

Reinstatement of tax administration during martial law in Ukraine

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On 27 May 2022, the Law of Ukraine "On amendments to the Tax Code of Ukraine and other laws of Ukraine on the tax administration peculiarities of taxes, levies and single contribution during the martial law, state of emergency" (the "Law") came into force. Some of its provisions entered into force on 2 June 2022.

The law abolished some fiscal loosening for taxpayers previously established due to martial law imposed in Ukraine on 24 February 2022.

1. Reinstatement of tax periods

The pre-established general rule on suspending the tax periods defined by Ukrainian legislation for the duration of the legal regime of martial law and state of emergency will now not be applied in certain cases.

In particular, the following tax periods are renewed in terms of:

- registration of tax invoices, calculations of adjustments thereto in the Unified Register of Tax Invoices, submission of reports, payment of taxes and levies by taxpayers;
- carrying out desk audits, drawing up acts, submitting and considering objections, determining money liabilities, accepting, sending, and

- appealing against a tax notice decision based on the results of desk audits, and calculating penalties;
- conducting factual and documentary off-schedule audits, drawing up acts, submitting and considering objections, additional documents and explanations, determining money liabilities, accepting, sending, and appealing against a tax notice-decision, and an administrative seizure of property based on the results of the ex-post review.

2. Tax compliance

2.1. Tax noncompliance

If a taxpayer is unable to fulfill his/her tax obligation to comply timely with the deadlines for payment of taxes and levies, submission of reports, registration of tax or excise invoices in relevant registers, adjustment calculations, submission of electronic documents containing data on actual balances of fuel and turnover of fuel or ethyl alcohol, etc., taxpayers are exempt from the liability provided for in the Tax Code of Ukraine. A taxpayer is obliged to fulfill the aforementioned obligations within 6 months after termination or cancellation of martial law in Ukraine.

Taxpayers, who are in a position to fulfill timely liabilities to pay taxes and levies, submit reports, register in the relevant registers of tax invoices, and calculate adjustments, which are subject to fulfill deadlines for the period from 24 February 2022 until the date of entry into force of the Law, are exempt from the liability for a failure to fulfill such liabilities on time. The condition for exemption from the liability is the following:

- registration of tax invoices and adjustment calculations in the Unified register of tax invoices by 15 July 2022,
- submission of tax reports by 20 July 2022, and
- payment of taxes and fees by not later than 31 July 2022.

Taxpayers who have renewed their capacity to fulfill their fiscal liabilities, which are subject to the fulfillment deadline for the period starting from 24 February 2022 to the day of renewal of a taxpayer's capacity, are exempt from liability for a failure to fulfill on time the aforementioned fiscal liabilities. The condition for exemption from the liability lies in the fulfillment of the fiscal liabilities within 60 calendar days from the first day of the month following the month of renewal of such a capacity.

2.2. Transition from the 2% rate to the previous taxation system

Single taxpayers of the III group enjoying the 2% rate of the single tax are exempted from liability for the untimely performance of fiscal liabilities, which are subject to fulfillment deadlines for the period from 24 February 2022 until the date of transition to the 2% rate of the single tax of the III group.

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A condition for exemption from liability is their fulfillment of such fiscal liabilities (on registration of tax invoices/calculation adjustments in the Unified register of tax invoices, submission of the reports, payment of taxes and fees) within 60 calendar days from the date of transition to the taxation system, to which such taxpayers were subjected before choosing the single tax assessment at the rate of 2%.

2.3. Self-correction of errors

In case of self-correction of errors by a taxpayer in tax periods before 25 July 2022 resulting in an understatement of a fiscal liability in reporting (tax) periods falling within the martial law period, such taxpayers are exempt from accrual and payment of respective penalties and fines.

VAT payers temporarily, until the termination or cancellation of martial law, are not entitled to submit clarifying calculations to the tax declarations for reporting (tax) periods until February 2022 with indicators for reduction of fiscal liabilities and/or the declaration of the amount of the VAT budget refund.