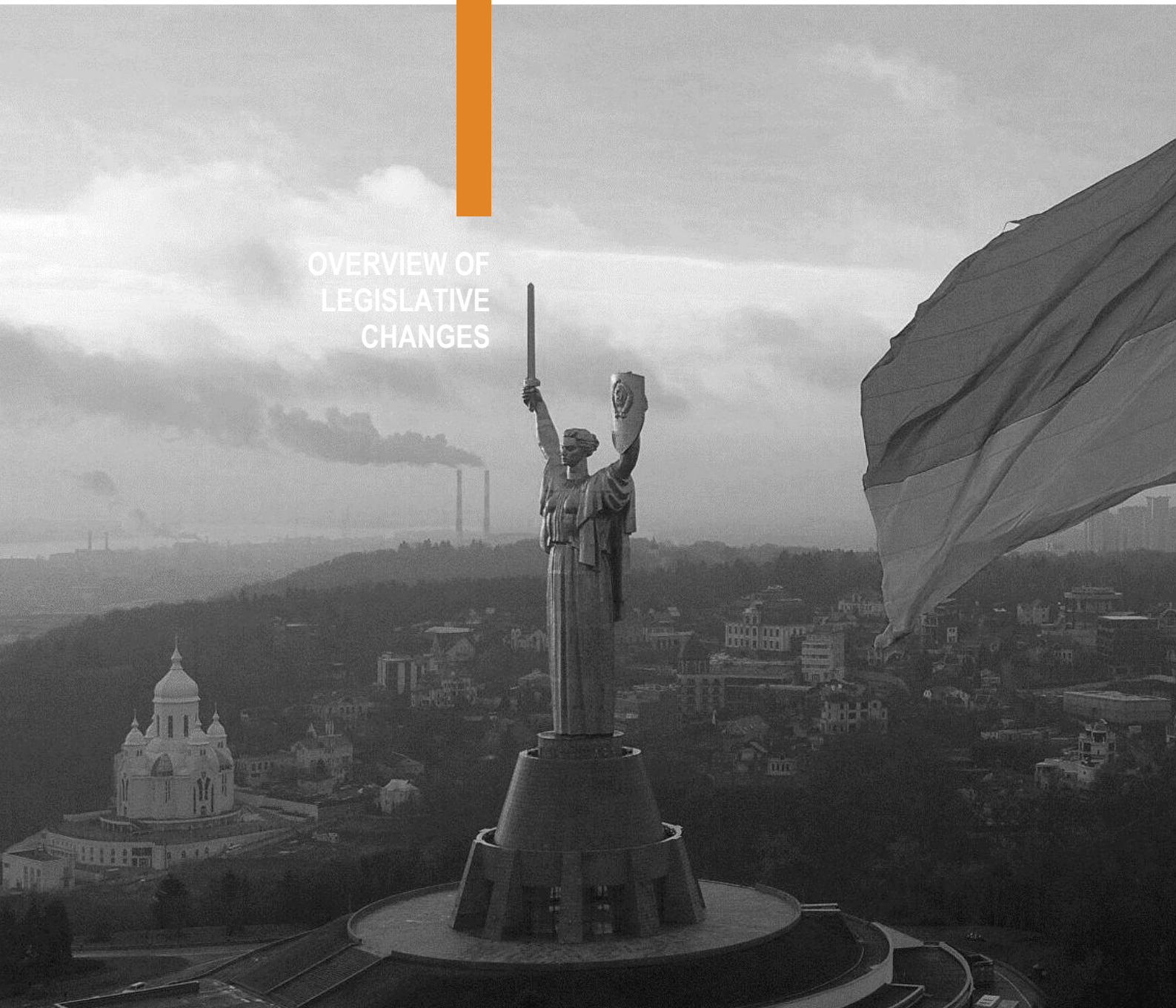


# EBS QUARTERLY REVIEW Q4 2022

OVERVIEW OF  
LEGISLATIVE  
CHANGES



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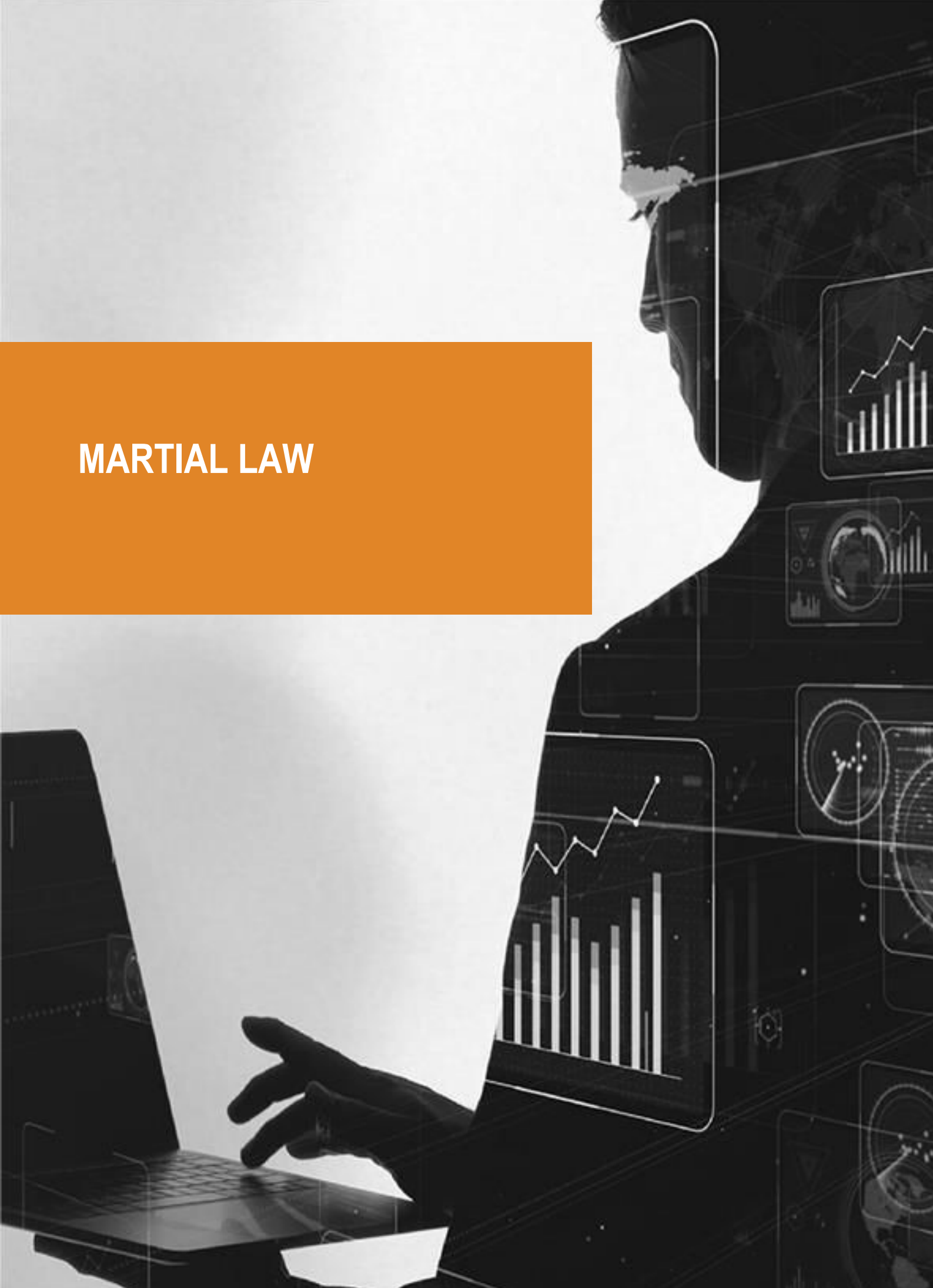
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# MARTIAL LAW





## BUYING A GENERATOR DUE TO A BLACKOUT: WHAT ARE THE TAX CONSEQUENCES?

Due to regular power outages during martial law, businesses began to purchase generators for uninterrupted operation.

According to UKT ZED (Ukrainian Classification of Goods for Foreign Economic Activity), generators mean electric generating units. They are a combination of an electric generator and a primary engine, including an internal combustion engine.

Generators are divided into the following categories according to their application:

- portable generators of small size and power (from 2 - 3 kW to 10 - 20 kW), they can be carried or transported;
- stationary generators that are installed on the foundation without the possibility of transportation. They are not limited in size and can have a large power.

More often, businesses use **portable generators** that can be moved and used in different locations, despite the fact that the generator stays in one place and is not moved during operation.

### Is a fuel storage license required?

The storage of fuel in the fuel tanks of vehicles/technical equipment/devices **does not require obtaining a license for the right to store fuel**, because these tanks are not immovable property and do not have a clear connection to the place (territory).

If the fuel for the generator is delivered by the company from the gas station in canisters and is immediately poured into the generator tank, it is not required to obtain a license.

If the company buys fuel in canisters and stores the canisters on its territory, for example in a warehouse, in the opinion of the tax authority expressed in numerous consultations, it is necessary to obtain a fuel storage license for such a storage place.

### Is it necessary to register an excise warehouse?

Under Paragraph "d" of Part 2 of Subparagraph 14.1.6 of the Tax Code of Ukraine, a fuel tank as a capacity for storing fuel directly in a vehicle or equipment or device is not an excise warehouse.

An electric generator is an equipment for continuous supply of electricity. Thus, the tank of the electric generator is not an excise warehouse, **it is not required to register an excise warehouse, and the company is not an excise tax payer with respect to the fuel in the generator tank.**

### Is an emissions permit required?

Under the Law of Ukraine "On Protection of Atmospheric Air" No. 2707-XII dated October 16, 1992, pollutants can be emitted into the atmospheric air by **stationary sources** after obtaining an **emissions permit**.

A **stationary source of pollution** is a company, workshop, unit, installation or other **real estate assets** that maintains its spatial coordinates for a certain time and emits pollutants into the atmosphere and/or discharges pollutants into water bodies.

It follows from the above that emission permits are obtained only for stationary sources of emissions. Stationary sources are real estate assets that have a specific connection to a certain territory.

A portable electric generator does not pertain to stationary sources of pollution (it can be moved in space); therefore, **it is not required to obtain a permit for a portable electric generator.**

## Environmental tax

Environmental tax payers are, including, but not limited to, business entities that **emit** polluting substances into the atmospheric air through **stationary sources of pollution** (Subparagraph 240.1.1 of the Tax Code of Ukraine).

A portable generator does not pertain to stationary (immovable) assets. It is not a **stationary source**. **The environmental tax is not charged in respect of it.**

**Is it necessary to submit form No. 20-OPP?**

**It is not necessary** to notify the supervisory authority at the main place of registration when submitting a notification under form No. 20-OPP of a gas boiler and/or a fuel generator, which are operated at the addresses of the location of the legal entity's own or rented premises, in respect of which a notification has already been submitted under form No. 20-OPP.

## VAT exemption

From November 11, 2022, amendments to the Resolution of the Cabinet of Ministers of Ukraine No. 224 dated March 20, 2020, which approved the List of Goods Exempted from VAT and Import Duties in Accordance with Paragraph 71 of Subsection 2 of Section XX of the Tax Code of Ukraine, are in effect.

In September 2022, amendments were made to List No. 224, thanks to which this list can be used not only for VAT exemption, but also for the purpose of exempting goods from import duties.

The amendments, effective from November 11, 2022 until the last calendar day of the month in which the coronavirus quarantine ends, relate to the exemption from VAT and import duties for **power generating sets, transformers** and other electrical equipment, as well as equipment and devices for filtering or purifying water. Currently, it is December 31, 2022.

The exemption of electrical goods from VAT applies to all business entities that conduct taxable transactions with them. It applies regardless of who sells, manufactures, purchases or imports the exempted goods into Ukraine. The supplier (manufacturer or importer) can be any business entity: both a legal entity and an individual.

The exemption of electrical goods according to List No. 224 applies both to imported goods and to goods manufactured in Ukraine, regardless of the date of their production or import at all stages of supply. The basis for exemption from VAT is the compliance of the product with the name of the goods specified in the List. The codes of UKT ZED (Ukrainian Classification of Goods for Foreign Economic Activity) are given in the List for reference.

The exemption of electrical goods according to List No. 224 applies both to imported goods and to goods manufactured in Ukraine, regardless of the date of their production or import at all stages of supply.

Electrical goods are exempt from VAT only in case of availability of the following:

— documents on conformity provided for by the technical regulations that apply to such goods, and the mark of conformity applied on the goods, if the goods comply with such technical regulations,

or

— notification of the Ministry of Energy about the introduction of such goods into circulation, if the conditions of the technical regulations are not met.

To obtain such documents, one should apply to the Ministry of Energy.

From what period is the exemption of electrical goods from VAT and duty effective:

- if the first event related to the sale (supply in the customs territory of Ukraine) of the generator and other electrical goods or their import occurred before **November 11**, then the sale (import) **will be subject to VAT and duty on a general basis**;
- if the first event related to the sale (supply in the customs territory of Ukraine) or import occurred **in the period from November 11 to 16 inclusive, documents on conformity or notification from the Ministry of Energy are required** to be exempt from VAT and duty;

- if the first event related to the sale (supply in the customs territory of Ukraine) or import occurred on November 17 or later, exemption from VAT and duty applies unconditionally, if the goods correspond to List No. 224. This does not apply to uninterruptible power supply systems, which require documents on conformity provided for by technical regulations or a notification from the Ministry of Energy about the introduction of such goods into circulation.

