



Limitation of Borrowing Costs

Article 4 of Council Directive (EU) 2016/1164 of 12 July 2016 (ATAD) in the Draft Law of Ukraine
registration No. 16036 of 4 September 2026

Ministry of Finance of Ukraine · September 2026



What the rule of Article 4 of the Directive* is about, and which aspects it does not change



1 The purpose is to remove the tax benefit of excessive debt, not to restrict financing

The European Commission defines the purpose of the rule as discouraging debt arrangements designed to minimise taxation. The risk arises where financing is not available to everyone on the same terms: within a group the rate and the amount of debt can be set, on the market they cannot. The rule levels this difference.

3 A level playing field for all taxpayers

The rule equalises the amount of interest that may be taken into account in expenses, irrespective of who the creditor is and how the group is structured.

5 The rule applies to all corporate income taxpayers

Diia City residents—taxpayers subject to special conditions fall within the rule. Single tax payers are exempt from corporate income tax***, so the limitation becomes applicable to them only after they move to the general taxation system. The rule does not concern individual entrepreneurs at all.

2 A bridge from BEPS to the Directive

Article 4 of the Directive is built on Action 4 of the OECD BEPS Action Plan. The European Commission transposed the same standard into European Union law. Transposition of the Directive is mandatory on Ukraine's path to membership of the European Union.

4 The rule is not new for Ukraine

A limitation of interest on debt obligations has been in the Code for several years: the current construction has applied since 1 January 2021 to corporate income taxpayers under the general rules, and for Diia City residents—taxpayers subject to special conditions the limitation operates through the taxation of interest payments (135.2.1.4, 135.2.1.5 of the Code). The Draft Law** brings the current rules into line with the requirements of the Directive.

6 Interaction with transfer pricing

The two rules operate sequentially, not in parallel. Transfer pricing determines which part of the interest is payment for financing on market terms at all—and only that part enters the limit calculation (new sub-clause 140.2.4 as amended by the Draft Law). For a taxpayer that complies with the arm's length principle, no additional review of the transaction price arises under this rule.

* Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (ATAD).

** Draft Law on Amendments to the Tax Code of Ukraine Regarding the Implementation of Rules to Counter Tax Avoidance Practices That Have a Direct Impact on the Functioning of the Internal Market of the European Union and Ukraine, in Accordance with Council Directive (EU) 2016/1164 of 12 July 2016 (as regards the provisions of Article 4 of that Directive) (registration No. 16036 of 4 September 2026).

*** Except for the cases provided for in sub-clause 1 of clause 297.1 and clauses 297.5–297.7 of Article 297 of the Code.

Why the current provisions need to change in the context of transposing the requirements of the Directive



Element	Current clauses 140.1–140.3 of Article 140 of the Code	Requirements of Article 4 of the Directive
Scope of persons	Transactions with non-residents only. Interest in favour of foreign banks is excluded from the limitation.	All corporate income taxpayers, irrespective of the residence and relatedness of the creditor.
Subject matter: composition of costs	Only “interest” in the narrow meaning of sub-clause 14.1.206.	Borrowing costs in the broad meaning: interest on all forms of debt, economic equivalents of interest and expenses incurred in connection with the raising of finance.
Reach of the rule	The limitation is computed only on part of the debt—that owed to non-residents.	The limitation is computed on the taxpayer’s entire debt burden.
Trigger	A hybrid construction with elements of “thin capitalisation”. First the debt-to-equity test applies (above 3.5 : 1), and only for those for whom this test is triggered—the limit of 30 % of EBITDA.	A single test for all taxpayers: 30 % of the EBITDA metric. There is no separate capitalisation test.
Carry-forward of the unused balance of costs	A carry-forward exists, but the amount is reduced by 5 % every year—that is, the balance gradually “expires” where it cannot be taken into account in full	Article 4(6) provides for no “expiry” of carried-forward amounts, which under the basic option may be carried forward without time limit

Compliance requirement. Article 3 of the Directive permits States to apply stricter national rules and does not permit more lenient ones. The deadline for transposing Article 4 of the Directive is set by the National Programme for the Adaptation of Ukrainian Legislation to European Union Law and by Ukraine’s commitments to its international partners.

