

Newsletter

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LEGISLATION NEWS

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- EU Consults on Simplifying the EU Merger Control Regime

Tax Law

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- State Tax Service of Ukraine Clarified the Issue of Levying Duties for Certain Types of Business Operations

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- Changes in the List of Documents Attached to an Application for a License to Import Medicinal Products
- Amendments to the Procedure for Banning (Temporary Ban) and Restoring Medicinal Products Circulation in Ukraine Proposed

- New Model Documents for Quality Control of Imported Medicinal Products
- Law on Charity Entered into Force
- VAT Charged on Motivational Payments
- Possible Shortening of Timelines for Procurement Procedures
- Import Substitution
- Possible Changes within State Supervision of Business Operations
- Draft Procedure for Issuing Compulsory Licenses for Medicinal Products
- Draft Order Amending the License Terms for Business Operations in Medicinal Products Manufacturing, Wholesale and Retail
- The State Drug Service of Ukraine Drafted Amendments to the License Terms on Installing Access Ramps in Pharmacies
- Possible Changes in the License Terms regarding packing API
- Requirements for Pharmacies' Operations May be Changed
- Abolishment of Pharmacies' Accreditation is Possible
- Draft of Amendments to the Procedure for Registration of Medical Devices
- The Ministry of Economic Development and Trade of Ukraine Initiates Mandatory Certification for Cotton, Bandages and Syringes
- Possible Optimization of State Registration Procedure for Medicines
- Introduction of Partial Reimbursement of the Cost of Medicines for Patients with Diabetes Mellitus Expected
- Draft Resolution of the Cabinet of Ministers of Ukraine on Maximum Mark-Ups for Medicinal Products with Purchase Price under UAH 12
- Price Monitoring of Medicinal Products and Medical Devices Expected
- Regulation on Declaration of Changes in Wholesale Prices for Medicinal Products and Medical Devices Proposed for Approval
- Pilot Project on Mandatory Labeling of Medicinal Products with a Unique Identifier is Planned in Ukraine
- Amendments to the Procedure for Prescribing and Sale of Medicinal Products is Possible
- Procedure for Circulation of Narcotics, Psychotropic Substances and Precursors in Healthcare Institutions Proposed for Approval
- Liability for Illegal Drug Circulation to Become Tougher

Energy

- New Grid Access Rules

Food & Drinks

- Bill on State Supervision in the Sphere of Business Activity
- New Bill on Domestic Trade
- Possible changes in the Legislation on Consumer Rights Protection
- New Rules on Occupational Safety for the Wine Industry
- Possible Limitation of Circulation of Alcoholic Beverages and Tobacco Products
- Possible Changes Regarding Smoking Ban
- Bill on Online Sale of Alcoholic Beverages
- Bill on Amendments to the Procedure for Customs Control and Customs Clearance of Ethyl Alcohol, Alcoholic Beverages and Tobacco Products
- CMU Introduced New Excise Stamps
- Draft Amendments to the State Food Pricing Regulation Procedure
- Bill on the Introduction of Additional Tax Benefits for Domestic Baby Food Producers
- Possible Changes in Dairy Products Pricing
- Bill on the Legislative Differentiation of Milk and Dairy Products
- Product Labeling in Regional or Minority Languages, or Other Languages “by Decision” of Wholesale and Retail Operators, Restaurant Businesses and Trading Establishments Is Allowed
- New Changes to Language Legislation Proposed
- Bill on Restricting the Circulation of Plastic Bags and Packages of Long Decomposition
- Bill on Municipal Waste Management
- Draft Technical Regulations for Thermal Waste Treatment

Agriculture

- The Ministry of Agrarian Policy Approved the Regulation on the Central Industrial Wine Sampling Commission
- The Ministry of Agrarian Policy Approved the Procedure to Control the Observance of the License Terms for Operations in the Sale of Pedigree (Genetic) Resources and Genetic Examination of Origin and Anomalies in Animals
- The Ministry of Agrarian Policy Approved the List of Items for Planned State Supervision (Control) Activities in Land Management and the Unified Form of Inspection Reports to Be Made Based on the Results of Relevant Activities

- The Ministry of Agrarian Policy Approved the List of Items and the Unified Form of Inspection Reports for Planned State Supervision Activities in Land Management to Control Entities' Compliance with Legislation in the Field of Seed Production
- Bill on Identification and Registration of Animals
- Bill Amending the Law of Ukraine "On Grain and Grain Market of Ukraine"

Public Private Partnership

- Ukrainian Infrastructure for Concession

Arzinger Success Stories

- Arzinger and Its Partners Are Highly Ranked by Chambers Global 2013
- Sergiy Shklyar Reelected to the Public Council under the Antimonopoly Committee
- Natalia Martynyuk Became Member of the Public Council at the Ministry of Agrarian Policy and Food of Ukraine
- Volodymyr Yaremko Reelected Chairman of Ukrainian Bar Association in Lviv Region
- Senior Partner of Arzinger to Enter Advisory Board of the IBA Power Law Committee
- Lana Sinichkina Became a Co-chair of the Food and Beverages Committee of the American Chamber of Commerce in Ukraine
- Arzinger Awarded Hospitality Excellence Award 2012 for Comprehensive Legal Support of Hospitality Industry in Ukraine

Arzinger Events

- Road Show "BUSINESS LOCATION AUSTRIA – Your Base within the European Union"
- Arzinger Academy Legal Days: Business-breakfast "Currency Legislation: Last Changes and Current Practice"
- Arzinger Academy Legal Days: Business-breakfast "Taxation in Agroindustry: Trends 2013"
- Seminar "Making a Success out of a Construction Project: International FIDIC Standards and Their Implementation in Ukraine"
- Dispute Resolution over a Cup of Coffee in Lviv
- Seminar in Brussels "Land Reform in Ukraine: Challenges to Agriculture and Real Estate Market in 2013"
- Arzinger Academy Legal Days: Business-breakfast "Food Labeling: Realities and Prospects"

ARTzinger Gallery

- Arcane Art Gallery, Partner of ARTzinger Gallery, held a number of events in February and March

REAL ESTATE AND CONSTRUCTION

Overhaul Amendments to the Real Estate and Construction Legislation since January 1, 2013

- Since the beginning of this year, a number of important legislative amendments concerning various aspects of the activities in the area of real estate and construction have been elaborated or enacted.

THE NEW SYSTEM OF REGISTRATION OF REAL ESTATE RIGHTS

Most importantly, the new long-awaited system of registration of real estate rights has been brought into effect, as provided for by the laws “On Registration of Proprietary Rights to Real Estate and Encumbrances thereof”, “On State Land Cadastre”, amendments to the Land Code of Ukraine and other laws and by-laws. As is often the case with major reforms in Ukraine, ordinary people and public authorities themselves are currently experiencing difficulties due to the improper preparation for such novelties, causing a significant decrease in a volume of transactions in the Ukrainian market.

The situation with registration of land plots is, further aggravated by the errors made during the migration of data from the State Land Register to the State Land Cadastre which have already been revealed on the new public cadastre map published on the Internet. This map contains many discrepancies and inaccuracies; some land plots have not been included at all.

RESIDENTIAL REAL ESTATE TAX

Due to the to the Tax Code of Ukraine (Article 265), since the beginning of this year a list of the local taxes has been extended to include the residential real estate tax which is to apply only to the living space. At the same time, the government has already voiced its intention to extend this tax to the whole space of a residential property. Besides that, by virtue of the wealth and luxury tax the respective bill of the Ministry of Finance envisages that, this tax would be applied only to large properties with the value exceeding the set limits.

Until the introduction of a property tax the question whether developers of residential real estate have to pay taxes remained open. According to the relevant explana-

tion of the Ministry of income, housing developers are required to pay property taxes before the transfer of ownership of property to a new owner.

AMENDMENTS IN THE URBAN PLANNING LEGISLATION

Importantly, since January 1, 2013 Parts 3 and 4 Article 26 of the Law of Ukraine “On Regulation of the City-Planning Activity” have come into effect prohibiting the transfer of state or municipal land plots into private ownership or disposal of land plots by individuals or legal entities for town planning purposes, if there is no zoning or a detailed territory development plan. At the same time, according to the Ministry of Regional Development, Construction, Housing and Utility Services of Ukraine, twelve oblasts of Ukraine still have no zoning plans, while the readiness proportion of the up-to-date territory planning plans in regions and districts makes up to 48% and 12%, respectively. Under such circumstances, the enactment of this norm makes it almost impossible to allocate land plots for town planning needs in many regions, which is expected adversely influence the construction industry.

At the same time, since the beginning of the year the Parliament of Ukraine has registered several bills (in particular 2363, 2363-1, 2363-2, and 2372), which propose to delay the introduction of the above article till January 1, 2014, or till 2015.

Wealth and Luxury Tax Bill

- The government intends to lift the real estate tax which came into effect on January 1, 2013. Due to a proposal to levy a tax on wealth and luxury items, certain real estate may become subject to a property tax to be levied on property other than land.

Pursuant to the bill published by the Ministry of Finance, apart from airplanes, expensive cars, motorcycles, yachts and other luxury items, the following real estate will become taxable:

- an apartment the value of which exceeds 1000 minimum wages and the total area of which is more than 200 square meters;
- a summer or a garden cottage, cottage or a residential house (mansion-like) with the value exceeding 2500

minimum wages and the total area exceeding 500 square meters; non-residential premises located on such land plot;

- residential real estate owned by one tax payer with the value exceeding 3000 minimum wages and the total area exceeding 600 square meters;
- non-residential premises owned by an individual taxpayer with the value exceeding 2000 minimum wages and the total area exceeding 500 square meters.

The real estate tax will be due once a year (till May, 1) at the rate of 0.5% of the assessed value. Tax payers will accrue the tax themselves based on the results of the property appraisal carried out by certified appraisers. If a taxpayer fails to appraise the real estate, the tax will be accrued by the state tax authorities and the respective decision may be challenged in court.

The tax is planned to be introduced next year, as of January, 1. However, transitional provisions are provided for the year 2014, in particular envisaging, that taxable objects will be determined based on their area only, without regard to their value. Apparently, this period is introduced with a view to granting tax payers certain time to arrange for appraisal of their real estate. Throughout 2014, minimum rate of this tax will apply in the amount of 2% of the minimum wages per 1 square meter of the total area.

minimum wages and the total area of more than 500 square meters – 0.36 ha

All of the areas of land plots indicated above exceed by three times the current limits for free privatization of land plots as set forth in Article 121 of the Land Code of Ukraine.

Increasing the tax burden for land plots designated for the construction of spacious private houses serves the main purpose of this bill, being to increase the flow of contributions to the state budget from wealthy citizens.

Indeed, at first glance, land plots of the mentioned area are usually not owned by ordinary Ukrainian people and the tax novelty seems to affect primarily the rich. At the same time, it is quite possible that even ordinary citizens will have to pay the increased tax. According to the bill, this excess is determined based not on the area of a single land plot but on the area of all land plots owned by an individual. Consequently, if a city inhabitant owning one land plot would inherit another land plot or otherwise acquire it, and the total area of both land plots would exceed 0.3 ha, the new tax rate would apply to both land plots.

If imposed, this tax will prevent land resale speculation. Currently, there is a 5% individual income tax levied for this purpose in case of a sale of real estate owned by an individual no longer than 3 years.

At the same time, predictably, people will try to avoid paying this tax by means of dividing land plots and registering title to the land plots in the name of different individuals.

The Ministry of Finance has published a bill envisaging a three-fold increase in the payment for agricultural land as of January 1, 2014.

Ministry of Finance Suggests Increasing the Land Plot Tax Rate by 15 Times

- Due to the recent initiative of the government to introduce the wealth and luxury tax to be levied on jewellery, vehicles and real estate, it is also planned to increase the tax burden on individuals who own land plots designated for construction of residential houses or garden cottages.

The respective bill of the Ministry of Finance of Ukraine envisages an increase by 15 times in the tax rate levied on the land plots located within one administrative territory with the area exceeding the following thresholds (for each type of designated use):

- for construction and maintenance of a residential house-household: in villages – 0.75 ha, in settlements – 0.45 ha, in cities – 0.30 ha;
- for individual summer cottage construction – 0.30 ha;
- for gardening, where on at least one of such land plots there is a house with the value exceeding 2500 mini-

Government Returns to the Idea of Introducing Mandatory Energy Efficiency Certification for Buildings

- The Committee of the Parliament of Ukraine for Construction, Town Planning, Housing and Utility Services supported the bill of the Cabinet of Ministers of Ukraine “On Energy Efficiency of Residential and Public Buildings”. The initiative of the government is motivated by the necessity to fulfil the obligations of Ukraine undertaken by it in connection with joining the Energy Community Treaty, one of whose tasks is to improve the environmental situation and to facilitate the use of renewable energy.

This is not the first bill of that kind. Unlike earlier versions which envisaged mandatory certification only for state and municipal buildings, this most recent draft does not contain any limitations as to the ownership type. It means that the law will be applicable to all residential and public buildings, such as apartment houses, hotels, malls, and cinemas etc., without any exceptions. Exceptions to mandatory certification are provided only for the following groups of objects: buildings that house operating divisions of enterprises; facilities being constructed on the basis of a construction passport; buildings used by religious organizations; garages; monuments of architectural and cultural heritage.

Moreover, at the stage of developing design documentation mandatory certification is envisaged by the draft not only as applied to new buildings but also to the already existing ones if subject to reconstruction or capital repairs. Where there are any deviations from the initial technical solutions after construction has been completed, a new energy efficiency certificate should be sought. However, the law does not establish any special sanctions for the lack of a certificate or for the cases where energy efficiency parameters do not comply with the applicable legislative requirements. There are reasons to assume that, in the future this certificate may be added to the list of mandatory documents necessary for commissioning (putting into operation) of a ready building.

The bill also sets forth the requirements to energy saving and energy efficiency experts who, subject to a respective license, will issue certificates upon building owners' requests. The minimum requirements to energy efficiency, i.e. value of indexes specifying the property features is to be approved every five years by the Ministry for Construction, Architecture, Housing and Utility Services with a view to ensuring the optimal level of energy input. Currently, there are no such minimum requirements.

Unlike previous versions, the last bill does not contain any provisions on the administrative liability for violation of the legislation in the sphere of building energy efficiency. Still, projections are that the respective changes may be subsequently introduced to the Code of Administrative Offences of Ukraine.

In its current version, the bill is thus rather generalized as it does not establish any special sanctions for violation of the law and does not contain any specific requirements to the energy efficiency of buildings.

In general, this bill appears to impose an additional bureaucratic and financial burden on real estate owners seeking to carry out capital repairs or to construct new buildings. At the same time, the initiative may positively influence the quality of houses, unload the housing and utility service sector and improve the environmental situation in Ukraine.

Related Publications by Arzinger:

- *Energy Efficiency Certification of Buildings*
(in Russian)

Svitlana Teush, Senior Associate;

Natalia Klochun, Associate

/“Yurydychna Praktyka”, No. 06, 4 February 2013/

- *Getting the Deal Through - Real Estate 2013*

Timur Bondaryev, Managing Partner

/Law Business Research Ltd., November 2012, London/

BANKING & FINANCE

NBU Introduced Amendments to the Regulation on Order of Issuance by the National Bank of Ukraine of Individual Licenses for Placement by Residents (Legal Entities and Natural Persons) of Currency Valuables in Accounts outside Ukraine

- The Board of the National Bank of Ukraine (the “NBU”) with its Resolution No. 531 dated December 14, 2012 (the “Resolution No. 531”), simplified the possibility for residents-natural persons to transfer foreign currency abroad on the basis of an individual license of the NBU for placement of currency valuables on accounts outside of Ukraine (the “individual license of the NBU”). The regulator cancelled the previously existing restriction establishing maximum amount of transfer, which was the equivalent of UAH 600,000.00 per year under an obtained individual license of the NBU. Pursuant to the amendments, the amount, which individuals may transfer abroad, shall be determined by the terms and conditions of obtained individual license of the NBU. Hence, it will be allowed to make transfers of currency valuables in any amount, which was previously individually agreed with the NBU at issuance of an individual license of the NBU.