If all the conditions for exemption are met (including there are documents on conformity or notifications from the Ministry of Energy for uninterruptible power supply systems), then it is not possible to reject VAT exemption. The VAT payer is obliged to apply this exemption under Paragraph 30.4 of the Tax Code of Ukraine.

If the conditions for the exemption of electrical goods are not met (the name of the goods does not match or there are no documents on compliance or a notification from the Ministry of Energy for uninterruptible power supply systems), then the VAT exemption is not applied. Then electrical goods are subject to VAT according to the general rules.

### **Obtaining a permit from the State Service of Ukraine on Works**

Generators do not pertain to machines, mechanisms and equipment of increased danger; therefore, it is not necessary to obtain a permit for the operation of the generator, which is issued by the State Service of Ukraine on Works and its territorial bodies.

### **Acquisition and accounting of an electric generator**

The electric generator pertains to non-current assets, intended for use for more than one year (Paragraph 4 of the National Regulation (Standard) of Accounting 7).

If the company has adopted a certain value criterion of low-value non-current tangible assets, it should be taken into account when putting the generator into operation (Paragraph 5 of the National Regulation (Standard) of Accounting 7).

For example, if the value limit of low-value non-current tangible assets is UAH 20,000.00 (without VAT), then generators costing less than this amount will be considered as low-value non-current tangible assets and will be accounted for on sub-account 112 "Low-value non-current tangible assets", and generators costing more than this amount will be considered as fixed assets and will be accounted for on sub-account 104 "Machines and equipment".

The economic operation of commissioning (both fixed assets and low-value non-current tangible assets) shall be formalized by the Certificate of Commissioning of Fixed Assets.

Depreciation of the generator shall be calculated monthly according to the method determined for it at the time of commissioning.

Fuel for the generator can be purchased at gas stations according to various schemes.

The legislation does not establish an obligation to develop standards for fuel and lubricant consumption for the generator. It can be done on one's own initiative. Information on fuel consumption can be taken from the documentation for the generator or it is possible to determine the rate of fuel consumption by timing and measurement. In the latter case, the results of such measurement shall be recorded in a certificate drawn up by the commission that carried out the timing and measurement.

The write-off of the actually used fuel can be formalized by the certificate of writing off the fuel for the operation of the generator.



## INVENTORY OF PROPERTY DESTROYED AS A RESULT OF HOSTILITIES: PECULIARITIES OF CONDUCTING

The specific algorithm for conducting an inventory of destroyed property depends on direct access to such property. Let's consider separately two situations: when there is no access to the destroyed property (it is in the uncontrolled (occupied) territory) and when there is access to the property.

### **There is no access to the property**

We remind you: Paragraph 8 of Section I of Regulation No. 879 established that companies which, since the date of the beginning of the temporary occupation, are located:

- on the territory of the Republic of Crimea and the city of Sevastopol;
- on the temporarily occupied territory in Donetsk and Luhansk regions, the territory of conducting anti-terrorist operations and/or implementing measures to ensure national security and defense, repelling and deterring armed aggression of the Russian Federation in Donetsk and Luhansk regions;
- in the areas of military (combat) operations during the period of martial law, or companies, the structural subdivisions (separate property) of which are located in such territories (areas),

**shall carry out an inventory in case of the possibility of safe and unhindered access** by authorized persons **to assets**, primary documents and accounting registers that reflect the liabilities and equity of companies.

At the same time, the heads of such companies, **in the event of establishing the facts of theft, shortage, destruction (damage) of property, may make a decision to conduct an inventory of such separately determined property on the day such facts are established.**

The areas of military (combat) operations during the period of martial law are determined in accordance with legislation.

The list of territories where hostilities are (were) taking place and territories temporarily occupied by the armed formations of the Russian Federation **shall be determined by the Cabinet of Ministers of Ukraine (Paragraph 69.28 of Subsection 10 of Section XX of the Tax Code of Ukraine)**. By order No. 309 dated December 22, 2022, the Ministry of Reintegration approved the List of Territories where Hostilities Are (Were) Taking Place and Territories Temporarily Occupied by the armed formations of the Russian Federation (registered with the Ministry of Justice of Ukraine on December 23, 2022 under No. 1668/39004).

According to the general rule, the company shall:

- **carry out an inventory of a property as of the 1st day of the month\*** following the month in which **the access** to assets, primary documents and accounting registers has been hindered;
- **reflect the results of** the inventory in the accounting of the corresponding reporting period.

To carry out an inventory, it is not necessary to wait for the 1st day of the month following the month in which it became possible to access such assets. After all, the decision to carry out an inventory of such separately determined property can be made on the day of establishing the facts of the destruction of the property.



We remind you: that companies, the property of which is located in non-controlled territories, can deviate from generally accepted inventory rules once confirmed by the Ministry of Finance (see, including, but not limited to, letters of the Ministry of Finance dated January 12, 2015 No. 31-11420-08-10/558 and dated June 29, 2016 No. 31-11410-07-10/18732).

According to the explanations of the representatives of the department, the assets located in the temporarily occupied territory **on the date of the annual balance sheet** shall be evaluated by the company taking into account these circumstances. Therefore, it is possible to apply the procedure of **depreciation** of such assets, i.e. reducing the value of assets according to the rules of the National Regulation (Standard) of Accounting 28.

As before, the competent authorities **do not recommend writing off** such assets **without an inventory**\*.

\* See, including, but not limited to, the letters of the Ministry of Finance dated January 19, 2015 No. 31-11420-08-10/1373 and dated January 12, 2015 No. 31-11420-08-10/558 and the letters of the State Fiscal Service of Ukraine dated January 06, 2016 No. 157/6/99-99-19-02-02-15, the Ministry of Justice dated June 04, 2015 No. 5777-0-4-15/8.1, the State Statistics Service of Ukraine dated January 23, 2015 No. 03.4-07/23-15 and the Ministry of Economic Development, Trade and Agriculture of Ukraine dated June 19, 2015 No. 2731-10/19791-07.

At the same time, assets for which **an inventory was not conducted** will have to be shown in the reporting based on **the available accounting data** (Paragraph 11 of Paragraph 12 of Regulation No. 419).

In the event that **the documents** on the property themselves **are on the uncontrolled territory (destroyed or damaged)**, the company will have to restore them, as well as report these facts to the tax authorities.

#### **There is access to the property**

As soon as there is access to the destroyed fixed assets, the company **must** conduct an inventory of this property.

We remind you that the inventory is mandatory **in the case of** establishing the facts of theft or abuse, **spoilage of valuables (on the day such facts are established) in the amount determined by the head of the company** (Paragraph 7 of Section I of Regulation No. 879).

As we mentioned earlier, the company needs to **show the results of such an inventory in the accounting** of the relevant reporting period.

In order to **determine the unsuitability of fixed assets** for use, the possibility of their use by other companies, organizations and institutions, the ineffectiveness or impracticality of their improvement (repair, modernization, etc.) and the execution of relevant primary documents, the head of the company **shall form a commission** (Paragraph 42 of the Methodological Recommendations No. 561).

The formed commission shall:

- carry out a direct inspection of the asset subject to write-off;
- establish the reasons for non-compliance with the asset criteria;
- determine the persons responsible for the premature decommissioning of fixed assets, make proposals regarding their liability;
- determine the possibility of selling (transferring) the asset to other companies, organizations and institutions or using individual components, parts, materials that can be obtained during dismantling, disassembly (liquidation) of fixed assets; establish their number and value;
- draw up and sign certificates for writing off fixed assets.

When conducting an inventory of **real estate assets**, the company shall take into account the peculiarities of the survey of buildings damaged by enemy shelling. Certain guidelines in this regard are contained in the Methodology for Conducting the Survey and Reporting Its Results approved by the Order of the Ministry for Communities and Territories Development No. 144 dated August 06, 2022.

For fixed assets that **are not suitable** for operation and **are not subject to restoration**, a **separate inventory description** must be made indicating the time of commissioning and the reasons that led to the state of unusability of these assets (Paragraph 1.8 of Section III of Regulation No. 879).

In conclusion, the Inventory Commission shall draw up a **protocol** to which **all inventory materials** (descriptions, reconciliation information, certificates of survey of real estate, etc.) shall be entered into.

Further, on the basis of these documents, the head of the company shall make a decision on:

- write-off and dismantling of destroyed assets, the further use of which is impossible;
- restoration (repair) of damaged buildings and structures;
- conservation of damaged real estate assets, the use of which is currently impossible or impractical;
- evaluation and posting of materials and scrap seized as a result of restoration work or dismantling of destroyed assets.

## TERMS FOR NOTIFYING THE STATE TAX SERVICE OF DEFAULT OF TAX OBLIGATIONS

Applications and documents for the purpose of confirming the impossibility of the taxpayer to fulfill the tax obligation in accordance with the requirements of the Procedure approved by the order of the Ministry of Finance of Ukraine No. 225 dated July 29, 2022 should have been submitted by the taxpayers, who had the opportunity to submit such an application and documents, by September 30, 2022.

If the taxpayer does not have the opportunity to submit an application and relevant documents, the taxpayer shall submit such an application and relevant documents (copies of documents) simultaneously with the acquisition of such an opportunity and the fulfillment of one of the tax obligations, but not later than 60 calendar days from the first day of the month following the month of restoration of such opportunities.

The supervisory authority shall consider the submitted application and documents within 20 calendar days from the date of their receipt and make an appropriate decision.

If it is not enough of supporting documents, the supervisory authority shall send the payer a preliminary decision with a proposal to provide specific additional documents to confirm the grounds specified in the application within 10 calendar days.

## THE EMPLOYEE USED 90 DAYS OF THE LEAVE WITHOUT PAY DUE TO GOING ABROAD DURING THE WAR: WHAT'S NEXT?

If employees have used 90 calendar days of the leave without pay provided for in Part 4 of the Law "On the Organization of Labor Relations in the Conditions of Martial Law" No. 2136-IX (hereinafter referred to as the Law of Ukraine No. 2136-IX), other types of leave without pay may be granted in the future or the employment contract may be suspended.

During the period of martial law, the employer, upon the application of an employee who has left the territory of Ukraine or acquired the status of an internally displaced person, **shall obligatorily** grant the employee the leave without pay for the duration specified in the application, but **not more than 90 calendar days, without counting the time spent on leave to the length of service, which gives the right to annual basic leave provided for in Paragraph 4 of Part 1 of Article 9 of the Law of Ukraine "On Leaves."**

From July 19, 2022, the employer does not have the right to deny an employee who has left the territory of Ukraine or acquired the status of an internally displaced person, upon the employee's application and upon providing the employer with supporting documents regarding the acquisition of such status, the granting of leave without pay for the duration specified in the application, but not more than 90 calendar days.

If the employees have used 90 calendar days, there may be different options in the future depending on the development of events and the decision of the employer and the employee.

Other options for leave without pay upon agreement with the employer:

- under Part 3 of Article 12 of Law 2136, for the period of martial law, the duration is limited by the martial law;
- under Part 4 of Article 84 of the Labor Code and Part 3 of Article 26 of the Law "On Leaves", for the period of quarantine, by the Resolution of the Cabinet of Ministers of Ukraine No. 1423 dated December 23, 2022, the duration of the quarantine was extended until April 30, 2023;
- under Part 1 of Article 26 of the Law "On Leaves", by agreement of the parties due to family circumstances or for other reasons lasting up to 15 calendar days per year.

All these leaves are granted by agreement of the parties.

In addition, Article 13 of the Law of Ukraine No. 2136 provides for the suspension of employment contracts.

Suspension of the employment contract is a temporary termination by the employer of providing the employee with a job and a temporary termination of performance of the work by the employee under the concluded employment contract in connection with the military aggression against Ukraine, which excludes the possibility for both parties of the employment relationship to fulfill the obligations stipulated in the employment contract.

The employment contract may be suspended at the initiative of one of the parties for a period no longer than the period of martial law. In the case of a decision to unsuspend the employment contract until the termination or cancellation of martial law, the employer must notify the employee of the need to start work 10 calendar days before the resumption of the employment contract.

The suspension of the employment contract does not entail the termination of the employment relationship.

A top-down view of a desk with various office supplies. On the left, there's a small potted plant with green leaves. Next to it are two small silver figurines of animals. In the center, a round glass bowl is filled with black paper clips. Below the bowl is a white computer keyboard. In the foreground, there are three black pens and a spiral-bound notebook with a black pen resting on it. On the right side, the words 'BUSINESS' are spelled out vertically using individual letters on small white cards.

# OUTSOURCING OF ACCOUNTING AND TAXATION

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## THE LAW OF UKRAINE “ON THE STATE BUDGET OF UKRAINE FOR 2023”

The Law of Ukraine “On the State Budget of Ukraine for 2023” No. 2710-IX dated November 3, 2022 entered into force on January 01, 2023 (published in the Holos Ukrainy Gazette dated December 3, 2022).

**The main indicators of the State Budget for 2022 are as follows:**

### Revenues and expenses

1. Revenues of the State Budget - UAH 1 trillion 330 billion, including:

- general fund — UAH 1 trillion 173 billion,
- special fund — UAH 156 billion,

2. Expenses of the State Budget – UAH 2 trillion 580 billion, including:

- general fund — UAH 2 trillion 296 billion,
- special fund — UAH 284 billion.