Structure of the amendments: what each provision of the Code will determine



CORE OF THE RULE – ARTICLE 140 OF THE CODE

140.1 Borrowing costs: definitions

- composition of borrowing costs—three limbs (140.1.1.1) and an open-ended list (140.1.2);
- debt obligations, including the debt (finance) component of payment by instalments (140.1.1.2);
- qualifying borrowing costs QBC (140.1.1.7) and exceeding borrowing costs EBC (140.1.1.8);
- capitalised borrowing costs (140.1.3);
- exchange rate differences (140.1.4) and notional interest on derivatives (140.1.5);
- income in the form of interest and income equivalent to it (140.1.6).

140.2 Differences relating to exceeding borrowing costs

- the limit formula $BCL = IR + BA$ (140.2.1) and the monetary threshold (140.2.1.1);
- two differences—increase (140.2.2.1) and decrease (140.2.2.2) of the financial result;
- the EBITDA metric = $OT + A + EBC$ (140.2.3);
- priority of the arm's length principle (140.2.4);
- carry-forward: ABC without time limit (140.2.5), UIC for five years (140.2.6);
- reorganisation (140.2.7); separate records and an annex to the tax return (140.2.8, 140.2.9).

140.3 Exclusions

- banks, branches of foreign banks and insurers (140.3.1);
- long-term public infrastructure projects: the exclusion itself (140.3.2), twelve project conditions (140.3.3), the project operator (140.3.4), the notion of a group (140.3.5);
- the criteria for large-scale assets are set by the Cabinet of Ministers of Ukraine (140.3.3).

THE DIIA CITY REGIME AND CONSEQUENTIAL AMENDMENTS

Article 141 – the regime of Diia City residents—taxpayers subject to special conditions

- 141.9¹.2.18 – a new object of taxation: transactions under debt obligations in respect of which exceeding borrowing costs exceed the limit;
- 141.9¹.5 – the tax base, the excess ratio K, crediting of tax paid, the DT figure, transition between regimes, separate records and reporting;
- 141.9¹.2.4 and 141.11 – alignment of adjacent provisions of the regime.

Consequential amendments – other Articles of the Code

- 14.1.267 – refined definition of a loan;
- 44.3 – retention periods for the documents on the basis of which ABC and UIC are formed;
- 134.1.1 and 138.3.2 – alignment of the list of differences;
- 135.2.1.4, 135.2.1.5 – payments under debt obligations in the Diia City regime;
- 136.8 – the new tax base is taken outside the 9 % rate; 137.10.4.9 – the event upon which the tax liability of Diia City residents is determined.

TRANSITIONAL PERIOD AND ENTRY INTO FORCE

Subsection 4 of Section XX of the Code

- Clause 4¹ sets out the specifics of transition from the simplified taxation system; clauses 20 and 53 establish transitional provisions for the application of the new rules. Clause 74 covers application from 1 January 2028 irrespective of the date of the contracts; the treatment of interest not taken into account as at the end of 2027; capitalised borrowing costs; the first unused amount of the limit; and a temporary exclusion for credits from international financial organisations secured by State or local guarantees under contracts concluded before 1 January 2028.

Final provisions of the Law

- The Law enters into force on the day following the day of its publication and takes effect from 1 January 2028.
- The Cabinet of Ministers of Ukraine adopts the necessary acts and brings its acts into conformity no later than six months before the date on which the Law takes effect.

Borrowing costs: what they include



Interest

on all types of debt obligations

Economic equivalents of interest

irrespective of how the payment is legally documented

Expenses incurred in connection with the raising of finance

commissions, guarantees, costs of issuing debt securities

The three categories of borrowing costs specified in sub-clause 140.1.1.1 of sub-clause 140.1.1 of clause 140.1 of the Code as amended by the Draft Law.