Earlier the NBU Board Resolutions No. 475 and No. 479 dated November 16, 2012, established temporary requirements as to mandatory sale of 50 percent of foreign currency proceeds. In connection with this, the Resolution No. 531 amended the Regulation by adding a new chapter on the order of mandatory sale of foreign currency proceeds in the first group of the Classifier of Foreign Currencies and Banking Metals and in Russian rubles to the account, opened abroad. The chapter establishes the following order of mandatory sale of proceeds in foreign currency received on the foreign accounts of residents:

- The sale shall be executed no later than on the 30th day after the date of receipt of proceeds on the account.
- Duly certified copies of documents confirming the execution of such sale with the amount of foreign currency sold and the date of sale indicated shall be sub-

mitted to the NBU within five days from the date of compulsory sale.

- Foreign currency proceeds transferred by a resident, who has obtained an individual license of the NBU, from its account opened in the authorized bank, which is specified in the individual license of the NBU, shall not be subject to mandatory sale.

In addition, the Resolution No. 531 amended certain other regulations of the NBU, in particular, it cancelled the obligation for banks to keep the journal of transfers undertaken in foreign currency from Ukraine and payments of such transfers, thus simplifying the paperwork for banks.

Resolution No. 531 becomes effective as of January 25, 2013.

NBU Explained the Peculiarities of Application of Certain Provisions of the Civil Code of Ukraine to Credit Relations between Residents and Non-residents

- In its letter No. 29-213/1846-1878 dd. 14.02.2013 the National Bank of Ukraine (the “NBU”) touched upon the issue of application of provisions of part 6 of Article 10561 of the Civil Code of Ukraine (the “CCU”) to credit relations between residents and non-residents. The mentioned provision of the CCU establishes the necessity to foresee the maximum amount of interest rate increase in loan agreements with variable (floating) interest rate.

The NBU is of the opinion that the requirement to stipulate the maximum amount of the interest rate increase in the loan agreement with the floating interest rate is of imperative character and shall be respected by parties to a loan agreement irrespective of the governing law of the agreement.

In practice this issue became widely discussed since November 10, 2012, when the amendments to the NBU Regulation On Order of Receiving by Residents of Credits, Loans in Foreign Currency from Non-Residents and Granting by Residents of Loans in Foreign Currency to Non-Residents became effective. These changes intro-

duced a separate line into the notification on the loan agreement, which is to be submitted for the registration of a cross-border loan agreement with the NBU, indicating the maximum amount of increase of the floating interest rate.

Such amendments at that time received heavy critics from the side of both the foreign creditors and the Ukrainian borrowers, as in many cases they significantly complicated the process of negotiations related to cross-border loans and their registration with the NBU.

Amendments to Regulation of Payment Systems by the National Bank of Ukraine

- On January 1, 2013, amendments to the Laws of Ukraine “On Payment Systems and Transfer of Funds in Ukraine” and “On the National Bank of Ukraine” regarding the regulation of payment systems by the National Bank of Ukraine (hereinafter - the “NBU”), introduced by the Law of Ukraine “On the Depository System of Ukraine” of July 6, 2012, entered into force.

In accordance with amendments introduced to the Law of Ukraine “On Payment Systems and Transfer of Funds in Ukraine”, the NBU has received the power to establish the interbank settlement systems, systems of retail payments and other payment systems. Also provisions on the NBU’s oversight of payment systems and settlement systems have been clarified. It is provided now that the objects of payment systems oversight are payment systems organizations, clearing and processing institutions, the participants of payment systems, and other persons authorized to provide individual services or perform operational and other technological functions in payment systems. The NBU has received a wide range of instruments to apply to objects of payment systems oversight for violation of Ukrainian legislation on the activities of payment systems: from written warnings to fines, restrictions and prohibition of activities.

From January 1, 2013, the NBU has been also entrusted with new functions stipulated by the Law of Ukraine “On the National Bank of Ukraine” regarding regulation of the payment and settlement systems in Ukraine, administration of the register of the payment and settlement systems, participants of these systems and payment infrastructure services operators, and on oversight of payment and settlement systems.

Amendments to the Law “On Mortgage”

- On January 1, 2013, amendments to the Law “On Mortgage” regarding the validity of unregistered mortgage agreements, introduced by the Law of Ukraine “On Introduction of Amendments to Certain Legislative Acts of Ukraine Concerning Improvement and Simplification of the Procedure of State Registration of Land Plots and Rights to Real Estate” of July 4, 2012, entered into force.

Amendments have been introduced to Art. 4 of the Law of Ukraine “On Mortgage”, namely a provision was excluded stipulating that in case of absence of registration of the mortgage agreement, such agreement is valid, but the mortgagee's claims shall not obtain a priority as to registered rights and claims of other persons to mortgaged real estate. Therefore, now only registered mortgage agreements shall be recognized as valid.

Amendments to the Tax Code of Ukraine Came into Force

- On January 3, 2013, amendments to the Tax Code of Ukraine (hereinafter - the “TCU”), introduced by the Law of Ukraine “On Amendments to the Tax Code of Ukraine Regarding Further Improvement of Administration of Taxes and Fees” of December 6, 2012, came into force, which put financial bills into circulation, introduced the excise tax for transactions with securities and derivatives, and reduced the income tax rate for transactions with securities and derivatives.

On January 3, 2013, to the TCU was introduced the notion and regulations governing the circulation of financial bills. Financial bill is a security that certifies the obligations of the banking institution, including the central executive body carrying out treasury services of the budget, and is issued in book-entry form in order to certify the existing debt, including the debt of the State Budget of Ukraine. Two types of financial bills have been provided for: treasury financial bill and bank financial bill.

Issuance of the treasury financial bill would equal to granting the taxpayer budgetary compensation, including automatic, by transfer of funds from the budget account to the current account of the taxpayer. Presentation of financial bill to the state body of treasury service would equal to payment of agreed financial obligation. The treasury financial bill may not be presented until its maturity.

Also it is provided that the NBU shall approve the procedure of issuance, circulation and redemption of bank financial bills.

Among other important amendments to the TCU, which entered into force on January 3, 2013, is the introduction of the excise tax on transactions for disposal of securities and derivatives. For securities, traded on the stock exchange, the tax shall be 0% of the transaction amount. When selling outside the stock exchange securities, which are included in the stock register, the tax shall make up 0.1%, while for OTC sales of securities that are not included in any stock register – 1.5% of the transaction amount. Tax on transactions with derivatives on the stock exchange shall be 0% of the transaction amount, and outside the stock exchange – 5 non-taxable minimum incomes for each derivative (contract).

Also amendments determined transactions on which the excise tax shall not be levied, which include, inter alia, the transactions of savings (deposit) certificates, shares of private joint-stock companies, as well as transactions with corporate rights in other form, than securities.

The positive change is reduction of income tax to 10% for transactions on disposal of securities and derivatives.

Amendments to the Order of Compensation of Bad Debt by Ukrainian Banks out of Reserve Account Entered into Force

- On December 31, 2012, amendments to the Order of Compensation of Bad Debt by Ukrainian Banks out of Reserve Account, provided by NBU Resolution No. 405 of October 4, 2012 (hereinafter – “Resolution No. 405”), entered into force. Amendments have stipulated that banks shall qualify debt on active banking operations as bad according to the methodology established by the Regulation on the Formation and Use of Reserves by Ukrainian Banks for the Compensation of Potential Losses in Active Banking Operations.

According to Resolution No.405 banks shall compensate (write-off) bad debt out of reserve account on all active banking transactions with related parties, transactions with equity securities and other corporate rights, as well as bad debt to settle with employees of the bank and on the business activities of the bank, provided that they meet at least one of the criteria of bad debt, provided by the TCU.

It is also stipulated that banks may compensate (write-off) bad debt out of reserve account (excluding bad debt described above), which includes the amount of the principal debt owed to the bank and/or accrued interest (debt of the debtor), on which there is more than 180 days delay in payment of the debt or its part.

Regulation on the Formation and Use of Reserves by Ukrainian Banks for the Compensation of Potential Losses in Active Banking Operations Amended

- The NBU Resolution No. 499 of November 30, 2012 (hereinafter – “Resolution No. 499”) amended the Regulation on the Formation and Use of Reserves by Ukrainian Banks for the Compensation of Potential Losses in Active Banking Operations.

Resolution No. 499, which came into force on December 29, 2012, introduced the requirement for banks to reserve funds in order established by the NBU on a separate account with the NBU in the amount of reserve, formed for credit transactions in foreign currency with borrowers, who have no documented expected income in foreign currency, made on the basis of loan agreements entered into after December 27, 2008.

Also a requirement is introduced for bank employees, which assess the collateral of borrowers, to obtain a qualification certificate of the appraiser prior to January 1, 2014.

Amendments to the Instruction on Order of Organization and Implementation of Foreign Currency Exchange Transactions in Ukraine

- On January 1, 2013, amendments to the Instruction on Order of Organization and Implementation of Foreign Currency Exchange Transactions in Ukraine, introduced by the NBU Resolution No.364 of October 11, 2011 and No.349 of August 21, 2012, entered into force.

According to the amendments, a bank (financial institution) has the right to purchase from individuals – residents and foreigners cash foreign currency for cash hryvnia in the amount of up to 50,000.00 hryvnia only on presentation of any identification document, indicating in the certificates and receipts the name, surname and patronymic of the person conducting the sale of foreign currency, without making the copy of pages of the identification document. If the amount exceeds 50,000.00 hryvnia, the presentation of passport is required and its copy shall be made and stored by the bank employees in the documents of the day.

Amendments to the Instruction on Regulation of Activities of Banks in Ukraine

- On January 1, 2013, amendments to the Instruction on Regulation of Activities of Banks in Ukraine came into effect, setting a new standard of capital – the ratio of regulatory capital to the obligations of the bank.

Corresponding amendments were introduced by NBU Resolution No.479 of December 28, 2011. In Section IV of the Instruction on Regulation of Activities of Banks in Ukraine Chapter 3 was included, which set a new standard (ratio) of the capital: the ratio of regulatory capital to liabilities.

It is provided that this standard defines the adequacy of the bank's own funds to meet obligations to depositors and creditors. The standard value of this ratio should be not less than 10%. The ratio is in force from January 1, 2013, thus banks shall take measures to comply with this ratio.

NBU Resolution No. 500 Amended the Procedure for the Issuance of General and Individual Licenses

- NBU Resolution No. 500 of December 3, 2012 (hereinafter – “Resolution No. 500”) amended the procedure for the issuance of general and individual licenses.

Pursuant to the Law of Ukraine “On Introduction of Amendments to Article 18 of the Law of Ukraine “On Institutional and Legal Framework for Combating Organized Crime” No. 5398-VI of October 2, 2012, the NBU with its Resolution No.500 introduced amendments to some of its resolutions regarding the issuance of general and individual licenses.

By virtue of Resolution No.500 the regulator cancelled the requirement to obtain conclusions from the General Department for Combating Organized Crime of the Ministry of Internal Affairs of Ukraine and the General Department for Combating Corruption and Organized Crime of the Security Service of Ukraine for issuance:

- to non-bank financial institutions, national postal operator of general licenses for currency transactions, having amended the Regulation on Order of Issuance to Non-Bank Financial Institutions, National Postal Operator of General Licenses for Currency Transactions;
- to residents of individual licenses for transfer of foreign currency outside of Ukraine in order to purchase bonds of external government borrowings of Ukraine, having amended the Regulation on Order of Issuance to Residents of Individual Licenses for Transfer of Foreign Currency outside of Ukraine in Order to Purchase Bonds of External Government Borrowings of Ukraine;
- to residents of individual licenses for transfer of foreign currency outside of Ukraine in order to pay for currency values, having amended the Regulation on Order of Issuance to Residents of Individual Licenses for Transfer of Foreign Currency outside of Ukraine in Order to Pay for Currency Values; and
- to banks and branches of foreign banks of general licenses to conduct foreign exchange operations, having amended the Regulation on Order of Issuance to Banks and Branches of Foreign Banks of General Licenses for Conducting Foreign Exchange Operations.

Resolution No. 500 will become effective from the date of its official publication.

Related Publications by Arzinger:

- *Operation Subjects* (in Russian)
Oleksander Plotnikov, Counsel
/“50 Leading Banks of Ukraine 2013”,
“Kommersant-Ukraina” Publishing House/

LABOUR LAW

Provision on the State Personal Data Register and its Maintenance Procedure Streamlined with the Law of Ukraine “On Personal Data Protection”

- Resolution on amendments to the Provision on the State Personal Data Register and the order of its maintenance was approved by the Cabinet of Ministers of Ukraine on January 30, 2013 No. 60. Thus, the new version of the Provision does not oblige the owner of the personal data to register personal data bases kept in order to ensure and to enforce labour relations, members of civil groups, religious organization, political parties and trade unions, prolongs the term for consideration of personal data owner’s applications from 10 to 30 business days and obliges to inform about the content of processed personal data, third parties who receive personal data and cross-border personal data transfer. In case the owner of personal data has previously submitted an application about database registration, such application may be withdrawn by means of a written petition to the State Service of Ukraine for Personal Data Protection.

Procedure for Reimbursement of the Single Social Contribution

- The Pension Fund of Ukraine is obliged to reimburse to the employer 50% of the accrued single social contribution for each new employee appointed to a new position. The respective Resolution No. 153 was adopted by the Cabinet of Ministers of Ukraine on March 13, 2013 and came into effect on March 20, 2013.

The reimbursement is paid to employers who starting with 2013 create new positions with salary in the amount of at least 3 minimum wages which is 3,441 hryvnia (till 01.11.2013) and 3,654 hryvnia (as of 01.12.2013).

Based on the current provisions of this Procedure the following reasons to refuse the payment of the reimbursement to the employer in any month shall be taken into account:

- untimely payment of the salary;
- salary paid in total in a month does not amount to 3 minimum wages which is possible in a case when an employee hired for the new position is dismissed and is not immediately replaced;

- the employer has cut the staff and the payroll fund in the last 12 months.

The provisions of this Procedure do not apply to employers being budget institutions or employers who create new positions prior to the end of 12 months after their creation by terminating another business entity.

The following procedure for reimbursement of the single social contribution is established:

- 1) the employer provides a certificate about compliance with the reimbursement terms within 12 months after conclusion of the labour agreement to the Pension Fund,
- 2) the single social contribution is reimbursed to the employer monthly beginning with the 13th month after begin of the employment on the new position.

Practical aspects of the enforcement of this Resolution of the Cabinet of Ministers of Ukraine and position of the public authorities will be covered in our next newsletters.

New Procedure for Registration of Unemployed Persons and Job Seekers Approved

- On March 20, 2013 the Cabinet of Ministers of Ukraine approved the Resolution “On approval of the Procedure for registration, re-registration of unemployed persons and accounting of job seekers”. From now, status of an unemployed person is given to a person who applied to the State Employment Fund beginning with the first date after registration of his/her application provided there is no suitable job position for such person. At this, decision about giving the status of an unemployed person is made within 7 calendar days after submission of the respective application.

Medical Examination in a New Way

- The MOH of Ukraine and the MIA of Ukraine approved the provision on the medical examination for driving license applicants and vehicle drivers. The same-name Provision dated 31.01.2013 No. 65/80 came into effect on March 12, 2013. In order to determine whether a person is able to drive safely, driving license applicants and vehicle drivers shall undergo one of the following medical examinations: preliminary, periodical, unscheduled, every shift, pre-trip and after-trip. This Procedure determines the periodicity and the order of the medical examination, de-

termines the composition of the medical commission and points out the possibility to appeal against the decision of the medical commission made upon results of the preliminary or periodical examination at the healthcare departments of the city state administration and/or at court.