**Minimum salary** (unchanged during 2023):

- per month: from January 1 — UAH 6,700.00;
- per hour: from January 1 — UAH 40.46;

**Subsistence minimum per person per month** (unchanged during 2023)

Main demographic and social groups of the population	Subsistence minimum per person per month
	from January 1, 2023
General indicator	UAH 2,589.00
children up to 6 years old	UAH 2,272.00
children from 6 to 18 years old	UAH 2,833.00
<b>able-bodied persons</b>	<b>UAH 2,684.00</b>
persons who became disabled	UAH 2,093.00

In addition, a **subsistence minimum for able-bodied persons is additionally prescribed, which is used to determine:**

- the basic amount of the official salary of a judge: from January 1 — UAH 2,102.00;
- official salaries of employees of other state bodies whose remuneration is regulated by special laws, as well as employees of tax authorities: from January 1 — UAH 2,102.00;
- the official salary of the prosecutor of the district prosecutor's office: from January 1 — UAH 1,600.00.

What is affected by the determined amount of the minimum salary and subsistence minimum you can see in detail in the section “Minimum Salary and the Amount of the Single Social Contribution” of this information bulletin.



## CHANGES IN TAXATION IN 2023: VAT AND CANCELLATION OF BENEFITS

### **As of January 1, 2023, the tax benefit in the space industry will cease to be effective**

Under Paragraph 3 of Subsection 2 of Section XX of the Transitional Provisions of the Tax Code of Ukraine, temporarily, until January 1, 2023, business entities carrying out space activities, which are subject to the Law "On Space Activities", were exempted from paying VAT for the relevant types of operations. From January 1, 2023, operations involving the importation into the customs territory of Ukraine by business entities carrying out space activities of certain goods defined by the Tax Code, and the supply in the customs territory of Ukraine of the results of scientific research and research and development works performed for the needs of space activities will be taxed according to the general rules.

### **As of January 1, 2023, the tax benefit in the cinematography will cease to be effective**

The VAT exemption regime for the importation into the customs territory of Ukraine of certain goods used in the field of cinematography, under Paragraph 61 of Subsection 2 of Section XX of the Transitional Provisions of the Tax Code of Ukraine, ceases to be effective.



## THE MINISTRY OF FINANCE ADJUSTED SOME METHODOLOGICAL RECOMMENDATIONS ON ACCOUNTING

The Ministry of Finance approved the Order “On Approval of Amendments to Some Methodological Recommendations on Accounting” No. 337 dated October 18, 2022.

These Methodological Recommendations were brought into compliance with the National Regulation (Standard) of Accounting and other accounting regulations.

The Order came into force on October 19, 2022 (from the date of its official posting on the website of the Ministry of Finance).

The changes relate to the accounting of perennial plantations, the period of useful use (exploitation) and the liquidation value of fixed assets, depreciation of fixed assets and accounting of stocks:

- the period of useful use and the liquidation value of the fixed assets are revised at the end of the reporting year;
- the accrued depreciation is reflected as an increase in the amount of expenses, unless another asset is included in the cost price;
- the revaluation of fixed assets with a zero residual value shall be done in the general order.

For all sections of changes (fixed assets, stocks, perennial plantations) it is indicated that primary documents must have mandatory details not only of positions, but also of the last names of the relevant persons.

### **Changes regarding the accounting of fixed assets**

Under the new Paragraph 28 of Section 5 of the Methodological Recommendations No. 561, **changes in the depreciation method, useful life and liquidation value of the fixed asset** shall be reflected as **changes in accounting estimates**. This means that in the event of a change in these indicators, **it is not necessary to recalculate the income and expenses of previous periods applying the changed indicators**.

According to the amendments (Paragraph 41 of the Methodological Recommendations No. 561), **the unsuitability of fixed assets** can be determined not by a permanently operating commission, as it was before, but simply by **a created commission**. That is, it can be created periodically, for specific write-off operations.

The depreciation of fixed assets is calculated based on the new period of useful use and liquidation value, starting from the month following the month of change of the period of useful use and/or liquidation value.

### **Changes in the accounting of biological assets**

Changes - largely clarifying:

- the mention of the need for the State Committee of Statistics to approve the primary documents used to formalize operations with biological assets was removed;
- primary documents shall no longer necessarily contain the place of their compilation;
- primary documents shall contain not only positions, but also last names of responsible persons;
- gardens, vineyards and berry fields are called fruit-bearing plants, not perennial plantations.

Biological assets shall be displayed as of the date of the interim and annual balance sheet at the fair value, reduced by expected costs of sale, except for the cases provided for by Paragraph 11 of the National Regulation (Standard) of Accounting 30 (Paragraph 5.1 of the Methodological Recommendations No. 1315). Earlier there was no mention of Paragraph 11.

As a general rule, biological assets at the initial recognition shall be valued at the fair value, reduced by expected costs of sale, except when the fair value cannot be reliably determined (in this case, they shall be valued at the original value in accordance with the National Regulation (Standard) of Accounting 7).

If the fair value cannot be reliably determined, the biological asset shall be credited to the balance sheet of the company at the original value, which is determined in accordance with the National Regulation (Standard) of Accounting 7 "Fixed Assets" or the National Regulation (Standard) of Accounting 9 "Inventories."

**Amendments to the Methodological Recommendations on Accounting of Inventories**

Since October 19, the analytical accounting of inventories has been carried out in terms of storage locations, materially responsible persons and types of inventories **in terms of value and quantity**.

Paragraph 6.8 of the Methodological Recommendations No. 2 clarifies that the standard form of the inventory description, approved by the Order of the Ministry of Finance dated June 17, 2015 No. 572, may be used for the inventory of containers.

The receipt of inventories as a contribution to the authorized capital shall be formalized by a receipt order or a certificate of acceptance of materials, or a CMR note.





## THE MINISTRY OF FINANCE AGAIN CHANGED THE FORM OF THE INCOME TAX DECLARATION

By Order No. 274 dated September 13, 2022 (registered at the Ministry of Justice on November 3, 2022 under No. 1358/38694), the Ministry of Finance approved amendments to the form of the Corporate Income Tax Declaration.

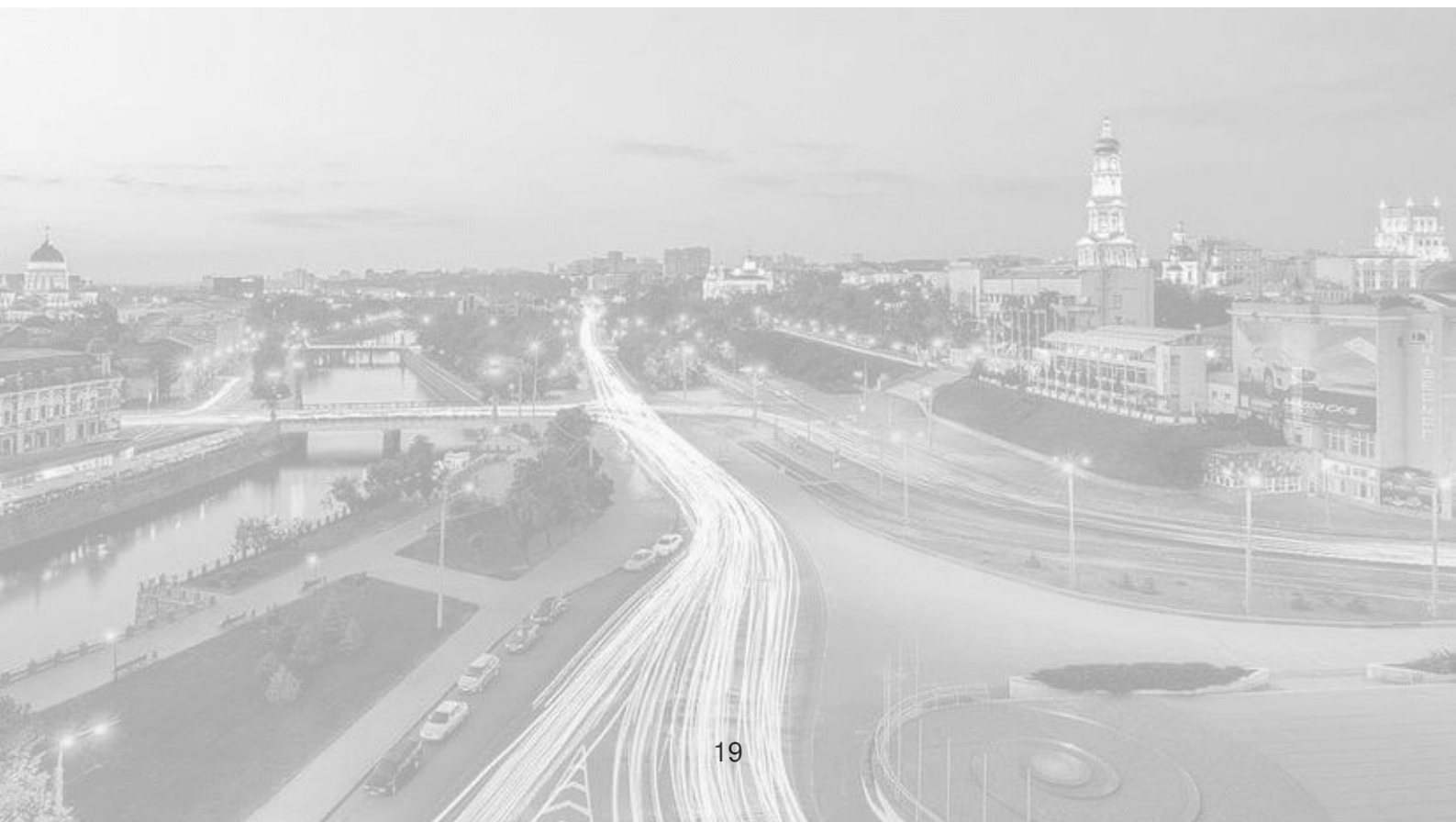
The amendments were made in order to bring the form of the declaration in compliance with the provisions of the Tax Code of Ukraine regarding the special regime of taxation by the residents of Diia.City under special conditions, which were introduced by the Law of Ukraine No. 1946-IX dated December 14, 2021 "On Amendments to the Tax Code of Ukraine and Other Laws of Ukraine Regarding the Stimulation of the Development of the Digital Economy in Ukraine".

Including, but not limited to, **the declaration was supplemented with a new annex of DIIA (line 06.3 DIIA)**. It will be used to calculate the tax on the operations of a resident of Diia.City - a taxpayer under special conditions.

In addition, a mark will appear in the header of the declaration for submission by the residents of Diia.City of the profit declaration. Mentions of these taxpayers will also appear in the main part of the declaration and Annexes VP (Correction of Errors) and RI (Differences).

The order entered into force on November 18, 2022 (published in the Official Gazette of Ukraine No. 89 dated November 18, 2022).

Since the order was published in the IV quarter of 2022, according to the rules of the tax legislation (Paragraph 46.6 of the Tax Code of Ukraine), we have to report according to it from the I quarter of 2023.



## THE REPORT ON COMPLIANCE OF A RESIDENT OF DIIA.CITY: WHEN AND HOW TO SUBMIT?

A resident of Diia.City is obliged to submit a report on compliance for the period from January 1 to December 31 of the previous year to the authorized body not later than June 1 of the year following the reporting year.

Under Article 13 of Section II of the Law of Ukraine “On Stimulating the Development of the Digital Economy in Ukraine” 1667-IX, the resident of Diia.City is obliged to ensure continuous and full compliance with all the requirements specified in Article 5 of this Law throughout the entire period of residency.

A resident of Diia.City is obliged to submit to the authorized body not later than on the last day of the sixth calendar month following the calendar month in which the status of resident of Diia.City was acquired:

1. a report on compliance with all requirements specified in Part 1 of Article 5 of this Law (in the case of acquiring the status of a resident of Diia.City under Part 3 of Article 5 of this Law – requirements specified in Paragraph 1, 4 and 5 of Part 1 and Paragraph 3 of Part 3 of Article 5 of this Law), based on the results of the three full calendar months following the month in which the status of resident of Diia.City resident was acquired (initial report on compliance);
2. an independent opinion provided by the auditing entity based on the results of the verification of the statements of the resident of Diia.City, set forth in the resident's initial report on compliance (it shall not apply to residents of Diia.City who have acquired such status under Part 3 of Article 5 of this Law).

In the event that the authorized body detects discrepancies between the information specified in the initial report on compliance of the resident of Diia.City, who acquired such status under Part 3 of Article of this Law, and data of the financial statements of a resident of Diia.City, submitted in accordance with the procedure established by law, the authorized body shall submit to such a resident of Diia.City a request for the provision of an independent opinion of the auditing entity based on the results of the verification of the statements made in the initial report on compliance of the resident of Diia.City.

The request for the provision of an independent opinion shall be sent by the authorized body in electronic form to the e-mail of the resident of Diia.City specified in the register of Diia.City, within 15 working days from the date of receipt of the initial report on compliance from the resident of Diia.City or within 15 working days from the date of submission of the relevant financial reporting in accordance with the procedure established by law.

A resident of Diia.City is obliged to submit an independent opinion at the request of the authorized body within 60 days from the date of receipt of such a request.

A resident of Diia.City is obliged every year not later than June 1 of the year following the reporting year to submit to the authorized body a report on compliance with the requirements specified in Article 5 of this Law for the period from January 1 to December 31 of the previous calendar year (annual report on compliance).

The first annual report on compliance shall be submitted for the period from the date of acquiring the status of resident of Diia.City until December 31 of the corresponding calendar year.

The annual report on compliance shall be accompanied by an independent opinion submitted by the auditing entity based on the results of verification of the statements of the resident of Diia.City, set forth in the resident's annual report on compliance.

