

**CABINET OF MINISTERS OF UKRAINE**

**RESOLUTION No. 470**

**Of 6 May 2001**

Kyiv

**On Approval of the Procedure for Release (Reduction) from Taxation of  
Incomes Originating from Ukraine according to Double Tax Treaties**

For the purpose of improvement of the procedure for administrating of non-residents' incomes originating from Ukraine according to double tax treaties which came into force in accordance with the established procedure and based on Articles 13 and 14 of the Law of Ukraine "On International Agreements of Ukraine" the Cabinet of Ministers of Ukraine **decrees:**

1. To approve the Procedure for release (exemption) from taxation of incomes originating from Ukraine according to double tax treaties (The procedure is attached).

2. To recognise invalid:

the Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Release (Exemption) from Taxation of Incomes Originating from Ukraine according to Double Tax Treaties" No.825 of May 18, 2000 (Official Herald of Ukraine, 2000, No.21, p.861);

the Resolution of the Cabinet of Ministers of Ukraine No.1397 of September 6, 2000 "On Termination of the Effect of Clause 1, Resolution of the Cabinet of Ministers of Ukraine No.825 of May 18, 2000 (Official Herald of Ukraine, 2000, No.36, p.1547).

3. This Resolution comes in effect from the day of its publishing.

**First Vice-Prime Minister of Ukraine**

**Yu.Ekhanurov**

APPROVED

By Resolution of the Cabinet of Ministers of Ukraine  
No.470 of May 6, 2001

### **PROCEDURE**

#### **for release (reduction) from taxation of incomes originating from Ukraine according to international agreements of Ukraine for avoidance of double taxation**

1. This document determines the procedure for release (reduction) from taxation of incomes originating from Ukraine according to international agreements of Ukraine for avoidance of double taxation that became effective in accordance with the established order (hereinafter referred to as DTT) and reimbursement (paying back) of exceedingly paid taxes in the territory of Ukraine.
2. This Procedure applies to residents of countries other than Ukraine with whom there were concluded international agreements which became effective in accordance with the established order (hereinafter referred to as non-residents) and to persons who pay to non-residents incomes originating from Ukraine (withholding agents).
3. The international agreement norms are applied by way of exemption from taxation of incomes originating from Ukraine, reduction of a tax rate or by way of paying back the difference between the paid amount of tax and the amount which a non-resident should pay according to DTT.
4. The ground for release (reduction) from taxation of incomes originating from Ukraine shall be a notification (or its notary legalised copy) which is submitted by a non-resident to a withholding agent taking into consideration the peculiarities provided by clauses 5 and 6 of this Procedure and other documents if it envisaged by the international agreement. A notification confirms that this non-resident is a resident of the country with which the DTT was concluded (hereinafter referred to as a notification).

A notification is issued by the competent body of the relevant country determined by the international agreement, at the form as it is provided in Supplement 1 or according to legislation of such country. A notification issued at the form, which is approved by legislation of the relevant country, should be legalised in a proper way, translated according to legislation of Ukraine and it should contain the following information:

a full name or surname of a non-resident;

a confirmation that a non-resident is a person to whom the provision of the international agreement applies, that is according to legislation of the relevant country it should be taxed in this country based on a permanent place of being (place of residence) or based on the other reason;

a name of the competent body, surname and signature of the authorised person of the competent body who certifies this confirmation and the date of issuance.

A confirmation is valid within a calendar year in which it was issued.

If necessary such notification should be required from a non-resident by a withholding agent, or by the state tax service body during consideration of the issue about paying back of the overpaid tax as of other date which proceeds to the date of payment of incomes.

If necessary a withholding agent may apply for the state tax service body at the place of its location (residence) with the request that the State Tax Administration would contact the competent body of the country with which it was concluded the international agreement to confirm the information which is specified in a notification.

5. Upon carrying out by banks and financial institutions of Ukraine of operations with foreign banks related to payment of interest, it is not required to confirm the fact that such a foreign bank is a resident of the country with which the international agreement was concluded, if it is confirmed with the extract from the international catalogue "International Bank Identifier Code" (S.W.I.F.T., Belgium & International Organization for Standardisation, Switzerland).

6. A withholding agent, who pays incomes to a non-resident in the reporting (tax) year, in case of submission by a non-resident of a notification containing the information for the previous reporting tax period (year), may apply the international agreement provision, in particular the provision as to the exemption (decrease) from taxation in the reporting (tax) year and receive a notification after the end of the reporting (tax) year.

7. A withholding agent is obligated in case of making payments in the reporting period (quarter) to non-residents to submit to the state tax service body at the place of its location (residence) a report on paid incomes, taxes withheld from a non-resident's income and transferred to the budget within the terms and at the form established by the State Tax Administration.

8. In case of non-submission by a non-resident of a notification according to clause 4 of this Procedure non-resident's incomes originating from Ukraine are subject to taxation according to legislation of Ukraine on tax issues.

