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ІМПЛЕМЕНТАЦІЯ КОНЦЕПЦІЙ КІК ТА СТАНДАРТІВ BEPS В УКРАЇНІ: ІСТОРИЧНИЙ АНАЛІЗ ТА ОБЛІКОВО-ПОДАТКОВІ АСПЕКТИ

Анотація. Стаття присвячена комплексному дослідженню теоретичних основ та практичних аспектів оподаткування прибутку контрольованих іноземних компаній (КІК) в Україні в контексті її інтеграції до європейського та глобального податкового простору. У роботі здійснено історико-компаративний аналіз еволюції концепції КІК, починаючи від перших оборонних заходів США (Subpart F, 1962 р.) та Німеччини (1972 р.) до формування сучасних міжнародних стандартів, закріплених у Плані дій BEPS (Крок 3) та Директивах ЄС (ATAD I, III). Визначено, що запровадження цих правил стало «світовою податковою революцією», що перетворила правила КІК на універсальний інструмент боротьби з розмиванням податкової бази та переміщенням прибутків. Метою статті є комплексне дослідження теоретичних основ та практичних аспектів оподаткування прибутку контрольованих іноземних компаній (КІК) в Україні в контексті її інтеграції до європейського та глобального податкового простору. Особливу увагу приділено специфіці «стиснутої еволюції» інституту КІК в Україні, де за кілька років було імплементовано складні стандарти, які інші країни напрацьовували десятиліттями. Проаналізовано законодавчий фундамент реформи, та висвітлено статистику звітування: станом на початок 2025 року в Україні зареєстровано понад 15 тисяч контролерів, які подали понад 39 тисяч звітів, що вже забезпечило бюджету понад 2 млрд грн надходжень. Досліджено обліково-податкову природу КІК, де фундаментом для визначення бази оподаткування є неконсолідована фінансова звітність іноземної структури, скоригована на податкові різниці за принципом «витягнутої руки». Розкрито механізм застосування диференційованих ставок як дієвого стимулу для репатріації капіталу в Україну. Виокремлено роль автоматичного обміну інформацією за стандартом CRS, запуск якого у 2024 році став технологічним завершенням формування



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системи цифрового фіскального моніторингу. Ідентифіковано ключові ризики для бізнесу: суб'єктивність критеріїв «фактичного контролю», загроза визнання КІК постійним представництвом в Україні та значне адміністративне навантаження щодо відновлення бухгалтерського обліку. Охарактеризовано механізм «відкладеної відповідальності» у період воєнного стану, що звільняє від штрафів за умови подальшого виконання обов'язків контролерами. Обґрунтовано, що подальша євроінтеграція вимагає адаптації національного законодавства до вимог щодо реальної економічної присутності та підготовки до впровадження глобального мінімального податку Pillar Two.

Ключові слова: контрольована іноземна компанія (КІК); нерозподілений прибуток; міжнародне оподаткування; компанія-нерезидент; трансфертне ціноутворення; Європейський Союз (ЄС); євроінтеграція; План дій BEPS.

JEL Classification: M41, H26, F23, K34

Absztrakt. A cikk átfogóan vizsgálja az ellenőrzött külföldi társaságok (CFC-k) nyereségének adóztatásával kapcsolatos elméleti alapokat és gyakorlati vonatkozásokat Ukrajnában, az európai és globális adótérbe való integrációjának kontextusában. A tanulmány a CFC-konceptió fejlődésének történeti és összehasonlító elemzését adja az Egyesült Államok korai, védelmi jellegű intézkedéseitől (Subpart F, 1962) és a német szabályozástól (1972) a modern nemzetközi standardok kialakulásáig, amelyek a BEPS akcióterv 3. lépésében, valamint az Európai Unió irányelveiben (ATAD I, ATAD III) kerültek rögzítésre. A kutatás rámutat, hogy e szabályok bevezetése „globális adózási forradalomként” értelmezhető, amely a CFC-szabályokat az adóalap-erózió és a nyereségátcsoportosítás elleni fellépés univerzális eszközévé emelte. A cikk célja az ellenőrzött külföldi társaságok (CFC-k) nyereségének adóztatásával kapcsolatos elméleti alapjainak és gyakorlati vonatkozásainak átfogó tanulmányozása Ukrajnában, az európai és globális adótérbe való integrációjának kontextusában. A tanulmány kiemelt figyelmet fordít a CFC-intézmény ukrainai „sűrített evolúciójára”, amelynek keretében néhány év alatt olyan összetett standardok kerültek bevezetésre, amelyeket más országok évtizedek alatt dolgoztak ki. Az elemzés feltárja a reform jogalkotási megalapozását, és bemutatja a beszámolási gyakorlat főbb statisztikai indikátorait: 2025 elejéig Ukrajnában több mint 15 ezer kontrollert regisztráltak, akik több mint 39 ezer jelentést nyújtottak be, ami már több mint 2 milliárd hrvnyia költségvetési bevételt eredményezett. A tanulmány feltárja a CFC-intézmény számviteli–adózási természetét, amelyben az adóalap meghatározásának alapját a külföldi struktúra nem konszolidált pénzügyi beszámolója képezi, a „szokásos piaci” (arm’s length) elv szerint alkalmazott adózási korrekciókkal módosítva. A cikk bemutatja a differenciált adókulcsok alkalmazásának mechanizmusát mint a tőke Ukrajnába történő repatriálását ösztönző hatékony eszközt. Emellett kiemeli az automatikus információcsere (CRS) szerepét: a standard 2024. évi elindítása a digitális fiskális monitoringrendszer kiépítésének technológiai lezárásaként értelmezhető. Azonosításra kerülnek a vállalkozások számára releváns kulcskockázatok: a „tényleges ellenőrzés” kritériumainak szubjektív értelmezhetősége, a CFC ukrainai állandó telephelyként történő minősítésének kockázata, valamint a számviteli nyilvántartások helyreállításához kapcsolódó jelentős adminisztratív terhek. Ismertetésre kerül a hadiállapot időszakában alkalmazott „halasztott felelősség” mechanizmusa, amely a kontrollereket mentesíti a bírságok alól, amennyiben kötelezettségeiket később teljesítik. A tanulmány amellet érvel, hogy a további európai integráció megköveteli a nemzeti jogszabályi környezet valós gazdasági jelenlétre vonatkozó követelményeihez való igazítását, továbbá szükségessé teszi a Pillar Two keretében bevezetendő globális minimumadó bevezetésére való felkészülést.