The report on compliance shall include:

- 1) assurance of compliance of the resident of Diia.City with all requirements specified in Article 5 of this Law;
- 2) statement of the amount of the average monthly remuneration for employees and gig specialists (if engaged) for each calendar month of the reporting period;
- 3) statement of the average number of employees and gig specialists (if engaged) of the resident of Diia.City according to the results of each calendar month of the reporting period;
- 4) statement of the amount of the share of the qualified income of the resident of Diia.City, received during the reporting period, in the total income of the resident of Diia.City, received during the reporting period;
- 5) statement of the amount of income of the resident of Diia.City, who acquired the status under Part 3 of Article 5 of this Law, determined under Subparagraph 2 of Paragraph 292.1 of the Tax Code of Ukraine, for each of the following periods:
  - reporting period (for initial, first annual and second annual reports on compliance);
  - the calendar year preceding the year in which the report on compliance is submitted and the calendar year preceding the year in which an application for acquiring the status of a resident of Diia.City is submitted (for the initial report on compliance).

An independent opinion must be submitted by the auditing entity, which, under the Law of Ukraine “On the Audit of Financial Statements and Audit Activity”, shall have the right to conduct a mandatory audit of financial statements.

## FROM JANUARY 11, THE UPDATED PROCEDURE FOR BLOCKING THE TAX INVOICE HAS BEEN IN EFFECT

Resolution of the Cabinet of Ministers of Ukraine No. 1428 dated December 23, 2023 amended the Resolution "Procedure for Stopping the Registration of a Tax Invoice / Adjustment Calculation in the Unified Register of Tax Invoices" No. 1165.

The changes came into effect on January 11, 2023 (Resolution No. 1428 was published in the Uriadovyi Kurier Newspaper on December 27, 2023).

### What has changed in the Procedure?

1. A one-time automatic registration of a tax invoice / adjustment calculation that was stopped in the period from October 14, 2022 to December 11, 2023 has been introduced, if such tax invoice / adjustment calculation contains operations with codes of goods according to UKT ZED (Ukrainian Classification of Goods for Foreign Economic Activity) and/or codes of services according to the State Classifier of Goods and Services reflected in the data tables of the taxpayer, for which the decision to take into account was made.

2. The signs of unconditional registration of tax invoices / adjustment calculations in the Unified Register of Tax Invoices have been expanded, including, but not limited to, **the following is excluded from monitoring:**

- tax invoices, in which the volume of supply does not exceed UAH **5,000.00**;
- adjustment calculations, in which the absolute value of the adjustment amount for the decrease/increase of the compensation amount does not exceed UAH **5,000.00**

At the same time, the volume of operations in the current month under such tax invoices / adjustment calculations does not exceed UAH **500,000.00**;

2) the forms of Annex 4 to the Procedure for Suspension of the "Decision on Compliance/Non-Compliance of the Value Added Tax Payer with the Risk Criteria of the Taxpayer", Annex 6 to the Procedure for Suspension of the "Decision on Inclusion/Non-Inclusion of the Data Table of the Value Added Tax Payer" and Annex 7 to the Procedure for Suspension of the "Decision on Non-Inclusion of the Data Table of the Value Added Tax Payer" have been changed - in the relevant fields of the decisions, detailed information will be indicated, according to which the compliance with the risk criteria of the taxpayer was established, the type of operation (purchase/supply), the period of the economic operation, the code according to UKT ZED (Ukrainian Classification of Goods for Foreign Economic Activity) / DKPP (State Classifier of Goods and Services) / conditional code of the goods, the tax number of the taxpayer involved in a risky operation;

3) it was established that in case of exclusion of the taxpayer from the list of taxpayers who meet the risk criteria of the taxpayer, on the basis of the decision of the regional commission or the decision of the court, its counterparties shall be automatically excluded from the list of risky, taking into account the established conditions;

4) it was established that the risk criteria of the taxpayer in relation to the non-submission of value-added tax declaration for the last two reporting (tax) periods and the non-submission of financial statements for the last reporting period will be applied taking into account the possibility/impossibility of submitting such financial statements under martial law conditions (Subparagraph 69.1 of the Tax Code of Ukraine);

5) a directory of tax information codes has been introduced, which is the basis for making a decision on whether a taxpayer meets the taxpayer's riskiness criteria. Such a directory shall be determined by the State Tax Service and approved by the relevant order published on the official website of the State Tax Service;

6) the indicator of Paragraph 1 of the positive tax history of the value-added tax payer has been expanded in relation to the simultaneous fulfillment of the conditions for achieving the volume of supply for the current period, including, to increase the requirements for the volume of supply from UAH 500 thousand to UAH 1 million and per one recipient from UAH 50 thousand to UAH 100 thousand;

7) an indicator was added that determines a positive tax history for agricultural companies, a condition under which it can be used by taxpayers who are on the simplified taxation system of the fourth group and paid tax obligations for a single tax in full and within the time limits provided for by the law;

8) the criteria for the riskiness of operations have been softened by:

- excluding the condition regarding the absence in the data table of the value added tax payer of the goods/services specified in the tax invoice submitted for registration in the Register;
- adding a markup factor of 1.5 to the formula for determining the balance of goods, within which it is possible to register the adjustment calculation for reducing the amount of tax liabilities;
- establishing that an operation for which an adjustment calculation for operations for the supply of electricity, natural gas, and thermal energy is made will not be considered risky.





## FROM JANUARY 1, 2023, THERE ARE CHANGES REGARDING TAX INVOICES AND ADJUSTMENT CALCULATIONS

**When drawing up the tax invoices, one shall use new codes of UKT ZED (Ukrainian Classification of Goods for Foreign Economic Activity).** In the case of drawing up tax invoices for the supply of goods purchased by December 31, 2022 inclusive, the “old” codes of UKT ZED (Ukrainian Classification of Goods for Foreign Economic Activity) shall be used, and, when drawing up tax invoices for goods purchased or imported from January 1, 2023, new codes shall be used.



## THE MORATORIUM ON THE TERMS OF CONSIDERATION OF COMPLAINTS ABOUT THE BLOCKING OF TAX INVOICES / ADJUSTMENT CALCULATIONS IS CANCELED

From January 3, the Law of Ukraine dated December 13, 2022 No. 2836-IX “On Amendments to the Tax Code of Ukraine and Other Laws of Ukraine Regarding the Promotion of the Restoration of the Energy Infrastructure of Ukraine”, which restores the deadlines for considering complaints about blocked tax invoice/tax calculations in the Unified Register of Tax Invoices, will enter into force.

However, the deadline for considering complaints against the decision to refuse registration of a tax invoice/adjustment calculation in the Unified Register of Tax Invoices has been extended to **10 working days from the date of receipt of such a complaint** by the central executive authority.



## MINIMUM SINGLE SOCIAL CONTRIBUTION FOR EMPLOYEES: WHEN IS IT NECESSARY TO CHARGE ADDITIONALLY?

When shall the employer charge a single social contribution on the employee's salary not lower than the minimum insurance contribution? How to enforce this rule during war? How to indicate the additional charge of the single social contribution in the single "salary" reporting?

Recall that under Part 5 of Article 8 of the Law on the Single Social Contribution, the single social contribution for employers shall be set at the rate of 22% of the base of calculation of the single social contribution defined by Article 7 of this law.

Lower rates of the single social contribution are provided for only for employees with disabilities (however, the single social contribution is not additionally charged for such employees with disabilities to the minimum amount!).

That is, when it comes to the "basic" rate of 22%, there is a requirement to pay a single social contribution for the employee in the amount not less than the minimum contribution!

If the base for calculating the single social contribution does not exceed the amount of the minimum salary established by law for the month for which the income is received, the amount of the single social contribution is calculated as the product of the amount of the minimum salary established by law for the month for which the income (profit) is received and the rate of the single social contribution.

Please note! From October 1, 2022, under the Law on the State Budget for 2022 and throughout 2023, under the Law on the State Budget for 2023, the amount of the minimum salary will be:

- per month – UAH 6,700.00;
- per hour – UAH 40.46.

The **minimum** insurance contribution of the single social contribution is **UAH 1,474.00** (UAH 6,700.0\*22%).

The maximum basis for calculating a single social contribution for the entire 2023 is UAH 100,500.00. **The maximum insurance contribution of the single social contribution is UAH 22,110.00.**

### And when the single social contribution is not additionally charged?

Here is a list of cases when it is not necessary to apply the rule of additionally charging a single social contribution to the minimum insurance contribution, namely:

- to the salary from a source other than the main place of employment — the basis for calculating the single social contribution is the received income (profit), regardless of its amount;
- to the salary (income) of an employee — a person with a disability, who works for a company or individual entrepreneur, where a rate of 8.41% is applied;
- to the salary (income) of employees of all-Ukrainian public organizations of persons with disabilities, including the Ukrainian Society of the Deaf and the Ukrainian Society of the Blind, where a rate of 5.3% is applied;
- to the salary (income) of companies and organizations, public organizations of the disabled, where the rate of 5.5% is applied (for working disabled people);
- to employees who were granted the leave without pay for the period of the ATO in the relevant settlement, taking into account the time needed to return to the workplace, but not more than 7 calendar days after the decision to terminate the ATO;
- if the employee was hired not on the first working day and was dismissed not on the last working day of the reporting month;

- if the employee is on leave for a full month without saving the employee's salary, there is no basis for calculating the single contribution;
- for an employee (at the main place of employment), whose sick leave begins and ends in different months, a single contribution in the month the sick leave begins is accrued for the time actually worked, because the total amount of income is not yet known (the amount of sick leave is determined after the provision of a certificate of incapacity for work).

### **How does the war affect the payment of the single social contribution by employers?**

The time of martial law leaves an imprint on the rules for paying the single social contribution.

Benefits have been established for certain employers regarding the payment of the single social contribution.

This applies to individual employers who are single tax payers of the II and III groups, as well as legal entities pertaining to the III group of the single tax. They had the right, by their own decision, not to pay a single social contribution for employees called up during mobilization for the military service in the Armed Forces of Ukraine, who were paid the average salary. But the obligation to pay this average salary has been canceled since July 19, 2022.

For July 2022, all employers who paid the average salary to the mobilized employees for the last time had to pay a single social contribution for this month not lower than the minimum social contribution.

There is a possibility of suspension of labor relations during martial law. In this situation, the employer shall not additionally charge a single social contribution to the amount of the minimum insurance contribution. This loss of budget and insurance experience must be compensated by the aggressor state. However, at the moment there are no clarifications in this regard.

Some businesses have introduced downtime. In the month in which the downtime occurred, for employees employed at the main place of employment, the single social contribution shall be calculated not lower than the minimum insurance contribution. If in such a month the basis for calculating the single social contribution at the rate of 22% is lower than the minimum salary, then the single social contribution shall be calculated on the difference between the actually received income and the minimum salary. The same applies to those cases when the downtime lasts the whole month.

### **Rules for calculating the unified social contribution for transitional sick leave**

For an employee (at the main place of employment), whose sick leave begins and ends in different months, a single social contribution in the month the sick leave begins is accrued for the time actually worked, because the total amount of income is not yet known (the amount of sick leave will be determined after the provision of a certificate of incapacity for work).

If, after the provision of a certificate of incapacity for work after the distribution of sick leave (the amounts of temporary disability benefits refer to the month for which they are accrued), the total monthly income is less than the minimum amount, the issue of the need for additional charge of the single social contribution shall be considered simultaneously with the accrual of amounts of temporary disability benefits.



### **Transitional annual leave**

For an employee who worked part of the month and was on leave for the other part of the month, where the total amount of the accrued income for the current month (the amount of the accrued salary for the time worked and part of the leave pay accrued during the time the employee was on leave in the current month) does not exceed the minimum salary, the amount of the single social contribution shall be calculated as the product of the minimum salary and the rate of the single social contribution.

At the same time, the single social contribution for the amount of the second part of the leave pay shall be calculated on the actually accrued amount, because these incomes are included in the calculation base of the single social contribution for the future period.

### **An example of calculating a single social contribution for the amount of remuneration under civil law contracts**

- 1) If the individual contractor does not have an employment relationship with the customer, and therefore does not receive any other income from the customer for a certain reporting month, except for the remuneration under the civil law contract, the requirements of Part 5 of Article 8 of the Law on the Single Social Contribution shall not apply, and the basis for calculating the single social contribution shall be the amount of such remuneration.
- 2) If the individual contractor under the civil law contract is at the same time in labor relations with the customer, then the rules of Part 5 of Article of the Law on the Single Social Contribution shall apply to the total amount of income for each month separately.





# PAYROLL OUTSOURCING



## MINIMUM SALARY AND THE AMOUNT OF THE SINGLE SOCIAL CONTRIBUTION

The Law of Ukraine “On the State Budget of Ukraine for 2023” No. 2710-IX dated November 3, 2022 establishes the following basic indicators and minimums for the current year:

### Minimum salary and subsistence minimum

From January 1, 2023, the amount of the minimum salary does not change during the year and will be:

- per month — UAH **6,700.00**;
- per hour – UAH **40.46**.

The **subsistence minimum** per person per month is **UAH 2,589.00** for the main social and demographic groups of the population:

- *children under 6 years old - UAH 2,272.00;*
- *children from 6 to 18 years old - UAH 2,833.00;*
- **able-bodied persons – UAH 2,684.00;**
- *persons who have lost their ability to work – UAH 2,093.00.*

### Single social contribution in 2023

The **maximum amount of the single social contribution is UAH 22,110.00**. The **maximum basis** for calculating the single social contribution is **UAH 100,500.00** (6,700.00 x 15);

The **minimum amount of the single social contribution is UAH 1,474.00** (6,700.00 x 22%).