The Social Unemployment Insurance Fund Pays for Education of Persons over 45 Years Old

- On March 20, 2013 the Ministry for Social Policy informed that the Cabinet of Ministers had approved the resolution on issuance of vouchers for purposes of facilitating competitiveness of people on the employment market. Enforcing the Law of Ukraine “On Employment” in the respective resolution the Cabinet of Ministers has determined the procedure for issuance of and payment for vouchers, the list of priority industries for obtaining a profession for which a voucher may be issued. It shall be reminded that in order to obtain a voucher a person shall be over 45 years old and have at least 15 years of employment record. A voucher is a one-time state aid amount of which shall not exceed 10 minimum wages for the working-age population, which as to March 31, 2013 amounts to 11,470 hryvnia.

The Cabinet of Ministers of Ukraine Has Reviewed the Procedure for a Notifying Registration for Industry (Inter-industry) and Territorial Agreements, Collective Agreements

- On February 28, 2013 the same-name Resolution dated 13.02.2013 No. 115 came into effect.

The changes concern:

- the requirement about number of agreement’s copies with attachments to be provided for the registration – depending on the number of parties to the agreement/contract;
- term of the notifying registration – 14 business days after submission of documents;
- procedure for providing information about registered agreements/contracts – on the official website of the registration authority and mass media.

Procedure for Organization of Temporary Work Approved

- The Cabinet of Ministers of Ukraine has determined the mechanism for organization of public or other temporary works and the procedure for financing the organization thereof. The respective Resolution No. 175 was adopted on March, 2013 and came into force on March 26, 2013.

In particular, this document determines a number of persons who may be engaged in public works or other temporary works, in particular:

- registered unemployed persons,
- persons registered with the State Employment Service as job seekers,
- employees who lost a part of their salary because their working time was reduced up to 50% due to temporary shutdown (reduction) of the production.

Thus, employers who create temporary work positions will be engaged by local state administrations, executive committees of village, settlement and city councils to enforcement of state employment programs on a voluntary basis based on their information about the need in temporary workers. At the same time, the employer is obliged to conclude a labour agreement with the temporary worker in writing the period of validity of which shall not exceed 180 calendar day p.a. in total.

Requirements to the form of the agreement on the procedure of condition of public works and the procedure of financing will be approved by the Ministry for Social Policy in future.

The employer is obliged to make an entry in the working book about the work of the temporary worker in the enterprise, institution, organization, and for registered unemployed persons the period of public works will be included to the employment record. Pursuant to article 31 of the Law of Ukraine “On Employment” public works shall be paid for according to the labour agreement and the actual performed scope of work, but at least in the amount of the minimum wage.

Related Publications by Arzinger:

- ***Reduction Procedure (Procedural Rules)*** (in Ukrainian) **Pavlo Khodakovsky**, Partner; **Olga Nikitina**, Associate /“Labour & Law”, No. 3 (159)/
- ***New Labor Legislation in 2011-2012.: What Personnel Officers Need to Know*** (in Ukrainian) **Pavlo Khodakovsky**, Partner; **Alesya Pavlynska**, Senior Associate /“Labour & Law”, No. 2 (158)/

ANTITRUST LAW

Events in EU May Lead to New Antimonopoly Sanctions for M&A Deals in Ukraine

— In January 2013 the European Commission fined two telecommunication companies Telefónica and Portugal Telecom with 79 million euros for their joint decision not to compete on the telecommunication services market due to purchase by Telefónica of the mobile operator Vivo (Brazil) from Portugal Telecom.

For the purchase of the mobile operator Vivo by Telefónica a clause that Telefónica and Portugal Telecom shall not compete in Spain and Portugal was included into the main agreement. Such situation existed 4 months until the European Commission had initiated the case on infringement of the competition law.

Decision of the European Commission gave a clear signal to companies that sign transaction agreements with a non-compete clause applicable to participants of merger and acquisition deals to examine such agreements very carefully for compliance with the competition law.

An important conclusion in the decision of the European Commission is that a non-compete agreement is enough to be accused of infringement of the competition law, i.e. it does not matter whether such non-compete decision had caused real adverse effect on the competition.

Pursuant to EU competition law non-compete agreements between companies are one of the most serious violations resulting in considerable penalties.

A similar provision on prohibition to eliminate competition between companies is contained in Article 6 of the Law of Ukraine “On Economic Competition Protection” which prohibits any concerted actions that may lead to exclusion, elimination or restriction of competition in Ukraine.

While considering applications for merger clearance (M&A) the Antimonopoly Committee of Ukraine (AMCU) spends lately more time on analysis of transaction agreements regarding non-compete clauses. To date, the AMCU only advises M&A parties to obtain a clearance from the AMCU for concerted actions in form of a non-compete agreement.

Otherwise, after obtaining the merger clearance from the AMCU the M&A parties bear the risk to be held liable for anticompetitive concerted actions in form of a non-compete agreement.

That is why we advise parties to M&A deals to analyse respective agreements with a non-compete clause regarding their compliance with the competition law not only in connection with necessity to obtain a merger clearance but also in connection with prohibition of anticompetitive concerted actions.

EU Consults on Simplifying the EU Merger Control Regime

— On March 27, 2013 the European Commission's Antitrust Department (DG COMP) launched a public consultation on the simplification of some of the procedural aspects of the EU's merger control regime. Source: <http://ec.europa.eu>

This first consultation on the modernization of the EU's merger control regime expected in 2013 aims to streamline the merger review system with some technical changes to the implementing Regulation (No 802/2004) and the Notice on a simplified procedure (SP).

The proposal aims to make EU merger control even more business-friendly by cutting red tape and streamlining procedures. The proposed changes could allow up to 70% of all notified mergers that are considered unproblematic to qualify for review under the Commission's simplified procedure, i.e. about 10% more than today.

According to the Commission, if adopted the proposals could result in savings for the merging companies concerned, cutting lawyers' fees by up to one half and reducing preparatory in-house work.

If adopted, the reforms would:

- Widen the SP's scope of application, by raising the 'safe harbour' thresholds for horizontal and vertical deals.
- Reduce the information requirements laid down in the relevant Form CO, Short Form and Form RS.
- Introduce the possibility for simplified treatment of certain categories of horizontal mergers.

Later this year, DG COMP may consult on more radical possible changes to the Merger Regulation including, according to recent speeches, on a range of ways to tackle the perceived 'enforcement gap' affecting minority shareholdings.

Deadline for responses to this consultation: June 19, 2013.

The five consultation documents are available at: http://ec.europa.eu/competition/consultations/2013_merger_regulation/index_en.html

This step taken by the European Commission is a reflection of the overall positive global trend to simplifying the procedures for monitoring mergers. In recent years, the number of mergers that required competition authorities' clearance is growing rapidly. Thus agencies have to take measures to manage the flow of applications. At the same time, many mergers are "technical" ones and require no profound analysis of numerous documents which applicants have to collect and submit according to legislation. In our opinion, the Antimonopoly Committee of Ukraine should take into account the practice of the European Commission, as the majority of legislation provisions applied by the authority exercising its function in the monitoring of mergers, were passed in 2002 and, instead of being simplified, were only complicated in the course of amendments. As a result, they do not all meet today's realities at all. Such a move towards liberalization and simplification of procedural issues in obtaining appropriate clearances would enhance the credibility of the Antimonopoly Committee of Ukraine in the eyes of the foreign community, and demonstrate the validity, consistency and coherence of the authority's intentions and actions.

Related Publications by Arzinger:

- *Antitrust Risks on Ukrainian Market* (in Russian)
Lana Sinichkina, Counsel
/"Distribution & Logistics", No. 1/2013/
- *Infringement and Punishment (Machine Engineering)* (in Russian)
Timur Bondaryev, Managing Partner
/"50 leading companies in Ukraine",
Publishing House "Kommersant-Ukraina"/
- *Competition in German. About internship at the Centre for Protection against Unfair Competition, Bad Homburg, Germany* (in Russian)
Iryna Lishchuk, Associate
/"Yurydychna Gazeta", No. 13, 26 March 2013/

LITIGATION

Related Publications by Arzinger:

- *The Dispute Resolution Review: Ukraine (5th Edition)*
Sergiy Shklyar, Founding Partner;
Markian Malsky, Partner
/ Law Business Research Ltd., February 2013/
- *On the Verge of a Fond* (in Russian)
Markian Malsky, Partner;
Tetyana Berezenskaya, Associate
/"Yurydychna Praktyka", No. 7 (790), 12.02.2013/
- *Without Witnesses* (in Russian)
Natalia Martynyuk, Senior Associate
/"Yurydychna Praktyka", No. 3 (786), 15.01.2013/

TAX LAW

President of Ukraine Settles the Functions of the Revenues and Duties Ministry of Ukraine

- On March 18, 2013 Ukrainian President issued Decree No. 141/2013 to approve the Regulation on the Ministry of Revenues and Duties. The new Ministry has been formed on the basis of the State Tax Service and the State Customs Service and is the successor of both. Also, before special regulations are adopted, special tax police units will operate within the Ministry of Revenues and Duties of Ukraine and its territorial offices.

According to the Decree, the Ministry of Revenues and Duties of Ukraine is the main body in the system of central executive bodies in terms of:

- ensuring the formation of a single state tax and customs policy for taxes, fees and customs duties administration, and the implementation of a uniform state tax and customs policy;
- ensuring the formation and implementation of a uniform state policy for the administration of a single contribution for obligatory state social insurance;
- ensuring the formation and implementation of public policy in dealing with violations in the application of tax and customs legislation, and of legislation on single contribution payments.

The Regulation assigns the functions that were formerly the competence of the State Tax Service of Ukraine and the State Customs Service of Ukraine to the tasks and functions of the Ministry of Revenues and Duties of Ukraine. It also determines the powers of the Minister heading the Ministry of Revenues and Duties of Ukraine.

Among other things, the Decree introduces amendments to the presidential decrees, which previously approved the Regulations on the Pension Fund of Ukraine, the Regulations on the Ministry of Social Policy, the Regulations on the Ministry of Finance, and repeals a number of other decrees.

The Cabinet of Ministers of Ukraine has already begun to actively develop legislative acts determining the legal foundations for the Ministry of Revenues and Duties and its local offices.

New forms of Financial Statements Approved

- On March 19, 2013 Order of the Ministry of Finance of Ukraine dd. 07.02.2013 No.73 “On approval of the National Accounting Regulation (standard) 1 “General requirements for financial reporting” came into force. Starting from the 1st quarter of 2013, it shall be applied to financial statements and consolidated financial statements of legal entities all forms of ownership, except for banks and public institutions that are required to submit their financial statements in accordance with the law.

In addition to the general provisions, the Order approves new forms of financial reporting:

- Balance sheet (statement of financial position);
- Statement of financial performance;
- Statement of cash flows (direct method);
- Statement of cash flows (indirect method);
- Report on equity;
- Consolidated balance sheet (statement of financial position);
- Consolidated income statement (statement of total income);
- Consolidated statement of cash flows (direct method);
- Consolidated statement of cash flows (indirect method);
- Consolidated report on equity;
- A list of additional items in financial statements.

Changes in Insurers’ Reporting

- On March 7, 2013 the Order of the National Commission exercising the state regulation in the Financial Services Markets dd. 24.01.2013 No. 287, entered into force to amend the Procedure for insurers to prepare reporting data.

According to the amendments, insurers established in the form of joint stock companies shall submit their Corporate Governance Report of Insurer along with their an-

nual statements. Among other things, the report should contain the following:

- information about the owners of substantial shares (including the persons in control of the insurer) and changes in their composition during the year;
- information about the supervisory board’s composition and its changes during the year;
- information about the composition of the insurer’s executive body and its changes during the year;
- information about the corrective actions that have been applied during the year by public authorities to the insurer, including the members of its supervisory board and the executive body;
- annual remuneration for members of the supervisory board and the executive body of the insurer;
- information on the significant risk factors that had an impact on the insurer’s activity during the year;
- information about the annual results of internal audits (controls) as well as the data presented in the notes to financial statements and consolidated financial statements;
- facts of alienation of assets during the year in excess of the amount prescribed in the insurer’s statutes;
- information about the asset valuation results in the event of their sale during the year in excess of the amount prescribed in the insurer’s statutes;
- information about transactions with related parties, including within the same industrial-financial group or other association concluded during the year (such information is not a trade secret);
- information about the activities of an external auditor;
- information about the protection of financial service consumers’ rights by the insurer.

CMU Adopted a New Procedure for Foreign Investment Registration

- On March 6, 2013 the Cabinet of Ministers of Ukraine adopted its Resolution No.139 “On approval of state registration (re-registration) of foreign investment and its cancellation” determining the procedure for submission of documents, their review and state registration (re-registration) of foreign investment or its cancellation.

According to the Procedure, foreign investments shall be registered (re-registered) or cancelled by the Council of Ministers of the Autonomous Republic of Crimea, Kyiv and Sevastopol city state administrations, within seven days after a foreign investor submits the documents required for registration (re-registration) of foreign investment or its cancellation.

To register, a foreign investor or its authorized person shall submit the following documents:

- information notice in accordance with Annex 1 to the Procedure in triplicate with an inscription of the relevant local authority of the Ministry of Revenues and Duties of Ukraine at the place of investment regarding its actual implementation;
- documents confirming the form of foreign investment (founding documents, agreements (contracts) on industrial cooperation, joint production or other forms of joint investment, concession agreements, etc.);
- documents certifying the value of foreign investment, which shall be determined in accordance with Article 2 of the Law of Ukraine “On Foreign Investment Policy”.

Registration shall be carried out by assigning a registration number to the information notice, with the first copy to be returned to the applicant.

The state registration of foreign investments shall continue in effect for the whole life of the investment.

Re-registration shall be carried out in case of change of ownership of that investment by cancelling the previous registration of foreign investment and taking an action for new state registration. Cancellation of foreign investment shall be made in the event of its withdrawal (repatriation) by the owner.

Re-registration and cancellation shall be made by submitting:

- a written notice of termination of the foreign investor’s activities due to the transfer (sale) of its investment to other subjects of investment activity, or due to withdrawal (repatriation) of foreign investment;
- an information notice of preliminary state registration of foreign investment;
- a certificate issued by the relevant local body of the Ministry of Revenues and Duties of Ukraine on the taxes paid by the foreign investor in Ukraine.

Until the establishment of local bodies of the Ministry of Revenues and Duties is completed, the functions of these bodies in the state registration (re-registration) of foreign investment or its cancellation shall be executed by the state tax authorities.

Letter of State Tax Service Regarding Some Issues of VAT for Software Products

- In its letter No. 2787/6/15-3115 dated 25.02.2013 the State Tax Service of Ukraine clarified whether supplier of software products shall pay VAT, if advance payments for goods were made in 2012. The State Tax Service noted that the date of tax obligations accrued for the supply of goods/services (law, the classification of tax amounts in the tax credit) shall be determined according to the “first event rule”, i.e. the relevant date shall be:
 - either the date of withdrawal of funds from the bank account of the taxpayer to pay for goods (services) / the date of transfer of funds from the buyer (customer) to the bank account of the taxpayer as a payment for goods (services);
 - or the date of shipment (date of the document certifying the delivery of services) / the date of receipt of goods (services) by the taxpayer.

Thus, if the taxpayer made an advance payment for deliveries of software products in 2012, but the Statement of supply of such products was signed in 2013 and the final settlement of the transaction took place in 2013, the part of the cost of software products paid to the supplier in 2012 shall be subject to VAT. The residue cost paid to suppliers in 2013 shall be exempt from VAT.