Kulcsszavak: ellenőrzött külföldi társaság (CFC); fel nem osztott nyereség; nemzetközi adózás; nem rezidens társaság; transzferárazás; Európai Unió (EU); európai integráció; BEPS akcióterv.



Abstract. The article presents a comprehensive study of the theoretical foundations and practical aspects of taxing the profits of Controlled Foreign Companies (CFCs) in Ukraine, in the context of Ukraine's integration into the European and global tax environment. The paper conducts a historical-comparative analysis of the evolution of the CFC concept, ranging from the first defensive measures in the USA (Subpart F, 1962) and Germany (1972) to the formation of modern international standards enshrined in the BEPS Action Plan (Action 3) and EU Directives (ATAD I, III). The study establishes that the introduction of these regulations constituted a "global tax revolution," transforming CFC rules into a universal instrument for combating base erosion and profit shifting.

Particular attention is paid to the specifics of the "compressed evolution" of the CFC institution in Ukraine, where complex standards, developed by other countries over decades, were implemented within a few years. The legislative foundation of the reform is analyzed alongside reporting statistics: as of early 2025, over 15,000 controlling persons are registered in Ukraine, having submitted more than 39,000 reports, which have already generated over UAH 2 billion in budget revenues.

The research examines the accounting and tax treatment of CFCs, with the tax base determined from the unconsolidated financial statements of the foreign entity, adjusted for tax differences under the "arm's length" principle. The mechanism of applying differentiated rates is revealed as an effective incentive for capital repatriation to Ukraine. The role of automatic exchange of information under the Common Reporting Standard (CRS) is highlighted; its launch in 2024 marked the technological completion of the digital fiscal monitoring system.

Key risks for the business include the subjectivity of the "effective control" criteria, the risk of recognizing a CFC as a permanent establishment in Ukraine, and the significant administrative burden of restoring accounting records. The mechanism of "deferred liability" during the martial law period, which provides an exemption from fines upon the subsequent fulfillment of duties by controllers, is characterized. It is substantiated that further European integration requires adapting national legislation to economic substance requirements and preparing for the implementation of the global minimum tax (Pillar Two).

Keywords: controlled foreign company (CFC); retained earnings; international taxation; non-resident company; transfer pricing; European Union (EU); European integration; BEPS Action Plan.

Problem description. The issue of effective taxation of Controlled Foreign Companies (CFCs) in Ukraine emerges at the intersection of the global historical evolution of anti-offshore regulations and the national economy's imperative for fiscal transparency. The international community has traversed a six-decade journey – from the pioneering measures introduced by the USA in 1962 to the unified BEPS Action Plan – to establish effective mechanisms to control profit shifting. However, for Ukraine, this challenge manifested as "compressed evolution," necessitating the implementation of complex standards within a few years – regulations that other jurisdictions had developed over decades.

The scientific problem lies in the theoretical substantiation of the transition from the era of "banking secrecy" to a model of accounting transparency. Data from the State Tax Service confirm the magnitude of this challenge: as of early 2025, 15,698 controllers are registered in Ukraine, having submitted over 39,000 reports regarding foreign structures in 119 countries worldwide. The process of transforming the accounting profit of foreign companies into the tax base of a Ukrainian resident requires scientific conceptualization, particularly in the context of jurisdiction diversification, where Poland (23.2%) is emerging as a leader alongside traditional Cyprus (11%) [1]. This necessitates the development of a methodology for the



comparative analysis of tax regimes of different states to ensure the correct application of tax exemption rules.

