



19 January 2015

Tax Alert #10
recent changes in the tax legislation
(12-19 January 2015)

Legislation in force

Law of Ukraine No. 73-VIII "On the Measures as to the Stabilisation of the Balance of Payments of Ukraine pursuant to Article XII of the General Agreement on Tariffs and Trade 1994" dd 28.12.2014

The Law provides for temporary introduction, for a period of 12 months, of **additional import duty** in accordance with Article XII of the General Agreement on Tariffs and Trade 1994 and the Agreements on the provisions of GATT-1994 as to the balance of payments.

Additional import duty will be imposed on goods imported into the customs territory of Ukraine under the customs treatment of import, regardless of the country of origin of goods and existence of Ukraine's agreements (contracts) on free trade.

The object of additional import duty are the goods specified in cl. 1 and 2 part 1 Art. 277 of the Customs Code (except for essential goods according to Art. 5 of the Law).

Additional import duty will be collected at the following rates:

- **10%** - for the goods classified within the product groups 1 - 24 according to UKTZED;
- **5%** - for the goods classified within the product groups 25 - 97 UKTZED;
- **10%** - for the goods subject to import duty pursuant to Article 374 of the Customs Code.

In addition, the Verkhovna Rada approved and the President signed [Law No.74-VIII of 28.12.2014](#) which regulates the procedure for the application of the additional import duty by Ukraine.

The Laws shall take effect from the date of publication of the decision of the CabMin on the accomplishment of the consultations with international financial institutions.

Law of Ukraine No. 77-VIII "On Amending Some Legislative Instruments of Ukraine as to the Reform of the State Mandatory Social Insurance and Legalisation of the Payroll Fund" dd 28 December 2014

The Law introduces amendments aimed at **strengthening the accountability for violations** in labour relations:

• According to the amendments to the Labour Code of Ukraine the financial responsibility of employers for violation of labour laws has been introduced, in particular:

- work of employees and payment of salaries without being recruited in a proper way,
- violation of the terms for payment of salaries and other benefits,
- non-compliance with the minimum state guarantees as to the payment for labour, etc.

Depending on the violation the penalties range from 1 to 30 minimum incomes (from 1,218 UAH to 36,540UAH) for one violation for one employee in whose respect a violation was committed.

Penalties will be imposed by the State Inspectorate of Ukraine for Labour Issues pursuant to the procedure approved by the Cabinet of Ministers of Ukraine.

• Changes to the Code of Ukraine on Administrative Offences as to the administrative responsibility of employer's officials, specify:

- penalties for the actual admission of a person to work without an employment agreement and for the admission of a foreigner, a stateless person and a person getting a refugee status without a work permit, from 500 to 1000 tax-free minimum incomes (from 8,500UAH to 17,000UAH);
- increased penalties for violation of labour legislation and legislation on the collecting and accounting of single social contribution and contributions on the state mandatory pension insurance.

• Changes to the Criminal Code of Ukraine as to the criminal liability of employer's officials:

- gross violations of labour legislation, which entail criminal liability include illegal dismissal of an employee for the

reason the latter has reported on violation of the Law of Ukraine "On Prevention and Combating Corruption";

➤ increased penalties for gross violation of labour legislation and evasion from payment of single social contribution and contributions on the state pension insurance.

• A number of other changes to the Labour Code of Ukraine which:

➤ prohibit the admission of an employee to work without a formalized order of employer on recruitment;

➤ establish mandatory notification of the agency responsible for administration of single social contribution about the recruitment of an employee pursuant to the procedure that will be set by the Cabinet of Ministers of Ukraine;

➤ abolish the requirement to register employment contracts with individual employers with the State Employment Service of Ukraine;

➤ provide for the possibility of adjudication as to how the labour relations with employee are formalized and the establishment of the period of labour relations (in case of actual performance of work without an employment contract or actually doing the job on a full-time basis whilst employee is officially employed on a part-time basis). In making such decisions the courts may decide on payment of salary to an employee at the rate not less than the average salary for the relevant economic activity in the region (not considering the salary actually paid) and on accrual of personal income tax and single social contribution.

