Recommendations for operations with residents of other countries (non-residents of Ukraine)

For providing of any operations with residents of other countries (non-residents of Ukraine), it is necessary to take into account requirements of Tax Code of Ukraine (hereinafter referred as TCU).

Let's take a look at some of them.

Any payment of a benefit in favor of non-resident of Ukraine is regulated with the p.141.4 of the article 141 of TCU.

If Ukrainian company (resident of Ukraine) pays benefit to a non-resident of Ukraine in meaning of revenue or other types of compensation of value of goods, provided works and services, which were transferred, executed, provided to a resident of Ukraine from a non-resident, in this case tax from such revenue is not levied (pp.141.4.1, 141.4). For example, fueling at a foreign fuel station, cleaning of a vehicle, repair of a vehicle, etc.

But please remember, that all expenses must be documented, this also concerns international bank transactions. Thus it is necessary to have confirming primary documents in a hard paper original, such as cash receipts, quittances, invoices, acts of executed works/services (if any service has taken place), etc. It is highly recommended to have such documents being authenticated with blue stamps. In case of service, a place of service providing must be mentioned. If a payment is provided with a corporate card, then correspondent bank statement is also needed. Of course, if expenses were planned on beforehand (as service of vehicles), then an original paper agreement for such works/services with signs and blue stamps of both parties must be present, as well as an invoice.

For import of goods to Ukraine, there must be present original CMR and Ukrainian customs declaration for import.

Absence of before mentioned and properly authenticated documents can lead to serious complications for payments out of Ukraine.

Due to Act of executed works/services (Act of acceptance) is an uncommon document for most of companies outside of Ukraine, so we provide a bilingual example of such document in appendix.

If non-resident is addressed with revenues, which fall under points а) – й) (except of mentioned here before) , then all documents in paper original must be present, as contracts, invoices, Acts of executed works/services (Acts of acceptance), to confirm a ground of such payments.

Furthermore, it is mandatory to have confirmation of the fact that such non-resident is a tax resident in its country, if an international agreement for avoidance of double taxation with related country establishes reduced tax rates for non-resident’s revenues or non-levying of tax in Ukraine (art.160 TCU, p.141.4.1-6). Such residence/domicile confirmation your foreign counterparty must obtain in its country, usually in local tax or state finance office (depending on legislation of particular country). This document must be properly authenticated and apostilled.
For some countries Ukraine has additional agreements for legal assistance in civil affairs, this case apostille is not required. For example, Ukraine has such agreements with Germany, according to which apostille is not mandatory at the confirmations of domicile/residence. In case of repeating operations with non-resident of Ukraine, such residence/domicile confirmations must be renewed each calendar year and be present for inspection of state tax body.

In case of absence of such residence/domicile confirmation, repatriation tax in from 6 to 15% of the sum of transaction must be withhold from each payment to counterparty outside of Ukraine.