The practical significance of the research stems from the necessity to ensure the stability of budget revenues. The implementation of CFC rules has already generated over UAH 2 billion in tax revenues for the state. However, a series of critical practical challenges arise, specifically: 1) administration of mass reporting: the substantial volume of submitted reports (including 10.5 thousand in abbreviated form) requires the automation of verification processes and cross-referencing with data from the Common Reporting Standard (CRS); 2) compliance adherence under martial law: a practical objective is monitoring the fulfillment of obligations by controllers under the martial law regime, which provides exemptions from fines for violations during this period [2], subject to subsequent reporting within six months after its termination; 3) reduction of administrative burden: given that 97.5% of reports are submitted specifically by natural persons (38,084 reports), simplifying accounting procedures is critically important to ensure that fiscal efficiency is not negated by excessive compliance costs associated with report preparation [3].

Thus, addressing the challenge of implementing CFC rules is a strategic objective that enables Ukraine not only to generate additional budgetary revenues amid economic challenges but also to fully integrate into the global financial architecture as a transparent and predictable partner.

Literature review. Countering tax base erosion and implementing Controlled Foreign Company (CFC) rules are at the forefront of attention for both the international and domestic scientific communities and institutions. The theoretical and practical foundation for researching the CFC institution is established in the works of leading experts, whose inquiries encompass various aspects of this multifaceted topic.

A thorough analysis of the history of the formation of the CFC concept and the genesis of international taxation was conducted by K. Chartoryiskyi [4], who highlighted the experience of the USA and Germany as pioneers. The historical perspective on the development of the international tax system is significantly enriched by the works of I. Orlov and D. Zakharov [5], who identify key stages in the evolution of global tax rules. Furthermore, M. Woker's research [6] reveals the deep historical roots of tax-residency concepts and the fight against "sham domiciles" through the lens of French imperial policy in the first half of the 20th century.

The relationship between legal form and economic substance in CFC rules within the context of global tax avoidance is illuminated in the works of R. Avi-Yonah and Y. Biondi [7]. H. Nazarova investigates in detail the process of implementing the BEPS Action Plan in Ukraine and the prospects for the de-offshorization of the national economy [8], emphasizing that the implementation of Action 3 is a strategic tool to strengthen the national economy. The current stage of this transformation is increasingly linked to the "two-stage solution" (Pillar 1 and Pillar 2), the significance of which for international system stability is analyzed by D. Zakharov [9] and H. Loskorikh, K. Sochka, and O. Perchi [10]. A. Harpaz [11] raises issues regarding the



inclusivity of these reforms and the participation of various countries in shaping new global tax rules.

Recent studies place particular emphasis on the connection between tax policy and state financial and national security. N. Poyda-Nosyk and H. Loskorikh [12] substantiate mechanisms for strengthening tax security under conditions of global instability, which resonates with the works of O. Yurkivskyi and Os. Lytvynchuk [13], as well as K. Klymenko and N. Ukhna [14], who view tax principles as the foundation of national resilience. The impact of geopolitical risks on financial reporting and transfer pricing during modern crises is thoroughly investigated in A. Melega's monograph [15].

In turn, O. Radchenko and P. Polishchuk examine CFC rules through the prism of the evolution of transfer pricing and of Ukraine's tax policy harmonization with OECD standards [16], noting that BEPS serves as a vital institutional benchmark. The accounting and tax discourse, particularly the definition of a CFC as a new taxpayer in the Ukrainian system, is presented in the works of L. Hutsalenko and B. Trokhymets [17], who emphasize the technical aspects and essential features of this institution.

N. Ponomaryova, H. Loskorikh, and E. Shebeshten [18] analyze innovative approaches to tax accounting in the era of economic digitalization. The processes of adapting Ukrainian budget and tax law to the Pillar 2 initiative are detailed in the works of H. Loskorikh, K. Sochka, and O. Perchi [19].

The history of emergence and the problems of forming the Country-by-Country Report, as well as transfer pricing as a means of minimizing tax manipulation in settlements with non-residents in the context of improving the accounting system, were considered by the authors in their previous works [20, 21].

A comparative analysis of domestic rules with the EU ATAD Directive and the specifics of taxation of natural person-controllers are covered in the publications of O. Kuznechikova [22, 23]. P. Nimani and A. Maloku [24] reveal the legal and practical perspectives of administrative cooperation and mutual assistance between states in direct taxation. Finally, practical issues of judicial practice and tax liabilities are addressed in the inquiries of D. Kravchuk [25] and V. Misechko [26].

The research's regulatory foundation comprises the legislative frameworks of the EU and Ukraine, including regulations applicable under martial law [27-35].

Despite significant developments in international taxation, a number of unresolved issues remain, driven by the specific nature of the "compressed evolution" of CFC rules in Ukraine. In particular, domestic scientific discourse lacks a comprehensive historical-comparative analysis that would combine global experience (from Subpart F of 1962 to the ATAD Directive) with the current dynamics of implementing these norms through the prism of transforming the financial statements of foreign structures.

The following aspects remain debatable and require further research:

– development of clear algorithms for adjusting unconsolidated CFC financial statements (under IFRS or local standards) into the resident's tax base, taking into account tax differences and the "arm's length" principle;



- resolution of the legal conflict wherein the obligation to report on the same foreign entity arises simultaneously for the holding structure and its ultimate beneficial owner, creating an excessive administrative burden;
- formation of a methodology for the effective use of automatic exchange of information results to verify adjusted CFC profit and identify discrepancies in bank balances;
- analysis of the risks of forming a "fiscal trap" for taxpayers after the expiration of the moratorium on fines, as well as the threat of recognizing foreign companies as permanent establishments in Ukraine based on the place of effective management;
- theoretical substantiation of introducing strict economic substance requirements and preparation for the transition to the global minimum tax of 15% for large MNEs.

