Taxation in agriculture in Ukraine

The main provisions of the Ukrainian legislation governing taxation in agriculture are embodied in the Tax Code of Ukraine, which regulates the special tax regime in the agricultural sector. Ukraine's tax law provides certain tax benefits for agricultural producers.

Terms for single tax application

Agricultural producers, subject to certain conditions, may become taxpayers of a single tax of the fourth group.

Thus, legal persons have the right to choose the fourth group of the single tax provided that their share of agricultural commodity production in the previous year amounted to at least 75%. This is applicable to:

all persons separately, which carry out merger or accession. In this case, it is possible to become a single tax payer in the year of creation, if share of agricultural commodity production obtained for the previous tax year by all commodity producers involved in their creation equals to or exceeds 75%.

each individual person created by split-up or spin-off. In this case, it is possible to become a single tax payer from the next year, if share of agricultural commodity production obtained for the previous tax year equals to or exceeds 75%;

person created by transformation. In this case, it is possible to become a single tax payer in the year of transformation, if share of agricultural commodity production obtained for the previous tax year equals to or exceeds 75%;

Newly created agricultural commodity producers may be single tax payers from the next year, if share of agricultural commodity production obtained for the previous tax year equals to or exceeds 75%.

The other condition for application for single tax of the fourth group is the use of own or leased agricultural land.

In addition, there are three restrictions due to which legal entities may not become single tax payers, namely:

- 50% of overall income comes from selling ornamental plants, wild animals and birds, fur products and fur (with some exemptions);
- production of excisable goods, except for the sale of wine-making materials by companies engaged in primary wine-making, takes place;
- there is tax indebtedness as of 1 January of the reporting year, except for bad tax indebtedness, which arose in the result of force majeure.

Object and tax base

The object of taxation for single tax payers of the fourth group is the area of farmland (arable land, hayfields, pastures and perennial plantations) or lands of water fund (inland waters, lakes, ponds, reservoirs), which is owned or leased by

the agricultural producer.

Ownership/lease rights to land plots shall be duly registered in accordance with the law.

The tax base for single tax payers of the fourth group for the agricultural producers is the regulatory monetary value of one hectare of agricultural land subject to indexation.

Single tax rates

For single tax payers of the fourth group the rates depend on the category of land, its location and amounts to (in per cent of the tax base):

- for arable land, hayfields and pastures – 0.81;
- for arable land, hayfields and pastures located in mountainous areas and marshy woodland areas – 0.49;
- for perennial plantations – 0.49;
- for perennial plantations located in mountainous areas and marshy woodland areas - 0.16;
- for lands of water fund – 2.43;
- for arable land, hayfields and pastures on closed soil – 5.4.

Reporting period and procedure for payment of single tax

The reporting period for agricultural producers is a calendar year. The single tax is paid in each quarter within 30 calendar days following the last calendar day of the tax quarter in the following amounts:

- in I quarter – 10%;
- in II quarter – 10%;
- in III quarter – 50%;
- in IV quarter – 30%.

Procedure for registration as a single taxpayer

Pursuant to tax legislation of Ukraine, registration as a single tax payer is for indefinite time. However, agricultural producers need to confirm their status annually. In order to confirm the status of a single tax payer of the fourth group, the agricultural producer shall submit a number of reporting documents on the activities in the previous year before 20 February of the current year.

Peculiarities of VAT

Any company operating in the field of agriculture, forestry or fishery may choose a special VAT regime.

However, it should be noted that the special VAT regime will be valid only in 2016. Starting from 1 January 2017 it will be fully abolished.

VAT taxation is carried out in the following formats:

a) under transactions with agricultural goods/services (except for grain and industrial crops, as well as livestock transactions), 50% of VAT shall be paid to the state budget and 50% of VAT shall be credited to the special VAT account of the agricultural producer; b) under transactions with grain and industrial crops, 85% of VAT shall be paid to the state budget and 15% of VAT shall be credited to the special VAT account of the agricultural producer; c) under transactions with livestock, 20% of VAT shall be paid to the state budget and 80% of VAT shall be credited to the special VAT account of the agricultural producer.

As of 1 February 2016, there are two open registers for budget refund of VAT. One register is for the applicants for automatic refund of VAT, the other is for all other applicants. The automatic VAT refund is applied if the share of export transactions in the commercial activity of the company is more than 40%.

However, in order to qualify for the special VAT regime, the principal activity of the company shall be supply of agricultural goods or/and services produced at its own or leased facilities, and the share of agricultural goods and/or services shall make up to at least 75% of the total value of all goods and/or services supplied during 12 preceding consecutive reporting periods (months) in aggregate.

Transfer pricing

Transfer pricing is applied to controlled transactions, provided that the total annual income of the taxpayer and/or its related parties exceeds UAH 20 million (approximately USD 830,000.00) (excluding VAT), while the volume of transactions of the taxpayer and/or its related parties with each counterparty exceeds UAH 1 million (approximately USD 41,500.00) (excluding VAT) or 3% of the taxpayer's income for the relevant tax year.

The transaction is deemed to be controlled, if it is: (1) with related non-residents; (2) on the sale of goods through the non-resident commission agents; and (3) with non-residents from offshore jurisdictions. Taxation of controlled transactions is carried out exclusively under the pricing methods prescribed in the tax legislation of Ukraine.

More about transfer pricing in Ukraine