Nuances about the minimum insurance contribution of the single social contribution:

The single social contribution for the salary of the main employee who is not a person with a disability is **not lower than UAH 1,474.00**.

If the employee is a **part-time employee**, then 22% of the single social contribution is applied to his/her **actual** salary.

If the employee is a **person with a disability**, the single social contribution is charged at the rate of **8.41% of the actual** amount of the accrued salary.

If an individual works for a company that is a **resident of Diia.City**, then the following shall be paid:

- **UAH 1,474.00** (minimum insurance contribution of the unified social contribution) **for the amount of remuneration** to an individual for the performance of works (provision of services) **under gig contracts**;

- **UAH 1,474.00** (minimum insurance contribution of the unified social contribution) for the amount of salary accrued to each insured person by types of payments, which include basic and additional salary, other compensatory payments, including in kind, which are determined under the Law of Ukraine “On Remuneration of Labor” – for persons working under employment contracts.

The determined **amount of the minimum salary shall affect the following**:

### Subsistence allowance in 2023 – amounts not subject to personal income tax:

- **within the territory of Ukraine – UAH 670.00** (not more than 0.1 of the amount of the minimum salary established by law on January 1 of the tax (reporting) year, calculated for each calendar day of such a business trip - Subparagraph 170.9.1 of the Tax Code of Ukraine;

- for business trips abroad - not more than EUR 80 for each calendar day of such a business trip at the official exchange rate of UAH to EUR established by the NBU, calculated for each such day - Subparagraph 170.9.1 of the Tax Code of Ukraine.

**Limits of non-taxable financial assistance per year:**

- non-targeted charitable assistance provided by residents — legal entities or individuals for the benefit of the taxpayer during the reporting tax year, in total (Subparagraph 170.7.3 of the Tax Code of Ukraine) – **UAH 3,760.00**;
- charitable assistance for the restoration of lost property, for housing, social, household and other needs according to the list determined by the Resolution of the Cabinet of Ministers of Ukraine No. 653 dated November 26, 2014, which appeared for the taxpayers, determined by Subparagraph 165.1.54 of the Tax Code of Ukraine (Subparagraph “b” of Subparagraph 170.7.8 of the Tax Code of Ukraine - not more than 500 minimum salary amounts on January 1 of the reporting year) - **UAH 3,350,000.00**;
- Burial allowance for a deceased employee, which is provided by the employee’s employer at the employee's last place of work (including before retirement) (Subparagraph “b” of Subparagraph 165.1.22 of the Tax Code of Ukraine) – **UAH 7,520.00**.

**Also, the amount of the minimum salary affects the following:**

**The cost of education without personal income tax and military tax in 2023 is UAH 20,100.00 per month** (3 salaries as of January 1) for the benefit of domestic higher and vocational educational institutions for obtaining an education, for training or retraining.

**Penalties for violation of labor legislation:** violation of salary payment terms - 3 minimum salaries (**UAH 20,100.00**); unregistered employees and salary in “envelopes” - 10 minimum salaries (**UAH 67,000.00**) for the first violation, 30 minimum salaries (**UAH 201,000.00**) for each employee in respect of which the violation was committed - for a repeated violation within two years from the date of detection of the violation; non-compliance with minimum state guarantees in salary payment - 2 minimum salaries (**UAH 13,400.00**) for each employee; non-compliance with guarantees and benefits for mobilized employees and conscripts - 4 minimum salaries (**UAH 26,800.00**) for each employee; other violations of labor legislation - 1 minimum salary for each violation (**UAH 6,700.00**), for repeated violations within a year from the date of detection of the violation - 2 minimum salaries (**UAH 13,400.00**).

## INCREASE IN THE AMOUNT OF THE SUBSISTENCE MINIMUM IN 2023: WHAT EFFECT WILL IT HAVE?

The Law of Ukraine “On the State Budget of Ukraine for 2023” No. 2710-IX dated November 3, 2022 (the Law on the State Budget for 2023) approved new amounts of the subsistence minimum for various categories of the population of Ukraine. Throughout 2023, they will remain at the level of December 2022.

In 2023, the Law on the State Budget provides for the following amounts of the subsistence minimum:

Main demographic and social groups of the population	Subsistence minimum per person per month
	from January 1 to December 31
General indicator	UAH 2,589.00
children up to 6 years old	UAH 2,272.00
children from 6 to 18 years old	UAH 2,833.00
able-bodied persons	UAH 2,684.00
persons who became disabled	UAH 2,093.00

In addition, a subsistence minimum for able-bodied persons is additionally prescribed, which is used to determine:

- the basic amount of the official salary of a judge: from January 1 – UAH 2,102.00;
- official salaries of employees of other state bodies whose remuneration is regulated by special laws: from January 1 – UAH 2,102.00;
- the official salary of the prosecutor of the district prosecutor's office: from January 1 – UAH 1,600.00.

The Law on the State Budget for 2023 stipulates that the amounts of the subsistence minimum will be at the level of December 2022, and will not change from January 1 to December 31, 2023.

We will remind, what main indicators are affected by the amount of the subsistence minimum in 2023.

### Minimum amount of the official salary

**Minimum official salary (monthly tariff rate) is UAH 2,684.0.** It is set at an amount not less than the subsistence minimum established for able-bodied persons on January 1 of the calendar year. Employers need to review staffing schedules and, if necessary, make changes to them.

### Indexation of salaries

The Law of Ukraine “On the State Budget of Ukraine for 2023” No. 2710-IX dated November 3, 2022 (the Law of Ukraine “On the State Budget for 2023”) **canceled the indexation of salaries in 2023**, namely:

Paragraph 3 of the Final Provisions of the Law of Ukraine “On the State Budget for 2023” suspended for 2023 the effect of the Law of Ukraine No. 1282-XII dated July 3, 1991 “On Indexation of Monetary Incomes of the Population.”

Recall that according to the rules of the Law of Ukraine “On Indexation of Monetary Incomes of the Population”, in case of exceeding the Consumer Price Index (CPI) of 103%, it is necessary to carry out the indexation of salaries within the subsistence minimum of the month following the month of publication of the new CPI.

The suspension for 2023 of the Law of Ukraine “On Indexation of Monetary Incomes of the Population” means that the indexation must be carried out for the last time for the salary of December 2022, even if the salary for December 2022 is actually accrued in January 2023.

The indexation of the salary for the periods from January 1, 2023 and the entire 2023 (until December 31, 2023) shall not be carried out. Regardless of the Consumer Price Index (CPI).

### Amounts of the tax social benefit (TSB) in 2023

Type of tax social benefit (norm of the Tax Code of Ukraine)	Maximum salary that gives the right to apply the tax social benefit in 2023, UAH	Amount of tax social benefit, UAH
Ordinary ( <u>Subparagraph 169.1.1</u> )	3,760.00	1,342.00
Ordinary for children ( <u>Subparagraph 169.1.2</u> )	— for one of the parents 3,760.00 x number of children under 18 years old; — for the second one — 3,760.00	1,342.00 x number of children under 18 years old;
Increased for children ( <u>Subparagraph “a” and “b” of Subparagraph 169.1.3</u> )	— for one of the parents 3,760.00 x number of children under 18 years old; — for the second one — 3,760.00	2,013.00 x number of children under 18 years old who are provided with the tax social benefit;
Increased ( <u>Subparagraph “c” — “g” of Subparagraph. 169.1.3</u> )	3,760.00	2,013.00
Maximum ( <u>Subparagraph 169.1.4</u> )	3,760.00	2,684.00

### Alimony

The minimum amount of alimony per child cannot be less than 50% of the subsistence minimum for a child of the appropriate age (Part 2 of Article 182 of the Family Code of Ukraine).

Therefore, the amount of alimony from December 1, 2022 to December 31, 2023 will be:

- for children up to 6 years old – at least **UAH 1,136.00** (UAH 2,272.00 × 50%);
- for children from 6 to 18 years old – not less than **UAH 1,416.50** (UAH 2,833.00 × 50%).



**If the amount of alimony is less in the application from the employee or in the executive letter**, the employer shall not have the right to change the assigned amount of alimony and withhold it in accordance with the amount specified in the executive letter.

The interested person has the right to apply to the court to review the amount of alimony. At the same time, if the amount of alimony determined by the court, in a fixed monetary amount, is less than the specified minimum amount of alimony, the state aid is assigned to the child in accordance with the law in the amount of the difference between the determined amount of alimony and 50% of the subsistence minimum for a child of the appropriate age.

### **Maternity leave for non-working people**

Such benefits calculated per month cannot be less than **UAH 671.00** (UAH 2,684.00 × 25%).

Pregnancy and childbirth benefits are provided in the amount of 100% of a woman's average monthly income (scholarship, salary, unemployment benefit, etc.) per month.

For those women who are not employees or entrepreneurs who pay the single social contribution, benefits cannot be less than 25% of the amount of the subsistence minimum established for an able-bodied person.

All women (including minors) who are not insured in the mandatory state social insurance system are entitled to these benefits.

The minimum amount of all such benefits provided by the labor and social protection authorities, depending on the duration of the pregnancy and childbirth period, from December 01, 2022 to December 31, 2023 will be:

- if there are 126 calendar days of leave – UAH 2,818.62;
- if there are 140 calendar days of leave – UAH 3,131.80;
- if there are 180 calendar days of leave – UAH 4,026.60;

### **Benefits for single mothers**

From December 01, 2022 to December 31, 2023 the maximum amount of benefits for children will be:

- up to 6 years old – **UAH 2,272.00**;
- from 6 to 18 years old - **UAH 2,833.00**;
- from 18 to 23 years old (if the child is a full-time student at a university) - **UAH 2,684**.

These benefits are provided in an amount equal to the difference between 100% of the subsistence minimum for a child of the appropriate age and the average monthly total family income per person for the previous 6 months (the total family income for 6 months must be divided by 6, and then by the number of members of such a family). The income received after division must be compared with the relevant subsistence minimum.

If, as a result of the comparison, the average monthly income for each child is:

- higher than the relevant subsistence minimum, then social benefits for the children of such a single mother are not assigned;
- lower than the relevant subsistence minimum, then the single mother will be assigned social benefits for children in the amount of the difference between the subsistence minimum for a child of the corresponding age and the average monthly income per family member.



Also, the amount of the subsistence minimum affects the following:

### **Court fee**

Court fee rates are tied to the subsistence minimum for able-bodied persons established by law on January 1 of the calendar year. All amounts of the court fee are established by Article 4 of the Law of Ukraine No. 3674-VI dated July 08, 2011 "On Court Fee".

### **Fee for administrative services**

Under Article 36 of the Law of Ukraine No. 755-IV dated May 15, 2003 "On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations" and Article 34 of the Law of Ukraine No. 1952-IV dated July 01, 2004 "On State Registration of Real Property Rights to Immovable Property and Their Encumbrances", the administrative fee and the fee for the provision of information shall be paid in the appropriate amount from the subsistence minimum for able-bodied persons, established by law on January 1 of the calendar year in which the relevant documents for the registration action or the request for the provision of information from the Unified State Register are submitted, and shall be rounded up to the nearest UAH 10.

In accordance with the change in the amount of the subsistence minimum in January 2023, the rates of the administrative fee in 2023 were also changed.

## FOR THE IV QUARTER OF 2022, UPDATED UNIFIED REPORTING SHALL BE SUBMITTED

The Law of Ukraine “On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Regarding the Application of Norms for the Period of Martial Law No. 2120-IX dated March 15, 2022 introduced a number of amendments to the Law of Ukraine “On Collection and Accounting of the Single Contribution for the Compulsory State Social Insurance” No. 2464-VI dated July 08, 2010 (hereinafter referred to as Law No. 2464).

In this regard, the form of the Tax Calculation of the Amounts of Income Accrued (Paid) in Favor of Individual Taxpayers and the Amounts of Tax Withheld from Them, as well as the Amounts of the Accrued Single Contribution (hereinafter referred to as the Tax Calculation) and the amendments were made to the Procedure for Its Completion and Submission (hereinafter referred to as the Procedure), approved by the order of the Ministry of Finance of Ukraine No. 4 dated January 13, 2015.

Section I of the form of the Tax Calculation was supplemented with new lines 1.6, 2.6, 3.7, 4.4, 6.4 **regarding the display of the amount of the accrued salary for employees who were called up for military service in the Armed Forces of Ukraine during the mobilization period**, who did not receive income in the form of financial support, and some editorial corrections were made.

The Procedure shall also contain 5 sections.

Amendments have been made to the descriptive part of the Procedure regarding the new lines included in the Tax Calculation, which will allow to adjust the accrued salary and, accordingly, the single social contribution for mobilized employees for the previous period.

Annex 1 to the Procedure is supplemented with the code of the category of insured persons 75 “Citizens of Ukraine Who Have Signed a Contract of a Territorial Defense Volunteer”, which will allow employers to display the amounts of the average salary accrued to the specified insured persons during their performance of state or public duties and the codes of the categories of insured persons 76- 80, called up during the mobilization period for military service in the Armed Forces of Ukraine, for whom employers had the right, by their own decision, not to pay a single social contribution.

Also, editorial amendments were made to the descriptive part and other sections of the Procedure were brought into compliance with the current legislation.

