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Newsletter

Tax News

Law on tax compromise takes force

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On 17 January 2015, the Law of Ukraine "On Amending the Tax Code of Ukraine Regarding Peculiarities of Adjusting Corporate Profit Tax and Value Added Tax Liabilities in Case of Application of the Tax Compromise" No. 63-VIII, which the Verkhovna Rada of Ukraine adopted on 25 December 2014 ("the Law"), took force.

The Law defines the tax compromise as a regime of exemption from legal responsibility for the understatement of corporate profit tax ("CPT") and/or value added tax ("VAT") liabilities and *inter alia* establishes the following procedure for applying it:

- The tax compromise applies within the statute of limitations (1,095 days) to legal relations that arose prior to 1 April 2014.
- The tax compromise is carried out through filing adjusting calculations for the overstated deductible expenses and/or VAT credit. A list (description) of business transactions related to the adjustments made must be filed along with the adjusting calculation. This adjustment does not affect the tax liabilities of the taxpayer's counterparties.
- The understated tax liabilities are payable at 5%, while 95% are deemed settled, with no penalties applied and no interest accrued.
- Such adjusting calculations may be filed for audited and non-audited periods.
- The filing of an adjusting calculation for the audited periods will most likely not result in an unscheduled documentary audit. But the filing of an adjusting calculation for the non-audited periods could serve as a ground for an audit, which must exclusively relate to the tax compromise procedure.
- A decision on conducting the audit must be taken within 10 business days following the day of the filing of the adjusting calculation. Based on the audit results, the controlling authorities:

- adopt a tax notification-decision if tax law violations are detected (with 5% of tax liabilities payable in this case), or
- if there are no violations, issue a certificate confirming the accuracy of tax liabilities determined in the adjusting calculation.

The day of receipt of the certificate or tax notification-decision is deemed the day of tax liability agreement.

- In case of an administrative and/or judicial appeal against the tax notification-decision, which is issued based on the audit results within the tax compromise procedure, the tax compromise does not apply.
- The tax compromise procedure also applies to non-agreed tax liabilities determined in the tax notifications-decisions that are undergoing a judicial and/or administrative appeal. In this case, the tax compromise can be achieved on the basis of a taxpayer's written application to the controlling authorities.
- The tax compromise is possible when a documentary audit has begun or a tax audit act following such an audit has been issued.
- Within the framework of the tax compromise procedure, the taxpayers' officials may not be brought to administrative or criminal responsibility for a tax understatement.
- The taxpayers are entitled to initiate the tax compromise procedure within 90 calendar days following the date on which the Law took force (i.e., until 16 April 2015 inclusive).

  The procedure for achieving the tax compromise will last no longer than 70 calendar days following the day of the filing of the adjusting calculation. The tax compromise is deemed achieved after the taxpayer has paid the agreed tax liabilities.
- After the tax compromise is achieved, the relevant tax liabilities may not be appealed and their amount may not be changed in other tax periods.
- Until the form of the adjusting calculation for applying the tax compromise is approved, the taxpayer is entitled to file an adjusting calculation under the effective form explaining the reasons for the filing.

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We will continue to monitor changes in the tax law and will keep you updated about developments.

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