State Tax Service Clarified the Language Issue in Filling Tax Returns

- In its letter No. 1284/K/15-3114 dated 05.03.2013 “Regarding some issues of filling tax returns” the State Tax Service of Ukraine explained the possibility of filling tax bills in regional languages.

As stated in the Letter, according to para 2 of the Procedure for filling a tax return as approved by Order of the Ministry of Finance No. 1379 dd. 01.11.2011, tax returns shall be filled in the official language in the prescribed form. According to Article 10 of the Constitution of Ukraine the state language of Ukraine is Ukrainian.

Part 6 of the Law of Ukraine “On State Language Policy” provides that a regional or minority language shall be used on the territory of Ukraine in the work of local governments and local authorities, shall be used and learnt at schools, and shall be also applied in other areas of public

life in the manner and to the extent defined by the Law.

Given the above and the fact that the requirements as to completing tax returns and the form of the latter concern not only one specific region but the whole territory of Ukraine, tax returns must be filled in the official language.

State Tax Service Clarifies the Application of Special VAT Treatment for Agricultural Enterprises

- On March 4, 2013 the State Tax service of Ukraine issued its Letter No. 3339/6/15-33-15 “On applying special VAT treatment procedure”.

The Letter indicates that the main criterion for classifying enterprises as agricultural ones is the relevant volume of agricultural products (services) made on their own or leased fixed assets. According to para 209.6, Article 209 of the Tax Code of Ukraine an agricultural enterprise is an enterprise mainly operating in deliveries of agricultural products (services) produced by it on its own or leased fixed assets, or on a give-and-take basis, the share of the value of agricultural products / services making at least 75 percent of the value of products / services supplied within the previous 12 consecutive tax reporting periods in total. Also, it is noted that special tax treatment and enjoying the fixed agricultural tax is not the duty but the right of an agricultural producer.

At the same time, agricultural producers that lease land for agricultural purposes are required to enter into land lease agreements with landlords in accordance with Section II of the Law of Ukraine No.161 “On Land Lease” dd. 06.10.98. Such land lease agreements shall be subject to compulsory state registration (Article 20 of the Law “On Land Lease” and Article 125 of the Land Code of Ukraine). Under Article 18 of the Law “On Land Lease”, the right to lease a land plot arises after the state registration of that right in accordance with the law governing the state registration of rights to real estate and their encumbrances.

In addition to the above, we refer to the Information Letter of the Supreme Administrative Court of Ukraine No. 2614/12/13-12 dd. 28.12.2012, in which the Court sets out its position regarding the possibility of special treatment for agricultural producers in the case of their failure to meet the mandatory lease registration requirement.

The Court points out that income shall be calculated with account to all the income from the sale of products

grown (produced) on agricultural land used by an entity subject to certain conditions. Tax legislation provides for state registration of land plot lease agreements as a prerequisite to qualify such land plots as being in the use of agricultural producers.

Therefore, given the priority of application of the Tax Code of Ukraine compared to the provisions of other areas of law in the regulation of tax relations, we should admit that failure to comply with the law on the registration of land lease rights cannot be a barrier to qualify such land as being used by producers for the purpose of charging the fixed agricultural tax or for special VAT treatment. Therefore, defects in contract-making cannot affect the correctness of calculation of income from sales of crops in the calculation of an agricultural production share.

State Tax Service of Ukraine Clarified the Issue of Levying Duties for Certain Types of Business Operations

- The State Tax Service of Ukraine published its Letter No.5165/7/15-2217p dd. 01.03.2013 on charging duties for certain types of business operations,” in which it referred to the following.

According to item 267.3.1, para 267.3 Article 267 of the Tax Code of Ukraine the duty rate for trade operations and fee-based service provision shall be set by local governments in the calendar month calculation in the appropriate amount of the minimum wage set by legislation as of January 1 of the calendar year, with account to the location of points of sale and the product range, or points of fee-based services and the type of paid services. The term of duty payment for certain types of business operations is defined by item 267.5.2, para 267.5, Article 267 of the Tax Code, namely as follows:

- for trading activities with the purchase of a short-term trade patent - no later than one calendar day prior to the commencement of such activities;
- for trading activities (other than trading activities with a short-term trade patent), operation in the provision of fee-based services, trading in currency values - monthly no later than the 15th day preceding the reporting month;
- for activities in the field of entertainment – on a quarterly basis no later than the 15th day of the month preceding the reporting quarter.

As established by item 267.5.3, para 267.5, Article 267 of the Tax Code, when buying a trade patent a business entity shall pay a fee for one month (quarter). The amount of duty shall be reduced by the amount paid for the trade patent, which shall be recorded in the last month (quarter) of its validity.

Duty payers may make an advance duty payment before the end of a calendar year.

Thus, according to para 267.3, Article 267 of the Tax Code the duty rate for trading operations shall be differentiated depending on the location of the points of sales (product range) or places of paid services (their types) provision, and shall be tied to the minimum wage.

The minimum wage for the relevant fiscal period shall be determined in accordance with para 8, Article 40 of the Budget Code of Ukraine. The duty rate shall be determined annually with account to the Law of Ukraine on the State Budget for the year and the relevant decisions of local governments. Consequently, in the event of a change in the minimum wage:

- the monthly (quarterly) duty for certain types of business operations, which is registered in December of the previous year for January (first quarter) of the next year, shall not be reviewed;
- the amount of monthly (quarterly) duty that will be paid in January (the first quarter) for February (the second quarter), and will be subsequently paid accordingly at the duty rates set according to the requirements of para 267.3, Article 267 of the Tax Code, taking into account the minimum wage as set by the law as of January 1 of the (calendar) year;
- the amount of duty to be included by an entity in one month (quarter) for the acquisition of a trade patent shall be determined annually in the appropriate amount of the minimum wage as set by the law as of January 1 of the (calendar) year.

Related Publications by Arzinger:

- [*Antitrust Risks on Ukrainian Market*](#) (in Russian)

Lana Sinichkina, Counsel
/“Distribution & Logistics”, No. 1/2013/

- [*Infringement and Punishment \(Machine Engineering\)*](#) (in Russian)

Timur Bondaryev, Managing Partner
/“50 leading companies in Ukraine”,
Publishing House “Kommersant-Ukraina”/

HEALTHCARE AND PHARMACEUTICALS

MEDICINAL PRODUCTS CIRCULATION

CERTIFICATION

New Medicinal Product Quality Certification Procedure for International Trade Adopted

- On January 25, 2013 the Order of the Ministry of Health of Ukraine (hereinafter the MOH) No.1008 dated 07.12.2012 on Approving the Procedure for quality certification of medicinal products for international trade and for validation of exported active pharmaceutical ingredients (hereinafter the Procedure) was adopted. Thereby, the previous procedure approved by MOH's Order No. 9 dated 14.01.2004 expired.

It should be noted that the quality certification of medicinal products is performed by the State Service of Ukraine on Medicinal Products at an applicant's request on a voluntary basis.

Compared to the previous act, the Procedure provides for the following:

- medicinal product quality certification for international trade by confirming the compliance of their quality and production conditions with the requirements in force in Ukraine as well as with the good manufacturing practice standards (GMP);
- introduction of procedure for validation of exported active pharmaceutical ingredients (hereinafter the API) along with the certification of medicinal products;
- certification stages are regulated in more detail; validation stages for APIs and the timelines of such procedures are determined;
- obligations of applicants and of the State Service of Ukraine on Medicinal Products are outlined clearly.

IMPORT LICENSING

Changes in the List of Documents Attached to an Application for a License to Import Medicinal Products

- On February 13, 2013 the Cabinet of Ministers adopted its Decree No. 112 on amending item 5 of the List of documents attached to the application for a license for a certain type of business operations.

The Decree entered into force on the date of publication. Therefore, the Ministry of Health must bring its regulations into compliance with the above Decree within two months.

On December 1, 2013, in accordance with the amendments, business entities will be required to submit a copy of importer's dossier along with an application for a license to import medicinal products. Thus, until December 2013 an applicant must submit an application for a license only.

QUALITY CONTROL

Amendments to the Procedure for Banning (Temporary Ban) and Restoring Medicinal Products Circulation in Ukraine Proposed

- On February 19, 2013 the Order of Ministry of Health of Ukraine "Amendments to the Procedure for banning (temporary ban) and restoring medicinal products circulation in Ukraine" No. 23 dated 16.01.2013 (hereinafter the Order) entered into force.

The Order expands the list of grounds for restoring the circulation of medicinal products after the ban. In particular, additional grounds include the following:

- the final conclusion of rapid response teams after the investigation of an adverse event following immunization in terms of a causal link between that adverse event and the use of a series or series of vaccines;
- positive conclusions on the quality of series samples or series of vaccines taken for laboratory testing at the instruction of officers of the State Service of Ukraine on Medicinal Products, if and after the causal link between a death and the use of a series or series of vaccines is confirmed in course of investigation made by the rapid response team upon the relevant operative report of adverse events following immunization.

It should be noted that there was a gap in legislation regarding such situations before.

New Model Documents for Quality Control of Imported Medicinal Products

- On 28.02.2013 Order of MOH No. 39 dated 21.01.2013 “On approving the model documents to be used in the state quality control of medicinal products that are imported to Ukraine” entered into force.

In particular, the following model documents were approved:

- Application for obtaining a conclusion about the quality of medicinal products imported to Ukraine;
- List of medicinal products imported to Ukraine;
- Conclusion on the quality of a medicinal product imported to Ukraine;
- Report of a pharmaceutical manufacturer on the results of the input control of active pharmaceutical ingredients.

CHARITY

Law on Charity Entered into Force

- On February 3, 2013 the Law of Ukraine “On Charity and Charitable Organizations” No. 5073-VI, passed on 05.07.2012 (hereinafter the Law), cancelling the Law of Ukraine “On Charity and Charitable Organizations” No.531/97-BP dated 16.09.1997 entered into force.

A significant innovation in this law is the definition of the terms “charitable donation” and “charitable grant.”

According to the Law, a charitable donation is a pro bono transfer of funds, property or property rights into beneficiaries’ ownership to achieve certain goals.

In turn, a charitable grant is target aid in the form of currency values, which can be used by a beneficiary during a certain period of time. After the expiration of that period the unused funds shall be returned to the donor.

Besides, unlike the previous Law of Ukraine “On Charity and Charitable Organizations,” the Law excludes sponsorship as a specific form of charity. Thus, since the adoption of the Law sponsorship in Ukraine is governed solely by the Law of Ukraine “On Advertising”.

Moreover, Article 10 of the Law has considerably changed the statutory definition of “patronage.” Now, such activity means the preparation and support of charity activities, such as touring charity events, while ensuring free access to such events. It should be noted that, under Part 2 Article 10 of the Law, activities related to advertising and to the use of commercial (proprietary) names, trademarks (marks for goods and services), and industrial designs shall not be considered patronage.

TAXATION

VAT Charged on Motivational Payments

- On 21.12.12 the State Tax Service of Ukraine published its Letter No. 7540/0/61-12/15-3115 “On charging VAT on motivational payments”.

The Letter states that making motivational payments (bonuses, benefits) to third parties (organizations that buy goods from a supplier and then sell them) shall be deemed a method of promoting goods in the market..

The State Tax Service emphasized the fact that motivational payments are aimed at stimulating sales of goods. Thus, such costs may be considered as marketing services.

Therefore, motivational payments shall be subject to VAT.

However, letters of the State Tax Service **are not legally binding**, though they should certainly be taken into account for taxation purposes.

DRAFT REGULATORY ACTS

Possible Shortening of Timelines for Procurement Procedures

- 04.03.2013 the Parliament of Ukraine registered the Draft Law “On amending the Law of Ukraine “On Public Procurement” (on shortening the timeline for procurement procedures)”.

At the moment, the term for public procurement procedure in open bidding is about 87 days (full procedure), or about 45 days (shortcut procedure).

Such long terms have a negative impact on customers due to inflation and other organizational costs associated with the procurement procedure.

The Bill provides for the following procurement timelines:

- 4 days – when procuring form one bidder;
- 7 days – in a shortened bidding procedure and shortened pre-qualification procedure;
- 14 days – in a shortened two-stage bidding procedure;
- 24 days – in an open bidding procedure and pre-qualification;
- 38 days – in a two-stage bidding procedure.

IMPORT SUBSTITUTION

- The press service of the State Agency for Science, Innovation and Informatization of Ukraine reported that its Head, Volodymyr Semynozhenko, voiced the need to launch the domestic production of 5-6 vaccines to ensure the immunological safety of the country’s population.

According to the Agency, the project will increase the amount of import-substituting products by 3.5 times within a year, which will reduce by half the associated budget costs.

Such statements made by public authorities indicate the goal-oriented state policy of implementing the concept of import substitution in the area of pharmaceuticals.

STATE SUPERVISION

Possible Changes within State Supervision of Business Operations

- On February 7, 2013 the State Service for Regulatory Policy and Entrepreneurship Development (hereinafter the State Entrepreneurship Service) published the draft Law of Ukraine “On amendments to some legislative acts on improvement of state supervision (control) and identification of business areas subject to state supervision (control).”

The draft Law provides for considerable changes in the inspection procedures and other activities, including the following:

- Identifying the specific industries subject to supervision (including healthcare and consumer protection). Moreover, the draft Law determines the central executive bodies authorized to exercise state supervision (control) in particular market sectors. In the healthcare sector, such bodies are the Ministry of Health, the State Service of Ukraine on Medicinal Products, the State Service of Ukraine on Combating HIV-infection/AIDS and other Socially Dangerous Diseases, the State Veterinary and Phytosanitary Service of Ukraine;
- Specifying the issues subject to review during the state control (supervision);
- Establishing a central executive body to coordinate regulatory authorities. Under the draft Law, the authority shall be responsible for maintaining a common register of inspections and publishing an annual list of scheduled inspections;
- Conducting a unified comprehensive inspection in the case where one business entity is subject to a number of different inspections by regulatory agencies during a year.

Overall, the draft Law contributes to a more liberal way of exercising state supervision (control) and can positively influence business operations in Ukraine.

INTELLECTUAL PROPERTY

Draft Procedure for Issuing Compulsory Licenses for Medicinal Products

- On 26.02.2013 the MOH published the draft resolution of the CMU “On approving the Procedure for the Cabinet of Ministers of Ukraine to issue permits for the use of patented inventions regarding medicinal products” (hereinafter the Draft).

The Draft determines the procedure for issuing a compulsory license for the registration of a medicinal product without a consent of the patent owner in Ukraine.

According to the Draft, compulsory licensing proceedings shall be initiated by the Ministry of Health, which shall prepare a motion requiring a compulsory license for a particular entity. In addition, to conduct a compulsory licensing procedure the following documents shall be submitted to CMU:

- a motion of a person asking MHO for permission to use the invention;
- a calculation of the amount of reasonable compensation to be paid to the owner of the patent to the relevant medicinal product (the calculation shall be based on the commercial practices of concluding licensing agreements in the pharmaceutical industry and may not be lower than the minimum royalty rate in the industry);
- information that is provided by the State Intellectual Property and that comprise the patent owner’s IP rights.

Upon review of the documents, the Cabinet of Ministers shall decide on issuing a compulsory license or declining the motion.

Moreover, the Draft determines the procedure for MHO to obtain permits from the Cabinet of Ministers to import patented medicinal products in case of emergency.

LICENSING AND ACCREDITATION

Проект изменений в Draft Order Amending the License Terms for

Business Operations in Medicinal Products Manufacturing, Wholesale and Retail

- On January 14, 2013 the website of the State Drug Service of Ukraine published the draft order of the MOH of Ukraine “On amending the License Terms for business activities in manufacturing of medicinal products, wholesale and retail in medicinal products” (hereinafter the Draft) regarding the requirements to pharmacies’ operation.

