



26 January 2015

Tax Alert #11
recent changes in the tax legislation
(19-23 January 2015)

Legislation in force

Tax compromise guidelines

The State Fiscal Service approved the Guidelines as to the Peculiarities of Clarifying CIT and VAT Liabilities in the event tax compromise is applied pursuant to order No. 13 of 17.01.2015. The Guidelines determine the order of actions of the regulators when implementing the provisions of [sub-section 9-2 section XX "Transitional positions" of the Tax Code](#).

Clarifications of the State Fiscal Service of Ukraine:

- [Letter No. 1403/7/99-99-19-03-01-17 "On the System of the Electronic Administration of VAT" dd 19.01.15](#)

Taking into account the changes made to the Tax Code of Ukraine by Law No. 71, the system of electronic VAT administration is implemented on a stage-by-stage basis (cl. 35 sub-section 2 section XX of the Code):

- from 1 January to 1 July 2015 (or until the date established in a separate decision of the Verkhovna Rada of Ukraine about the reduction of transitional period in accordance with cl. 7 Final provisions of Law No. 71) - **in a test mode**;
- from 1 July 2015 - **on a permanent basis**.

During the period when the system of electronic VAT administration will be working in a **test mode** Vat-payers will independently charge money to such electronic accounts from own current accounts open with banks, in the sums required to cover the agreed tax liabilities to the budget, declared by them in VAT reports.

Also from 1 July 2015 (or from the date established in a separate decision of the Verkhovna Rada of Ukraine about the reduction of transitional period) VAT-payers will charge to the accounts in the system of electronic VAT administration the amounts required for increase of the sum accounted for in accordance with cl. 200 1.3 Article 200 1 of the Code and which grants the right to register tax returns/calculations of adjustments in the Unified Register of Tax Invoices (URTI).

Crediting of electronic accounts of VAT-payers from other sources, such as current accounts of other entities/persons, is not stipulated.

VAT invoices prepared under the transactions performed after 01.02.2015 may be registered in the URTI after the end of a 15-day registration period along with the application of penalties provided in cl. 1.1 Article 120 1 of the Code, but no later than 180 days from the date of their formalizing. **Penalties** for violation of the terms for registration of VAT invoices in the URTI shall be as follows:

- **20%** of the VAT indicated in a tax invoice/ adjusting calculation for violation of the registration period from 16 to 30 calendar days;
- **30%** of the VAT indicated in a tax invoice/ adjusting calculation for violation of the registration period from 31 to 60 calendar days;
- **40%** of the VAT indicated in a tax invoice/ adjusting calculation for violation of the registration period for 61 or more calendar days.

Penalties for untimely registration of tax invoices/ adjusting calculations thereto in the URTI shall apply if such tax invoices/ adjusting calculations should be provided to customers who are VAT-payers.

Settlements with the budget after 02.01.2015 in connection with submission of adjusting calculations, payment of tax liabilities determined by the regulators, and payment of penalties and late fees to the budget shall be made by a taxpayer from own current account rather than electronic account (cl. 25 Procedure No. 569).

- **Letter No. 1519/7/99-99-19-03-01-17 "On Ensuring Payment of Excise Tax on Retail" dd 20 January 2015**

The regulators register payers of excise tax automatically when they submit excise tax return to the regulatory agency that handles the administrative units in which points of sale of excisable goods are located.

Excise tax at the rate of 5% is payable from 1 January 2015 regardless of whether a decision of the local council has been taken, as the Code provides for a flat 5% rate.

Tax return on excise tax shall be submitted to the regulatory agency that handles the administrative units in which points of sale of excisable goods are located. In other words, the number of such returns in a reporting period should correspond to the number of administrative units where the points of sale of excisable goods are located.

- **"On Some Changes Concerning VAT in the Tax Code of Ukraine Introduced from 1 January 2015" dd 21 January 2015**

➤ Cap for total amount of transactions of supply of goods/services subject to taxation under Section V of the Code has increased from 300K UAH (VAT exclusive) to **1 mln UAH** (VAT exclusive).

➤ Under cl. 188.1 Article 188 of the Code tax base for supplies of goods/services shall be determined as no less than purchase price of goods/services, tax base for supplies of own produced goods/services – no less than their cost, tax base for supplies of non-current assets – no less than book (net book) value (if there is no accounting for non-current assets – on the basis of regular price, except for the goods/services whose prices are subject to state regulation and the gas supplied for the needs of the citizens).

➤ **transactions of supply of grain and technical cultures remain to be VAT exempt** until 31 December 2017 (cl. 15 2 subsection 2 section XX of the Code)

➤ **transactions of supply**, including import of wastes and scrap of ferrous and nonferrous metals, as well as paper and cardboard paper for recycling (waste paper and wastes) of heading 4707 according to UKT ZED **remain to be VAT exempt** until 1 January 2017 (cl. 23 subsection 2 section XX of the Code).

➤ Alternatively to the procedure effective from the end of 2014, starting from 1 January 2015, a recipient of services supplied by non-residents, whose place of supply is located in the customs territory of Ukraine shall be entitled to **tax credit** under such transactions as at the date of tax invoice under the mentioned transactions, given such tax invoice is registered in the URTI (cl. 198.2 Article 198 and cl. 208.2 Article 208 section V of the Code).

- **Letter No. 1601/7/99-99-15-04-02-17 "On Peculiarities of Charging Environmental Tax in 2015" dd 21 January 2015**

Law No. 71 has introduced amendments to the Code which prescribe for cancelation of the environmental tax on emission of air pollutants by mobile sources of pollution and for implementation of corresponding increase in excise tax on all types of motor fuel.

In 2015, taxpayers shall be businesses, legal entities that do not carry out economic (entrepreneurial) activities, budgetary institutions, public organisations and other enterprises, institutions and organizations, permanent establishments of non-residents, including those that perform agent (representative) functions in relation to such non-residents or their founders, whose activities in the territory of Ukraine and within its continental shelf and exclusive (maritime) economic zone made (cl. 240.1 Art. 240 of the Code) result in:

- pollutant emissions into the atmosphere from stationary sources of pollution;
- discharge of pollutants directly into waters;
- waste disposal (except for the placement of certain types (classes) of wastes as secondary raw materials in own territory (objects) of business entities);
- generation of radioactive wastes (including already accumulated);
- temporary storage of radioactive wastes by producers for a term exceeding the one established by special conditions of the license.

At the same time, in 2015, the objects, tax base, tax rates, basic tax (fiscal) period, order of calculation, filing of tax returns and payment of tax remained unchanged compared to the previous year. At that, a taxpayer shall determine the amount of tax individually for each type of pollution and/or each type of pollutant (cl. 249.2 Article 249 of the Code).

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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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