The present article aims to fill these gaps by synthesizing historical experience, analyzing current accounting procedures, and developing proposals to adapt the Ukrainian CFC model to the progressive standards of EU digital transparency.

Formulation of the goals of the article. The aim of the article is to provide a comprehensive study of the theoretical foundations and practical aspects of taxing the profits of Controlled Foreign Companies (CFCs) in Ukraine, in the context of its integration into the European and global tax environments.

To achieve this goal, the following main objectives have been defined: 1) to analyze the historical genesis and evolution of the CFC concept, ranging from the initial defensive measures of individual states to the formation of modern international standards; 2) to investigate the specifics of the "compressed evolution" of the CFC institution in Ukraine, highlighting the stages of implementing international norms into national legislation and joining the automatic exchange of information system (CRS); 3) to reveal the accounting and tax nature of CFCs, particularly the mechanism of transforming the accounting profit of a non-resident company into an adjusted taxable object based on unconsolidated financial statements (IFRS or local standards); 4) to determine the features of the tax burden and the application of differentiated rates as instruments for stimulating capital repatriation to Ukraine; 5) to identify key risks and challenges for taxpayers and the state under martial law conditions, particularly through the prism of the "deferred liability" mechanism, the subjectivity of effective control criteria, and the risks of recognizing foreign structures as permanent establishments; 6) to substantiate the prospects for further harmonization of Ukrainian tax control with requirements regarding real economic presence (substance), which is critically important for Ukraine's successful European integration.

Results and discussions. The concept of Controlled Foreign Companies (CFCs) originated as a countermeasure to practices by which multinational corporations artificially shifted profits to low- or zero-tax jurisdictions. The fundamental premise of these regulations is to equate the undistributed profits of a foreign entity with the personal income of its resident shareholder, thereby subjecting them to taxation within the jurisdiction of the controller's residence.

Historically, the United States was the first to implement CFC rules in 1962. This legislative development was precipitated by the active international expansion of American business in the post-World War II era, a process significantly facilitated by political initiatives such as the Marshall Plan. During this period, the U.S. government incentivized foreign investment through tax deferral mechanisms, enabling corporations to accumulate substantial financial resources in low-tax jurisdictions while avoiding U.S. taxation.

Table 1

CFC Evolution: From Local Control to Global Transparency*

Year, Country, and Legislative Act	Key Provisions and Regulatory Purpose
1960. USA. Public Law 86-780; Revenue Act	Obligation for companies to submit information on foreign entities where they own more than 50% of shares
1962. USA. Implementation of the Revenue Act	Introduction of rules for taxing CFC income (known as Subpart F) regardless of its distribution as dividends, aimed at countering tax deferral in low-tax jurisdictions
1972. Germany. Foreign Tax Act	Taxation of passive CFC income at the level of the German controller if the effective foreign tax rate was below 25%, aimed at eliminating cross-border tax advantages for residents
1975. USA. Tax Reduction Act	Refinement of definitions: expanded the list of CFC income types subject to inclusion in the tax base and lowered the threshold of CFC income share in the taxpayer's total profit from 30% to 10%, contributing to strengthened control and tax base expansion
1976. Canada. Income Tax Act	Introduction of the FAPI (Foreign Accrual Property Income) taxation system, laying the foundation for the modern fight against tax base erosion
1978. Japan. Anti-Tax Haven Act	Development and implementation of proprietary fiscal control mechanisms over foreign entities and foreign profits of residents
1980. France. Art. 209 B of the General Tax Code	Implementation of rules to limit capital flight to low-tax zones. Combating capital outflow abroad
1984. UK. Finance Act	The introduction of a CFC regulation system is considered one of the strictest in the world. Ensuring an appropriate level of fiscal control
1986. USA. Tax Reform Act	Clarification of the CFC definition: ownership $\geq 50\%$ by residents, each holding a share $\geq 10\%$. Closing loopholes regarding the transfer of shares to foreigners while maintaining control
1995. Spain. Law 43/1995 on Corporate Income Tax (<i>Ley 43/1995</i>)	Implementation of CFC legislation within the framework of adaptation to EU requirements. Economic harmonization and control over foreign investments
2004. USA. American Jobs Creation Act	Introduction of a one-time tax incentive (85% income deduction) for profit repatriation to stimulate capital return and investment in the national economy
2008. China. Enterprise Income Tax Law	Adherence to the international practice of controlling undistributed profits of foreign companies to prevent tax evasion

*Source: compiled by the author based on [4, 5, 6, 8, 22, 36]

Germany became the second country globally, and the first in Europe, to implement CFC regulations in 1972. German legislation was significantly modeled on



the U.S. framework, and throughout the 1970s and 1990s, the CFC concept actively proliferated among other developed nations.

Thus, the evolution of U.S. legislation proceeded through several key stages, paralleled by the emergence of European experience, resulting in the worldwide expansion of CFC rules (Table 1).

The data presented in Table 1 allows tracing the transformation of Controlled Foreign Company (CFC) rules from individual defensive measures of specific states to the foundation of modern global fiscal transparency.