According to the Draft, new pharmacies must be located at least 300 meters away from each other in cities with population over 1 million people, and at least 500 m in cities with a population under 1 million people.

The press office of the State Service of Ukraine on Medicinal Products indicates that the introduction of the pedestrian accessibility rule will stabilize pharmacies’ operations and will help to increase their working capital. This, in turn, will provide an opportunity for a pharmacy to expand the range of medicinal products by increasing the amount of low-cost medicines. However, this reasoning is rather questionable. In our opinion, these changes may create unequal competitive conditions for pharmacies, as new pharmacies will be forced to open in locations that may be disadvantageous in terms of commerce.

Moreover, the Draft contains a requirement to the effect that a licensee shall open one pharmacy with medicinal products manufacturing and one pharmacy in rural areas per its every 10 pharmacies.

These provisions would make the organization of the pharmacy chains complicated. Firstly, medicinal products manufacturing at pharmacies is complicated by the requirement to obtain a license. Secondly, both setting up a manufacture and opening pharmacies in rural areas require additional costs. Thirdly, this requirement is contrary to the principle of freedom of entrepreneurship. At the time being many chains have their pharmacies only in large population areas.

Besides, the document obliges business entities to give the buyers receipts for full amounts of payment transactions when selling medicinal products in pharmacies and their subdivisions.

Introduction of fiscal requirements to the License Terms is contrary to other regulations. Thus, Para 5, Article 9 of the Law of Ukraine “On the application of payment transactions registrars in trade, public catering and services” states that the payment transactions registrars and pay books shall not be applied to the sale of goods by individual entrepreneurs that pay a flat tax. In other words, in the absence of a payment transactions registrar or a

pay book, individual entrepreneurs will not be allowed to write out a receipt.

In addition to the above, the Draft prohibits selling medicinal products to persons aged under 14. This rule is impossible to implement, as there is often a problem with identifying the age of a person buying a medicinal product, while the current legislation does not require presenting identity documents.

Therefore, based on the above, it is worth noting that the draft Oder, if passed into legislation, could affect the retail market of medicinal products.

The State Drug Service of Ukraine Drafted Amendments to the License Terms on Installing Access Ramps in Pharmacies

- On January 14, 2013 the State Drug Service published the draft order of the MOH “On amending the License Terms for business activities in manufacturing of medicinal products, wholesale and retail in medicinal products.”

The document supplements the License Terms with a requirement of free access to pharmacies for persons with limited physical abilities through installing ramps or lifts.

The ramp itself shall comply with the following requirements:

- The maximum height of the ramp shall not exceed 0.8 m
- The maximum slope shall not exceed 8% (in case of floor level difference -10%)
- The width of the ramp should be at least 1 m
- Ramps must be equipped with 0.7 and 0.9 m high handrails on all sides

We believe that these changes will have a positive social effect. At the same time, it is necessary to regulate the cases in which no ramps shall be required. These may be cases where pharmacies are actually located inside shopping malls and have no entrances from the street.

In addition, the draft order does not provide a transition period for market operators to ensure compliance with these requirements, which may cause additional problems in its implementation.

Possible Changes in the License

Terms regarding packing API

- On February 7, 2013 the State Service of Ukraine on Medicinal Products published a draft of changes to the License Terms for business operations in the manufacture of medicinal products, wholesale and retail in medicinal products.

The draft obliges business entities engaged in packing API to have a license for manufacturing medicinal products.

Requirements for Pharmacies' Operations May be Changed

- The draft order of MOH “On approving the Guidelines “Medicinal Products. Good Pharmacy Practice” (hereinafter the Draft) was submitted for public discussion.

The draft is aimed at establishing standards regarding the following:

- The main requirements and principles of good pharmacy practice (GPP). In particular, it defines the functions of pharmacies and their departments as well as the requirements to be followed by pharmacists in their work;
- Production (manufacturing) of medicinal products in pharmacies. Such activities should be performed only subject to license and in accordance with the applicable laws;
- Receipt, storage, and safety of medicines and healthcare products. Pharmacies and their structural subdivisions delivering medicines and healthcare products shall guarantee their proper quality;
- Distribution of medicines and healthcare products. Pharmacies and their subdivisions must have effective quality control systems in the retail sale of medicinal products, which shall include the appointment of persons responsible for the quality of products supplied to the pharmacy, and the recall procedure for poor quality or dangerous medicinal products;
- Administration of medicines, vaccines and other drugs. Pharmacists are involved in informing patients about the proper use of medicines, vaccines and other drugs;
- Dispensing of medicines and healthcare products. They must be dispensed in accordance with the rules for accepting and dispensing drugs prescribed by

physicians. Moreover, pharmacy employees will have to control the accuracy and correctness of prescriptions filling (regarding the dosages, rules of dispensing, drug compatibility, etc.);

- Disposal and destruction of medicinal products and medical devices.

The Draft was discussed at the press conference of the State Service of Ukraine on Medicinal Products, which took place on January 21, 2013.

At the conference, the Head of the State Service A. Solovyev noted that the above issue was a priority. Therefore, there is every reason to believe that the Guidelines will be adopted.

However, the market operators are clearly against the adoption of the Guidelines for the following reasons:

- Currently, the specific GPP requirements have been indirectly implemented in the laws and regulations of Ukraine (the License Terms for business operations in manufacturing of medicinal products, wholesale and retail in medicinal products”, Guidelines “Medicinal Products. Good Pharmacy Practice” and others).
- Under the Draft Guidelines, pharmacists are required to perform the functions that are not defined as duties or tasks of pharmaceutical personnel by the License Terms for business operations in manufacturing of medicinal products, wholesale and retail in medicinal products, or by other regulations (monitoring efficacy of medicinal products, collection of medical information about each patient, etc.).
- The use of the term “patient” is incorrect, as it is only used if a person applies for medical care.

Abolishment of Pharmacies’ Accreditation is Possible

- On 07.02.2013 the draft Law on amendments to Article 16 of the Fundamentals of the Healthcare Legislation of Ukraine was registered in the Parliament of Ukraine envisaging abolishment of the accreditation for pharmacies that exercise their activity based on the respective license.

It shall be reminded that market operators have already expressed their negative attitude to the accreditation institute many times, as it basically duplicates requirements of the License Terms for wholesale and retail in medicinal products.

CIRCULATION OF MEDICAL DEVICES

Draft of Amendments to the Procedure for Registration of Medical Devices

- On 29.01.2013 the State Service of Ukraine on Medicinal Products has published the draft Resolution of the Cabinet of Ministers of Ukraine “On Amendments to the Procedure for Registration of Medical Equipment and Medical Devices” (hereinafter – the Draft) on its official website.

These amendments envisage simplification of the procedure for state registration of medical devices.

In particular, the State Service of Ukraine on Medicinal Products informs that amendments have been elaborated in order to ensure step-by-step transition from the state registration of medical equipment and medical devices to the European procedure for conformity assessment of medical devices with regulatory requirements.

Pursuant to the Draft business entities are entitled to choose the state registration procedure: either based on an expert examination (trial) report or based on results of the conformity assessment.

The Ministry of Economic Development and Trade of Ukraine Initiates Mandatory Certification for Cotton, Bandages and Syringes

- The Ministry of Economic Development and Trade of Ukraine proposes to include cotton, bandages, gauze and products made from such materials as well as syringes and disposable injection needles in the list of products subject to mandatory certification in Ukraine.

Pursuant to the draft of the Ministry’s order published on its website, the list shall also include electrocardiographs, ultrasound devices, equipment for roentgen and haemodialysis, lung ventilation devices, defibrillators, endoscopic devices and electric operating tables.

It is also proposed to put dental equipment on the list as well.

It shall be noted that on 1 July 2014 Technical Regulations on medical devices shall come into force. Due to this, mandatory certification will be replaced with a declaration of conformity of such medical devices with these regulations.

pressure medicines and referred to the increase in demand for such medicines by 18%.

Earlier, the Prime Minister Mykola Azarov spoke about the possibility of state regulation of prices for medicines used to treat diabetes and other diseases. Therefore there is a high probability that such regulations will be introduced.

CIRCULATION OF MEDICINAL PRODUCTS

REGISTRATION

Possible Optimization of State Registration Procedure for Medicines

- On 18.01.13 the State Service of Ukraine on Medicinal Products published the CMU Draft “On Amendments to para 2 of the Procedure for state registration (re-registration) of medicinal products.”

Under the Draft, the state registration (re-registration) of medicinal products already registered by the European Medicines Agency shall be performed by MOH without an examination of registration materials (registration dossier) or quality control at the State Enterprise “State Expert Center” of MHO.

The newsletter of the State Medicines Service about the published Draft explains that the changes will increase the availability for the population of Ukraine of safe and effective quality medicines that meet international requirements.

PRICING

Introduction of Partial Reimbursement of the Cost of Medicines for Patients with Diabetes Mellitus Expected

- At a briefing of the Ministry of Health held on February 26, 2013 the Minister Raisa Bohatryyova told about the possibility of expanding the reimbursement program for tableted medicines used to treat diabetes mellitus.

Also, the Minister paid attention to the successful pilot project on the state regulation of prices for high blood

Draft Resolution of the Cabinet of Ministers of Ukraine on Maximum Mark-Ups for Medicinal Products with Purchase Price under UAH 12

- Due to the increase of prices for medicinal products, in particular, domestic antifebriles and painkillers, it was decided to establish a working group for elaboration of propositions on improvement of the price regulation mechanism for medicinal products.

Among issues to be discussed by the working group – Draft Resolution of the Cabinet of Ministers of Ukraine “On Amendments to Paragraph 1 Resolution of the Cabinet of Ministers of Ukraine dated 17 October 2008 No.955”. The draft envisages establishment of maximum mark-ups for medicinal products with purchase price:

- under UAH 5 incl. – at 45%;
- UAH 5 to UAH 12 incl. – at 35%;
- UAH 12 to UAH 100 incl. – at 25%.

It shall be reminded that currently the maximum mark-up for medicinal products with the price under UAH 100 amounts to 25%. At the same time, there are no maximum mark-ups for domestic medicinal products with price under UAH 12.

Price Monitoring of Medicinal Products and Medical Devices Expected

- On March 1, 2013 the Parliament of Ukraine registered the Bill of Ukraine “On Amending the Law of Ukraine “On Medicinal Products” (on monitoring the prices for medicinal products and medical devices).”

The Explanatory documents to the Draft indicate that the CMU Decree “On measures for monitoring the price-

es and tariffs in the consumer market,” approved the list of socially important goods and services subject to constant price and tariff monitoring. However, medicinal products and medical devices were not included in the above list.

At the same time, MOH Order No.1000 dd. 29.12.2011 has approved the mandatory minimum range of socially oriented medicinal products and medical devices for pharmacies. It includes about 120 items of essential medicines and medical devices to ensure a minimum level of medical support for the population.

The Draft is aimed at monitoring the prices for goods included in the above list.

It is expected that the State Price Control Inspection of Ukraine will be responsible for the monitoring.

Regulation on Declaration of Changes in Wholesale Prices for Medicinal Products and Medical Devices Proposed for Approval

- Draft Decree of the Ministry of Health “On approval of the Regulation (Information Card) on declaration of changes in wholesale prices for medicinal products and medical devices purchased with the state or local budget funds and keeping the respective register” has been provided for public discussion.

Currently, in order to ensure effective and rational use of the state and local budget funds for purchase of medicinal products all changes in wholesale prices for such products shall be declared pursuant to the procedure as established by Resolution of the Cabinet of Ministers of Ukraine dated 13.08.2012 No. 794. This resolution determines requirements for market operators regarding submission of documents on the price changes. Still, neither an exhaustive list of such documents nor terms for their consideration have been established.

The draft regulation was elaborated in order to ensure proper statutory regulation of the problems above.

The Draft Regulation envisages an exhaustive list of documents for provision of such service, including:

- an application;
- a copy of the registration certificate for the respective medicinal product or the medical device;
- a power of attorney confirming powers of the applicant.

The Draft also envisages that the service shall be provided within 10 business days. The service may be denied only if the business entity provides incomplete set of documents or if documents contain false information.

LABELING OF GOODS

Pilot Project on Mandatory Labeling of Medicinal Products with a Unique Identifier is Planned in Ukraine

- On January 11, 2013 the State Service of Ukraine on Medicinal Products carried out negotiations with the European Directorate for the Quality of Medicines & HealthCare (EDQM) regarding mandatory labeling of medicinal products with a unique identifier.

F.-K. Leri, eTact (EDQM) Project Director, noted that Directive 2011/62/EU was published on 8 June 2011. This Directive envisages that a unique identifier shall be applied by the manufacturer to all prescription and some OTC drugs.

Due to the enactment of the document as of 1 January 2013 all EU member states are obliged to bring their national legislations in line with requirements of this Directive.

A. Solovyev, Head of the State Administration of Ukraine on Medicinal Products, commented that implementation of the European system for medicinal products’ control in Ukraine enables to solve the problem with keeping electronic registers which allow to track the whole supply chain and change of the medicinal product’s owner on all stages of the manufacturing. This system will prevent falsified medicines from getting through to consumers.

According to the State Administration of Ukraine on Medicinal Products this issue is the highest priority and, therefore, respective legislative changes are expected in near future.

PRESCRIPTIONS

Amendments to the Procedure for Prescribing and Sale of Medicinal Products is Possible

- On February 13, 2013 the Draft Amendments to Decree of the Ministry of Health dated 19.07.2005 No. 360 has

been published on the official website of the Ministry of Health which approves:

1. Rules for issuance of prescriptions and order requirements for medicinal products and medical devices;
2. Procedure for sale of medicinal products and medical devices in pharmacies and their structural subdivisions;
3. Instruction on the procedure for storage, accounting and destruction of prescription forms and order requirements.

The Draft Decree makes it easier for patients with acute and chronic pain syndrome to obtain medicinal products containing controlled substances while getting palliative or hospice aid. In particular, the Draft envisages that medicinal products may be prescribed on one prescription form in a quantity necessary for one month of the treatment while the current legislation sets forth that new prescription shall be issued each time.

Moreover, this document envisages:

- determining the maximum quantity of morphine, pills 5 mg permitted for one prescription;
- increasing the term of validity for special prescription forms ϕ -3 from 5 to 10 days;
- excluding from the Procedure for sale of medicinal products and medical devices in pharmacies and their structural subdivisions the provision that narcotic (psychotropic) substances which are prescribed on special prescription forms ϕ -3 shall be sold only in pharmacies and pharmacy depots which are located in the same administrative and territorial unit (city, district, region) as the healthcare institution for which special prescription forms ϕ -3 were allocated based on decrees of healthcare departments of local state administrations.

On March 5, 2013 the website of the Ministry of Health published an updated version of the draft, which provided for prescribing medicines in the amount required for a **15-day course of treatment**.

In general, this Draft of Amendments shall make provision of the palliative and hospice aid and issuing prescriptions for the same purpose much easier.

CIRCULATION OF NARCOTIC, PSYCHOTROPIC SUBSTANCES AND PRECURSORS

Procedure for Circulation of Narcotics, Psychotropic Substances and Precursors in Healthcare Institutions Proposed for Approval

- The State Service of Ukraine on Drugs Control has elaborated a Draft Resolution of the Cabinet of Ministers of Ukraine on approval of the Procedure for purchase, storage, sale, use and destruction of narcotic, psychotropic substances and precursors in healthcare institutions (hereinafter – the Draft).

