



15 January 2015

Tax Alert #10

recent changes in the tax legislation  
22 December 2014 – 12 January 2015

Legislation in force

## Law of Ukraine No. 71-VIII "On Amendments to the Tax Code of Ukraine and Some Legislative Acts of Ukraine as to the Tax Reform" from 28.12.2014

### **I. VALUE ADDED TAX**

Tax Reform forecasts certain changes and improvements as to the **VAT electronic administration system**.

- **Starting from 1 January 2015** – mandatory registration of VAT invoices in the Unified Register to qualify for the right for VAT-credit.
- **Starting from 1 February 2015** – VAT electronic administration system comes into force. It foresees the use of specific electronic accounts in test regime **until 1 July 2015**. During the test period VAT invoices/calculations of adjustments to VAT invoices will be registered in the Unified Register of VAT invoices without limitation by the tax sum calculated under the formula specified in [cl. 200<sup>1.3</sup> of the Tax Code](#).
- VAT-payers are granted the right, upon an application from a taxpayer, to include a balance of budgetary refund and negative balance which were declared before 01.02.2015.
- **Starting from 1 July 2015**
  - automatic **increase of the sum for which a taxpayer is eligible to register VAT invoices/** calculations of adjustments in the Unified Register of VAT invoices by the amount of average monthly VAT, which has been declared for payment to the budget within last 12 reporting (tax) months/ 4 quarters.
  - **Penalties of 10%-50%** of VAT amount will be applied for untimely registration of VAT invoices, depending on number of days of delay.
- **Other changes**
  - Threshold for mandatory registration as a VAT-payer has increased from 300K UAH to **1mln UAH**
  - **Until 31 December 2017, VAT exemption for grain deliveries** on the territory of Ukraine, except for grain producers and first traders. VAT exemption for grain exports regardless of the type of supplier.
  - Reverse charge VAT for services rendered by a non-resident on the territory of Ukraine - VAT obligations and VAT credit have to be declared **in the same month**.
  - **VAT tax base** has to be not lower than purchasing price/producing cost for goods/products/services, or residual value for non-current assets as at the beginning of reporting period.

### **II. CORPORATE PROFIT TAX**

- The base of corporate profit tax is income from sources originating from Ukraine and abroad, which is determined by adjusting (increasing/ decreasing) of **financial result before tax (profit/ loss) determined in financial statements of a company in accordance with national Accounting Standards or IFRS by differences arising under the provisions of section "Corporate Profit Tax"**.

- But a taxpayer with annual income (net indirect taxes) defined under accounting rules for the last annual reporting (tax) period **not exceeding 20 mln UAH**, has the right to decide not to adjust financial result before tax by all differences (except for negative value of tax object for previous tax (reporting) years), determined in accordance with this section, not more than once during the continuous population of years, in each of which the criteria of income amount is fulfilled.
- **Penalties** for violation of CPT calculation *rules for 2015 will not apply*.
- Criterion for accrual of CPT advance monthly payments has been increased from 10 mln UAH to **20 mln UAH**.

- The provision that ensures the possibility to avoid CPT advance monthly payments in case of losses in 1<sup>st</sup> quarter of the current year is **cancelled**. At the same time the provision that obliges a taxpayer who declared losses for the last year to submit CPT declaration and to pay CPT in case of profit in 1<sup>st</sup> quarter of the current year **remains valid**.

### **III. PERSONAL INCOME TAX**

- Personal income tax rate on salaries, other incentive payments, compensations and remunerations has been changed:
  - **15%** - if monthly **income** is **below 10 minimum salaries (in 2015 - 12,180 UAH)**
  - **20%** - if monthly **income exceeds 10 minimum salaries**
- Tax rate on passive income (interests, investment profit, royalty) has increased from 15% to **20%**.
- **5%** tax on dividends remains (*but only for dividends on shares and corporate rights paid by non-resident companies CPT-payers*).
- In other cases tax rate is **20%** (on dividends received from non-resident payers of single tax, etc.).

### **IV. MILITARY TAX**

Since 1 January 2015 military tax base has changed, in particular, now it consists may be **all types of income of a natural person subject to PIT taxation**. Military tax rate remained at the same level **1.5%**.

### **V. LOCAL TAXES**

Pursuant to the law it is only:

- **Property tax** that includes:
  - Tax on immovable property other than a land plot
  - Land tax and
  - Transport tax (new)

Local taxes are established by decision of village and city councils and mandatory for payment on the territory of a respective territorial community. At that, local councils establish land and transport taxes as a part of property tax and single tax.