The primacy of the USA was conditioned by the "Marshall Plan" policy and the active expansion of American MNCs, which utilized tax deferral to accumulate capital in offshore jurisdictions. The introduction of Subpart F rules in 1962 set a precedent for taxing the undistributed profits of foreign entities at the level of the resident shareholder.

Germany became the first European country to establish the "European roots" of tax control by introducing a law in 1972 that focused on passive income taxed at a rate below 25%.

The period of 1972-1986 witnessed a significant lowering of "thresholds" (for instance, in the USA from 30% to 10%), indicating an intensification of fiscal pressure and an expansion of the scope of control.

France (1980) and the United Kingdom (1984) introduced CFC rules in response to the abolition of exchange controls and the need to combat "tax deferral."

The years 1995-2008 were characterized by processes of integration and modernization of the CFC taxation system. Spain (1995) used CFC rules as an instrument for adaptation to EU requirements and for economic harmonization in foreign investment. China's (2008) accession to international practice marked the transition from a policy of attracting investment "at any cost" to transparent taxation in line with OECD standards.

The year 2008 serves as a logical culmination of the "historical" stage of CFC rule formation by individual states, as:

- the global financial crisis of 2008 compelled developed nations to seek radical methods for budget replenishment, precipitating a paradigm shift from local initiatives to collective countermeasures;

- active preparation for the BEPS Action Plan commenced post-2008.

Thus, the pre-2008 period represents the stage of accumulating a critical mass of national practices, whereas the subsequent period (post-2008) is characterized by unification, digitalization (CRS), and the implementation of the global minimum tax.

Since 1977, the OECD has acted as a coordinator, developing recommendations that served as the foundation for national legislation:

- in 1977, the OECD Model Convention was approved, defining principles for countering aggressive tax planning and introducing the concepts of beneficial owners and information exchange, thereby creating a basis for bilateral double taxation avoidance treaties;



– in 1988, the OECD adopted documents that became the first effective measure of pressure on offshore jurisdictions and introduced Tax Information Exchange Agreements (Multilateral Convention on Mutual Administrative Assistance in Tax Matters, TIEA), thus strengthening the fight against tax evasion and harmful tax practices;

– in 1995, the OECD Transfer Pricing Guidelines were approved, supplementing CFC rules with instruments for controlling non-market pricing;

– in 2013, the OECD and G20 presented the BEPS Action Plan (Action 3), which provided for the development of recommendations regarding CFC definition, ownership thresholds, and methods for avoiding double taxation, becoming an instrument for global counteraction against base erosion and profit shifting. OECD experts estimated annual budget losses from aggressive tax planning at \$200-250 billion [8], and this step transformed CFC rules from a domestic state matter into a global minimum standard, constituting a "global tax revolution".

The objective of Action 3 of the BEPS Action Plan was not merely the introduction of new measures, but a fundamental transformation of international taxation rules. OECD recommendations identified the primary "building blocks" for effective CFC rules [35]: 1) a clear definition of a CFC (encompassing legal, economic, and de facto control); 2) establishment of thresholds and exemptions (e.g., for active business conduct); 3) definition of CFC income and computation rules; 4) mechanisms for the prevention of double taxation.

Work on the BEPS Project spanned two years and concluded in October 2015 with the publication of final reports on all 15 action items. These documents, endorsed by G20 leaders at the summit in Turkey in November of that year, were the result of extensive consultations involving representatives from over 100 countries and approximately 1,400 submissions from industry and the academic community. The final BEPS package was characterized as the first substantial update of international tax rules in nearly a century, as it laid the foundation for taxing profits specifically where real economic activity occurs, and value is created. To monitor the implementation of these measures, the Inclusive Framework on BEPS was established, which currently brings together over 140 jurisdictions cooperating to ensure the transparency and universality of the tax environment.

At the European level, the response to OECD initiatives was the adoption by the Council of the EU of Council Directive (EU) 2016/1164 of 12 July 2016, known as ATAD I (Anti-Tax Avoidance Directive) [31]. This document introduced five legally binding measures to combat abuse, among which the implementation of a unified approach to CFC rules became a key element. The Directive made the introduction of CFC rules mandatory for all EU member states in order to create a common minimum level of protection for the internal market against aggressive tax planning. Primary attention was focused on the taxation of passive income and countering the use of "shell companies" (conduit companies) that perform no significant functions and bear no real economic risks.



The subsequent evolution of European regulation aims to further strengthen requirements for real economic presence. In particular, the implementation of the ATAD III Directive is expected, which focuses on combating the use of shell companies to obtain tax advantages. The new rules will require companies to confirm the existence of substance (real business presence), which includes an assessment of the type of income, the availability of a dedicated office, qualified personnel, and active bank accounts in the jurisdiction of registration. In the event of non-compliance with these criteria, strict measures may be applied to CFCs, such as denying double tax exemptions and directly taxing their profits at the level of European shareholders. This necessitates that member states, as well as candidate countries for EU accession, such as Ukraine, separately review and adapt their national CFC models to these progressive transparency standards.