Currently, the circulation of narcotic substances is governed by Decree of the Ministry of Healthcare dated 21.01.2010 No. 11 “On approval of the Procedure for circulation of narcotic, psychotropic substances and precursors in healthcare institutions of Ukraine” despite the fact that part 3 Article 21 of the Law of Ukraine “On narcotic, psychotropic substances and precursors” sets forth that such procedure shall be governed by a regulatory act of the Cabinet of Ministers. Provisions of this decree limit rights of the healthcare employees and patients to use medicines containing controlled substances.

If passed, the Draft will prevent improper use of narcotics, psychotropic substances or precursors and will stipulate procedures for circulation of medicinal products containing controlled substances.

Pursuant to the Draft, a Head of a healthcare institution will be entitled to determine specific control measures taking into account available resources. The Draft regulates procedures for prescription of narcotic substances, excludes the provision on necessity to establish a number of commissions which existed just formally and were not an effective one mechanism of control and prevention of illegal circulation of such substances.

Liability for Illegal Drug Circulation to Become Tougher

- On February 8, 2013 the Parliament of Ukraine registered the draft Law of Ukraine amending the Criminal Code of Ukraine by establishing liability in the form of life-term imprisonment for crimes in the circulation of narcotic drugs, psychotropic substances, their analogues and precursors.

Thus, the draft Law provides for a sanction in the form of life-term imprisonment for the following crimes:

- Inducing a person to taking narcotic drugs, psychotropic substances or their analogues;
- Illegal introduction of narcotic drugs, psychotropic substances or their analogues into the body of another person in any way against his/her will;
- Inducing minors to drug abuse;
- Organization or maintenance of places for illegal taking, production or manufacture of narcotic drugs, psychotropic substances or their analogues.

Previously, a similar bill had been registered at the Parliament of Ukraine in October 2012, but was recalled.

Related Publications by Arzinger:

- ***Legal Analysis of the Law of Ukraine No. 5038-VI regarding Licensing of Import of Drugs*** (in Russian)
Svitlana Malynovska, Senior Associate;
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/Journal for Clinical Studies No. 121101 - 01/11/2012/
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Timur Bondaryev, Managing Partner
/“Yurydychna Praktyka”, No. 5 (736), 31.01.2012/

ENERGY

New Grid Access Rules

- On February 28, 2013 the Rules for connecting electricity generating plants to electric grids as approved by NERC Resolution No.32 dated 17.01.2013 entered into force. According to the Rules, electricity transmission companies shall not deny access to its grid provided that the customer meets the requirements of the Rules.

Connection services shall be provided pursuant to the connection agreement. The document sets deadlines for issuing connection agreements to customers, as well as for connecting electricity generating plants.

The fee for connection to the grid is determined by the electricity transmitting organization according to the relevant fee calculation method as approved by NERC on 12.02.2013, No.115. The Methodology provides for standard vs. non-standard connection. Thus, customer payment for standard connection shall be based on appropriate rates approved by NERC and the power capacity claimed by the customer. Fees for non-standard connections shall be determined in each case on the basis of design documentation establishing the cost of electric grid development to ensure the customer's access with regard to the customer's share in the financing of capital construction and/or renovation of facilities for general needs.

In addition, on March 11, 2013 NERC published the

Draft Resolution “On Approving the Financing procedure for electric grid connection services.” According to the above Procedure, standard connection services shall be rendered solely based on connection fees after concluding an Agreement on Connection to Electric Grid. Access of customers' facilities intended for the production of electricity from alternative energy sources shall be finance by 50% from the funds provided in the tariffs for electricity transmission, and by 50% due to the return of financial aid provided to customers by electricity transmission organizations. The payback term for such aid is up to 10 years. Also, the document regulates the order of including connection costs and financial aid payback in the electricity transmission tariff.

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- *Ukrainian Power Industry 2012* (in Ukrainian)

Wolfram Rehbock, Senior Associate;

Maryna Ilchuk, Associate

/“Yurydychna Gazeta”, No. 06, 5 February 2013/

FOOD & DRINKS

POSSIBLE CHANGES IN GENERAL REGULATORY LEGISLATION

Bill on State Supervision in the Sphere of Business Activity

- On 07.02.2013 the State Service of Ukraine for Regulatory Policy and Entrepreneurship Development (hereinafter – the State Service) published the Bill “On Amendments to Certain Legislative Acts of Ukraine Regarding Improvement of the State Supervision (Control) and Determination of Business Spheres Subject to State Supervision (Control)”.

This Bill envisages considerable changes in procedures for inspections and other measures, among which:

- determination of specific industries subject to supervision (including, agroindustry, pricing, sanitary wellbeing of the population and consumer rights protection). Besides, for each market industry central executive authorities are assigned for purposes of the state supervision (control).

Please, find below a short list of main spheres of control and supervisory authorities for the food industry as envisaged by the Bill:

Sphere of Control	Supervisory Authority
1. Agroindustry policy:	
Use of rights for plant sorts	State Veterinary and Phytosanitary Service of Ukraine
Plant quarantine	State Veterinary and Phytosanitary Service of Ukraine
State veterinary and sanitary control	State Veterinary and Phytosanitary Service of Ukraine
Forest seed breeding and propagation	State Agency for Forest Resources
Plant protection	State Veterinary and Phytosanitary Service of Ukraine
Livestock breeding	State Veterinary and Phytosanitary Service of Ukraine
Fishery	State Fishery Agency of Ukraine
Formation of resources of agricultural products and determination of their quality	State Inspection for Agriculture of Ukraine
Agricultural seed breeding	State Inspection for Agriculture of Ukraine
2. Industrial policy:	
Prices (tariffs)	State Inspection for Price Control of Ukraine
Manufacture, release and sale of products (works, services)	State Inspection of Ukraine for Consumer Rights Protection

- specification of issues subject to inspections within the state supervision (control);
- establishment of a central executive authority for coordination of supervisory authorities. Pursuant to the Bill, this authority shall be responsible for keeping the general register of inspections and publishing the annual list of scheduled inspections;

- conduction of a single complex inspection if one business entity is subject to several inspections on the part of different supervisory authorities in one year.

In general, this Bill envisages more liberal state supervision (control) and might have a positive effect on the business activity in Ukraine.

New Bill on Domestic Trade

- On 21.01.2013 the Bill “On Domestic Trade” (hereinafter – the Bill) was published on the website of the Ministry of Economic Development and Trade of Ukraine.

The Bill was heavily criticized by non-governmental organizations and market operators. In particular, the following provisions of the Bill raised a lot of questions:

- Article 7 envisages powers of local self-government authorities to determine the work regime for points of sale of goods on the territory of the respective administrative and territorial unit which might lead to illegal interference in activity of vendors on the part of such authorities.
- Article 8 of the Bill sets forth that local self-government authorities are entitled to determine groups of goods sale of which may be limited or prohibited during gatherings, meetings, demonstrations or other public events. Market operators are concerned that local self-government authorities may unreasonably limit the competition as the Bill does not clearly define the “place of public events”. This might result in different interpretation of this provision.
- Article 14 of the Bill sets forth peculiarities for conclusion of agreements between suppliers of food products and vendors. This article also envisages settlement periods for delivered food products depending on their expiration date.
- The Bill envisages prohibition of sale of alcoholic beverages and tobacco products in points of sale, except for specialized shops or separate premises (departments, sections) equipped with a cash desk.

As many provisions of the Bill were criticized by market operators, the Ministry of Economic Development and Trade of Ukraine is currently developing a Concept on domestic trade development which, as assumed, will be approved by the Cabinet of Ministers of Ukraine.

Moreover, the Concept in question envisages establishment of single task groups for developing the most optimal ways to improve the legislation in order to find solutions for questions posed by the government and representatives of business association in the sphere of domestic trade.

Possible changes in the Legislation on Consumer Rights Protection

- On 07.02.2013 the Parliament of Ukraine registered a number of bills, the most important of which envisage the following changes:

1. Bill No. 2241 “On Amendments to the Law of Ukraine “On Consumer Rights Protection” (regarding increase of material liability for violation of consumer rights)” envisages increase of the liability for violation of the consumer rights protection laws if consumers are limited or not allowed to freely choose a product or a form of payment. The Bill sets forth a fine amounting to 1.500 tax-free allowances (i.e. UAH 25 500), compared to 500 tax-free allowances (i.e. UAH 8 500) in the current version.

The Bill also introduces a new violation type – actions against a consumer which pursuant to Article 19 of the Law “On Consumer Rights Protection” have signs of an unfair business practice. Such violation is subject to a fine amounting to 3.000 tax-free allowances (i.e. UAH 51 000).

2. The Bill No. 2242 “On Amendments to the Law of Ukraine “On Consumer Rights Protection” (regarding regulation of consumer rights to free choice of products and to material and moral damages) provides a detailed description of rights available to consumers. Thus, the Bill envisages giving consumers the right to freely choose the products and to receive recovery of material and moral damages for unfair business practices or any other violation of consumer rights.

REGULATION OF CIRCULATION OF ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS

New Rules on Occupational Safety for the Wine Industry

- On 04.01.2013 the Occupational Safety Rules for the Wine Industry (hereinafter – the Rules) came into effect as approved by Decree of the Ministry of Emergency Situations as of 26.11.2012 No. 1351.

Due to this fact, the Safety and Production Sanitary Rules for the Wine Industry, approved by the Ministry of Food Industry of the USSR in 1980, and Safety and Production Sanitary Rules of Wine Industry Enterprises located in mine works, as approved by the Ministry of Food Industry of the USSR in 1984, have lost their effect.

The Rules set forth:

- general requirements to occupational safety during production of wines and other fruit wines;
- requirements to safety of industrial equipment and organization of work places;
- requirements to safety of technological processes;
- requirements to occupational safety for wine industry enterprises located in mine works.

According to the Rules, the employer is obliged, in particular:

- to ensure safe and harmless work conditions pursuant to the General requirements on ensuring labour of employees by employers, as approved by Decree of the Ministry of Emergency Situations of Ukraine as of 25.01.2012 No. 67 and registered by the Ministry of Justice of Ukraine as of 14.02.2012 No. 226/20539;
- to establish a work safety service;
- at his own expense to ensure organization of preliminary medical examinations for employees prior to employment and periodical medical examinations during the employment;
- to develop and approve a list of particularly hazardous works and works requiring professional selection and subject to special training as well as annual attestation on occupational safety issues;
- to obtain an approval for particularly hazardous works.

We advise wine and other fruit wine manufacturers to study the Rules very carefully in order to ensure compliance with requirements contained therein and to avoid possible negative consequences.

Possible Limitation of Circulation of Alcoholic Beverages and Tobacco Products

- On 05.02.2013 the Parliament of Ukraine registered Bill No. 2062-1 “On Amendments to Legislative Acts of

Ukraine Regarding Limitation of Sale and Consumption of Beer, Low-Alcohol Beverages and Tobacco Products” (hereinafter – the Bill).

The Bill envisages prohibition in Ukraine for:

- consumption of beer (except non-alcoholic), alcoholic and low-alcohol beverages, table wines in sales outlets (except specially designated areas), on the streets, in parks, public gardens, other public places, on stairs, in basements or roofs of apartment buildings (dormitories), construction sites;
- sale of the products mentioned above within 300 meters from schools or medical facilities, to persons under influence of drink, women with visible signs of pregnancy;
- sale of such products from 9:00 p.m. till 10:00 a.m. (except in establishments of the restaurant business);
- sale of beer (except non-alcoholic), alcoholic or low-alcohol beverages, table wines or tobacco products to persons under 21 years of age.

Let us remind you that similar provisions are also envisaged in other bills, in particular:

- No. 2062 as of 21.01.2013;
- No. 1245 as of 11.01.2013;
- No. 1162 as of 25.12.2012;
- No. 1151 as of 21.12.2012.

Possible Changes Regarding Smoking Ban

- On 31.01.2013 the Parliament of Ukraine registered Bill on amendments to the Law of Ukraine “On Measures Directed at Prevention and Decrease of Consumption of Tobacco Products and Harmful Effect thereof on the Public Health” (regarding additional conditions for the enforcement of the law) (hereinafter – the Bill).

The Bill envisages a number of novelties to mitigate the negative effect of the controversial law on smoking ban. The Bill introduces a term “tobacco product replacement” which, probably, means water pipes and electronic cigarettes. At the same time, the Bill does not define this term which may result in ambiguous interpretation of this term by market operators and supervisory authorities.

The main novelty is that the Bill prohibits smoking in premises of restaurants of the state or municipal owner-

ship only. The Bill allows smoking in private establishments if they provide restaurant services only for consumers who use tobacco products. At this, at the front door of such establishments there shall be a respective graphical sign and the following text: "Attention. We allow smoking. Smoking is harmful to your health!" Private business entities providing restaurant services without limiting the circle of customers may exercise their activity if there is a separate smoking area. Such area shall be equipped with a ventilation system and other smoke removal means and shall not be adjacent to the room of the main entrance to the establishment.

Basically, this Bill envisages legalizing smoking in restaurants and, therefore, gets positive references from the market operators.

Bill on Online Sale of Alcoholic Beverages

- On 22.02.2013 the Parliament of Ukraine registered Bill "On Amendments to Certain Laws of Ukraine on Sale of Alcoholic Beverages on the Internet" (hereinafter – the Bill).

It shall be reminded that Article 1 of the Law of Ukraine "On State Regulation of Manufacture and Circulation of Ethyl, Cognac and Fruit Alcohol, Alcoholic Beverages and Tobacco Products" sets forth that such products may be sold in sales outlets of their actual location. Moreover, Article 15-3 of this Law prohibits sale of such products in sales outlets not equipped for such purposes. Therefore, the current version of the law does not envisage possibility for online sale of alcoholic beverages. At the same time, alcoholic beverages and tobacco products are often sold online. According to the explanatory note of the initiator of the Bill, the fact that there are websites for online sale of such products proves that there is no, or an ineffective, system for imposing liability for violation of the current legislation.

The Bill also envisages amending the aforesaid law and the Law of Ukraine "On Use of Registrars for Settlement Operations in Trade, Catering and Service Provision" regarding regulation of online sale of alcoholic beverages and tobacco products.

Still, the Bill does not regulate the online age verification procedure which may result in selling alcoholic beverages to persons less than 18 years of age.

Bill on Amendments to the Procedure for Customs Control and Customs Clearance of Ethyl Alcohol, Alcoholic Beverages and Tobacco Products

- On 29.01.2013 the Bill "On Amendments to Certain Legislative Acts of Ukraine as to Ensuring Implementation of the State Policy in the Sphere of Licensing the Foreign Economic Activity and Certain Issues of Customs Clearance of Export and Import of Some Products" (hereinafter – the Bill) was published on the website of the Ministry of Economic Development and Trade of Ukraine.

It shall be reminded that in 2012 the Customs Code of Ukraine came into effect. Article 33 of the Code sets forth that documents necessary for customs control and customs clearance of goods shall be submitted to customs authorities by other public authorities in electronic form. At the same time, the Law of Ukraine "On State Regulation of Manufacture and Circulation of Ethyl, Cognac and Fruit Alcohol, Alcoholic Beverages and Tobacco Products" does not provide that license for export (import) of such products shall be submitted to customs authorities.

The Bill obliges the Ministry of Economic Development and Trade of Ukraine to provide customs authorities with licenses for export (import) in electronic form for moving alcoholic beverages and tobacco products through the state border of Ukraine and customs clearance of the same.

Moreover, the Bill envisages that the Ministry of Economic Development of Ukraine shall submit such information to customs authorities once a month. This, in its turn, might cause some problems as there is no procedure for customs control and customs clearance in the period of time when such information has not been provided yet (within a month).

CMU Introduced New Excise Stamps

- On 27.03.2013 Resolution of the CMU "Certain Issues of Labeling Alcoholic Beverages and Tobacco Products" dated 13.03.2013 No. 188, developed by the Ministry of Revenues and Duties of Ukraine, came into force.

