 44 237 79 43  
[www.agalawyers.org](http://www.agalawyers.org)

## Getting the Deal Through

Acquisition Finance	Dominance	Licensing	Public Procurement
Advertising & Marketing	e-Commerce	Life Sciences	Real Estate
Air Transport	Electricity Regulation	Loans & Secured Financing	Restructuring & Insolvency
Anti-Corruption Regulation	Enforcement of Foreign Judgments	Mediation	Right of Publicity
Anti-Money Laundering	Environment & Climate Regulation	Merger Control	Securities Finance
Arbitration	Executive Compensation & Employee Benefits	Mergers & Acquisitions	Securities Litigation
Asset Recovery	Foreign Investment Review	Mining	Ship Finance
Aviation Finance & Leasing	Franchise	Oil Regulation	Shipbuilding
Banking Regulation	Fund Management	Outsourcing	Shipping
Cartel Regulation	Gas Regulation	Patents	State Aid
Construction	Government Investigations	Pensions & Retirement Plans	Structured Finance & Securitisation
Copyright	Healthcare Enforcement & Litigation	Pharmaceutical Antitrust	Tax Controversy
Corporate Governance	Initial Public Offerings	Ports & Terminals	Tax on Inbound Investment
Corporate Immigration	Insurance & Reinsurance	Private Antitrust Litigation	Telecoms & Media
Cybersecurity	Insurance Litigation	Private Client	Trade & Customs
Data Protection & Privacy	Intellectual Property & Antitrust	Private Equity	Trademarks
Debt Capital Markets	Investment Treaty Arbitration	Product Liability	Transfer Pricing
Dispute Resolution	Islamic Finance & Markets	Product Recall	Vertical Agreements
Distribution & Agency	Labour & Employment	Project Finance	
Domains & Domain Names		Public-Private Partnerships	

Also available digitally



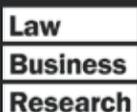
# Online

[www.gettingthedealthrough.com](http://www.gettingthedealthrough.com)



# iPad app

Available on iTunes



Book title  
ISSN 2051-5472



THE QUEEN'S AWARDS  
FOR ENTERPRISE:  
2012



Official Partner of the Latin American  
Corporate Counsel Association



Strategic Research Sponsor of the  
ABA Section of International Law