For Ukraine, implementing Controlled Foreign Company (CFC) rules represented a stage of "compressed evolution." While the global community developed these standards over decades, Ukraine moved from adhering to OECD initiatives to the full-scale launch of the control system in merely a few years.

A logical continuation of global reforms occurred on January 1, 2017, when Ukraine officially joined the OECD Inclusive Framework on BEPS. Having committed to implementing the minimum standards of the Action Plan, the state initiated the development of its own CFC institution, which constituted one of the most significant steps in combating tax base erosion.

The legislative foundation was established by the Law of Ukraine No. 466-IX dated January 16, 2020 [28], which supplemented the Tax Code with Article 39-2. Although the rules were initially scheduled for 2021, they were subsequently postponed to January 1, 2022, to give businesses time to adapt amid global instability.

The contemporary Ukrainian CFC model is based on the principle of tax transparency, under which the object of taxation is the portion of a foreign entity's undistributed profits proportional to the resident's ownership interest. In this context, a CFC is understood to encompass not only classic offshore entities but also any foreign legal entity (e.g., in Germany or Poland) under the control of a Ukrainian resident.

The chronology of key regulatory steps in implementing BEPS standards in Ukraine is presented below (Table 2).

Currently, the implementation of Controlled Foreign Company (CFC) rules in Ukraine is in an active phase. According to the results of 2022-2023, tax authorities have processed over 39,000 reports submitted by nearly 16,000 controllers, generating over UAH 2 billion in budget revenues [37].

A pivotal factor in 2025 was the launch of the Common Reporting Standard (CRS) for the automatic exchange of tax information, which renders hidden foreign assets visible to tax authorities in real time, making the concealment of foreign structures virtually impossible. This marks the transition from paper-based declarations to an era of total fiscal transparency, in which Ukraine becomes a full-fledged participant in the global tax control system.



Table 2

Evolution and Implementation of CFC Rules in Ukraine

Year	Regulatory Act / Event	Key Content and Innovations	Objective and Consequences
2017	Joining the Inclusive Framework on BEPS	Ukraine is committed to implementing minimum anti-BEPS standards (specifically Actions 5, 6, 13, 14)	Official launch of de-offshorization and integration into the global tax system
2018	Multilateral Convention (MLI)	Ukraine joined the convention to automatically modify bilateral tax treaties	Prevention of benefit abuse under the double taxation avoidance treaty
2020	Law of Ukraine No. 466-IX	Introduction of Article 39-2 of the Tax Code of Ukraine; definition of CFC criteria (ownership >50% or >25% under certain conditions)	Creation of a legal basis for taxing the undistributed profit of foreign entities
2020	Law of Ukraine No. 1117-IX	Postponement of the CFC rules' entry into force from 2021 to January 1, 2022	Adaptation to pandemic conditions and preparation of the tax service's IT systems
2022	Order of the Ministry of Finance No. 254	Approval of CFC Report forms (full and abbreviated) and the procedure for their completion	Provision of a mechanism for residents to declare income from foreign companies
2024	Lowering of the control threshold	End of the transitional period: the ownership threshold (within a group of residents) reduced from 25% to 10%	Expansion of the circle of persons subject to mandatory CFC reporting
2024	CRS Standard	Conduct of the first automatic exchange of information on residents' financial accounts (based on 2023 results)	Technological completion of CFC evolution – detection of hidden assets without requests to the taxpayer
2024	Law of Ukraine No. 4113-IX	Exemption from fines for CFC violations during the war period, provided obligations are fulfilled within 6 months after its termination	Business support under martial law through the "deferred liability" mechanism
2025	Law of Ukraine No. 4505-IX	Clarification of taxation rules for look-through dividends from Ukrainian companies	Elimination of technical errors regarding profit distribution through a CFC chain

The shift from historical genesis to practical implementation necessitates a thorough analysis of how these regulations are integrated into the accounting and tax systems.

The contemporary Ukrainian CFC model is founded on the principle of tax transparency, under which the undistributed profits of a foreign entity are equated with the income of its Ukrainian controller. Since January 1, 2022, the CFC has been



recognized as a "new taxpayer" under the tax system, although the legal obligation to pay tax is imposed on a Ukrainian resident, whether a natural or legal person.

The accounting basis for determining the tax base in Ukraine is the unconsolidated financial statements of the CFC, prepared in accordance with the standards of the jurisdiction of registration or IFRS. The key mechanism here is the transformation of accounting profit into adjusted CFC profit [33], which involves taking into account tax differences similar to those applied for Ukrainian corporate income tax.

The practical implementation of these norms is accompanied by a series of challenges, from maintaining accounting records in jurisdictions where it is not required by law to applying the "arm's length" principle (TP) in CFC operations with non-residents. Consideration of accounting aspects and reporting procedures is critical for understanding the fiscal efficiency of CFC rules under martial law conditions and Ukraine's further European integration.

The accounting and tax nature of CFCs in Ukraine reflects the transition from a simple declaration of foreign assets to the deep integration of foreign entities' financial statements into the national tax system.