It is necessary to report according to the updated form of the unified reporting on the single social contribution, personal income tax and military tax **for the IV quarter of 2022**. The format of the updated unified reporting for legal entities is J0500108, and for individuals - F0500108.

## FROM JANUARY 1, 2023, THE FINANCING OF SICK LEAVE IS PROVIDED BY THE PENSION FUND OF UKRAINE

From January 1, 2023, the Pension Fund of Ukraine is the authorized body in the system of compulsory state social insurance in connection with temporary disability.

**The Law of Ukraine No. 2620-IX dated September 21, 2022** “On Amendments to the Law of Ukraine “On Mandatory State Social Insurance” and the Law of Ukraine “On Mandatory State Pension Insurance”, under the Resolution of the Cabinet of Ministers of Ukraine No. 1350 dated December 02, 2022 “On Amendments to Some Resolutions of the Cabinet of Ministers of Ukraine on Ensuring Implementation of Certain Functions of the Pension Fund of Ukraine and Recognizing Some Resolutions of the Cabinet of Ministers of Ukraine as Having Lost Their Validity” (**Law No. 2620**) entered into force on January 1, 2023.

**Law No. 2620** provides for a number of changes:

### **Administrative innovations**

If earlier the Social Insurance Fund of Ukraine and the Pension Fund of Ukraine were each a policyholder under their own type of state insurance, now there will be only one policyholder. And it will be the Pension Fund of Ukraine.

The Pension Fund of Ukraine is the holder and administrator of the electronic register of disability certificates as a component of the register of insured persons of the State Register of Mandatory State Social Insurance.

It is the Pension Fund of Ukraine that will now carry out (in addition to already existing duties) the former duties of the Social Insurance Fund of Ukraine:

- assignment of insurance payments and provision of social services;
- accident prevention;
- verification of the validity of issuance, extension of disability certificates and documents, which are the basis for their formation, on the basis of information from electronic systems and registers;
- control over the use of insurance funds by policyholders and insured persons.

## What is changing for policyholders?

Until January 1, 2023	From January 1, 2023
<i>Who decides on the payment of sick leave pay?</i>	
Social Insurance Commission at the company	Employer or persons authorized by the employer
<i>Term of considering sick leave pay and making a decision on payment</i>	
10 days – from the date of receipt by the employer of the sick leave certificate due to temporary incapacity (the day of receipt is considered the eighth day after the end of sick leave); <b>10 days</b> – from the date of receipt by the employer of the maternity leave certificate (the day of receipt is considered the eighth day after the opening of the maternity leave); 5 days – notification of the employee of the refusal to pay.	10 days – from the date of receipt by the employer of the sick leave certificate due to temporary incapacity (the day of receipt is considered the eighth day after the end of sick leave); <b>3 days</b> – from the date of receipt by the employer of the maternity leave certificate (the day of receipt is considered the eighth day after the opening of the maternity leave); 5 days – notification of the employee of the refusal to pay.
<i>Method of submitting settlement applications</i>	
– online with the help of client specialized software; – on paper media to branches of the working bodies of the executive directorate of the Social Insurance Fund of Ukraine;	– in electronic form through the policyholder's personal account on the web portal of electronic services of the Pension Fund of Ukraine; – on paper media to any service center of the Pension Fund of Ukraine.
<i>Financing of policyholders</i>	
The Social Insurance Fund of Ukraine – within <b>10</b> days upon receipt of the settlement application	The Pension Fund of Ukraine – within <b>3</b> days, in centralized manner, to separate current accounts opened by policyholders in bank institutions for crediting insurance funds upon receipt of the settlement application
<i>Who conducts inspections of policyholders?</i>	
Working bodies of the executive directorate of the Social Insurance Fund of Ukraine	Territorial bodies of the Pension Fund of Ukraine

Employers do not need to enter into an agreement with the Pension Fund of Ukraine on the recognition of a qualified electronic signature in order to submit settlement applications in electronic form.

The form of the settlement application has not changed at the moment.

In order to receive competent advice, both policyholders and insured persons shall contact the Pension Fund of Ukraine.



## DAYS OF SUSPENSION OF THE EMPLOYMENT CONTRACT SHALL BE EXCLUDED FROM THE CALCULATION PERIOD

Resolution of the Cabinet of Ministers of Ukraine No. 1350 dated December 2, 2022 amended Resolution of the Cabinet of Ministers of Ukraine No. 1266 dated September 26, 2001 “On Calculating the Average Salary (Income or Allowance) for the Calculation of Mandatory State Social Insurance Payments.” Resolution No. 1350 entered into force on January 1, 2023.

The days of suspension of the employment contract shall be included among valid reasons for which the employee did not work.

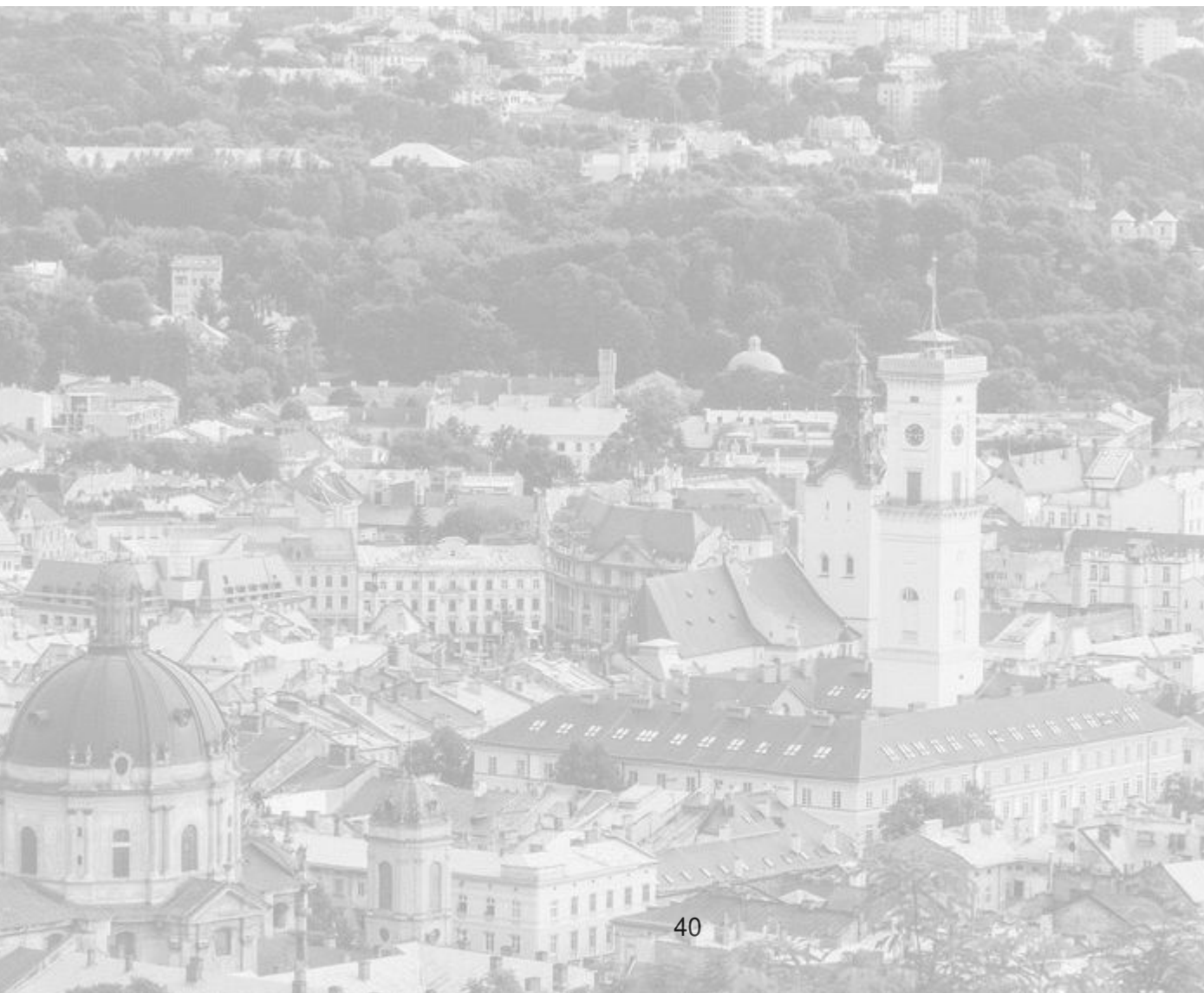
Thus, for the purpose of calculating the average daily salary, **the calendar days of the suspension of the employment contract due to the military aggression of the Russian Federation against Ukraine shall be excluded from the calculation period.**

In the same order, the average daily salary (income) of an insured person who is an employee or gig specialist of the resident of Diia.City, from which the insurance premiums were actually paid, shall be calculated.

## FROM JANUARY 1, 2023, THERE ARE SIX CALENDAR MONTHS FOR APPLYING FOR THE ASSIGNMENT OF INSURANCE PAYMENTS

The Law of Ukraine No. 2620-IX dated September 21, 2022 “On Amendments to the Law of Ukraine “On Mandatory State Social Insurance” and the Law of Ukraine “On Mandatory State Pension Insurance” amended the Law of Ukraine “On Mandatory State Social Insurance” No. 1105-XIV dated September 23, 1999.

**From January 1, 2023**, the insurance payments provided for by this Law shall be made if the application for their assignment is received **not later than six calendar months** from the date of restoration of the ability to work, the end of maternity leave, from the date of death of the insured person or member of the insured person’s family (until January 1, 2023, the deadline for applying for the assignment of insurance payments was 12 calendar months).



## THE REPORT ON EMPLOYMENT OF PERSONS WITH DISABILITIES (REPORT NO. 10-POI) FOR 2022 AND IN THE FUTURE WILL NOT BE SUBMITTED ANYMORE

From November 6, 2022, the law introducing the automated exchange of information between state funds is in effect. Now there is no need to report on employees with disabilities - **“Report on Employment of Persons with Disabilities (form No. 10-POI (annual)) for 2022 and in the future will not be submitted.** Instead, more information will have to be submitted to the Pension Fund of Ukraine.

On November 6, 2022, **the Law of Ukraine “On Amendments to Some Laws of Ukraine Regarding the Protection of Social, Labor and Other Rights of Individuals, Including During Martial Law and Simplifying the Accounting of Workplaces for Persons with Disabilities” No. 2682-IX** (hereinafter referred to as Law No. 2682) entered into force.

Law No. 2682 supplemented Part 3 of Article 17 of Law No. 2464 with a new second paragraph, according to which information from the State Register on the creation of jobs for persons with disabilities and on employment of persons with disabilities shall be provided by the Pension Fund of Ukraine to the Fund for Social Protection of Persons with Disabilities in the manner and in the form established by the Pension Fund of Ukraine in agreement with the central body of executive power, which ensures the formation of the state policy in the field of social protection of the population.

Law No. 2682 was published in the issue of the Holos Ukrainy Newspaper No. 226 dated November 5, 2022.

**Information on employment and implementation by companies of the regulations on employment of persons with disabilities shall be provided in the Pension Fund of Ukraine, namely:**

- on the creation of workplaces for persons with disabilities by companies, institutions, organizations and individuals using hired labor, on employment of persons with disabilities;
- necessary for calculating the number of workplaces for the employment of persons with disabilities by companies, institutions, organizations (hereinafter referred to as companies), individuals using hired labor, under Part 1 of Article 19 of the Law of Ukraine “On the Basics of Social Protection of Persons with Disabilities in Ukraine” No. 875-XII dated March 21, 1991 (hereinafter referred to as the Law No. 875) of the standard.

**Please note** that the **standard** of employment of persons with disabilities **has not changed.**

**Information** received from the Pension Fund of Ukraine, which contains **signs of violations of the legislation** on creation of workplaces for persons with disabilities and on employment of persons with disabilities, **shall be the basis for conducting an inspection of companies**, including companies, organizations of public associations of persons with disabilities and individuals who use hired labor.

Every year, **until March 10, in an automated mode**, using data from the State Register of Mandatory State Social Insurance and the Centralized Data Bank on Disability Problems, companies and individuals, which did not ensure fulfillment of the standard of workplaces in the previous year under Article 20 of Law No. 875 are determined, **and the calculation of the amounts of administrative and economic sanctions** (hereinafter referred to as the Calculation) that are subject to payment is sent to them.

The calculation shall be sent in the form of an e-document through the electronic accounts of companies and individuals using hired labor and on the web portal of electronic services of the Pension Fund of Ukraine.



**HR CONSULTING**

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## CHARITABLE ORGANIZATION: FORMALIZATION OF LABOR AND VOLUNTEER RELATIONS

Under Paragraph 3 of Part 1 of Article 1 of the Law of Ukraine “On Charitable Activities and Charitable Organizations” No. 5073-VI dated July 05, 2012 (Law No. 5073), **a charitable organization** means a legal entity under private law, the constituent documents of which define the charitable activity in one or more areas defined by this Law as the main purpose of its activity. Charitable organizations have the right to carry out **economic activities without the purpose of making a profit**, which contributes to the achievement of their statutory goals (Part 4 of Article 16 of Law No. 5073).

Employees of charitable organizations are subject to labor legislation, obligatory state social insurance and social security (Part 1 of Article 11 of Law No. 5073).

Therefore, the relationship between a charitable organization and an employee must be formalized in accordance with the requirements of the Labor Code, that is, an employment contract must be concluded. Article 21 of the Labor Code states:

An employment contract is an agreement between an employee and an employer (individual employer), according to which the employee undertakes to perform the work specified in this agreement, and the employer (individual employer) undertakes to pay the employee the salary and provide working conditions necessary for performance of work provided for by the labor legislation, collective agreement and agreement of the parties.

