

## Taxation of agribusiness in Ukraine

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### 1. Choice of taxation system

The tax legislation of Ukraine allows agricultural companies to choose the system of taxation. The choice of the taxation system depends on the scale of business and type of an agricompany's activity. Each system of taxation has its own limitations and peculiarities. These nuances must be taken into account in planning the activities of both new and acquired agribusinesses.

**Table 1: Limitations and peculiarities of taxation of agricompanies in Ukraine depending on the chosen taxation system**

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General tax system		Group 3
Agricultural companies eligible to choose the system	<p>B By default any agricultural company may become a payer of corporate income taxB</p>	<p>Agricultural companies with income during the calendar year not exceeding 7,585,000 UAH (approx. USD 263,500)Note: The amount is calculated as 1167 minimum wages and is stated as of January 2022, it is revised annually</p>
Tax rate	18%	3% of income (VAT excluded) or 5% of income (VAT included)
What is subject to tax	Profit (financial result) determined in the accounting records	<p>Income, received during the accounting period under the general rule on the date of receipt of fundsNote: under this taxation system, income is not reduced by expenses</p>
B B What makes up the taxable baseB B	Profit of the agricultural company in monetary terms	Income of the agricultural company in monetary terms
Applicable tax exemptions	---	corporate income tax; VAT (for single tax payers at the rate of 5%); land tax

Reporting period	Calendar year Note: If income from sale of agricultural products accounts for 50% of total income of the agricultural company, the report can be submitted for the annual tax period, starting from 1 July of the previous reporting year and ending on 30 June of the current reporting year	Calendar quarter
Important implications for the agricultural companies	Land owners having leased out a land plot shall pay land tax	Land owners having leased out a land plot shall pay land tax

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The specific nature of the agricultural business determines that agricultural companies in Ukraine preferentially use a special tax regime – the 4th group of single tax payers. The advantages of this tax regime for agricultural companies in Ukraine include, in particular:

- a simplified system of income and expense accounting. The general system of corporate taxation presupposes a complex and diligent accounting of revenues and expenses. Such accounting is further complicated by the ambiguous interpretation of Ukrainian legislation regarding the rules of profit determination, deduction of expenses as deductible, application of tax discrepancies and many other nuances;
- exemption from land tax and rent payments for water use;
- incentives for landowners to lease their land. If a Ukrainian agricultural company in group 4 leases its land, the landowner does not pay land tax for the duration of the lease;
- income tax exemption for dividend payments in certain cases;
- group 4 single tax payers are not subject to transfer pricing control.

At the same time the simplified tax system for agricultural companies in Ukraine has a number of peculiarities. As a result, it is only available to those agricultural companies that meet the established criteria.

It should be borne in mind that in certain circumstances an agricultural company is compelled to opt for the general system of taxation, for example when a new agricultural company is established in Ukraine. In this case the status of a single tax payer of group 4 can be obtained only from the beginning of the new accounting year. Until then the agricultural company, although being under the general taxation system, should operate in accordance with the requirements for the taxpayers of group 4 (having land in use or ownership, share of agricultural production amounting to 75% of total production, not having tax debts, etc.).

## 2. Payers of group 4 single tax

### 2.1. Who is eligible for group 4 single tax?

Agricompanies in Ukraine may be payers of group 4 single tax if the share of agricultural commodity production in the previous tax year equaled or exceeded 75%. There are some exceptions to this rule.

Agricultural companies cannot be the payers of group 4 single tax if:

- although they comply with the 75% requirement, more than half of the 75% is income from the sale of decorative plants (except for cut flowers), wild animals and birds, furs and fur products (except for raw fur);
- they raise poultry, breed and raise quail and ostrich and produce poultry meat;
- they produce excisable goods (alcohol, tobacco products, fuel, electricity, beer). However, it should be noted that single tax payers may produce grape wine and wine from their own (not purchased) wine materials, as well as electricity from qualified cogeneration plants or from renewable energy sources. The latter exception is allowed if the income from the sale of such energy does not exceed 25% of the total income from the sale of goods, works and services;
- they have a tax debt at the beginning of the reporting year.

Exception: uncollectible tax debt resulting from force majeure is not taken into account.

### 2.2. Rates of group 4 single tax

In Ukraine, the single tax rate per hectare of agricultural or water fund land depends on the category (type) of land and its location.

#### Table 2. Group 4 single tax rates

Category (type) of land	Tax rate
for arable land, hayfields and pastures (except for arable land, hayfields and pastures located in mountainous areas and marshy woodland areas or on closed soil)	0.95
for arable land, hayfields and pastures located in mountainous areas and marshy woodland areas	0.57
for perennial plantations (except for perennial plantations located in mountainous areas and marshy woodland areas)	0.57
for perennial plantations located in mountainous areas and marshy woodland areas	0.19
for lands of water fund	2.43
for arable land, hayfields, and pastures on closed soil	6.33
for arable land on which buildings and structures for poultry production are located or for arable land used to maintain such buildings and structures, taking into account data from the State Land Cadastre	50

## 2.3 The object, base, and calculation of the tax

The object of taxation for single tax payers of tax group 4 is the area of agricultural land or lands of water fund owned or leased by the Ukrainian agricultural company.

