



# Ukrainian Tax Legislation Updates 2018

## Tax Alert

15 FEB 2018

By: Ilyia Sverdlov | Maryna Opirska

On 1 January 2018, the Law of Ukraine No. 2245-VIII as of 7 December 2017 “On Introduction of Changes to the Tax Code of Ukraine and Some Legislative Acts of Ukraine on Ensuring the Balance of Budget Revenues in 2018” came into effect. The most important updates are outlined below.

## General provisions

### Large taxpayers qualifying criteria

Qualifying criteria for large taxpayers have been changed. The performance indicators of such taxpayers (legal entities and permanent establishments) over the last four consecutive quarters must exceed:

- EUR 50 million (previously UAH 1 billion) – amount of income from all types of activities, or
- EUR 1 million (previously UAH 20 million) – total amount of taxes, fees and charges paid to the state budget (provided that the amount of taxes, fees and charges except for customs duties exceeds EUR 500,000)

The UAH equivalent is determined based on the average official NBU exchange rate over four consecutive quarters.

### Royalty

The list of exceptions from the ‘royalty’ definition has been extended. In particular, the following payments shall not be considered royalty if received as consideration for:

- Purchase of copies (counterparts) of intellectual property objects in any form (previously only in electronic form) for the purpose of using them as end-user licenses, as well as for resale of such end-user licenses
- The transfer of the right to distribute copies of software without the right to reproduce them or if their reproduction is limited by end-user licensing (for example, under franchising agreements)

### Compensation for damages caused to taxpayers

Under revised rules, damages caused to a taxpayer by unlawful decisions, actions or inaction of tax authorities’ officials shall be reimbursed to a taxpayer irrespective of the fault of such official, from the state budget, and the official will further be liable to the state in the amount of such reimbursement.

## Transfer pricing rules

Transfer pricing (TP) regulations have been also updated.

Particularly, certain dealings between a non-resident's head office and its Ukrainian permanent establishment will be subject to TP control. Under revised rules, any changes to the list of "low-tax" jurisdictions as well as the list of the special legal forms will come into force on 1 January of the year following the year when those changes have been introduced; TP documentation requirements have been amended so that more information would need to be provided; the possibility to apply for Advance Pricing Agreements retroactively and potentially to cover reporting periods before 2018 has been introduced.

More details on TP updates are available [here](#).

## Corporate Profit Tax

### Reporting deadlines

For the taxpayers reporting on a quarterly basis, the deadline for filing the annual tax return has been extended to 60 (previously – 40) calendar days.

The term for submission of the adjusting tax return for the previous reporting year for self-adjustment under TP rules without imposition of a fine has been moved to October 1 (previously – May 1) of the year following the reporting year.

### Tax adjustments for calculation of financial result (FR)

Forgiven debt of an individual shall no longer be considered bad debt and, as such, will not reduce FR. Such debt may be treated as bad debt only upon expiration of the limitation period (unless other grounds for treatment such debt of an individual as bad debt are available).

FR shall be reduced by the amount of income from participation in the capital of single tax payers of the 3rd and 4th groups (previously only 4th). At the same time, accrual of dividends from single tax payers does not result in reduction of FR.

FR is subject to reduction by the amount of the excise duty on diesel fuel which has been paid at the same reporting period.

Tax adjustments increasing FR has been updated and supplemented, namely FR shall be increased as follows:

- By 30% of goods, works, services' value purchased from non-residents from 'low-tax' jurisdictions and non-residents incorporated in forms included into respective list, as well as from non-profit organizations
- By the amount of compensation of the value of vouchers for recreation, health improvement and treatment of employees, provided that such compensation has not been included into the taxable income of such employee
- By the amount of money or value of goods, services, works provided on a free-of-charge basis to non-profit organizations specializing in the area of physical training and sports, limited to 8% of the amount of profit subject to taxation for the previous reporting year

### Syndicated loans

New rules of taxation of payments made to facility agents under syndicated loans structures have been introduced. In particular, 'look through' approach is established for taxation of interest and other fees payable under syndicated loans. Please follow [this link](#) for more details.

## Personal Income Tax

Selling real estate property requires property evaluation report to be registered with the unified data base of valuation reports and shall be included into this data base prior to notarization of purchase and sale agreement.

The value of vouchers for recreation, health improvement and treatment of employees provided by the employer (the payer of the corporate profit tax) free of charge or at a discount (in the amount of such discount) once per calendar year shall not be included into taxable income of such employee. At that, the value of voucher (amount of the discount) must not exceed 5 minimum wages established as of January 1 of the fiscal (reporting) year.

## Value Added Tax

### Transactions taxed at the rate of 7%

The list of medical goods supplied or imported into the territory of Ukraine at the VAT rate of 7% has been expanded. For this purpose, such medical goods must be either included into the State Register of Medical Equipment and Medical Devices, or must comply with the technical standards based on respective compliance documents, provided they are allowed for circulation in the market and/or for the operation or use in Ukraine.

### Blocking registration of VAT invoices

Starting from 31 December 2017 VAT invoices and VAT adjustment calculations can no longer be blocked until adoption of new procedure on blocking registration. The new Procedure on blocking registration of VAT invoices and VAT adjustment calculations shall be adopted by the Cabinet of Ministers before 1 March 2018.