Along with this, a charitable organization can employ an employee both at the main place of employment and part-time.

Article 102<sup>1</sup> of the Labor Code of Ukraine defines that a part-time job is the performance by an employee, in addition to the main one, of other paid job under the terms of an employment contract in the time free from the main job at the same or another company, institution, organization or with an individual employer using hired labor. Such employees receive a salary for the work actually performed.

The labor relations between the employee and the employer shall be formalized with the help of such important personnel documents as:

- employee’s application for employment;
- order on employment;
- employment contract in written form (in cases provided for by Article 24 of the Labor Code of Ukraine);
- notice of employment of employee to the State Tax Service.

Also under Article 48 of the Labor Code, an employer can make a record of employment of employee in the employment record book (at the request of the employee).

In the case of formalizing relations with volunteers, the charitable organization must first of all be guided by the provisions of the Law of Ukraine “On Volunteer Activity” No. 3236-VI dated April 19, 2011 ( Law No. 3236).



Under Article 1 of Law No. 3236: “Volunteer activity means a voluntary, socially oriented, non-profit activity carried out by volunteers through the provision of volunteer assistance. Volunteer assistance means works and services performed and provided by volunteers free of charge. Volunteer activity is a form of charitable activity.”

At the same time, organizations and institutions that are non-profit and entered into the Register of Non-Profit Institutions and Organizations can involve volunteers in their activities (Part 1 of Article 5 of Law No. 3236). Such organizations and institutions shall have the right to conduct activities **with the conclusion of a volunteer agreement** with a volunteer **or without such an agreement** in the manner determined by Law No. 3236.

**The volunteer agreement** assumes that one party (volunteer) undertakes to **personally provide the volunteer assistance to its recipients free of charge** at the request of the other party (for example, a charitable organization) within the period specified in the agreement. At the same time, the agreement must specify that such an organization undertakes to provide the volunteer with opportunities for carrying out the volunteer activity.

The volunteer agreement must contain:

- description of volunteer activity (task);
- period of carrying out the volunteer activity;
- rights and obligations of the parties;
- liability for causing damages;
- conditions of termination of the agreement.

The conditions and the procedure for reimbursing the volunteer for expenses related to the execution of the agreement may be prescribed in the agreement (Part 2 of Article 9 of Law No. 3236). Special attention should be paid to this issue if it is provided for that the volunteer is reimbursed for his/her expenses related to the volunteer activity (travel, accommodation, etc.).



In addition, one should take into account the provisions of the Resolution of the Cabinet of Ministers of Ukraine dated August 5, 2015 No. 556, which approved the “Procedure for Providing the Volunteer Assistance in Certain Areas of Volunteer Activity” (Procedure No. 556). Including, Paragraph 7 of the Procedure specifies that organizations that involve volunteers in their activities:

- conduct training (instruction) of volunteers and carry out further coordination of their activities;
- provide free access to information related to the volunteer activity;
- can supply them with equipment depending on the specifics of the event in agreement with the organizers of the events;
- conduct training (instruction) of volunteers and, if necessary, provide further training (retraining) depending on the area and specifics of the volunteer activity.

Therefore, in order to involve a volunteer in the statutory activities of a charitable organization, it is necessary to enter into a written volunteer agreement with a volunteer, which must be developed in compliance with the requirements, including, Law No. 3236 and Procedure No. 556.



## VACCINATION OF EMPLOYEES: HOW TO ACCOUNT?

Vaccination of employees can be carried out:

— in the vaccination point of a health care institution or individual entrepreneur, who has received a license to practice medicine (Paragraph 2 of the Regulation on Organization and Conduct of Preventive Vaccinations approved by the Order of the Ministry of Health of Ukraine No. 595 dated September 16, 2011).

In this case, an agreement for provision of medical services (vaccinations) shall be concluded with the health care institution (individual entrepreneur)

— or in the company's own first-aid post.

In this case, the first-aid post must comply with the conditions of the vaccination point from Paragraph 10 of the Regulation on Organization and Conduct of Preventive Vaccinations approved by the Order of the Ministry of Health of Ukraine No. 595 dated September 16, 2011). And, including, it must be equipped with: a table capable of accommodating one small cooler bag (thermocontainer), injection materials and a box for the safe disposal of syringes; a box for the safe disposal of syringes; a thermometer for measuring the room temperature, etc.

### Accounting

In accounting, the **expenses** for vaccination of employees shall be accounted **according to the areas of expenses**, that is, on accounts 23, 91, 92, 93, 94 - depending on the division of the company where the vaccinated employee works.

If vaccination is carried out in the company's own first-aid post, then the purchased vaccine is credited to subaccount 209 "Other materials." After that, as employees are vaccinated, the cost of the vaccine is included in the corresponding expenses (Dt 23, 91, 92, 93, 94).

### Income tax

In the tax accounting of business entities with a small income (income from any activity according to the accounting rules is less than UAH 40 million) and with a large income (UAH 40 million and more), expenses for vaccination costs shall be accounted for **according to the accounting rules**.

Adjustments (of tax **differences**) of Section III of the Tax Code of Ukraine for vaccination of employees **are not provided for**. Therefore, such **expenses** on a general basis **will reduce the financial result** (object of taxation).

### VAT

If the vaccination is carried out:

— **in the health care institution** that has an appropriate license, **medical services** are exempt from VAT (**exemption** under Subparagraph 197.1.5 of the Tax Code of Ukraine).

In this case, the company will receive a preferential tax invoice from the health care institution, which is a VAT payer, and no VAT tax credit will arise. However, if the company receives vaccination services from the individual entrepreneur, a VAT payer (who is not a health care institution and Subparagraph 197.1.5 of the Tax Code of Ukraine and is not eligible for VAT exemption), then the amount of VAT on such services can be included in the tax credit by the company (if there is a registered tax invoice);

— in its own first-aid point (for which the company purchased the vaccine independently), then the company has the right to include the incoming VAT on the cost of the vaccine as a tax credit. Of course, if there is an incoming registered tax invoice.

Since vaccines are an immunobiological preparation - a medicine (Part 1 of Article 2 of the Law of Ukraine "On Medicines" No. 123/96-BP dated April 04, 1996), they are taxed at the rate of 7% VAT (Subparagraph "c" of Paragraph 193.1 of the Tax Code of Ukraine). It should be taken into account that, for example, vaccines for the prevention of influenza and vaccines against coronavirus (UKT ZED (Ukrainian Classification of Goods for Foreign Economic Activity) 3002) are included in the preferential *List approved by the Resolution of the Cabinet of Ministers of Ukraine No. 224 dated March 20, 2020*, and are subject to the medical benefit under Paragraph 71 of Subsection 2 of Section XX of the Tax Code of Ukraine.

Therefore, their supplies are exempt from VAT (exemption). Therefore, there will be no incoming VAT for them.

For the company, the expenses for vaccination are expenses that arise during the conduct of business activities.

And since the vaccine is used by the company to vaccinate employees, that is, it is used for economic purposes, the company does not need to accrue compensatory tax obligations under *Paragraph 198.5 of the Tax Code of Ukraine* (for a vaccine, for example, purchased with VAT). In addition, since the expenses for vaccination for the company are ordinary expenses of the company's activity, there is no supply of vaccine to employees, and in this case, the company does not need to issue any supply tax invoice.

### **Personal income tax and military tax**

Under Subparagraph 165.1.19 of the Tax Code of Ukraine, **the taxable income does not include** funds or the value of property (services) provided by the employer as assistance for the taxpayer's medical care, including in the part of the **employer's expenses for employee vaccination** aimed at preventing diseases during the threat of epidemics in accordance with the Law of Ukraine "On Ensuring Sanitary and Epidemic Well-Being of the Population" No. 4004-XII dated February 24, 1994 (hereinafter referred to as Law No. 4004), subject to the availability of **relevant supporting documents**.

In this connection, it should be taken into account that:

— under Article 27 of Law No. 4004, population groups and categories of employees who are subject to preventive vaccinations, including mandatory ones, as well as the procedure and terms of their implementation are determined by *the Regulations on the Organization and Conduct of Preventive Vaccinations and the Calendar of Preventive Vaccinations in Ukraine* (approved by the order of the Ministry of Health of Ukraine No. 595 dated September 16, 2011). Therefore, all **vaccinations specified in the Vaccination Calendar** (both mandatory and recommended) are exempt from **personal income tax** (letter from the Chief Directorate of the State Fiscal Service No. 3718/10/20-40-17-02-14 dated November 03, 2015). So, for example, the vaccination of employees with the popular seasonal flu vaccine (which is in the *Vaccination Calendar*) will be exempt from personal income tax;

— for personal income tax exemption, **it is necessary to have the appropriate supporting documents**. Such supporting documents can be: an agreement with a health care institution on vaccination, a certificate of provision of services, documents for payment for vaccination services. And if the company independently purchased the vaccine, then the documents confirming its purchase: expenditure invoice, check of the register of settlement transactions, payment documents, etc.

In addition, the possibility of vaccination of employees must be provided for in the collective agreement. Since Subparagraph 165.1.19 of the Tax Code of Ukraine is about **help** from the employer, it is necessary to have **statements from employees requesting it**. Also, the decision to vaccinate employees shall be formalized by an appropriate decree (order).

Since vaccination is not subject to personal income tax, no **military tax shall be withheld** (Subparagraph 1.7 of Paragraph 16<sup>1</sup> of Subsection 10 of Section XX of the Tax Code of Ukraine).

**Attention!** If the requirements of Subparagraph 165.1.19 of the Tax Code of Ukraine are not met (for example, there are no supporting documents), then the cost of vaccination will be taxed by personal income tax on a general basis as an additional benefit at the rate of 18% with the deduction of the military tax.

At the same time, in Section I of Annex **4DF** of the Unified Reporting on Personal Income Tax / Military Tax / Single Social Contribution (approved by the order of the Ministry of Finance of Ukraine No. 773 dated December 15, 2020):

— non-taxable vaccination, under Subparagraph 165.1.19 of the Tax Code of Ukraine, is displayed **with the income symbol "143"**, and

— taxable vaccination (if the conditions of Subparagraph 165.1.19 of the Tax Code of Ukraine are not met) — with the income symbol "126" (as an additional benefit).

### **Single social contribution**

**The single social contribution is not charged** on the cost of vaccinations, since the expenses for vaccination do not pertain to the salary fund - Subparagraphs 3.27 and 3.30 of the Instructions on Salary Statistics approved by the order of the State Committee of Statistics No. 5 dated January 13, 2004 and Subparagraphs 10 and 13 of Section II of the List, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 1170 dated December 22, 2010).

# LEGAL CONSULTING





## THE NEW LAW ON JOINT-STOCK COMPANIES ENTERED INTO EFFECT FROM 2023

Law No. 2465-IX dated July 27, 2022 “On Joint-Stock Companies” defines the procedure for the creation, operation, termination and split-up of joint-stock companies, their legal status, rights and obligations of shareholders.

There are the following changes:

- improvement of the issue of holding general meetings of a joint-stock company using electronic voting;
- introduction of the activities of the adviser on corporate rights;
- determination of the possibility for the joint-stock company to choose a one-level management structure of the company by creating a board of directors of the joint-stock company;
- settlement of the issue of introducing the position of corporate secretary in joint-stock companies;
- removal from the Law of Ukraine “On Joint-Stock Companies” of norms requiring the existence of an audit commission (auditor) in joint-stock companies;
- settlement of the issue of liability of officials of the joint-stock company;
- introduction of a mechanism for accounting for the shares of limited and additional liability companies in the accounting system of the Central Securities Depository;
- settlement of issues of consolidation, merger, spin-off and split-up of joint-stock companies in accordance with the provisions of Directive (EU) 2017/1132 dated June 14, 2017 regarding certain aspects of company law.

## FROM DECEMBER 29, 2022, THE NEW PROCEDURE FOR NOTIFYING BENEFICIARIES IS IN EFFECT

Law “On Amendments to Some Laws of Ukraine Regarding the Simplification of the Procedure for Submitting Information Necessary for Financial Monitoring” No. 2571-IX (Law No. 2571) signed by the President of Ukraine on September 27, 2022, published in the Holos Ukrainy Newspaper on September 29; new rules are in effect from December 29.

**The law provides for, including, but not limited to:**

- partially automated verification of information about persons who are the ultimate beneficial owners of a legal entity submitted to the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations in electronic form, using the tools of the Unified State Web Portal of Electronic Services;
- cancellation of the requirement to exclusively notarize copies of documents that are submitted to confirm the identity of the ultimate beneficial owner;
- the procedure for determining by legal entities of information about the final beneficial owners and the structure of ownership is specified;
- introduction of the obligation of legal entities that are founders (members) of legal entities and individuals, who are founders (members) of legal entities and/or exert decisive influence on their activities, to provide information required for submission by a legal entity at the request of legal entities for entering or updating the information about the ultimate beneficial owner and the ownership structure of the legal entity, etc. into the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations.

## NEW RULES FOR EMPLOYMENT OF FOREIGNERS IN UKRAINE ARE IN EFFECT FROM OCTOBER 15

The Law “On Amendments to Some Laws of Ukraine Regarding Employment of Foreigners and Stateless Persons in Ukraine” **No. 2623-IX dated September 21, 2022 was signed on October 12.**

The law entered into force on October 15, 2022 (published in the Holos Ukrainy Newspaper on October 14).