What is included in borrowing costs (140.1.2)

- interest on credits, loans, deposits and repo transactions;
- amounts that depend on the borrower's profit or income;
- notional interest on debt instruments;
- payments under alternative financing arrangements;
- the debt (finance) component of lease payments;
- capitalised borrowing costs;
- amounts that constitute payment for financing pursuant to Article 39 of the Code;
- a negative aggregate result of exchange rate differences;
- a negative result of notional interest on derivatives;
- commissions for guarantees and fees for arranging the raising of finance.

Not considered borrowing costs (140.1.1.1)

- early payment discounts;
- volume discounts and rebates;
- contractual penalties, fines and late-payment interest;
- interest and inflation charges on overdue amounts;
- compensation for losses and lost profit.

Exceeding borrowing costs (EBC) = borrowing costs (BC) – income in the form of interest and income equivalent to it (IR) (140.1.1.8)

It is not the whole amount of borrowing costs that is limited, but only their excess over income in the form of interest and other income economically equivalent to interest. A taxpayer whose such income equals or exceeds its borrowing costs does not fall under the limitation.

Capitalised borrowing costs: recording and taking into account



The timing rule. In the period of capitalisation, capitalised borrowing costs that increased the value of an asset do not enter the calculation of the borrowing costs limit. They are taken into account at the time and to the extent that the value of the asset reduces the object of taxation—through depreciation, through the cost of goods (works, services) sold or in connection with the disposal of the asset.

Conditions for taking into account—by type of asset (140.1.3)

Fixed assets and intangible assets. The part of the depreciation calculated under clause 138.3 of the Code that is attributable to capitalised borrowing costs is taken into account,—but only provided that, in the same period, the financial result was reduced by it under the rules of clause 138.2 of the Code.

Other assets. The part of the depreciation included in the expenses of the period under the accounting standards that is attributable to capitalised borrowing costs and is taken into account in determining the object of taxation, including after applying the differences.

Assets whose value is not depreciated. The period in which the value, or part of it, enters expenses: the cost of goods sold or the disposal of the asset. Where the value is not taken into account in full, a proportionate part of the capitalised borrowing costs is taken into account; where it is not taken into account in any part, they are not included in borrowing costs.

Relationship with component A of the EBITDA formula

Depreciation of the asset is added back in the EBITDA formula as component A—it is not a borrowing cost.

Capitalised borrowing costs within that depreciation are the opposite: they are borrowing costs, and are therefore excluded from component A. The same amount cannot be taken into account twice.

Sub-clause 140.1.3 of clause 140.1 of the Code as amended by the Draft Law; exclusion from component A—sub-clause 140.2.3 of clause 140.2 of the Code as amended by the Draft Law

Exchange rate differences within borrowing costs: the approach of the Draft Law



Mechanism. The aggregate result of exchange rate differences is determined for each period in respect of debt obligations, claims arising from financing provided by the taxpayer, and derivative financial instruments and foreign exchange risk hedging arrangements relating to them*.

Net calculation

Where the aggregate result of exchange rate differences is negative, the excess of negative over positive exchange rate differences is included in borrowing costs. Where the aggregate result is positive, the excess is included in income economically equivalent to interest.

Which exchange rate differences enter the calculation

On interest and amounts economically equivalent to interest—for all debt obligations and claims. On the principal amount of the debt—for obligations under which the funds were provided out of the funds of a related person. On claims—where the debtor is a related person.

On the principal—only the “related” perimeter

Exchange rate differences on the principal amount of the debt are taken into account only where the funds were provided to the taxpayer out of the funds of a related person (including where the related person transferred funds to the creditor on repayable terms or acquired its debt securities). A suretyship, guarantee or pledge of the property of a related person does not bring the principal back into the perimeter: they affect the amount of the monetary threshold, not exchange rate differences.

Market funding of the creditor—outside the perimeter

Funds are NOT deemed to have been provided out of the funds of a related person to the extent corresponding to funds raised by the creditor from unrelated persons, provided that the currency of that funding matches the currency of the taxpayer's debt**. Funds raised by the creditor on the market (public placements, syndicated credits, interbank funding) fall within the exception in the seventh paragraph of sub-clause 140.1.4—provided the currencies match.