**Transport tax** is payable in the amount of **25 k UAH annually** on cars with engine capacity *over 3000 cc which have been used for up to 5 years*.

**Tax on immovable property** is charged on both residential and non-residential property (except for industrial buildings: workshops, industrial warehouses, building and structures of agricultural producers intended for use only in agricultural activities). If tax object is a flat "square" area of over 60 square meters is taxes, for residential houses - 120 sq. m and 180 sq. m if a person owns a flat and a residential house.

- **Single tax**

Number of groups of single taxpayers has reduced from 6 to 4.

- **Group 1** (natural persons who have no employees) with up to 300 k UAH per annum turnover, tax rate – up to 10% of minimum salary established as at 1 January of reporting year.
- **Group 2** (natural persons who have max 10 employees) with up to 1.5 ml UAH per annum turnover, tax rate – up to 20% of minimum salary established as at 1 January of reporting year;
- **Group 3** (natural persons and legal entities with unlimited number of staff) with up to 20 mln UAH per annum turnover, tax rate – 2% (for VAT payers) and 4% (for non-VAT payers) of turnover.
- **Group 4** (agricultural producers with more than 75% of agricultural production for the previous tax year). Tax rate – 0.09% - 3% per 1 hectare of the normative estimation of agricultural land.

## **Law of Ukraine No. 72-VIII "On Amendments to the Tax Code of Ukraine as to the Improvement of Tax Control over Transfer Pricing" from 28.12.2014**

- The list of controlled transactions has been revised. Now they include:
  - business transactions that affect tax object of the party(ies) to such transactions carried out by taxpayers with **non-resident related parties**;
  - business transactions of sale of goods via **non-residents commission agents**.
  - business transactions that affect tax object of a taxpayer, where one of the parties is **a non-resident registered in the state (on the territory) included in the list of countries (territories) approved by the Cabinet of Ministers of Ukraine**.

In determining the list, the Cabinet of Ministers of Ukraine takes into account the following criteria:

- states (territories) where CPT rate is 5 percentage points or more lower than in Ukraine;
- states that do not disclose publicly information on the ownership structure of legal entities;
- states with which Ukraine has no international agreements specifying information exchange.
- Minimum threshold to recognize a controlled operation has been reduced. Business transactions are recognized as controlled, **providing all the following conditions**:
  - total income of a taxpayer and/or its related parties from all activities which is taken into account when determining tax object of CPT **exceeds 20 mln UAH** for a respective tax (reporting) calendar year;

- volume of the group of such business transactions of a taxpayer and/or its related parties with one contractor **exceeds 1 mln UAH** (exclusive of VAT) or **3% of income** which is taken into account when determining tax object of CPT of a taxpayer for a respective tax (reporting) year.
- Arm's length principle has been introduced for transfer pricing purposes.
- Term for verification of controlled operations by the State Fiscal Service has been extended to 18 months.
- Limitation period for control of such operations has been extended to 7 years.
- **Penalties** have changed:
  - for failure to file a report/ compulsory documents - 100 minimum incomes established as at 1 January of reporting year;
  - 5% of the operations non-declared in the report;
  - 3% of the controlled transactions in respect of which no documents were filed, but not more than 200 minimum incomes for all non-declared controlled operations.

### **Law of Ukraine No. 77-VIII "On Amendments to Some Legislative Acts of Ukraine as to the Reform of State Mandatory Social Insurance and Legalization of Payroll Fund" from 28.12.2014**

Final and transitional provisions of Law No. 77 make it possible to apply a **reduced unified social tax in case official salary has increased.**

Conditions for application of reduced rates of unified social tax (deductions and charges) are:

- growth of average salary for a company by at least 30% compared to the average salary for 2014;
- total accrual base of unified social tax for a month should exceed 2.5 times total average monthly base for 2014;
- average salary for a company which is equal to at least 3 minimum salaries (3 654 UAH);
- average payment per the insured person after applying the coefficient amounts to not less than 700 UAH.

Unified social tax rate is determined by multiplying unified social tax rates determined under the [Law "On the Collection and Accounting for Unified Contribution to Mandatory State Social Insurance"](#) by a coefficient which is calculated as the ratio of total accrual base of unified social tax for a month to average monthly accrual base of unified social tax for 2014. In any case, the ratio shall not be less than 0.4.

The State Fiscal Service of Ukraine issued Order **No. 400 "On Approval of the Summarizing Tax Consultation on Certain Issues of the Recording of Securities Transactions in Tax Accounting for Corporate Profit Tax" from 26 December 2014**, where they provided answers to a number of questions regarding the taxation of securities transactions.

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



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