Moratorium on tax inspections

According to the final provisions of Law of Ukraine № 71-VIII "[On Amending the Tax Code of Ukraine and Some Legislative Acts of Ukraine as to the Tax Reform](#)" dd 12.28.2014 in 2015 and 2016 tax inspections of companies, institutions and organizations, entrepreneurs with income of under 20 mln UAH for a previous calendar year may be performed by the regulators **only upon the permission of the Cabinet of Ministers of Ukraine, on application from a business entity for its inspection, according to a decision of the court or as required by the Criminal Procedure Code of Ukraine.**

The mentioned limitation **does not apply:**

• from 1 January 2015, to tax inspections of business entities that import into the customs territory of Ukraine and/or produce and/or sell excisable goods for compliance with the legislation as concerns availability of licenses, completeness of accrual and payment of personal income tax, single social contribution and VAT refund;

• from 1 July 2015, to tax inspections of single taxpayers of groups 1 and 2 (individual entrepreneurs), except for those who carry out activities in the markets, sell goods through small retail distribution networks using transportable means, except single taxpayers specified in cl. 27 sub-section 10 Section XX "Transitional Provisions" of the Tax Code of Ukraine, for compliance as to the usage of cash registers.

Clarifications of the State Fiscal Service of Ukraine:

• **regarding VAT exemption of transactions of sale of books dd 17.01.2015**

The regime for VAT exemption established under sub-cl. 197.1.25 cl. 197.1 Article 197 of the Code shall apply, starting from 1 January 2015, to the transactions of supply (sale) of the following goods which have the status of domestic goods and services, namely:

- periodicals of printed media and books (except erotic publications);
- student notebooks, textbooks and workbooks;
- Ukrainian-foreign or foreign-Ukrainian dictionaries;
- delivery of print media periodicals of domestic production.

This regime of VAT exemption is applied to the mentioned transactions at all stages of supply (sale) of the above goods (products), namely from the manufacturers of such products (including publishers, booksellers) to end users.

In other words, the **state support to publishing activities** through preferential VAT regime for above transactions has remained **since 01 January 2015.**

• **regarding simplified procedure for registration of taxpayers dd 16 January 2015**

The Law of Ukraine "On Amending the Tax Code of Ukraine and Some Laws of Ukraine (as to the Tax Reform)" has come into force since 1 January 2015, which simplifies the procedure for registration of taxpayers:

➤ starting from 1 January 2015 the volume of taxable transactions has increased from 300,000UAH to 1,000,000UAH and upon exceeding the limit a person is obliged to register as a VAT-payer;

➤ registration as a VAT-payer may be cancelled under the Tax Code of Ukraine (TCU) if the total value of taxable goods/services over the last 12 calendar months has been less than 1.000,000 UAH.

➤ timing for VAT registration has decreased from 5 to 3 working days, and the rules for determining date of registration of a person as a VAT-payer have been established. So now, if there are no grounds for refusal for registration as a VAT-payer the regulators shall, within 3 working days after the receipt of the application for registration, make the entry about registration of such taxpayer into the register of VAT-payers on one of the dates given in the list.

➤ amendments to the provisions as to the grounds for refusal to register as a VAT-payer and establishment of the provision that the regulators may refuse in VAT registration if a person has not complied with the order and terms of filing an application for registration or determining a desired (planned) date of registration, as set out in clauses 183.1, 183.3 - 183.7 Article 183 of the Code.