The accounting foundation for determining the tax base constitutes the data from the unconsolidated financial statements of the CFC, prepared under the standards of the country of registration or IFRS. The key mechanism for transforming accounting profit into the object of taxation is its adjustment for tax differences, which are detailed in Annex K to the CFC Report. In particular, when calculating profit, it is necessary to adhere to the "arm's length" principle for CFC operations with related non-residents and entities from the "offshore" lists of the Cabinet of Ministers of Ukraine. In the event of failure to provide transfer pricing (TP) documentation upon the request of the State Tax Service (STS), the controlling authority has the right to independently increase the CFC profit by 30% of the value of such operations.

The tax burden in Ukraine is characterized by a differentiated structure designed to incentivize capital repatriation: 18% Personal Income Tax (PIT) – the basic rate applied to undistributed profit; 9% PIT – applicable if the profit is distributed and effectively paid to the controller prior to the submission of the CFC report or within the following year (subject to recalculation); 5% PIT – for "look-through dividends" received by the CFC from Ukrainian legal entities.

In all instances, natural persons are additionally subject to a military levy (1.5%). For legal entity controllers, a unified corporate income tax rate of 18% applies. The tax liability in Ukraine may be reduced by the amount of corporate tax actually paid by the CFC abroad.

Strategic exemption from taxation is possible contingent upon the existence of a double taxation avoidance treaty and the fulfillment of one of the following criteria: the effective foreign tax rate is not lower than 13%, or the share of passive income does not exceed 50%. Furthermore, unconditional exemptions apply if the aggregate income of all CFCs attributable to a single controller does not exceed EUR 2 million.



The evolutionary process of implementation culminates in the transition to digital fiscal monitoring. Since July 2024, the State Tax Service (STS) has commenced the automatic exchange of information under the Common Reporting Standard (CRS), receiving data from over 100 jurisdictions. This enables the application of risk-oriented models (cross-checks) by reconciling foreign bank balances with submitted CFC reports and resident declarations.

Beyond fiscal risks, the risk of recognizing a CFC as a permanent establishment (PE) in Ukraine is becoming increasingly relevant: should key management decisions be made by a resident from within the territory of Ukraine, tax authorities may require the taxation of the company's entire activity under Ukrainian rules, irrespective of the submission of CFC reporting.

Despite the stringency of the rules, a mechanism of "deferred liability" operates during the period of martial law: fines for violations committed since 2022 are not applied, provided the controller fulfills their obligations within 6 months of the lifting of martial law. This creates a transitional bridge for businesses to adapt to EU transparency standards and ensure tax equity amid globalization.

Drawing on experience from the initial years of implementing CFC rules in Ukraine, it is possible to highlight both the advantages of the accounting and tax framework for CFCs in Ukraine and identify the challenges and future prospects for the accounting and tax support of this reform.

The introduction of CFC rules constituted an institutional breakthrough, elevating the Ukrainian tax system to a qualitatively new level of transparency. In this regard, the following aspects are undoubtedly positive:

- ensuring fiscal justice and efficiency, as CFC rules allow Ukraine to tax profits that were previously artificially retained in foreign jurisdictions without distribution. This has already secured over UAH 2 billion in additional budget revenues;
- harmonization with international standards, since the Ukrainian model is based on the OECD "building blocks" (BEPS Action 3) [35] and approximates EU Directives [31,32]. This includes a clear requirement regarding the existence of economic substance to avoid taxation;
- a clear accounting basis through the Tax Code of Ukraine [27], which recognizes CFC financial statements prepared under the standards of the country of registration or IFRS as the foundation for tax calculation. Differentiated rates (18%, 9%, 5%) have been introduced, stimulating businesses to distribute dividends;
- a mechanism for avoiding double taxation, as taxpayers have the right to reduce the Ukrainian tax by the amount of corporate tax actually paid by the CFC abroad;
- high technological level of control, facilitated by the launch of the automatic exchange of information (CRS) in 2024, which allows the State Tax Service to view residents' foreign assets without the need to send separate requests.

However, despite its progressive nature, the system entails significant risks for controllers, businesses, and the state at large.



Risks for controllers include:

- penalty pressure and "deferred liability", stemming from the fact that failure to submit a CFC notification carries a fine of 300 subsistence minimums (over UAH 900,000), and failure to submit a report – 100 subsistence minimums (over UAH 300,000) [27-29]. Although a moratorium is in effect during the martial law period, it merely postpones liability: the controller is obliged to fulfill all duties within 6 months after the lifting of martial law; otherwise, sanctions will be applied for the entire period;

- subjectivity of "effective control", which implies that defining a person as a controller may be based on informal signs: possession of a power of attorney (for more than one year), access to bank accounts, or the right to provide binding instructions. This creates a risk of a person being suddenly recognized as a controller based on the results of an STS audit, even if they do not own a share in the capital;

- additional tax burden, due to the fact that the undistributed profit of a CFC is equated to the personal income of the controller and is taxed at a rate of 18% PIT (for natural persons) plus a 1.5% military levy.