What this does not affect at all

- an ordinary foreign currency credit from an unrelated bank—exchange rate differences on the principal are not included in the calculation (in the absence of back-to-back financing of the creditor by a related person);
- trade payables for goods, works and services—to the extent they are not a debt (finance) component;
- exchange rate differences capitalised in the value of an asset—these run through the capitalised costs mechanism;
- exchange rate differences already taken into account within the aggregate result of notional interest on derivatives.

**The mechanism for taking exchange rate differences into account is set out in sub-clause 140.1.4 of the Code as amended by the Draft Law.*

*** Combined effect of sub-clause “b” of the second paragraph and of the sixth and seventh paragraphs of sub-clause 140.1.4 of the Code as amended by the*

How the limit on taking borrowing costs into account works: four steps of the calculation



Four steps

1) $EBC = BC - IR$

exceeding borrowing costs: the excess of borrowing costs over IR

2) $EBITDA = OT + A + EBC$

the base: object of taxation plus depreciation plus exceeding borrowing costs

3) $BA = \text{the greater of } (0.3 \times EBITDA; MT)$

base amount of the limit: the greater of $0.3 \times EBITDA$ and the monetary threshold

4) $BCL = IR + BA$

the borrowing costs limit, against which BC is compared

Why IR appears in two places in the formula

The first time, IR reduces costs: $EBC = BC - IR$. It is not the whole amount of borrowing costs that is limited, but only their excess over IR.

The second time, IR is added to the limit: $BCL = IR + BA$. This is needed because at the final step it is the total amount of borrowing costs (BC), not EBC, that is compared with the limit. For the comparison to be sound, IR must also be in the limit.

There is no double counting: $BC \leq BCL$ means exactly the same as $EBC \leq BA$. A taxpayer whose IR equals or exceeds its borrowing costs does not fall under the limitation.

What OT means in the formula

The object of taxation computed without the negative value of the object of taxation of prior years and without the differences of clause 140.2 of the Code as amended by the Draft Law itself. For Diia City residents—taxpayers subject to special conditions, the financial result before tax is taken instead of OT.

Component A

The amount of depreciation taken into account in determining the object of taxation—excluding the part attributable to capitalised borrowing costs (it is already taken into account as borrowing costs) and excluding depreciation of right-of-use assets, other than assets under financial leasing agreements.

How MT is determined

MT = the greater of two amounts: (a) EUR 500 000; (b) the lesser of two—EUR 3 000 000 or the amount of qualifying borrowing costs (QBC).

Qualifying borrowing costs (QBC)—slide 11.

- QBC up to EUR 500 000 → MT = EUR 500 000
- QBC from EUR 500 000 to EUR 3 million → MT = QBC
- QBC above EUR 3 million → MT = EUR 3 million

Amounts in euro are converted at the NBU exchange rate as at 1 January of the reporting year.

Illustrative example



Input data and calculation

- Financial result before depreciation, interest and tax (accounting EBITDA) – 1 000
- Depreciation (A) – 200
- Borrowing costs (BC) – 550
- Interest income (IR) – 100

Calculation

- Exceeding borrowing costs: $EBC = 550 - 100 = 450$ *step 1*
- Object of taxation: $OT = 1\,000 - 200 - 550 + 100 = 350$ *intermediate result*
- $EBITDA = 350 + 200 + 450 = 1\,000$ *step 2*
- 30 % of EBITDA – 300 *step 3* (the monetary threshold is not applied in the example)
- Limit: $BCL = 100 + 300 = 400$ *step 4*

BC 550 > BCL 400 → the financial result is increased by 150.

What the object of taxation is here

OT is 350: the financial result (1 000) reduced by depreciation (200) and by exceeding borrowing costs (450).

The differences of clause 140.2 of the Code as amended by the Draft Law itself are not reflected in it.

It is this OT that is fed back into the EBITDA formula.

What happens to the remaining amount

Nothing is lost. The amount of 150 by which the financial result was increased accumulates as ABC and is carried forward without any time limit—without the annual reduction that exists under the current wording of the Code.