9. When a non-resident considers that from his incomes it was withheld the amount of tax which exceeds the amount which should have been paid according to the international agreement norms, the issue on paying back the difference is being considered based on the application to the state tax body service at the place of location (residence) of the withholding agent who paid incomes to a non-resident and withheld a tax from them, an application with the request to pay back the amount of tax on incomes originating from Ukraine at the form specified in Supplement 2, a notification according to clause 4 of this Procedure, as well as other documents envisaged by the international agreement.

The necessary documents are filed by a non-resident or by the official (authorised) person who should confirm his authorities according to legislation of Ukraine.

10. The state tax service body shall check the correspondence of data specified in the application and confirming documents to the actual data and the relevant international agreement, as well as the fact of transferring of the relevant tax amounts to the budget by a withholding agent.

When it was confirmed the excess in withholding of a tax amount, the state tax service body takes a resolution about paying back of the relevant amount to a non-resident; copies of such resolution are issued to a withholding agent and to a non-resident (authorised person). A conclusion about paying back of the exceedingly paid tax is sent to the relevant body of the State Treasury.

In case of refusal to pay back the amount of tax the state tax service body is obligated to issue a grounded explanation to a non-resident (authorised person).

11. Based on the conclusion of the state tax service body the State Treasury body shall transfer money in the amount specified in the conclusion. It will be transferred to the account of a withholding agent who overpaid a withholding tax from non-residents income.

12. A withholding agent will pay back to a non-resident the difference between the amount of tax which was withheld and the amount which should be paid according to the terms of the international agreement. It shall be done after receiving a copy of the resolution from the state tax service body about paying back of exceedingly paid tax or after charging of assets to the relevant State treasury body.

Funds which at the resolution of the state tax service body should be returned to a withholding agent, who overpaid a withholding tax, can be charged to account of payment of other tax liabilities of such withholding agent at his written application which is submitted during consideration of a non-resident application about paying back of exceedingly withheld tax. In such case the conclusion on paying back of exceedingly paid tax shall not be sent to the relevant body of the State Treasury.

Attachment I  
To the ProcedureДовідка  
Residence Certificate

Повна назва (прізвище) нерезидента (іноземною мовою)

Non-resident's name (in foreign language) \_\_\_\_\_

Адреса

Address \_\_\_\_\_

Країна

Country \_\_\_\_\_

Ідентифікаційний код нерезидента у країні, з якою укладено міжнародний договір

Non-resident's identification code in the country with which the International Treaty has been concluded ||| ||| ||| ||| ||| ||| ||| |||

Цим підтверджується, що пред'явник цієї довідки дійсно є резидентом

Hereby confirmed that the declarant of this certificate is an actual resident у розумінні договору про уникнення подвійного оподаткування між Україною (Урядом України) та within the meaning of the Double Taxation treaty between Ukraine (the Government of Ukraine) and \_\_\_\_\_  
(назва країни)  
(name of the country)

Назва компетентного органу

Name of the competent authority \_\_\_\_\_

Дата і місце заповнення

Date and place of filling in the certificate \_\_\_\_\_

Посада та прізвище уповноваженої особи

МП

Position and name of the authorized person \_\_\_\_\_

Stamp

Підпис  
Signature \_\_\_\_\_

Attachment 2  
to the Procedure

(front page)

To the state tax inspection in \_\_\_\_\_

Mark on receiving  _____	Counterpart _____
(date, executive's signature)	

APPLICATION

For refunding amounts of the income tax  
originating from Ukraine

I. Full name of the non-resident (in Ukrainian)			
Full name of the non-resident (in foreign language)			
Country with which there is a signed double tax treaty			
Identification code of the non-resident in the country with which there is a signed double tax treaty			
II. If the application is completed and submitted at the non-resident's authorization by an executive (authorized person):			
Full name of the executive (authorized person)			
Address, telephone number			
Identification code the state register of physical persons	For physical persons		
Identification code under the Single register of companies and organizations	For legal entities		
III. Information on the incomes source:			
Full name of the person paying incomes			
Address, telephone number			
Identification code the state register of physical persons	For physical persons		
Identification code under the Single register of companies and organizations	For legal entities		
Amount of the received income			
Amount of the tax withheld under legislation			Tax rate

Amount of the tax under the double tax treaty			Tax rate	
Amount of tax subject to refund				

Attachment on \_\_\_\_\_ pages

Attachment 2 continued  
(back page)

<p>IV. Amount subject to refund, please remit to: bank account MFO</p>
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I declare that:

The specified incomes are related to the activity in the territory of Ukraine, carried out through the permanent establishment (permanent base);

I (receiver) have an effective right to these incomes.

Herewith I confirm the authenticity of the specified information.

The non-resident (executive (authorized person) of the non-resident)

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(position, signature)

Signature \_\_\_\_\_ Date \_\_\_\_\_

Stamp