Risks to business structures and their operational activities are equally significant. Specifically:

- if the tax authority demonstrates that the effective management of a foreign company is conducted from the territory of Ukraine (via Ukrainian directors or IP addresses), the CFC may be recognized as a permanent establishment (PE). The consequence is the taxation of the company's entire profit in Ukraine at a rate of 18% and the forfeiture of the right to benefits under international conventions;

- CFC operations with related non-residents or entities from "risky" lists must comply with the "arm's length" principle. Failure to provide transfer pricing documentation upon the request of the State Tax Service (STS) results in an automatic increase of the CFC's profit by 30% for taxation purposes in Ukraine;

- in low-tax jurisdictions, accounting is often not mandatory. However, Ukrainian legislation requires CFC financial statements prepared in accordance with IFRS [33, 34]. Businesses are effectively compelled to reconstruct accounting records "from scratch" for previous years, necessitating significant administrative costs;

- the introduction of the automatic exchange of information allows the STS to view balances on foreign accounts. If bank data does not match the CFC report, the system automatically flags the structure as "risky."

Given the significant volumes of CFC income, there also exist risks for the state as a whole, particularly:

- excessive fiscal pressure and administrative complexity may impel large owners to change their tax residency in favor of jurisdictions with more lenient CFC rules (Monaco, the UAE, Cyprus, etc.);

- STS data indicate that 97.5% of reports (over 38,000) are submitted by natural persons [37]. This creates a colossal burden on tax authorities, who must verify



thousands of minor declarations, potentially reducing the efficiency of detecting major evasion schemes;

– current legislation contains the problem of "artificial multiplicity," wherein the obligation to report for the same company simultaneously arises for a holding company and its ultimate beneficial owner. This generates legal uncertainty and the potential for prolonged litigation, which negatively impacts the investment climate;

– the moratorium on fines creates a false impression among taxpayers regarding the absence of control, which in the future may lead to the mass bankruptcy of private controllers due to accumulated sanctions following the termination of martial law.

Conclusions and prospects for further research. Having conducted a historical-comparative analysis of the evolution of the CFC concept and the implementation of BEPS standards in Ukraine, as well as investigating the accounting and tax aspects of this issue, the following conclusions have been drawn:

1. The historical evolution of the CFC institution has demonstrated its transformation from the local defensive measures of individual states (starting with the American Subpart F in 1962 and the German experience of 1972) to the status of a global minimum standard. The introduction of Action 3 of the BEPS Action Plan constituted a "global tax revolution," transforming CFC rules into a universal instrument for combating base erosion and profit shifting to low-tax jurisdictions.

2. Ukraine has undergone a path of "compressed evolution," implementing within a few years norms that the global community developed over decades. The legislative foundation laid by Law No. 466-IX enabled the integration of the Ukrainian tax system into the global space, spanning the path from official accession to the BEPS Inclusive Framework in 2017 to the full-scale launch of the control system and automatic exchange of information in 2024.

3. The accounting and tax nature of CFCs is based on the principle of tax transparency, where the basis for tax calculation is the unconsolidated financial statements of the foreign entity (prepared under IFRS or local standards). The key mechanism is the transformation of accounting profit into an adjusted taxable object through a system of tax differences (Annex K) and the application of the "arm's length" principle.

4. The differentiated rate system (18% – base rate, 9% – for distributed profit, 5% – for "look-through" dividends) acts as an effective economic incentive for capital repatriation to Ukraine. Together with the mechanism for crediting taxes paid abroad, this allows for the avoidance of double taxation and ensures fiscal equity.

5. Critical risks have been identified regarding the subjectivity of "effective control" criteria, the possibility of recognizing a CFC as a permanent establishment in Ukraine, and the significant administrative burden on business regarding the reconstruction of accounting records. Although a mechanism of "deferred liability" has been introduced under martial law conditions, it does not exempt taxpayers from obligations but merely postpones sanctions, which may create a fiscal trap in the future.



6. The prospects for Ukraine's further European integration are inextricably linked to adaptation to Directives ATAD I and ATAD III. This requires domestic legislation to strengthen requirements for substance (real economic presence), implying the existence of offices, qualified personnel, and active bank accounts in the jurisdictions of CFC registration to confirm the transparency of business models.

7. The launch of the automatic exchange of tax information (CRS) system in 2024 became the technological culmination of CFC evolution in Ukraine, marking the transition from paper-based declaration to an era of total digital transparency.

However, the system requires further refinement. In our view, the following steps are essential to balance the state's fiscal interests with business stability:

1. Clear regulation of the issue of "artificial multiplicity of controllers" (where a CFC is simultaneously owned by a Ukrainian legal entity and its individual owner) by establishing an unambiguous reporting hierarchy.

2. Simplification of administration, considering the potential abolition of transfer pricing (TP) requirements for CFCs (as proposed in certain legislative bills) or raising the value thresholds for reporting.

3. Further integration of CRS data into the State Tax Service's risk-oriented models (cross-checks) and the implementation of services within the Electronic Cabinet to preliminarily notify taxpayers of discrepancies.

4. Preparation for BEPS 2.0 through the implementation of Pillar Two rules (a global minimum tax of 15%) for large MNCs, which will necessitate coordination with existing CFC regulations.

5. Continued implementation of ATAD III requirements regarding the combat against shell companies, demanding even stricter confirmation of real business presence (substance) from CFCs.

6. Updating enterprise accounting policies to account for the impact of CFC rules on international operations.

Thus, Ukraine has successfully completed the stage of implementing the CFC foundation; however, the transition to the stage of mature administration requires mitigating the punitive component and clarifying legal definitions, which constitute a prospect for further research.

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