In a future period in which the limit is not fully used, it will reduce the financial result.

Sub-clauses 140.2.1–140.2.3, 140.2.5 of the Code as amended by the Draft Law

Two carry-forwards for future use: non-deducted costs and unused limit



ABC — accumulated amount of borrowing costs

What it is. Borrowing costs that in the reporting period exceeded the borrowing costs limit and by which the financial result was increased.

When it arises. In a year in which BC exceeded BCL. The financial result and the accumulated amount are increased by the excess, reduced by the unused amount of the limit carried forward.

Maximum carry-forward period. Without any time limit—until fully taken into account. Unlike current clause 140.3 of Article 140 of the Code, the Draft Law contains no provisions on an annual reduction of the accumulated amount of borrowing costs.

When it is taken into account. In a year in which BC did not exceed BCL: the financial result is reduced by the lesser of two amounts—ABC or the difference between BCL and BC.

Sub-clauses 140.2.2.1, 140.2.2.2, 140.2.5 of clause 140.2 of the Code as amended by the Draft Law

UIC — unused amount of the limit

What it is. The part of the limit not used in the relevant year: the amount by which $0.3 \times \text{EBITDA}$ for the year exceeds the exceeding borrowing costs of that same year.

How it is calculated. That excess is reduced by the part of ABC already taken into account to reduce the financial result for that year. If the result is negative, UIC equals zero.

Maximum carry-forward period. Five years following the year in which it arose. After that it is not carried forward. It is used sequentially, starting with the amount that arose earliest.

When it is taken into account. In a year in which BC exceeded BCL: UIC reduces the amount of the excess before it increases the financial result.

Sub-clause 140.2.6 of clause 140.2 of the Code as amended by the Draft Law

ABC — borrowing costs not taken into account in the reporting period because the limit was exceeded; they are taken into account in subsequent periods in which borrowing costs do not exceed the limit, without any time limit.

UIC — the unused limit within which borrowing costs may be taken into account during the following five years.

The monetary threshold and qualifying borrowing costs



The monetary threshold “de minimis” – who the rule will not touch at all

EUR 500 000 – the unconditional threshold: if the total amount of exceeding borrowing costs does not exceed this amount, the limitation does not apply.

up to EUR 3 million – the higher threshold: equal to the amount of qualifying borrowing costs, but not more than EUR 3 million (the lesser of the two amounts is taken). EUR 3 million is the maximum threshold permitted by the Directive. The threshold is part of the limit against which the whole amount of borrowing costs is compared, not only the qualifying part.

The threshold applies automatically.

Sub-clause 140.2.1.1 of clause 140.2 of the Code as amended by the Draft Law

Qualifying borrowing costs (QBC): three conditions at once

- a) the creditor is not a person related to the taxpayer;
- b) performance of the debt obligation is not directly or indirectly secured by a related person—neither by suretyship, nor guarantee, nor pledge of its property, nor a right of recourse against it;
- c) the related person has not transferred funds or property to the creditor and has not acquired the creditor's debt securities, where that was a condition for providing the financing to the taxpayer.

When QBC is not determined

For a period in which the taxpayer itself provided financing to related persons—a credit, loan, repayable financial assistance or deposit—or acquired their debt securities.

And also for a period at the end of which such indebtedness of related persons remains outstanding.

The higher threshold cannot be obtained by borrowing externally while at the same time lending to one's own group.

Public borrowings—qualifying, but with a condition

Bonds placed on the market, and syndicated and bank credits from unrelated creditors, satisfy all three conditions by the very structure of the transaction.

The part of a public placement taken up by a related person does not qualify.

Credits from international financial organisations—outside the calculation

Costs under credits from international financial organisations secured by State or local guarantees are not included in the total amount of borrowing costs.

Contracts concluded before 1 January 2028; applies until EU accession. Subsection 4 of Section XX of the Code as amended by the Draft Law.

