



Legislative

regulation

“Diia City”

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The Law of Ukraine “On Stimulating the Development of the Digital Economy in Ukraine” (hereinafter - the Law 1667-IX), which entered into force on 14 August 2021, provides for the creation of a special legal regime called “Diia City”. This regime was introduced in order to stimulate the development of the IT industry in Ukraine, which is related to software.

The Law of Ukraine "On Amendments to the Tax Code of Ukraine to Stimulate the Digital Economy in Ukraine", adopted by the Verkhovna Rada of Ukraine on 14 December 2021, is a tax part of the “Diia City” special legal regime and provides special tax conditions for residents of the City. The law should enter into force on 1 January 2022.



5

key conditions for becoming a resident of “Diia City”

1

Regarding entities: Ukrainian legal entities registered in Ukraine, without reference to the location or place of business

2

Regarding income: 90% of total income should be income from direct activities in the field of IT

3

Regarding the involvement of specialists: on average at least 9 specialists (employees or gig specialists) per month, with their average monthly salary of at least 1,200 EUR

4

Regarding the absence of restrictions: for beneficiaries, not being under sanctions, not being in a state of suspension, transformation or bankruptcy, no restrictions on activities and no tax debt (more than 10 minimum wages)

5

Regarding activities: implementation of certain activities in the field of IT, defined by law:

1) computer programming, consulting on informatization, computer equipment management activities

2) publishing of computer games and other software

3) providing software products, including computer games, online and providing web services for the delivery of software applications, including the distribution of copies of software in electronic form, including computer games, its elements, updates, additions and extensions of functionality

4) educational activities in the field of information technology, including the provision of higher, professional higher and vocational education in such specialties as computer science, information systems and technology, computer engineering, cybersecurity, data science, as well as the provision of other types education

5) data processing and related activities, other than the provision of data processing and hosting infrastructure and hosting services, and web portal activities

6) research and experimental development services in the area of natural and technical science in respect of IT and communication technologies

7) conducting marketing campaigns and providing advertising services using software developed with the participation of a resident of “Diia City”, on the Internet and / or on users' devices

8) activities of organizers of e-sports competitions, e-sports teams, specialized computer centers and / or clubs designed for e-sports competitions, as well as studios for broadcasting e-sports competitions

9) activities of a service provider related to the circulation of virtual assets

10) ensuring cybersecurity of information and communication systems, software products and information processed in them

11) activities for the design (construction), research, testing (testing) of technologies, devices and systems of robotics using computerized control systems

12) other activities that may be determined by the Cabinet of Ministers of Ukraine by adopting a regulatory act



At present, it is not possible to apply for resident status: for the full functioning of the “Diia City” regime, the relevant bylaws have yet to be adopted.

Within 6 months from the date of entry into force of the Law, ie by 15.02.2022 the Verkhovna Rada must adopt:

- Procedure for submitting and consideration of an application for acquiring the status of a resident of “Diia City”
- Procedure for establishing and maintaining the “Diia City” register (electronic register)
- Procedure for filing and reviewing complaints against the decision to remove the status of a resident of “Diia City”
- Procedure for making a decision by the Appeals Commission to consider complaints against the decision to lose the status of a resident of “Diia City”
- The procedure for notifying the STS of the conclusion of a gig contract

Benefits of “Diia City” mode

- certain guarantees for its residents (in particular, the validity of the legal regime - not less than 25 years, the stability of tax conditions, the presumption of legality of the residents of “Diia City”, etc.)
- the possibility of choosing a special tax regime
- protection from excessive interference in the resident’s activities by the state
- simplification of the registration of relations with IT specialists (possibility of hiring employees within labor relations, individuals, including foreign IT specialists - under gig contracts, and concluding agreements with private entrepreneurs)
- engaging and encouraging talent in the field of IT by establishing additional compensation, social guarantees, the use of options

The law introduces new concepts

“gig contract”

(a mixed contract that combines the features of an employment contract and a civil contract and is concluded between a legal entity (resident of “Diia City”) and an individual

“gig specialist”

(an individual who has entered into a gig contract with a resident of “Diia City”), provisions for an NCA (Non-Competition Agreement) are established, amendments are made to the relevant laws governing copyright and the rights of individuals who have entered into gig contracts with residents of “Diia City”

The main differences between the taxation of residents and non-residents of “Diia City”

Resident of “Diia City”			
A general income taxpayer			
A taxpayer on the special regime			
Corporate income tax	18%		9% (on withdrawn capital)
Personal income tax on payments to specialists	18%	5%	
Military duty on payments to specialists	1.5%		
Unified social contribution on payments to specialists	22% of salary / amount of remuneration under civil law contracts	22% of the minimal salary	
Personal income tax on dividends	5%		Not taxed, subject to payment not more than once every 2 years
Military duty on dividends	1.5%		Not taxed, subject to payment not more than once every 2 years
Personal income tax allowance for investments into the company	-	Provided under certain conditions	
Restrictions on cooperation with unified tax payers	-	The costs of purchasing property / works / services from unified tax payers should not exceed 50% (from 2025 - more than 20%) of the total costs of the taxpayer (costs above the limit will increase the amount of taxable income)	Income tax at the rate of 9% in excess of the acquisition of property / works / services from unified tax payers in the amount of more than 50% (from 2025 - more than 20%) of the total costs of the payer

Transition to a special tax regime

when acquiring the status of a resident of "Diia City"

- from the 1st day of the month following the quarter in which such taxpayer is included in the register of "Diia City"



after acquiring the status of a resident of "Diia City"

- from the beginning of the quarter, provided that the application is submitted 15 days before its start



Disadvantages and risks associated with "Diia City"

- inability to become residents of "Diia City" for non-residents of Ukraine and their permanent establishments
- restrictions on cooperation with natural persons-entrepreneurs on the simplified taxation system
- corporate income tax is applicable to certain transactions that are not by substance the withdrawal of capital
- non-transparency of the procedure for the deprivation of the status of a resident of "Diia City" and consideration of complaints by the Appeals Commission
- lack of law enforcement practice on gig contracts and failure to provide basic guarantees of labor rights for gig specialists, etc.

How can we help

Our team is ready to help you with the decision on the expediency of obtaining the status of a resident of "Diia City" and the application of special tax regime, in particular we can:

- analyze the benefits and risks for your business associated with the application of the "Diia City" mode
- analyze compliance with the criteria for obtaining the status of a resident of "Diia City"
- calculate the feasibility of applying the special tax regime for residents of "Diia City"
- help with obtaining the status of a resident of "Diia City" and the transition to the special tax regime

We hope that the information above will help you make an informed decision about whether to use the Diia City regime. We will continue to monitor developments and keep you informed.



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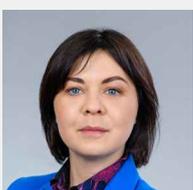
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