- **regarding major cases of filing tax returns on property and incomes starting from 14 January 2015**

A taxpayer shall file a tax return on personal income tax in case of receipt during a fiscal year of the following incomes (profits):

- income received from a person who is not a tax agent (from other individuals (resident or non-resident)) (sub-cl. 168.2.1 cl. 168.2 Article 168 of the TCU);
- certain types of income non-taxable upon payment (sub-cl. 168.1.3 cl. 168.1 Article 168 of the TCU);
- income from operations with investment assets (cl. 170.2 Article 170 of the TCU);
- foreign incomes (sub-cl. 170.11.1 cl. 170.11 Article 170 of the TCU);
- if during such tax (fiscal) year taxable incomes are accrued (paid, granted) by two or more tax agents and total annual amount of such taxable incomes exceeds one hundred and twenty minimum salaries as established by law as at 1 January of the tax (fiscal) year in 2014 – 146,160UAH (sub-cl. "e" cl. 176.1 Article 176 of the TCU);
- other incomes declared under the effective legislation.

Also the State Fiscal Service provided the list of incomes received from persons who are not tax agents.

- **regarding introduction of the system for electronic administration of VAT, [letter No. 1403/7/99-99-19-03-01-17 dd 14 January 2015](#)**

As the taxmen noted the system for electronic VAT administration does not introduce any significant changes to the general principles of charging VAT approved by the Tax Code of Ukraine. The provisions of the TCU that define the range of VAT payers, tax object, principles of formation of tax liabilities and tax credit have not changed. The letter is focused on the following issues:

- use of electronic billing taxpayers;
- features of preparing and registration in the Unified Register of Tax Invoices of tax invoices during the test mode, including penalties for violation of the terms for registration of tax invoices/calculations of adjustments;
- use of the system of electronic VAT administration after the test mode;
- filing of tax returns and settlements with the budget;
- special tax regime in agriculture, etc.

At the same time the Letter No. 14618/7/99-99-19-03-01-17 of the State Fiscal Service dd 12.10.2014 was cancelled.

[Resolution of the Cabinet of Ministers of Ukraine No. 1 "On Approval of the List of the Goods Whose Export and Import is Subject to Licensing and Quotas for 2015" dd 14 January 2015](#)

In the mentioned Resolution the CabMin approved for 2015:

- 1) quotas for goods whose export is subject to licensing in accordance with Annex 1;
- 2) list of goods whose export and import are subject to licensing in accordance with Annex 2;
- 3) list of goods (ozone-depleting substances) whose export and import are subject to licensing in accordance with Annex 3;
- 4) list of products that may contain ozone-depleting substances whose export and import are subject to licensing (except the goods transported in containers with personal property), in accordance with Annex 4;
- 5) list of products containing alloyed ferrous metals, non-ferrous metals and their alloys whose export is subject to licensing under Annex 5;
- 6) list of products whose import from the Republic of Macedonia is subject to licencing at the quota specified in the provisions of the Free Trade Agreement between Ukraine and the Republic of Macedonia on 18 January 2001, in accordance with Annex 6;
- 7) list of goods whose export is subject to licensing in accordance with Annex 7.

[Law of Ukraine No. 63-VIII "On Amending the Tax Code of Ukraine as to the Peculiarities of Clarifying of CIT and VAT Liabilities in the Case of Tax Compromise" dd 25 December 2014](#)

On 17 January 2015 this law came into force, which supplemented section XX "Transitional Provisions" of the Tax Code of Ukraine subsection 9-2.

Draft modifications to legislative instruments

[Draft Order of the Ministry of Finance of Ukraine "On Amending Some Legislative Acts of the Ministry of Finance of Ukraine" dd 16.01.2015](#)

The main aim of the Draft Order is to bring VAT reporting forms and procedure for their filling in compliance with the Code considering the amendments introduced by Law No. 63, as well as the Procedure of verifying the compliance of a taxpayer with the criteria to qualify for automatic budgetary compensation of VAT, tax invoice form and order of its filling in compliance with the requirements of the Code considering the changes made by Law No. 71.

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This Alert issue should not be regarded as a consultation. Its single purpose is to provide update on changes to the legislation.

We recommended to apply for professional advising in each individual case.



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