The Resolution envisages introduction of new excise stamps with three-level counterfeit protection since 01.05.2013. Introduction of such stamps is one step towards establishment of an accounting system for circulation of alcoholic beverages and tobacco products which shall control the sale of excisable products on all stages – manufacture, supply, retail etc.

Moreover, the Resolution envisages increasing the value of excise stamps more than twofold. In particular, the price of excise duty stamp will constitute UAH 0,27 for alcoholic products and UAH 0,142 – for tobacco products.

It shall be noted that previously the Law of Ukraine “On Amendments to the Tax Code of Ukraine Regarding Change of Some Tax and Duty Rates” dated 20.11.2012 No. 5503-VI (hereinafter – Law No. 5503-VI) amended Part 4 of Article 11 of the Law of Ukraine “On State Regulation of Manufacture and Circulation of Ethyl, Cognac and Fruit Alcohol, Alcoholic Beverages and Tobacco Products”. These amendments envisage that in case of change of excise stamps products previously labeled with old excise stamps may be sold within 12 months after introduction of new excise stamps only. After that excisable products shall be returned to the manufacturer for labeling with new excise stamps. At this, neither this law nor other regulatory acts provide for a procedure of such return.

Moreover, this article sets forth that any amendments thereto may come into effect not sooner than 18 months after publication of the law that introduces such amendments. Still, this provision was ignored by the Parliament of Ukraine, as pursuant to information provided on the official website of the Parliament the aforesaid amendments to Part 4 of Article 11 of this Law are effective as of 01.01.2013.

Agriculture of Ukraine” with a provision envisaging the possibility of the state price regulation by means of establishment of mark-up limits at the level not more than 20% of expenses incurred by business entities for purchase of such goods (save for international shipping cost and exclusive of VAT);

- amending the Law of Ukraine “On State Support of Agriculture of Ukraine” with a method of the state price regulation – a price limit, which means introduction of minimum levels of prices for purchasing goods from manufacturers;
- determining powers of the Cabinet of Ministers of Ukraine to limit mark-ups (surcharges) and sales mark-ups (sales premium);
- prohibiting non-monetary settlements for supply of agricultural products by manufacturers and supply of goods subject to the state price regulation in favour of processing, retail or wholesale companies as well as persons deemed to be connected to processing, retail or wholesale companies pursuant to provisions of the Tax Code of Ukraine;
- rescinding deeds on alienation of products or goods subject to the state price regulation which stipulate that settlement terms depend on further sale or processing of such goods or products by recipients.

The Bill envisages that the raw milk prices shall be regulated just by establishment of price limits.

REGULATION OF THE FOOD PRODUCTS MARKET

PRICING

- On 14.02.2013 the Bill “On Amendments to the Law of Ukraine “On State Support of Agriculture of Ukraine” regarding establishment of purchase prices for milk and improvement of the mechanism of the state price regulation for agricultural products (goods)” No. 2297 was registered.

The Bill envisages the following changes:

- amending the Law of Ukraine “On State Support of

Draft Amendments to the State Food Pricing Regulation Procedure

- On February 8, 2013 the Ministry of Economic Development and Trade of Ukraine published Draft Decree of the Cabinet of Ministers of Ukraine “On Amendments to the Addendum to Decree of the Cabinet of Ministers of Ukraine No. 1548 dd. 25.12.1996, and to the Procedure for Declaration of Changes in Wholesale and Release Prices for Food Products” (hereinafter the Draft).

The Draft details and clarifies certain provisions concerning the objects of declaration.

In particular:

- state pricing regulation is introduced for oat groats and millets due to their social importance;
- only bone-in pork shall be subject to declaration (previously, all kinds of pork);
- state regulation of prices for beef is excluded due to

its insignificant consumption by population;

- according to the draft, only the prices for chicken meat (excluding fillets) instead of all kinds of poultry shall be subject to declaration;
- fat indicator is removed from the declaration of price changes for sour cream, cottage cheese and butter, i.e. changes in the price of all kinds of products, regardless of the fat content shall be declared. At the same time, other indicators are introduced:
 - 1) packaging - film (for sour cream), parchment (for cottage cheese);
 - 2) sort - any sort except the sort “extra” (for butter);
 - 3) class – C1, C2 (for hen’s eggs) and other;
- the Draft excludes prices for all categories of eggs, except C1 and C2, and for all kinds of sugar but white crystal sugar from the objects of declaration;
- in accordance with the Draft only prices for refined sunflower oil in polyethylene bottles (previously, for all kinds of oil in any packaging) should be declared.

Thus, the Draft proposes free pricing for beef, boneless pork, chicken fillet and other kinds of poultry (duck, goose, turkey), cooked sausages (excluding the premium sort); drinking pasteurized cow’s milk (packed in film), cottage cheese (in parchment package); sour cream (packaged in film), butter (except for the sort “extra”), eggs C1, C2; white crystal sugar, refined sunflower oil packed in polyethylene bottles.

BABY FOOD

Bill on the Introduction of Additional Tax Benefits for Domestic Baby Food Producers

- On February 20, 2013 the Cabinet of Ministers approved the Bill of Ukraine “On Amendments to Article 154 of the Tax Code of Ukraine on the Stimulation of Baby Food Manufacture” drafted by the Ministry of Agrarian Policy and Food of Ukraine (hereinafter the Bill).

The current wording of the Article exempts enterprises from taxation of profits from the sale of baby food of own production in Ukraine, if such profits are used to increase the production or decrease retail prices for such products.

The Bill allows using such income for purchasing mod-

ern production equipment, introducing modern technology, and for producing new foods for children of all age groups.

The said Bill shall contribute to the increase of domestic production, improve product quality, and increase the range of baby foods.

DAIRY PRODUCTS

Possible Changes in Dairy Products Pricing

- At present there are 3 bills registered with the Parliament of Ukraine to change dairy products pricing.
 1. On 04.02.2013 Bill No. 2172 “On Amending the Law of Ukraine on Milk and Dairy Products, and other Legislation on Strengthened Measures to Combat Counterfeiting of Dairy Products” was registered.

The Bill entitles the Cabinet of Ministers to establish minimum acceptable purchase prices for milk and dairy raw stock, and provides for liability of business entities for violation of such prices. At the same time, the Bill does not specify the procedure and methods for calculating the minimum acceptable purchase prices.

2. On 14.02.2013 the Bill “On Amendments to the Law on State Support of Agriculture of Ukraine” regarding the establishment of purchase prices for milk and improvement of the state price regulation mechanism for agricultural products (commodities)” was registered under number 2297. Please see its detailed analysis above (Subsection “Pricing”).
3. The Bill introduces the item “raw milk” to the list of objects of state price regulation and regulates the prices for raw milk by setting a price limit. On 27.02.2013 the Bill “On Amendments to the Law on State Support of Agriculture of Ukraine” was registered under number 2297-1. The Bill provides for the introduction of a minimum acceptable price for whole milk, which is dependent on the consumer price index for the relevant year.

It should be noted that it was previously proposed to introduce milk price regulation by the Bill “On Amendments to Article 3 of the Law of Ukraine “On State Support of Agriculture of Ukraine” dated 03.07.2012, regarding the regulation of purchase prices for milk”. However, the President vetoed the Bill. The main reason was the impossibility to implement the proposed price regulation mechanism for milk because of the limited shelf life of raw

milk. Thus, the Bill intended to establish an intervention fund of raw milk and other dairy products in the amount of 20% of their annual consumption. Since the average annual consumption of the said product is 10 million tons, a fund of 2 million tons would not be possible.

The Bill suggests different mechanisms of state price regulation for milk.

Bill on the Legislative Differentiation of Milk and Dairy Products

- Bill No. 2172 dd. 04.02.2013 “On Amending the Law of Ukraine on Milk and Dairy Products, and other Legislation on Strengthened Measures to Combat Counterfeiting of Dairy Products” (hereinafter the Bill) proposes to establish clear differentiation between dairy products and products containing milk, in addition to pricing issues.

The Bill introduces the term “products containing milk”, which includes products made from dairy and non-dairy raw materials that partly or wholly replace any milk component. These products include milk fat, milk protein, lactose, etc. It is also prohibited to produce and sell milk products with the mass fraction of milk fat making less than 50%.

The Bill provides that a business entity engaged in the retail sale of dairy products, conventional dairy products and products containing milk must place the products separately (in other racks, shelves or sections) from dairy products and conventional dairy products.

The Bill suggests that products containing milk should be labeled as “products with substitutes of milk components”. The size of the aforesaid text must be at least 80% of the largest font size of the main product name.

At the same time, the Bill sets out the liability of market operators and their officials for violation of labeling rules for products containing milk. Thus, manufacturers shall be fined in the amount of 100% of the cost of products sold with violations of labeling requirements for products containing milk, while their officials shall pay a fine of 50 to 200 tax-free allowances (i.e. from UAH 850 to UAH 3 400).

LABELING, PACKAGING AND PACKAGING WASTE

Product Labeling in Regional or Minority Languages, or Other Languages “by Decision” of Wholesale and Retail Operators, Restaurant Businesses and Trading Establishments Is Allowed

- On 04.03.2013 the Cabinet of Ministers of Ukraine passed its Decree “On Amendments to Paragraph 17 of the Procedure for Trading Activities and Trading Rules on Consumer Goods Market (hereinafter the Decree).

The Decree prohibits the sale of goods without proper labeling, marking, or instructions on their use (in special cases), which, along with a text in the official language, **may contain its translation** into a regional or minority language, or other languages **subject to a business entity’s decision**.

At the same time, in accordance with paragraph 1 of the Procedure for Trading Activities and Trading Rules on Consumer Goods Market as approved by Decree of the Cabinet of Ministers of Ukraine No. 833 dd. 15.06.2006 with the above changes, business entities are wholesale and retail establishments, restaurant businesses and trading establishments (rather than producers of goods).

Thus, the Decree entitles wholesalers, retailers, and restaurant businesses (but not producers) to decide whether to provide translations of labeling texts on products in a regional or minority language, or in other languages.

At the same time, the Decree does not mention the right of wholesalers and retailers to apply translated texts to products by themselves. Thus, there is a risk that such entities, based on the Decree, will make decisions on the need for labeling products with an additional translation and will require producers to do that.

However, the press service of the Cabinet of Ministers of Ukraine indicated in the notice of the adopted Decree that sellers, being interested in selling a product, will be allowed to complement its labeling with texts in a language mainly used in the region of sale, which is not expressly provided by the Decree.

Thus, the incorrect wording of the changes introduced by the Decree may lead to their various interpretations by market operators (manufacturers and sales outlets), as well as by regulatory authorities.

The decision will enter into force on the date of its official publication.

New Changes to Language Legislation Proposed

- On 14.02.2013 the Parliament of Ukraine registered Bill No. 2302 “On the Use of Languages in Ukraine” (hereinafter the Bill), which proposes to make the Ukrainian language obligatory in all state areas.

The rules concerning labeling and advertising of products are of particular importance to the market operators. According to the Bill, all goods produced and sold in Ukraine shall be labeled in the Ukrainian language. Goods intended for export shall be labeled in the Ukrainian language and the language of the country of export. Imported goods must be provided with certificates, labels, information about their quality, and instructions on their use in Ukrainian. Names in trademarks shall be written in the Ukrainian language, but are not required in other languages. Also, all internal and external advertising shall be in Ukrainian only.

It should be noted that the Bill is not very likely to be passed.

Bill on Restricting the Circulation of Plastic Bags and Packages of Long Decomposition

- On 20.02.2013 the Parliament of Ukraine registered Bill No. 2353 “On Restricting the Manufacture, Use, Import and Distribution of Plastic Bags and Packages of Long Decomposition in Ukraine” (hereinafter the Bill).

The Bill imposes limits on the usage of plastic bags. Thus, it prohibits the manufacture, use, importation, and paid or free distribution of the following on the territory of Ukraine (except for transit of cargoes):

- plastic bags with the volume less than 35 liters, with material thickness less than 0.025 mm;
- packages of long decomposition made with paper stuck to a recycled cardboard bottom by extrusion of

a polymer film or wax;

- packages of long decomposition manufactured with the use of paper (or recycled cardboard), with a polymer film or wax applied by extrusion.

Also, it is proposed to ban the distribution of plastic bags of long decomposition by business entities that trade in food products or by public catering establishments, except if product packaging is made industrially in accordance with the relevant rules and regulations.

The above ban does not apply to biodegradable plastic bags.

Should the Bill be passed, the above ban will apply to market operators starting from 01.07.2013.

As stated in the explanatory note, the Bill should help to protect the environment and bring Ukraine closer to the international standards, as far as such bans have been applied for decades in the international community.

Bill on Municipal Waste Management

- On 14.02.2013 the Parliament of Ukraine registered Bill No. 2295 “On Amending Certain Legislative Acts in the Field of Household Waste Management” (hereinafter the Bill).

The Bill entitles local self-government authorities to determine a specialized utility company to be a provider of waste management services (collection, processing, and landfill). It is envisaged that the approved utility company will enter into waste management contracts with consumers and into waste collection, disposal and processing contracts with business entities.

Also, it is proposed to license household waste processing and disposal. The licensing authority shall be established by the National Commission, which carries out the state regulation of public utilities (hereinafter the Commission). Among other things, the Bill provides for the following powers of the above Commission:

- development of methods for calculating tariffs for the processing and disposal of waste;
- setting tariffs for waste processing and disposal by business entities that are to be licensed by the Commission;
- development and approval of methods of forming utility tariffs for natural monopolies and business entities in adjacent markets in the area of waste processing and disposal.

Also, changes relate to investments in municipal waste processing and disposal. According to the Bill, procedure for the development, coordination, and approval of investment programs shall be established by a joint decision of the central executive authority and the Commission.

Thus, the Bill proposes to reform the system of waste management by assigning a significant role to a specialized utility company.

Also, the website of the Ministry of Ecology and Natural Resources of Ukraine published the Bill of Ukraine “On Packaging and Packaging Waste,” which, in fact, is an alternative to the above-mentioned bill, as it proposes to impose the responsibility for the collection and recycling of packaging waste on manufacturers and importers of packaged goods.

Companies intending to operate in the thermal treatment and/or general (associated) thermal treatment of waste shall ensure their continuous monitoring of hazardous substances in emissions, discharges and secondary waste generated in the process of thermal waste treatment before they start operating. It must be supported by the relevant documents, e.g. a monitoring agreement with an analytical laboratory accredited in accordance with the laws, or an accredited analytical laboratory within the same company.

Once a year, companies of all forms of ownership, which operate in recycling, neutralization and/or destruction of hazardous waste through thermal treatment, must conduct an independent environmental compliance audit.

Before taking waste for thermal treatment and/or overall (associated) thermal waste treatment entities that own (lease) a particular plant (equipment) should determine the volume of each type of waste the plant is able to process within a certain period.

The Draft Technical Regulations of the thermal treatment of production and consumption waste contain a number of requirements to entities engaged in the process of thermal treatment.

Draft Technical Regulations for Thermal Waste Treatment

- On 28.01.2013 the website of the Ministry of Ecology and Natural Resources of Ukraine published the Draft Decree of the Cabinet of Ministers of Ukraine “On Approval of the Technical Regulations for Thermal Treatment of Production and Consumption Waste” (hereinafter the Draft), which establishes the basic requirements to the thermal treatment process, as well as thermal waste treatment companies.

Requirements of the Technical Regulations apply to business entities operating in waste management, namely to:

- producers (importers) of equipment and components for thermal waste treatment, and for the overall thermal waste treatment;
- residents or non-residents of Ukraine authorized by producers (importers), if a producer (importer) or its authorized person does not operate in the territory of Ukraine;
- producers of equipment for thermal waste treatment; entities involved in purchasing, commercial selling or putting into operation (assembling) of that equipment;
- users of equipment for thermal waste treatment;
- organizations, enterprises, institutions of any form of ownership responsible for the coordination and implementation of activities in waste recycling and disposal;
- legal entities (irrespective of ownership) and individual entrepreneurs that modernize and/or repair equipment for thermal waste treatment.

