Changes to the Law of Ukraine “On Accounting and Financial Reporting in Ukraine” as of 2018

Tax Alert
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On October 05, the Law of Ukraine “On Introduction of Changes to the Law of Ukraine “On Accounting and Financial Reporting in Ukraine” (in respect of improvement of certain provisions)” No. 2164-VIII (the Law) was adopted.

The Law enters into force from January 1, 2018, except for certain provisions on the disclosure of annual financial statements which come into force from January 1, 2019.

The Law was adopted to bring national legislation into compliance with EU legislation (in particular, ensuring the implementation of the Directive 2013/34/EU).

The main changes introduced by the Law are summarized below.

New Criteria for Classification of Companies

The Law establishes new criteria for classification of companies as “micro”, “small”, “medium” and “large”. For the classification, the company must meet at least two of the following criteria:

<table>
<thead>
<tr>
<th></th>
<th>&quot;Micro&quot;</th>
<th>&quot;Small&quot;</th>
<th>&quot;Medium&quot;</th>
<th>&quot;Large&quot;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance sheet value</td>
<td>up to EUR 350</td>
<td>up to EUR 4</td>
<td>up to EUR 20</td>
<td>over EUR 20</td>
</tr>
<tr>
<td>of assets</td>
<td>thousand</td>
<td>million</td>
<td>million</td>
<td>million</td>
</tr>
<tr>
<td>Net income from</td>
<td>up to EUR 700</td>
<td>up to EUR 8</td>
<td>up to EUR 40</td>
<td>over EUR 40</td>
</tr>
<tr>
<td>sales of products</td>
<td>thousand</td>
<td>million</td>
<td>million</td>
<td>million</td>
</tr>
<tr>
<td>(goods, works,</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>services)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average number of</td>
<td>up to 10 persons</td>
<td>up to 50</td>
<td>up to 250</td>
<td>over 250</td>
</tr>
<tr>
<td>employees</td>
<td></td>
<td>persons</td>
<td>persons</td>
<td>persons</td>
</tr>
</tbody>
</table>

The relevant changes in respect of the new classification of companies will be introduced into the Commercial Code of Ukraine.

The Notion of “Public Interest Companies” Introduced

The public interest companies (PIC) will include:
“Large” companies
Companies issuing securities listed in stock exchanges
Banks, insurance companies, private pension funds, other financial institutions (other than “micro” and “small” companies)

PICs must establish an accounting service headed by a Chief Accountant with at least two employees.

The Chief Accountant of a PIC must have a completed higher economic education, relevant work experience of at least three years and have no record of crimes against property or in the area of business.

The Extended Range of Companies Which Must Apply IFRS

Financial statements under the International Financial Reporting Standards (IFRS) shall be filed by:

- PICs (including all “large” companies)
- Public joint stock companies
- Mining companies of the national significance
- Companies providing financial services according of the types listed in clause 2 of the Procedure for the Submission of Financial Statements (Resolution of the Cabinet of Ministers of Ukraine No. 419 dated 28.02.2000)

Financial statements under IFRS must be prepared and filed in a unified electronic form on the basis of the taxonomy of IFRS financial statements as approved by the Ministry of Finance.

Reporting for the Companies that Switch to IFRS

The Law does not determine the first reporting period for the companies switching to IFRS (including for “large” companies). Given that the Law enters into force on January 1, 2018, it may be assumed that the first reporting period for IFRS will be year 2018 (including interim financial statements).

At the same time, the Law determines that the first reporting period for the use of the taxonomy of financial statements in the preparation of statements under IFRS is year 2019. At that, the companies have the right to submit financial statements prepared according to the taxonomy of financial statements starting from the reporting period in which the Law enters into force, i.e. starting from 2018.

Disclosure of Financial Statements and Mandatory Audit

The Law determines that financial statements are not commercial secrets and are not confidential information. Any individuals and legal entities have the right to request the company to provide access to its financial statements as public information.

The Law establishes the obligation to post annual financial statements (with an auditor’s report) on their webpage on or before April 30 of the year following the reporting year for:

- PICs (other than “large” companies that do not issue securities)
- Public joint stock companies
- Natural monopolies in the national market
- Mining companies of the national significance

Effective from 2019, the similar obligation as to the disclosure of annual financial statements (with an auditor’s report) on their webpage on or before June 1 of the year following the reporting year is established for:

- “Large” companies that do not issue securities
- “Medium” companies
- Financial institutions which are “micro” or “small” companies

As a result, financial statements of the aforementioned companies which are subject to the obligation to disclose their financial statements and auditor’s report shall be subject to mandatory audit.
Correction of Errors

Companies may submit adjusted financial statements and adjusted consolidated statements upon the results of the audit for correction of errors identified by themselves or for other reasons. The submission/disclosure of the adjusted statements shall occur according to the same procedure as the financial statements that are being adjusted were submitted/disclosed.

Signature of Financial Statements

The financial statements of companies shall be signed by:

- Chief executive officer (owner) of the company or by an authorized person, and
- Accountant or a person that maintains accounting for the company.

The chief executive officer (or an authorized person) of the company engaged in maintenance of accounting and/or audit is obliged to sign financial statements of its client, together with the chief executive officer (or an authorized person) of the company whose accounting it maintains.

PICs’ financial statements must be signed exclusively by chief executive officer (or an authorized person) and chief accountant.

Liability of the companies engaged in maintenance of accounting and/or audit for improper fulfillment of their obligations shall be determined by law and by the agreement for the provision of accounting services.

New Forms of Statements

“Large” and “medium” companies, together with financial statements (including consolidated), are obliged to submit the “Management Report”. This report shall contain both financial and non-financial information characterizing the company’s status and the prospects of its development. “Medium” have the right not to include non-financial information in the Management Report.

Mining companies of the national significance are required to submit the “Report of Payments to the State”.

The forms of the relevant reports must be approved by the Ministry of Finance of Ukraine in coordination with the State Statistics Service. The forms of reports for banks shall be established by the National Bank of Ukraine.

Deficiencies in Primary Documents

The Law establishes that minor deficiencies in primary documents shall not serve as a ground for non-recognition of a business transaction, provided that such deficiencies do not prevent the establishment of the date of compilation of the primary document, its counterparts, content and scope of the business transaction.

The minor deficiencies may include, inter alia, error in the number of the agreement, absence of designation of the place where the primary document was executed, etc.

Consolidated Financial Statements

The companies that control other companies are required to prepare and submit consolidated financial statements.

The Law allows not to submit consolidated financial statements to companies (other than PICs), if their indicators, together with the indicators of the companies controlled by them, do not exceed at least two criteria of “small” companies on the date of compilation of the annual financial statements.

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