

## Changes to Tax Legislation

On 1 January 2017 the Law of Ukraine "On Amending the Tax Code of Ukraine and Certain Legislative Acts of Ukraine with Regard to Ensuring the Balance of Budgetary Revenues in 2017" and the Law of Ukraine "On Amending the Tax Code of Ukraine to Improve Investment Climate in Ukraine" came into force.

### Income Tax

In 2017 standard income tax in the amount of 18% remained unchanged. The main change regarding income tax is the establishment of tax holidays until 31 December 2021. The tax holidays stipulate zero rate of income tax. These conditions can be applied to businesses with a turnover of not more than UAH 3,000,000 a year employing workers with wages not less than two minimum salaries.

The tax holidays can apply to both new businesses, registered after 1 January 2017, and existing businesses with the average number of employees during the past three consecutive years ranging from 5 to 20 persons. However, if at least one of these criteria is not met, the company will pay income tax at the basic rate.

### Value Added Tax

From 1 January 2017 the list of transactions that are not subject to VAT was changed. Thus, according to the clause 196.1.5 of the Tax Code, not subject to VAT are transactions of transfer of ownership on financial leasing item to the lessor (new creditor) from the lessor (primary creditor) preserving the rights and responsibilities of the parties under financial leasing contract should the lessor (primary creditor) during the transfer to the lessee of such financial lease item accrued and reflected tax liabilities in the tax reports for the relevant reporting (tax) period.

In addition, according to the clause 196.1.5 of the Tax Code, not subject to VAT are transactions involving deviation from the right to claim, transfer of debt, trade of liabilities (claims) for cash and securities.

From 1 January 2017 the Article 209 of the Tax Code, which provided for a special regime of VAT refunds for agricultural enterprises, became ineffective. Instead of the special regime for agricultural enterprises the budget provides for a system of subsidy payments for the period from 2017 to 2021.

The amendments to the Tax Code provide for abolition from 1 January 2017 of two registers for VAT refunds and creation of the single public registry subordinate to the Ministry of Finance.

### Single Tax

For the taxpayers of single tax from Group I, II and III the tax rates remain unchanged. At the same time, the single tax base is changed. The single tax rates for taxpayers from Group I are set in per cent (fixed rates) to the subsistence minimum as of 1 January of the reporting year, for the taxpayers from Group II in

per cent (fixed rates) to the minimum wage as of 1 January of the reporting year and for taxpayers from Group III in per cent to revenue. Taking into account that as of 1 January 2017 the subsistence minimum is set at UAH 1600, and the minimum wage is set at UAH 3200, the maximum single tax rate for the taxpayers from Group I shall be UAH 160 per month, and for the taxpayers from group II – UAH 640.

The single tax rate for taxpayers from Group IV was changed. The tax rate per one hectare of agricultural land or land fund is as follows:

- for arable lands, hayfields and pastures (except for arable lands, hayfields and pastures located in mountain areas and woodlands, as well as for protected agricultural lands) – 0.95;
- for arable lands, hayfields and pastures located in mountain areas and woodlands – 0.57;
- for perennial plantations (except for perennial plantations located in mountain areas and woodlands) – 0.57;
- perennial plantations located in mountain areas and woodlands – 0.19;
- for water fund lands – 2.43;
- for protected agricultural lands – 6.33.

In addition, it should be noted that according to the amendments to the Law of Ukraine "On Collection and Accounting of Unified Social Tax", which came into force on 1 January 2017, private entrepreneurs pay unified social tax regardless of their income.

### **Property Tax**

As in 2016, the tax base for residential immovable property in the ownership of natural persons decreases for apartments (irrespective of their number) to 60 square meters, and for residential houses (irrespective of their number) to 120 square meters. However, starting from 2017, clause 266.4.3 of the Tax Code of Ukraine introduces certain restrictions, such as: incentives to reduce the tax base shall not apply to real estate, if the area of such items exceeds five times the size of tax-free area (60 sq. m), and if the items of immovable property are used by their owners to obtain income (rented, leased, loaned, used for business activity).

The tax rate for residential and non-residential immovable property owned by individuals and legal entities may not exceed 1.5% of the minimum wage (currently UAH 3,200) established on 1 January of the reporting year for 1 square meter of the tax base. The decision to establish the tax rate is adopted by local authorities. Thus, in 2017 the maximum tax rate for 1 square meter shall be UAH 48.

### **Rent Payment**

The amendments to the Tax Code also addressed rent payments. Therefore, rent payment rates for use of radiofrequency resource of Ukraine increased.

In addition, the rates of rent payments for special use of forest resources increased. The rent payment for special use of forest resources shall be paid by forest users in equal quarterly installments of the amount of rent payment specified in the special permits.

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The rent rates for use of subsoil for purposes not related to mining and for the transport of one ton of ammonia for every 100 km of corresponding transportation enroute distance increased.

However, the rent rate for use of subsoil for extraction of oil decreased.

### **Excise Duty**

The excise duty rates for most excise goods, including tobacco products and alcoholic beverages, increased. Thus, from 1 January 2017 the amount of excise duty on beer increased by 12% up to UAH 2.78 per liter, on liqueurs and spirits – by 20%, up to UAH 126.96 per liter of 100% alcohol. The excise duty on cigarettes increased by 40% - up to UAH 445.56 per one thousand cigarettes. The excise duty on strong wines and vermouth increased by 12% up to UAH 8.02 per liter, and on sparkling wines by 12%, up to UAH 11.65 per liter.

### **Transfer Pricing**

The main change of transfer pricing rules in 2017 is an increase of the recognition threshold for controlled transactions. From 1 January 2017 this figure increased to UAH 150,000,000, and the threshold for the volume of business transactions with each counterparty increased from UAH 5,000,000 to 10,000,000.

The list of counterparties, transactions with which fall under control, also increased. Thus, in addition to related persons registered in low-tax jurisdictions, the transactions with companies, legal structure of which allows to minimize corporate tax, shall be subject to control.

The deadline for reporting on controlled transactions in 2017 was extended to October.

### **Currency Purchase Fee**

From 1 January 2017 the contribution to Pension Fund in the amount of 2% paid in transactions on purchase of foreign currency was canceled for natural persons.