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Timur Bondaryev, Managing Partner
/“Yurydychna Gazeta”, No. 3-4, 24.01.2012/

AGRICULTURE

The Ministry of Agrarian Policy Approved the Regulation on the Central Industrial Wine Sampling Commission

(Order No. 28 dd. 22.01.2013)

- The Central Wine Sampling Commission (hereinafter the CWSC) is the main sampling commission in the wine-growing and wine-making industry at the Ministry of Agrarian Policy and Food of Ukraine. One of its functions is to assess the quality of wine products. Also, the above provisions set the procedures and conditions for sampling as well as the wine products rating scale.

The Ministry of Agrarian Policy Approved the Procedure to Control the Observance of the License Terms for Operations in the Sale of Pedigree (Genetic) Resources and Genetic Examination of Origin and Anomalies in Animals

(Order No. 3 dd. 08.01.2013)

- The order establishes the rights and obligations of the Commission to inspect licensees, licensees’ rights and re-

sponsibilities, inspection procedure, inspection reporting procedure, and inspection decision appeal procedure, etc.

The Ministry of Agrarian Policy Approved the List of Items for Planned State Supervision (Control) Activities in Land Management and the Unified Form of Inspection Reports to Be Made Based on the Results of Relevant Activities

(Order No. 79 dd. 11.02.2013)

- The above legal act sets the list of items to be checked in the planned activities of the State Agency for Land Resources of Ukraine and its territorial offices in the state supervision (control) over the observance of current legislation by entities operating in the field of land management. It should be noted that the list of items fixed in the above order is exhaustive, and inspections on any other matters shall be prohibited.

The Ministry of Agrarian Policy Approved the List of Items and the Unified Form of Inspection Reports for Planned State Supervision Activities in Land Management to Control Entities' Compliance with Legislation in the Field of Seed Production

(Order No. 42 dd. 29.01.2013)

- Thus, according to the order, certain requirements for import of seeds and planting materials to Ukraine are checked separately in the planned state supervision activities to control entities' compliance with legislation on seed production. The list of items approved by order is exhaustive.

Bill on Identification and Registration of Animals

- On 06.02.2013 the website of the Ministry of Agrarian Policy and Food of Ukraine published the Bill of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Identification and Registration of Animals” (hereinafter the Bill).

Firstly, the specified Bill introduces administrative liability for violation of legislation on the identification and registration of animals in the form of fines (from 3 to 5 tax-free allowances for individuals, i.e. from UAH 51 to UAH 85, and from 5 to 10 tax-free allowances, i.e. from UAH 85 to UAH 170, for officials). Previously, there was no liability established for such violations.

Secondly, the Bill amends Article 3 of the Law of Ukraine “On Identification and Registration of Animals” in order to extend its effect to individuals that breed animals for their own use. Explanatory documents to the Bill show that this measure will provide possibilities for the identification, localization, control and eradication of animal diseases at all levels. Moreover, these requirements are established by the European legislation, in particular by Directive 97/12/EC and Regulation of the European Parliament and of the Council 820/97/EC.

Thirdly, the Bill introduces the concept of a group identification number, which shall be assigned to groups of animals within the same farm and is unique within the country. This measure will help to simplify the identification and control of the movement of groups of commer-

cial pigs and other animals, for which the use of personal identification number is irrational.

Bill Amending the Law of Ukraine “On Grain and Grain Market of Ukraine”

- On 30.01.2013 the Parliament of Ukraine registered the Bill of Ukraine “On Amending the Law of Ukraine “On Grain and Grain Market in Ukraine” (hereinafter the Bill).

First of all, the Bill specifies the basic legal terms that are used in the text of the law (“grain warehouse,” “grain storage services”) and focuses on the paid nature of grain storage services.

In addition, the Bill proposes to distinguish between grain warehouses (which have a special legal status) and other entities that do not provide grain storage services, but take part in the circulation of grain.

The document suggests amendments to the list of transactions with grain and grain processing products subject to mandatory certification in order to make it exhaustive. Thus, the Bill provides for the quality certification of grain and grain processing products exclusively in the case of their public procurement, as well as subject to certification requirements from either side of the transaction.

Thus, the Bill is aimed at simplifying the quality certification of grain and grain processing products, which should help to lower prices of the finished products and to eliminate over-regulation in the market.

Related Publications by Arzinger:

- *Agricultural Receipts - a New Tool to Finance Agricultural Producers* (in Russian)
Oleksander Plotnikov, Counsel
/“Lawyer & Law”, 26.02.2013-28.02.2013, No. 16/
- *Analysis of the Draft Amendments to the Law of Ukraine “On Seeds and Propagating Material”* (in Ukrainian)
Svitlana Malynovska, Senior Associate;
Rodion Teslya, Associate
/AGROPROFI No. 56 [213] 8 February 2013/
- *“A Good Year”: Land Reform 2012* (in Ukrainian)
Andriy Selyutin, Counsel;
Mykhaylo Selivanov, Associate
/“Yurydychna Gazeta”, No. 1-2, 15.01.2013/

PUBLIC PRIVATE PARTNERSHIP

Ukrainian Infrastructure for Concession

– In March this year the Deputy Prime Minister Olexander Vilkul made a statement about Ukraine's intention to actively use the mechanism of public-private partnership in attracting private investment in road construction, to reform the port industry and to reveal the country's transit potential.

To this end, the concession mechanism will be actively used in the construction of roads, and the first motor road concession tender will be announced soon. The metropolitan bypass road is most likely to be the first concession project.

As we know, in October 2012 the Cabinet of Ministers approved the List of Ukrainian ports, the property of which may be conceded in accordance with the laws of Ukraine. Also, at the end of 2012 the Infrastructure Minister Borys Kolesnikov said that the Government would

give Ukrainian airports into concession. Concession or lease will be possible for integral property complexes of airports as well as certain infrastructure: passenger and cargo terminals, catering, aviation fuel facilities and non-aviation facilities in accordance with applicable law.

Related Publications by Arzinger:

– *International Project Finance & PPPs Legal Guide to Key Growth Markets 2013 - Ukraine*

Wolfram Rehbock, Senior Partner;
Oleksander Plotnikov, Counsel;
Oleksander Zadorozhnyy, Associate;
Maryna Ilchuk, Associate
/Wolters Kluwer Law & Business/

ARZINGER SUCCES STORIES

Arzinger and Its Partners Are Highly Ranked by Chambers Global 2013

– The Chambers Global 2013 guide recommends Arzinger Law Office for the following practice areas in Ukraine:

- **Dispute Resolution** (band 2).
- **Corporate / M&A** (band 4).
- Founding Partner **Sergiy Shklyar** features in Dispute Resolution chapter as a 'highly capable and tenacious lawyer who knows what he wants and goes out and gets it.'

– Up-and-comer **Markian Malsky** joins the rankings for the first time this year on the back of positive feedback.

– Partner **Maksym Cherkasenko** is listed by the research as one of the main contacts for Corporate / M&A practice area in Ukraine.

– **Wolfram Rehbock** was recommended as a foreign expert giving the legal advice to Ukrainian businesses in Germany.

Sergiy Shklyar Reelected to the Public Council under the Antimonopoly Committee

- On February 25, 2013 Sergiy Shklyar, attorney-at-law, Ph.D., President of the Association for Resistance to Unfair Competition (ARUC), Founding Partner of Arzinger Law Office, was re-elected Board member for a term of two years in the constituent assembly that established the Public Council under the Antimonopoly Committee of Ukraine (AMCU).

[Read more](#)

Natalia Martynyuk Became Member of the Public Council at the Ministry of Agrarian Policy and Food of Ukraine

- At a regular meeting of the Public Council at the Ministry of Agrarian Policy and Food of Ukraine Natalia Martynyuk, attorney-at-law, senior associate at Arzinger Law Office, was elected member of the Board.

[Read more](#)

Volodymyr Yaremko Reelected Chairman of Ukrainian Bar Association in Lviv Region

- March 6, 2013, during the first meeting of the newly elected Council of Lviv branch of Ukrainian Bar Association (UBA) Vladimir Yaremko, Associate of Arzinger's West Branch, was re-elected Chairman of the branch for 2013. Volodymyr Yaremko's candidacy was unanimously supported in the voting. The members entrusted him with the coordination of UBA's activity during 2013.

[Read more](#)

Senior Partner of Arzinger to Enter Advisory Board of the IBA Power Law Committee

- Wolfram Rehbock, Senior Partner, was elected as a Representative for Europe in Advisory Board of the International Bar Association Power Law Committee.

[Read more](#)

Lana Sinichkina Became a Co-chair of the Food and Beverages Committee of the American Chamber of Commerce in Ukraine

- Lana Sinichkina, Counsel at Arzinger Law Office, Head of Food and Drinks Practice, has occupied the position of Co-Chair of the Food and Beverages Committee of the American Chamber of Commerce in Ukraine (ACC F&B Committee), which aims to ensure sustainable development of market-based food and beverage industry as reliable and efficient supplier of quality products both for domestic and international consumers.

[Read more](#)

Arzinger Awarded Hospitality Excellence Award 2012 for Comprehensive Legal Support of Hospitality Industry in Ukraine

- On January 18, 2013, the awarding ceremony of the tourism and hospitality industry "Hospitality Excellence Award: Best Ideas, Innovations and Solutions in 2012" was held in Kyiv.

Arzinger's comprehensive legal support of the domestic hospitality industry deserved a high grade. The law firm was awarded in the category "Social Responsibility for Comprehensive Legal Support for the Development of Hospitality Industry in Ukraine."

ARZINGER EVENTS

Road Show

"BUSINESS LOCATION

AUSTRIA – Your Base within the European Union"

17.04.2013, 16:30-19:30 - Odesa

18.04.2013, 16:30-19:30 - Kharkiv

19.04.2013, 14:30-17:30 - Kyiv

- The continuing economic crisis and the complexity of the business environment in Ukraine have forced many owners to review their existing structures to find better solutions in the area of property relations and corporate governance as well as new mechanisms for financing business and optimizing the tax burden.

This is reinforced by the fact the majority of Ukrainian companies still show an unbalanced shareholding record and lack of a legal link between the management system and the ownership structure.

THEREFORE, COMPANIES ARE EXPOSED TO CERTAIN PROBLEMS IN THEIR OPERATION, IN PARTICULAR:

- Hostile takeovers;
- Risks for the structure of ownership due to the gap between real and legal owners;
- Financial losses due to the lack of effective asset management and control;
- Increase in the cost of business operation;
- Reduced competitiveness;
- Inability to attract a partner or debt financing;
- Inability to obtain the real value of their business when selling it to a strategic investor, or a significant reduction in the sale price;

To address the above and further problems many Ukrainian companies have chosen to set up corporate structures in foreign jurisdictions, such as Austria, the Netherlands or Great Britain. Current situation in Cyprus makes Ukrainian business look for alternatives.

In this respect Austria, being investment friendly destination, with solid and well-developed legal and tax framework and proposing attractive conditions for those who choose it as place of business and long-term stay, attracts increasing interest and attention.

PROGRAMME

Who should attend: Owners of mid-size and large companies, executives and chief financial officers of appropriate business structures, and heads of legal departments of Ukrainian companies.

Participation in the event is **FREE**. Registration is required.

The number of participants is limited. The Company reserves the right to refuse registration in case of an excessive number of applications for the event.

To register please call the PR Department of Arzinger at: **+38 (044) 390-55-33** or send an e-mail to: PR@arzinger.ua

Organised by: Arzinger, ABA (Austrian Business Agency), BINDER GRÖSSWANG Rechtsanwälte GmbH, Interbilanz.

consultants, lawyers, investment experts, bankers and representatives from international financial establishments.

[Read more](#)

Arzinger Academy Legal Days: Business-breakfast "CURRENCY LEGISLATION: LAST CHANGES AND CURRENT PRACTICE"

- On March 15, 2013 Arzinger Law Office held a business breakfast on the topic “Currency legislation: last changes and current practice”. Lawyers from Arzinger: Oleksander Plotnikov, Counsel, and Oleksander Zadorozhnyy, Associate, spoke at this event.

[Read more](#)

Arzinger Academy Legal Days: Business-breakfast "TAXATION IN AGROINDUSTRY: TRENDS 2013"

- On February 26, 2013 Arzinger Law Office held a business breakfast “Taxation in Agroindustry: Trends 2013”. The business breakfast launched a series of Arzinger’s events on the most important legal issues in agroindustry. The event was attended by owners, managers, and heads of legal of large and mid-sized Ukrainian and international companies operating in the field of agriculture.

[Read more](#)

Seminar “MAKING A SUCCESS OUT OF A CONSTRUCTION PROJECT: International FIDIC Standards and Their Implementation in Ukraine”

- On 20 February 2013 conference “Making a Success out of a Construction Project: International FIDIC Standards and their Implementation in Ukraine” was held in Kyiv, organized by Arzinger Law Office with support of the International Federation of Consulting Engineers (FIDIC). The conference was attended by more than 100 participants, including representatives of Ukrainian and international construction, development and engineering companies,

DISPUTE RESOLUTION OVER A CUP OF COFFEE IN LVIV

- To discuss problematical aspects of professional ethics in arbitration the issue, which is so much important for Ukrainian arbitration professionals, Ukrainian Bar Association (UBA), Ukrainian Arbitration Association (UAA) and Arzinger Law Office held a non-standard format event entitled “Dispute Resolution over a cup of coffee: Discussing professional ethics in arbitration” on February 15 this year in Lviv.

[Read more](#)

Seminar in Brussels “LAND REFORM IN UKRAINE: Challenges to Agriculture and Real Estate Market in 2013”

- 31 January 2013, BRUSSELS - Arzinger Law Office in conjunction with European Business Association (EBA) held a seminar at the Press Club Brussels Europe entitled “Land reform in Ukraine: challenges to agriculture and real estate market in 2013”.

[Read more](#)

Arzinger Academy Legal Days: Business-breakfast “FOOD LABELING: REALITIES AND PROSPECTS”

- The issue of food labeling in Ukraine was the subject of this year’s first business breakfast organized by Arzinger Law Office for representatives of leading international and national companies in the food and retail sector.

[Read more](#)

ARTZINGER GALLERY

Arcane Art Gallery, Partner of ARTzinger Gallery, held a number of events in February and March

- On February 19, 2013 the Arcane Art Gallery, Partner of ARTzinger Gallery, held another meeting within the cycle “Objective worlds: Objectivity of sound” to open a new exhibition dedicated to the works “Sundrops” and “Prayer” by Galina Moskvitina coupled with the performance of the string quartet “CORDA”.

“We are happy about our partnership with the Arcane Art Gallery and the opportunity to have such a wonderful evening,” Timur Bondarev, Managing Partner of Arzinger Law Office. “We are also proud to have ARTzinger Gallery for several years already, which promotes the Ukrainian art among our customers and partners both in Ukraine and abroad. The original works by Galina Moskvitina have found a noteworthy place among the

artists of a new breed and are now being exhibited within the project ARTzinger. This is not surprising, as law is similar to art in many ways.”

On March 5, 2013 the attendants of the wonderful meeting “Tibetan Singing Bowls” had a rare opportunity to listen to Tibetan singing bowls – an ancient musical instrument that had been used for meditation for 2500 years.

On March 26, 2013 the meeting “Great Cosmic Year” was attended by Galina for the first time after her several years’ stay in the East. Although the artist did not announce her attendance, the event did not go unnoticed by her many admirers and TV channels.