The base for taxation is the normative monetary value of 1 hectare of such land.

Note! The normative monetary value must be indexed according to the indexation coefficient. Such coefficient is determined annually as of 1 January of the base tax year).

Regardless of the tax amount calculated at the said rates, agricultural companies in group 4 shall pay tax in the amount not less than the total minimum tax liability.

The minimum tax liability in Ukraine is the minimum amount of tax calculated in accordance with the legislation. The amount of minimum tax liability is determined for each land plot leased or owned by an agricultural company.

The minimum tax liability is determined for the period in which the land plot is leased or owned by the agricultural company.

## 2.4. Payment procedure and terms

Agricultural companies in Ukraine that are group 4 single tax payers should calculate the tax amount on their own annually as of 1 January. Not later than 20 February of the current year they shall submit a tax declaration for the current year to the tax authorities at their location and at the location of the land plot.

It should be taken into account that it is advisable for agricultural companies in Ukraine to keep thorough records of the land they use in order to draw up accounts. In particular, when submitting an annex to the accounts related to the calculation of the minimum tax liability, it should include data on land plots (cadastral numbers, normative monetary value, etc.). Without the implementation of automated and well-functioning land records, agricultural companies are at risk of reporting errors and, consequently, tax penalties.

## 2.5 Payment of group 4 single tax

Agribusiness companies in Ukraine pay the single tax within the terms indicated in Table 3.

**Table 3: Terms of payment of the group 4 single tax**

Group 4 single tax			
quarterly within 30 calendar days following the last calendar day of the tax (accounting) quarter			
Quarter I	Quarter II	Quarter III	Quarter IV
10% of the annual tax amount	10% of the annual tax amount	50% of the annual tax amount	30% of the annual tax amount

## 2.6 Peculiarities of tax treatment in corporate matters

Investors and owners of agricultural companies in Ukraine should take into account the peculiarities of taxation when establishing, acquiring and restructuring their business.

The most common peculiarities are:

(a) if an agricultural company is formed by merger, transformation, split-up or spin-off, the provision on observance of the share of agricultural production (75%) applies to:

- all merging companies;
- each separate company formed by a split-up or spin-off;
- a company formed by transformation.

(b) if an agricultural company is transformed through a merger, the provision on observance of the share of agricultural production (75%) applies to all participants of such a transformation.

(c) if an agricultural company formed by merger may be a payer of the single tax of the group 4 in the year of establishment, if the share of

agricultural production derived for the preceding tax (accounting) year by all companies that participated in its establishment and terminated as a result of the merger equals or exceeds 75%.

(d) if an agricultural company is formed by transformation, it may be a payer of the single tax of the group 4 in the year of transformation, if in the preceding tax (accounting) year the share of agricultural production equals or exceeds 75%.

(e) An agricultural company established by a demerger or spin-off may be a payer of the unified tax of the group 4 in the following year if the share of agricultural production in the preceding tax (accounting) year equals or exceeds 75%;

### 3. Value added tax

In Ukraine, the value-added tax (VAT) is levied. The list of operations that are subject to VAT includes:

- supply of goods in the customs territory of Ukraine. They also include a number of operations in which the goods are transferred free of charge (transfer of pledged property to the creditor, transfer of goods on the terms of the commodity credit, financial leasing)
- supply of services on the custom territory of Ukraine
- import of goods into the customs territory of Ukraine export of goods outside the customs territory of Ukraine
- supply of international transport services

In Ukraine, the VAT base is determined depending on the specific transactions performed by a taxpayer. As a general rule, the VAT base in Ukraine is determined on the basis of the contractual price of the supplied goods or services.

The basic VAT rate in Ukraine is 20%. Some transactions are taxed at 0% rate (under customs regime of export of goods, certain types of re-export, duty-free trade, etc.). (Note: Zero rate does not imply exemption from taxation).

For agricultural companies VAT rate of 14% is applied to transactions for supply of wheat and rye (meslin), barley, corn, soybeans, rapeseed or colza, sunflower.

Tax legislation of Ukraine also establishes a list of transactions that are not subject to VAT.

Registration of an agricultural company in Ukraine as a VAT payer is voluntary. However, if an agricultural company has performed in the previous 12 months transactions for a total amount of more than UAH 1,000,000, such a company is obliged to register as a VAT payer.



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VAT returns are submitted monthly or quarterly.

#### **4. Transfer pricing**

The transfer pricing regulations are effective in Ukraine. Such regulations are applied when determining income tax on general grounds. In case an agricultural company is a payer of group 4 single tax, it is not subject to transfer pricing control.

The aforementioned tax regulations are most typical for the activities of agricultural companies in Ukraine. At the same time, the tax legislation also establishes a number of taxes, mandatory payments and levies applicable to the property, income and transactions of individuals and legal entities. They are less relevant to the main activities of agribusinesses in Ukraine but may apply to certain transactions.