Diia City residents—taxpayers subject to special conditions: how the rule works



What changes for a Diia City resident—taxpayer subject to special conditions. The Diia City regime already relies on the notion of debt obligations in clause 140.1 of Article 140 of the Code and reproduces the 3.5 : 1 test of current clause 140.2 of the Code. A change to these provisions therefore affects the regime irrespective of whether separate rules are established for it. The Draft Law implements the same mechanism as for taxpayers under the general rules: exceeding borrowing costs are compared with the limit, and what exceeds the limit is carried forward to subsequent periods. The only difference is that the regime does not provide for an increase of the financial result before tax, so the object of taxation becomes the transactions under debt obligations in respect of which exceeding borrowing costs exceed the limit (141.9¹.2.18). At the same time, the current 3.5 : 1 debt-to-equity test for payments to non-residents is abolished: sub-clause “b” of sub-clause 135.2.1.5 of the Code is deleted.

Formulae

$$\text{Tax base} = (\text{BC} - \text{BCL}) - \text{UIC}$$

the excess, reduced by the carried-forward unused part of the limit

$$\text{EBITDA} = \text{OT} + \text{A} + \text{EBC}$$

all figures are based on accounting data; OT is the financial result before tax

$$\text{K} = \text{Tax base} \div \text{BC}$$

the excess ratio: what share of borrowing costs did not pass the limit

$$\text{DT} = \text{ABC} \times \text{basic rate}$$

the deferred amount of tax, which is reduced in periods in which borrowing costs do not exceed the limit

Four safeguards against double taxation

Crediting of tax already paid

tax at the 9 % rate on the same costs is credited to the extent corresponding to the ratio K.

The same payment is not taxed twice

in the period of actual payment, the tax base under sub-clause 135.2.1 of the Code as amended by the Draft Law is reduced to the extent corresponding to the ratio K.

“Reversal” in subsequent years

when borrowing costs do not exceed the limit, the tax is reduced by the product of the rate and the accumulated amount.

Transition between regimes

on entry $\text{DT} = \text{ABC} \times \text{rate}$, on exit the reverse applies; the unused balance of the reduction is not carried forward on exit.

Illustrative example (EUR thousand):

BC 5 000 · IR 1 000 · EBC 4 000 · EBITDA 8 000 · qualifying borrowing costs 5 000 → monetary threshold 3 000 · BA 3 000 ($0.3 \times \text{EBITDA} = 2\,400$) · BCL 4 000

Tax base = $5\,000 - 4\,000 = 1\,000$. Tax $18\% \times 1\,000 = 180$. $\text{K} = 1\,000 \div 5\,000 = 20\%$. All costs were paid in favour of persons whose payments are taxed at the 9 % rate, so 20 % of that tax is credited: 90. Payable — 90.

Article 1 of the Directive covers all corporate income taxpayers, and Article 3 does not permit more lenient national rules. The rate is the basic rate of 18 %: clause 136.8 of the Code already takes sub-clause 141.9¹.3 on controlled transactions outside the 9 % rate, and the Draft Law adds sub-clause 141.9¹.5 to that list. Sub-clauses 141.9¹.2.18 and 141.9¹.5 of clause 141.9¹ of the Code as amended by the Draft Law.

Critical comments from business on the first version—and what was changed



Comment*	What was done in the version submitted
Abolish the annual 5 % reduction of the carried-forward amount	Accepted. Carry-forward without any time limit and without annual reduction. In addition – the unused part of the limit is carried forward for five years. The option most favourable to taxpayers has been applied.
Introduce a monetary threshold (de minimis)	Accepted in substance. EUR 500 000 unconditionally, up to EUR 3 million for financing from unrelated persons. The first version of the Draft Law provided for no threshold at all.
Do not extend the broadened notion of interest to the taxation of income for other purposes of the Code	Accepted. All the definitions operate solely for the purposes of clauses 140.1–140.3 of the Code as amended by the Draft Law. Sub-clause 14.1.206 of the Code in its current wording is not amended.
Separate out the finance component in payment by instalments and trade credit	Accepted in substance. It is expressly provided that a debt obligation arises only to the extent of the debt (finance) component.
An exclusion for long-term infrastructure projects	Accepted in substance. Sub-clauses 140.3.2–140.3.5 of the Code under the Draft Law; the criteria for classifying assets as large-scale assets that are in the general public interest will be set by the Cabinet of Ministers of Ukraine.
Compute exchange rate differences on interest only, not on the principal	Partly accepted. The principal remains within the perimeter only where the financing was provided out of the funds of a related person.
An exclusion for financial institutions	Accepted. Banks, branches of foreign banks and insurers have been taken outside the scope of the rules.

