

Tax Newsletter#2

Changes to the Tax Code – 2018: VAT, Excise tax, rent payments

16 January 2018



Changes to the Tax Code - 2018

The Law of Ukraine "On changes to the Tax Code of Ukraine and certain legislative acts of Ukraine regarding maintenance of balance of budget revenues in 2018" # 2245-VIII dated 7 December 2017, introduces changes in value added tax, excise tax, rent payments with effect from January 1, 2018.

The major changes are summarised below. The changes affect the IT sector, agriculture and other industries.



I. Value added tax (VAT)

Suspension of VAT invoice registration

- Starting from 1 January 2018, the registration of VAT invoices may not be suspended until the suspension procedure is approved by the Cabinet of Ministers of Ukraine (to be adopted by 1 March 2018).
- Invoices that are already suspended should be registered at the Unified Register of Tax invoices as follows:
 - ✓ the invoices suspended before 1 December 2017 should have been registered automatically by 2 January 2018 (unless the taxpayer had failed to provide documents, explanations or appeal the suspension before 1 December 2017);
 - ✓ the invoices suspended during December 2017 should become registered according to the procedure that was in effect before 1 January 2018. If the tax authorities had failed to timely consider the documents/explanations submitted by the taxpayer, the respective VAT invoice should be registered automatically.
- There is no clarity on the registration procedure for VAT invoices suspended before 1 December 2017 and for which no documents/explanations were provided to the tax authorities by that date.

Registration of adjusting VAT invoice

- Starting from 1 January 2018, a specific term is set for a buyer to register an adjusting VAT invoice that reduces VAT liabilities – 15 calendar days from the date of receipt of such adjusting VAT invoice.

Transactions with software

- Starting from 1 January 2018, a temporary VAT exemption applies not only to supplies of

software products, but also to transactions involving software, payments for which are not treated as royalty according to the Tax Code.

- The term "software products" was expanded.

Import

Provisions effective from 1 January 2018

- Temporarily, until 31 December 2018, the imports and local supplies of vehicles with electric engines are exempt from VAT.
- Import of goods (excluding excisable) by an individual in the accompanied/carry-on luggage through cross-border customs checkpoints other than airports valued up to EUR 500 is not subject to VAT if such individual:
 - ✓ has stayed outside Ukraine for more than 24 hours prior to the arrival, and
 - ✓ has not entered Ukraine over the preceding 72 hours.

Otherwise, the value of the goods in excess of EUR 50 will be subject to VAT.

- Temporarily, until 1 January 2020, taxpayers may apply for an instalment plan to pay VAT liabilities on imports of selected equipment to be used for their own production purposes for the total period of up to 2 years. The instalment procedure is yet to be approved by the Cabinet of Ministers of Ukraine.

Provisions effective from 1 January 2019

- Import of first three post and express-delivery shipments containing goods valued together up to EUR 150 each and addressed to the same individual recipient within one calendar month are not subject to VAT. The subsequent shipments and values in excess of EUR 150 are subject to VAT.

Agriculture

- A temporary VAT exemptions will apply to export of:
 - ✓ soybeans for the period between 1 September 2018 – 31 December 2021;
 - ✓ rapeseed for the period between 1 January 2020 – 31 December 2021.

Miscellaneous changes

- The provision on recognition of VAT liabilities for a “deemed sale” (under para. 198.5 of the Tax Code) was clarified. Such “deemed sale” should be recognised only in respect of goods/services purchasing price of which included VAT.
- Non-current assets, purchased/produced before 14 April 2014 and located on the territory of the free economic zone “Crimea” as of 1 January 2017, should not be treated as non-productive or as used in non-business operations of the VAT payer. However, due to vague wording of the respective provision, we do not rule out that the tax authorities may limit the application of this provision in practice.
- The list of medical goods subject to 7% VAT was updated.

II. Excise tax

Changes in taxation of tobacco products

- In 2018 the tax rate for all types of tobacco products, cigarettes, raw tobacco and tobacco waste, as well as the minimal excise tax on cigarettes went up by 29.7%:
 - ✓ raw tobacco, tobacco waste, ready-to-use tobacco, cigars and cigarillos – UAH 726.15 per 1 kg;
 - ✓ cigarettes with and without filter – UAH 577.98 per 1,000 pcs;
 - ✓ minimal excise tax – UAH 773.20 per 1,000 pcs
- The above mentioned rates will grow annually by 20% through 2025. Besides that, starting from 2025, the minimal excise tax will be linked to the average retail price of cigarettes.
- The ad valorem tax rate is left at 12%.
- Starting 1 July 2018, a new design of excise tax stamps for cigarettes will be introduced. The colours of the new design will be different from those of the stamps for other tobacco products.

- The due date for the excise tax settlement is extended from 5 to 15 days.

Other changes

- The implementation of requirements for presence of flow and current level meters at excise warehouses prescribed for manufacture, processing, loading/unloading, storage of fuels was put off until 1 January 2019.
- From 1 January 2019 onwards, a failure to comply with the aforesaid requirements will result in a penalty of not less than UAH 15,000 and suspension of the registration of the excise tax payer.
- A tax exemption on transfer within the same legal entity of some excisable raw oil materials (specific light distillates, benzene) for manufacture of excisable finished products and non-excisable benzene was introduced.
- Effective through 31 December 2018, a temporary tax exemption on imports of vehicles with electric engines was introduced.
- Kvass (a fermented nonalcoholic beverage) was excluded from the list of excisable goods.

III. Environmental tax and rent

- All environmental tax rates (i.e. air and water emissions, waste discharge, generation of radioactive waste and its temporary storage) went up by 11.2%.
- Starting from 1 January 2019 rent payment rates for condensate extraction will be reduced from 45% and 21% to 29% and 14% depending on the depth of deposits.
- The rates on rent went up by 16.8%, namely rent for: a) use of land and its deposits for the purposes unrelated to mining, b) specific water uses and c) use of forest resources.
- New temporary rent rates for the use of land and its deposits for mining purposes specifically for extraction of gas from new gas wells (12% and 6% depending on the depth of deposits) were introduced until 1 January 2023. The Tax Code stipulates that these rates will remain unchanged for the next 5 years.
- New lower rent rates for the use of land and its deposits for mining purposes specifically under product sharing agreements were introduced (2% - for extraction of oil and 1.25% - for extraction of natural gas, including oil gas, shale gas, ethane, coal bed methane, etc.).

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