



# Human Capital News

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## Taxation of non-residents' salary paid through a Ukrainian payroll

On 22 September 2009 the STAU issued a clarification letter regarding taxation of salary paid to non-residents through a Ukrainian payroll.

This letter challenges provisions of the Order of STAU #50 of 29.01.04, which states that a 15% tax rate applies to salary paid to non-residents through a local Ukrainian payroll. The new tax letter states that all types of income that non-residents receive should be taxed at 30%. The letter clearly defines that any type of income, including salary, that foreign individuals receive can be taxed at a 15% rate only if the individual concerned has claimed his/her Ukrainian tax residency status under the procedure envisaged by the law.

Moreover, the STAU declared in the letter its intention to introduce the respective amendments to Order #50, in order to reflect the new approach.

There are fears that a retroactive revision of tax liabilities and disputes could occur.

Given that, and considering the current ambiguity that surrounds the issue, we recommend that, to be on the safe side, companies with foreign employees closely monitor their Ukrainian tax residency status so that they occupy unquestionable legal ground for taxing their salaries at a 15% rate.

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## **Court cancels additional pension contributions for private entrepreneurs-single taxpayers**

On 28 September 2009 the District Administrative Court in the city of Kyiv sustained the claims of private entrepreneurs and annulled the Resolution of the Cabinet of Ministers of Ukraine "On Contributions to the State Mandatory Pension System by Private Entrepreneurs-Single Tax Payers" #366 of 14.04.2009. The Resolution obliged private entrepreneurs-single taxpayers to make additional insurance contributions to the Pension Fund of Ukraine of not less than pension contributions, calculated on the basis of the statutory monthly minimum wage.

Resolution #366 is suspended until the court decision legally takes effect.