* The comments were made on the first version of the Draft Law, published on the official website of the Ministry of Finance of Ukraine on 24 February 2026.

For reference: symbols used in the Draft Law



Symbol	Meaning	Where defined*	Where used*
BC	Total amount of borrowing costs of the tax (reporting) period	Second paragraph of clause 140.2	140.2.1, 140.2.2, 140.2.4, 140.2.8, 140.2.9, 140.3.2, 141.9 ¹ .5.1, 141.9 ¹ .5.2, 141.9 ¹ .5.3, 141.9 ¹ .5.6, 141.9 ¹ .5.9
QBC	Qualifying borrowing costs: the creditor is unrelated, with no security and no back-to-back financing from related persons	Sub-clause 140.1.1.7	140.2.1.1, 140.2.8, 140.2.9, 141.9 ¹ .5.1
IR	Income in the form of interest and other income economically equivalent to interest	Sub-clause 140.2.1; composition—sub-clause 140.1.6	140.1.1.8, 140.2.1, 140.2.8, 140.2.9, 140.3.2, 141.9 ¹ .5.1, 141.9 ¹ .5.9
EBC	Exceeding borrowing costs: the excess of BC over IR	Sub-clause 140.1.1.8	140.2.3, 140.2.6, 140.2.8, 140.2.9, 141.9 ¹ .5.1, 141.9 ¹ .5.9
BCL	Borrowing costs limit: $BCL = IR + BA$	Third paragraph of clause 140.2; formula—sub-clause 140.2.1	140.2.2, 140.2.9, 141.9 ¹ .5.2, 141.9 ¹ .5.6, 141.9 ¹ .5.9
BA	Base amount of the limit: the greater of $0.3 \times EBITDA$ and MT	Sub-clause 140.2.1	140.2.1
MT	Monetary threshold: EUR 500 000 or, for qualifying borrowing costs, up to EUR 3 million	Sub-clauses 140.2.1 and 140.2.1.1	140.2.1, 140.2.9; not taken into account—140.2.1.1, 141.9 ¹ .5.6
EBITDA	The EBITDA metric = $OT + A + EBC$; a negative value is treated as zero	Sub-clause 140.2.3	140.2.1, 140.2.6, 140.2.9, 141.9 ¹ .5.9
OT	Object of taxation without the negative value of prior years and without the differences of clause 140.2; for Diia City residents—taxpayers subject to special conditions—the financial result before tax	Sub-clause 140.2.3; special rule—sub-clause 141.9 ¹ .5.1	140.2.3, 140.3.2, 141.9 ¹ .5.9
A	Amount of depreciation taken into account in determining OT, excluding the part attributable to capitalised borrowing costs and excluding depreciation of right-of-use assets (other than financial leasing)	Sub-clause 140.2.3	140.2.3, 140.2.8, 141.9 ¹ .5.1, 141.9 ¹ .5.9
ABC	Accumulated amount of borrowing costs not taken into account to reduce the financial result; carried forward without any time limit	Fifth paragraph of clause 140.2; procedure—sub-clause 140.2.5	44.3, 140.2.2.2, 140.2.6, 140.2.7, 140.2.8, 140.2.9, 141.9 ¹ .5.1, 141.9 ¹ .5.6, 141.9 ¹ .5.7; Subsection 4 of Section XX—clauses 4 ¹ , 74
UIC	Unused amount of the borrowing costs limit; carried forward for five years	Sixth paragraph of clause 140.2; procedure—sub-clause 140.2.6	44.3, 140.2.2.1, 140.2.7.5, 140.2.8, 140.2.9, 141.9 ¹ .5.2, 141.9 ¹ .5.7; Subsection 4 of Section XX—clauses 4 ¹ , 74
K	Excess ratio in the Diia City regime: the tax base divided by BC	Sub-clause 141.9 ¹ .5.3	141.9 ¹ .5.5, 141.9 ¹ .5.9
DT	Deferred amount of tax on the transactions referred to in sub-clause 141.9 ¹ .2.18 in the Diia City regime	Sub-clause 141.9 ¹ .5.6	141.9 ¹ .5.1, 141.9 ¹ .5.7, 141.9 ¹ .5.8, 141.9 ¹ .5.9
CBI, TCB, AD, FV	Symbols of the formula allocating capitalised borrowing	Sub-clause 140.1.3	140.1.3

