

Creating a white business club in Ukraine

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On 18 June 2024, the Ukrainian parliament adopted the Law of Ukraine "On Amendments to the Tax Code of Ukraine on Peculiarities of Tax Administration during Martial Law for Taxpayers with a High Level of Voluntary Compliance with Tax Legislation" (hereinafter – the "Law"). The purpose of the Law is to establish special tax administration during martial law for taxpayers with a high level of voluntary compliance with tax legislation (hereinafter referred to as "white business club members", "club members").

1. Requirements for members of the white business club in Ukraine

Members of the club, taxpayers with a high level of voluntary compliance with tax legislation, are legal entities and individual entrepreneurs who meet all the following requirements:

- their tax debt does not exceed 3,000 tax-free minimum incomes (currently UAH 51 thousand) and no more than 30 days have passed since its occurrence;
- no arrears in single social security tax;
- compliance with the criteria set out in the Law depending on the taxation system;
- no violations of tax obligations with respect to submission of reports and documents (notices);
- absence of tax notices-decisions on violation of the terms of settlements for export/import operations within the last 12 months;
- no decision on fulfilment of the riskiness criteria of the VAT payer;
- no initiated procedure for the termination of a legal entity or business activity of a private entrepreneur;
- no bankruptcy (insolvency) proceedings initiated;
- no decision to impose sanctions in accordance with the Law of Ukraine "On Sanctions" on the taxpayer or its founders;
- a taxpayer (its founders) or ultimate beneficial owners (except for participants in combat operations after 14 April 2014) do not have citizenship or residence (location) of a state that carries out armed aggression against Ukraine;
- no changes in the main type of economic activity during the last 12 calendar months.

A taxpayer that meets all the requirements, including the criteria depending on the taxation system, shall be included in the List of Taxpayers with a High Level of Voluntary Compliance with Tax Legislation (the "List").

2. Criteria for members of the white business club in Ukraine depending on the taxation system

2.1. Criteria for legal entities under the general taxation system:

- payment of income tax not less than the average rate in the industry for the last 4 quarters;
- payment of VAT not less than the industry average (except for taxpayers with export operations of 25% or more of the total volume) for the last 12 reporting periods;
- the average monthly salary for the last 4 reporting periods is not lower than the average in the industry in the relevant region multiplied by a coefficient of 1.1, and the number of employees is at least 5.

2.2. Criterion for Diia City residents:

The level of taxes paid to the consolidated budget is not lower than the average indicator for residents of Diia City.

2.3. Criteria for legal entities under group 3 of the simplified taxation system:

- payment of taxes to the consolidated budget is not lower than the industry average for the last 4 quarters;
- the average monthly salary for the last 4 reporting periods is not lower than the average in the industry in the relevant region multiplied by a coefficient of 1.1, and the number of employees equals or exceeds 5 people.

2.4. Criteria for legal entities under group 4 of the simplified taxation system:

- a negative value of the difference between the amount of the total minimum tax liability and the total amount of taxes, fees, charges, payments, and land lease expenses for the last reporting period;
- payment of VAT at least at the average level in the industry (except for taxpayers with export operations of 25% or more of the total volume) for the last 12 reporting periods;
- the average monthly salary for the last 4 reporting periods is not lower than the average in the industry in the relevant region multiplied by a coefficient of 1.1, and the number of employees equals or exceeds 5 persons;
- the area of land plots is at least 200 hectares (including land plots of communal and/or state ownership – at least 0.5 hectares), and the amount of tax liability for land payment or single tax has been paid within the deadlines set by law.

2.5. Criteria for individual entrepreneurs on the general taxation system:

- payment of VAT is not lower than the industry average for the last 12 reporting periods;
- payment of personal income tax from business activities for the reporting year is not less than the average in the industry;
- the average monthly salary for the last 4 reporting periods is not lower than the industry average in the relevant region multiplied by a coefficient of 1.1.

2.6. Criteria for private entrepreneurs on group 3 of the simplified taxation system:

- declared income for the reporting period exceeds UAH 5 million;
- payment of taxes to the consolidated budget is not less than the average indicator in the industry for the last 4 quarters;
- the average monthly salary for the last 4 reporting periods is not lower than the industry average in the respective region multiplied by a coefficient of 1.1.

2.7. Criteria for newly established taxpayers

Taxpayers registered during the reporting year (i.e., newly established) may be included in the List from the 1st day of the month following

the reporting quarter, but not earlier than 1 calendar year from the date of registration with the supervisory authority.

3. Benefits for members of the white business club in Ukraine

The Law establishes several advantages for taxpayers with a high level of voluntary compliance with tax legislation, which include the following special features of tax administration for the period of their inclusion in the List:

1) a moratorium on inspections by supervisory authorities:

- actual inspections on the licensing of fuel storage activities exclusively for own consumption and/or industrial processing and
- documented unscheduled inspections (except for certain types of inspections);

2) reducing the timeframe for taxpayer inspections:

- desk audit – up to 5 working days;
- documented unscheduled on-site audits to determine the accuracy of the VAT refund accrual – up to 10 business days;

3) reducing the timeframe for individual tax consultations to 15 calendar days following the day of receipt of the application, without the possibility of extending the timeframe for its consideration;

4) assignment of a compliance manager – an official of the territorial body of the State Tax Service responsible for interaction with the respective taxpayer;

5) the taxpayer receives, upon request, the following information within 5 days:

- details of tax information available to the supervisory authority, which may indicate tax risks in the activities of such a taxpayer, and
- advice on how to eliminate the risks;

6) reservation of up to 25% of employees liable for military service:

The Law recommends the Ukrainian government to amend the Procedure for Reservation of Persons Liable for Military Service on the List of Persons Liable for Military Service during Martial Law to provide for automatic reservation of up to 25% of their employees liable for military

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service by taxpayers included in the List.