VAT invoices and VAT adjustment calculations which have been blocked, now are subject to automatic registration no later than 2 January 2018 except for:

- VAT invoices and VAT adjustment calculations in relation to which no explanations and documents have been submitted as of 1 December 2017 in accordance with previously effective procedure, and
- VAT invoices and VAT adjustment calculations in relation to which decision on blocking has been made and as of 1 December 2017 no administrative appeal procedure has been initiated against such decision in accordance with previously effective procedure

### VAT credit

Prior to adoption of the new Procedure of blocking registration of VAT invoices and VAT adjustment calculations, the provision on absence of additional confirmations for assigning VAT amounts to VAT credit based on VAT invoices / VAT adjustment calculations registered after 1 July 2017 has been suspended.

### Self-assessment of VAT liabilities

It has finally been clarified that self-assessment of VAT liabilities shall be performed in relation to goods/services /works that have been purchased or produced with VAT (for goods/services/works that have been purchased or produced before 1 July 2015 - only where VAT credit has been declared in connection with such purchase or production).

### Registration of VAT adjustment calculation

A 15-day term for the registration by the recipient (buyer) of VAT adjustment calculation issued by a goods/services supplier in case of price reduction, starts after receipt of this VAT adjustment calculation by the buyer.

### VAT exemption for supply of software

The list of operations which are treated as supply of software for the purposes of VAT exemption has been extended. From now, the following operations are also treated as supply of software:

- Operations with software, payments for which are excluded from definition of royalty under para. 14.1.225 of the Tax Code
- Supply of links for instalment of computer programs, supply of activation codes
- Supply of modifications, changes, supplements to computer programs, as well as rights to receive such modifications, changes and supplements within agreed period of time

### VAT exemption

Supply of domestically produced children's books are exempt from VAT.

Temporarily, until 31 December 2018, importation into Ukraine and supply of electric cars within Ukraine have been exempt from VAT.

Temporary VAT exemption is envisaged for export of soybeans (from 1 September 2018 till 31 December 2021), cole and rape (from 1 January 2020 till 31 December 2021).

### **VAT deferral for equipment importation**

Temporarily, until 1 January 2020, the possibility of VAT deferral upon request of a taxpayer for a period of no more than 24 months has been introduced, without accrual of interest, penalties and fines, for importation of equipment under certain goods' classification codes as established by the Tax Code.

### **Parcels and importation by individuals**

An individual importing in carry-on luggage and/or in accompanied baggage the goods (other than excisable goods and personal items) through checkpoints on the state border of Ukraine opened for air connections, has the right to import into Ukraine without having to pay VAT the goods whose total invoice value does not exceed the equivalent of EUR 1000.

An individual who was outside of Ukraine for more than 24 hours and who enters Ukraine no more than once within 72 hours has the right to import into Ukraine without having to pay VAT (through checkpoints on the state border of Ukraine other than those opened for air connections) in carry-on luggage and/or in accompanied baggage the goods (other than excisable goods and personal items):

- Whose total invoice value does not exceed the equivalent of EUR 500, and
- Whose total weight does not exceed 50 kg

An individual who was outside of Ukraine for less than 24 hours or who enters Ukraine more than once within 72 hours has the right to import to Ukraine without having to pay VAT the goods:

- Whose total invoice value does not exceed the equivalent of EUR 50, and
- Whose total weight does not exceed 50 kg

If such individual imports goods to Ukraine whose total invoice value does not exceed the equivalent of EUR 500 and whose total weight does not exceed 50 kg, VAT base for such transaction is a part of the total invoice value of such goods exceeding the equivalent of EUR 50, subject to the customs duty that is payable.

## **Local Taxes**

### **Information on local taxes and duties**

The procedure and terms of obtaining decisions on establishment of local taxes from local governments and their publication by the controlling authorities have been specified. State Fiscal Service (SFS) shall form and publish on its own website, no later than July 15 of the current year, the consolidated information received from the local controlling authorities on:

- Local taxes and fees' rates applicable for the relevant territories and dates of their establishment
- Normative evaluation of land plots

Taxpayers can use this information when determining their tax liabilities and will not be held liable in case of discrepancies between the data available on the SFS website and the data contained in official decisions on local taxes and fees.

### **Real estate tax, land tax**

Individuals are exempted from liability for late payment of real estate tax and land tax provided that controlling authority failed to serve the tax notification-decision within the timeframes established by the Tax Code.

At the same time, an individual may be assessed with real estate tax and land tax liabilities within standard period of limitations, that is for three years.

The exemption from the payment of land tax provided for certain categories of individuals shall apply, effective from 1 January 2018, to all available land plots for each type of use within the established limits. Prior to these

changes, this benefit was applicable to one land plot of each type only.

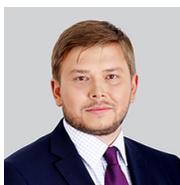
## Single Tax

Single tax payers:

- Are obliged to deduct withholding tax (repatriation tax) on general grounds
- Have been exempted from the obligation to accrue and pay advance corporate profit tax on distribution of dividends

## AUTHORS

---



**Illya Sverdlov**

Partner

Kyiv | T: +380 44 490 95 75

[email protected]

---



**Maryna Opirska**

Senior Associate

Kyiv | T: +380 44 490 95 75

[email protected]

---