Scope of the symbols. The symbols apply solely for the purposes of clauses 140.1–140.3 of Article 140 and sub-clause 141.9¹.5 of Article 141 of the Code as amended by the Draft Law. It is provided that the calculated figures will be disclosed in an annex to the tax return (sub-clauses 140.2.9 and 141.9¹.5.9 of the Code as amended by the Draft Law).

* Provision of the Code as amended by the Draft Law

For reference: correlation between the provisions of the Code as amended by the Draft Law and the Directive



Provision of the Directive	Provisions of the Tax Code of Ukraine as amended by the Draft Law
Article 1(1), recital 6	9.1, 9.1.1, 14.1.213 ² , 133.1, 133.1.1, 133.1.4, 133.1.5, 133.2, 133.2.1, 133.2.2, 134.1, 140.3, 140.3.1, 141.9 ¹ , 141.9 ^{1.2}
Article 2(1)	14.1.45 ¹ , 14.1.206, 14.1.267, 140.1.1, 140.1.1.1–140.1.1.6, 140.1.2, 140.1.3, 140.1.4, 140.1.5, 140.1.6
Article 2(2)	140.1.1.8
Article 2(3)	33.1, 33.2, 33.3, 34.1, 34.1.1, 137.4, 137.5
Article 2(4)	14.1.159, 140.1.1.7
Article 2(5)	140.3, 140.3.1
Article 2(10)	140.3.5
Article 3	140.1, 140.2, 140.3, 140.3.1
Article 4(1), first subparagraph	134.1.1, 135.2.1, 135.2.1.4, 135.2.1.5, 136.1, 136.8, 137.10.1, 137.10.4, 137.10.4.9, 140.2, 140.2.1, 140.2.1.1, 140.2.2, 140.2.2.1, 140.2.2.2, 140.2.3, 140.2.4, 140.2.8, 140.2.9, 141.9 ¹ , 141.9 ^{1.2} , 141.9 ^{1.2.4} , 141.9 ^{1.2.18} , 141.9 ^{1.5} , 141.9 ^{1.5.1–141.9^{1.5.3}} , 141.9 ^{1.5.9} , 141.9 ^{1.5.10} , 141.11
Article 4(2)	138.2, 140.2.3, 141.9 ^{1.5.1}
Article 4(3), introductory wording and point (a)	140.2.1, 140.2.1.1
Article 4(4), introductory wording and point (a)	Section XX, Subsection 4, clauses 53, 74
Article 4(4), point (b)	140.3.2, 140.3.3, 140.3.4
Article 4(6), point (c)	44.3, 140.2.5, 140.2.6, 140.2.7, 140.2.7.1–140.2.7.5, 141.9 ^{1.5.4–141.9^{1.5.8}} ; Section XX, Subsection 4, clauses 4 ¹ , 20, 74
Article 4(7)	140.3, 140.3.1
Article 11(3)	140.2.1, 140.2.1.1

The Law enters into force on the day following the day of its publication and takes effect from 1 January 2028.

Interest for periods before 2028, including 2027, is to be taxed under the current rules. The balance of interest not taken into account as at the end of 2027 is not lost: it is transferred to the accumulated amount of borrowing costs.



Ministry of
Finance
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