The law, including, but not limited to, provides for:

- improvement of the grounds for issuing or extending the validity of permits for employment of foreigners and stateless persons; refusal to issue or extend the validity of such permits;
- establishment of equal conditions of payment for both citizens of Ukraine and for foreigners and stateless persons staying in Ukraine on legal grounds;
- improvement of the norms regarding the list of documents submitted by employers to obtain or extend the validity of permits for employment of certain categories of foreign workers and the amount of fees for the extension of such permits;
- simplifying access to the specified administrative service and the possibility of obtaining it in any convenient way for the employer, including through the Center for the Provision of Administrative Services, etc.



## FOREIGN DIRECTOR: WHAT SALARY SHOULD BE PAID TO THE FOREIGN DIRECTOR?

The director of the company is a foreigner. The director has a permanent residence permit. What is the minimum salary that can be set for such director?

Most foreigners cannot work in Ukraine without a work permit.

Under Provision of Part 1 of Article 42 of the Law on Employment of the Population No. 5067-VI dated July 05, 2012, employers shall have the right to employ foreigners and stateless persons on the territory of Ukraine on the basis of a permit issued by the territorial body of the Employment Service.

An important condition for obtaining a permit is to establish a salary in the minimum amounts specified in Part 3 of Article 42<sup>1</sup> of the Law on Employment:

1) **five minimum salaries** — foreigners and stateless persons — employees in public associations, charitable organizations and educational institutions defined in Article 34, 36, 37, 39, 41, 43, 48 of the Law of Ukraine “On Education” No. 2145-VIII dated September 05, 2017;

2) **ten minimum salaries** — for all other categories of employees.

Of course, there are exceptions – situations when there is no need to limit the salary. This applies to a limited number of persons (special categories of foreigners and stateless persons) specified in Part 2 of Article 42<sup>1</sup> of the Law on Employment:

1) foreign highly paid professionals;

2) founders and/or members, and/or beneficiaries (controllers) of a legal entity established in Ukraine;

3) graduates of universities that are among the first hundred in the world university rankings according to the list determined by the Cabinet of Ministers of Ukraine;

4) foreign workers of creative professions;

5) foreign IT professionals;

6) gig specialists.

**Attention!** Provision of Part 6 of Article 42 of the Law on Employment provides for a list of persons who can be employed **without a work permit**. And in the first place among them are foreigners and stateless persons who **permanently live in Ukraine**.

The document confirming the right of a foreigner or stateless person to permanent residence in Ukraine is a **permanent residence permit**.

If the director of a legal entity has a permanent residence permit in Ukraine, then the director is a foreigner whose employment **does not require a work permit**. And therefore, **there is no need** to limit the director's salary to at least five or ten minimum salaries.

So, **in this case, the general minimum limit should be observed: the salary of a foreign director must be not less than the legally established minimum salary** (for the whole of 2023, the amount is UAH 6,700.00).

## IS IT POSSIBLE TO WRITE OFF THE DEBT AS BAD DEBT TO THE COMPANY OF THE AGGRESSOR COUNTRY

*The balance sheet of the company currently records accounts payable in russian rubles to:*

- a russian company for goods in russian rubles that were delivered in 2017–2019;
- a belarusian company for goods in russian rubles that were delivered in 2022.

*The deadlines for fulfilling obligations are overdue;*

**Questions arise in connection with the ban on payments in russian rubles:**

1. Should exchange differences be accrued on foreign currency debt in russian rubles?
2. Given the fact that payment under the contract is impossible, is it possible to recognize such a debt as bad and write off before the limitation period expires?

### **Answer:**

Under Paragraph 17 of the Resolution of the National Bank of Ukraine No. 18 dated February 24 2022 “On the Operation of the Banking System During the Introduction of Martial Law” (Resolution No. 18), authorized institutions are prohibited from carrying out any currency transactions:

- 1) using russian and belarusian rubles;
- 2) the participant of which is a legal entity or an individual located (registered/permanently residing) in the russian federation / the republic of belarus;
- 3) to fulfill obligations to legal entities or individuals located (registered/permanently residing) in the russian federation and/or the republic of belarus.

There are some exceptions to this prescription, specified in Paragraph 17<sup>2</sup> of Resolution No. 18, but they do not relate to the questions under consideration.

At the same time, it should be taken into account that Resolution No. 18 establishes the specifics of conducting banking transactions during the period of martial law, and after its termination, transactions will be conducted according to other rules.

In view of this, it is considered wrong to suspend accrual of exchange rate differences in the accounting. After all, all of the listed debts are monetary.

Remember, that **monetary items** are balance sheet items about cash, as well as about such assets and liabilities that will be received or paid in a fixed (or determined) amount of money or their equivalents (Paragraph 4 of the National Regulation (Standard) of Accounting 21). And on each balance sheet date, monetary items in foreign currency are displayed using the exchange rate on the balance sheet date (Paragraph “a” of Paragraph 7 of the National Regulation (Standard) of Accounting 21).

In addition, Paragraph 8 of the National Regulation (Standard) of Accounting 21 specifies that the determination of exchange rate differences for monetary items in foreign currency shall be carried out on the balance sheet date, as well as on the date of the economic operation within its limits or for the entire item (in accordance with the accounting policy).

Premature write-off of bad debts is also considered incorrect.



Under Paragraph 3 of Section I of the National Regulation (Standard) of Accounting 1, a **liability** is the debt of the company that arose as a result of past events and the repayment of which in the future is expected to lead to a decrease in the company's resources embodying economic benefits.

At the same time, under Paragraph 5 of the National Regulation (Standard) of Accounting 11, a liability is recognized if its value can be reliably determined and there is a possibility of a decrease in economic benefits in the future as a result of its repayment. If a previously recognized liability is not repayable as of the balance sheet date, its amount is included in the income of the reporting period.

The accountant decides on the basis of the accountant's professional judgment what exactly are the circumstances that indicate that the recognized liability is not repayable. For example, in this matter, you can focus on the criteria for classifying debt as bad, which are specified in Subparagraph 14.1.11 of the Tax Code of Ukraine. However, it should be borne in mind that this rule contains "strict" criteria aimed at limiting the attribution of receivables to the creditor's expenses. And the criteria for writing off accounts payable can be softer. The main thing is to substantiate what exactly was the reason for writing off accounts payable.

In this situation, it will be difficult to justify the reasons for writing off accounts payable, since the company can theoretically pay off its creditors after the repeal of Resolution No. 18.

Note that the grounds for writing off debts must be provided in the accounts payable certificate, which, among other things, shall state the following information (Paragraph 7.5 of Section III of Regulation No. 879):

- name and address of the creditor;
- amount, cause, date and basis of the debt.

Accounts payable shall be written off in correspondence with subaccount **717** "Income from the Write-Off of Accounts Payable." From the description of this account given in Instruction No. 291, it follows that it summarizes information on the income from the write-off of accounts payable, which arose during the operating cycle, after the expiration of the statute of limitations. At the same time, this account can also show income from the write-off of payables for other reasons.

## E-MONEY AND EXECUTION OF PAYMENT TRANSACTIONS WITH E-MONEY: THE NEW PROCEDURE HAS BEEN CREATED

The National Bank, within the framework of the implementation of the Law of Ukraine “On Payment Services” (hereinafter referred to as the Law) established a new procedure for providing electronic money issuers (banks and non-banking institutions) with a financial payment service for issuing electronic money and performing payment operations with it, including, opening and servicing electronic money wallets. Remember, that the Law granted the right to non-bank payment service providers to issue electronic money. Before that, only banks could be issuers of electronic money.

In order to unify the requirements for such activities, the National Bank, including:

- established requirements for the procedure for issuing electronic money and performing payment operations with it;
- obliged the issuer to generate an electronic wallet number according to the international IBAN standard and established requirements for the mode of use of electronic wallets;
- introduced requirements for the contract concluded between the issuer and the consumer or user, in order to strengthen the protection of the rights of consumers of financial services.

The relevant norms are contained in the Resolution of the Board of the National Bank of Ukraine “On Approval of the Regulation on Issuing Electronic Money and Carrying Out Payment Transactions with It” No. 210 dated September 29, 2022.

At the same time, we would like to remind you that from February 24, 2022, the National Bank temporarily suspended operations for the issuance and distribution of electronic money, replenishment of electronic wallets with electronic money (Resolution of the Board of the National Bank of Ukraine “On the Operation of the Banking System During the Introduction of Martial Law” No. 18 dated February 24, 2022 (as amended).



## HOW TO ACT IF THE TAX AUTHORITIES ASK HOW MUCH MONEY YOU HAVE IN YOUR BANK ACCOUNT?

In what cases are the employees of control bodies entitled to request information (certificate) about the movement of funds in current accounts in banks: from a business entity and/or banking institution?

The State Tax Service has the right to receive information about the funds in the accounts from the National Bank of Ukraine, banks and other financial institutions **only on the basis of a court decision**.

And the taxpayer provides it only during the documentary check!

The supervisory authorities determined by Subparagraph 41.1.1 of the Tax Code of Ukraine have the right to receive certificates free of charge from taxpayers, as well as from the institutions of the National Bank of Ukraine, banks and other financial institutions in accordance with the procedure established by the Law of Ukraine dated December 07, 2000 No. 2121-III "On Banks and Banking Activities" as amended and the Tax Code of Ukraine, certificates and/or copies of documents on the existence of bank accounts, and on the basis of a court decision – information on the volume and circulation of funds in the accounts, including on non-receipt of foreign exchange earnings from business entities within the established time limits, information on the debtor's contracts on the storage of valuables or provision of the debtor with a property lease (rent) of an individual bank safe guarded by the bank (Subparagraph 20.1.5 of the Tax Code of Ukraine).

Paragraph 57 of Section IV of the Regulation on the Organization of Accounting in Banks of Ukraine, approved by the Resolution of the Board of the National Bank of Ukraine dated July 04, 2018 No. 75 as amended (hereinafter referred to as the Regulation), defines that the information contained in the primary documents accepted for accounting is systematized in accounting accounts in synthetic and analytical accounting registers by double recording them in interconnected accounting accounts.

Registers of synthetic and analytical accounting are kept on paper or in electronic form.

During the audit, the taxpayer is obliged to provide the officials of the supervisory bodies in full with all documents pertaining to or related to the subject of the audit, including primary documents (**including bank statements**), registers, financial, statistical and other reporting related to the calculation and payment of taxes, fees and payments.

At the same time, the supervisory authorities have the right to receive information about the amount and circulation of funds in the taxpayer's accounts free of charge from the institutions of the National Bank of Ukraine, banks and other financial institutions only on the basis of a court decision.

## LIMITATION PERIODS IN FOREIGN ECONOMIC ACTIVITY

What are the limitation periods used in the consideration of disputes between business entities under foreign economic agreements?

Under Article 256 of the Civil Code of Ukraine, a limitation period is a period within which a person can apply to the court for the protection of his/her civil right or interest. **The total limitation period is three years** (Article 257 of the Civil Code of Ukraine). The limitation period defined by Article 257 is **extended for the duration of the state of emergency and martial law in Ukraine** in accordance with Paragraph 19 of Section “Final and Transitional Provisions” of the Civil Code of Ukraine, taking into account the changes made by the Law of Ukraine No. 2120-IX dated March 15, 2022 “On Amendments to the Tax Code of Ukraine and Other Laws of Ukraine Regarding the Application of Norms for the Period of Martial Law”.

At the same time, Article 8 of the Convention on the Limitation Period in the International Sale of Goods (hereinafter referred to as the Convention), which entered into force for Ukraine on April 1, 1994, establishes that for participating countries, that are parties to a foreign economic agreement (if the agreements concluded by them do not contradict the requirements of the Convention), the limitation period is **four years**.

Under Article 9 of the Constitution of Ukraine, the above Convention is a part of the national legislation of Ukraine.

That is, the 4-year limitation period established by Article 8 of the Convention applies to agreements of international sale of goods, with the exception of those listed in Article 4 of the Convention, provided that the commercial companies of the parties to the agreement are located in the Contracting States at the time of its conclusion. The list of countries that are parties to the Convention on the Limitation Period in the International Sale of Goods is given in the letter of the Ministry of Foreign Affairs of Ukraine No. 72/19-612/1-3811 dated December 17, 2007.



According to the above-mentioned letter, the following states are parties to the mentioned Convention:

Republic of Argentina, republic of belarus, Bosnia and Herzegovina, Federative Republic of Brazil, Republic of Bulgaria, Burundi, Costa Rica, Republic of Cuba, Czech Republic, Dominican Republic, Arab Republic of Egypt, Republic of Ghana, Republic of Guinea, Republic of Hungary, Republic of Liberia, United Mexican States, Republic of Moldova, Mongolia, Republic of Montenegro, Republic of Nicaragua, Kingdom of Norway, Republic of Paraguay, Republic of Poland, Romania, russian federation, Republic of Serbia, Republic of Slovenia, Slovak Republic, Republic of Uganda, Ukraine, United States of America, Eastern Republic of Uruguay, Republic of Zambia.

In addition, under Article 9 of the Convention, the beginning of the limitation period is not postponed due to the fact that:

- one party may be required to give a notice to the other party;
- the arbitration agreement contains a condition that no right to claim arises until an award is made.

Under Article 23 of the Convention, regardless of the provisions of the Convention, the limitation period shall in any case expire not later than ten years from the date on which this period began.

Thus, when considering disputes between business entities, the limitation period is determined taking into account the provisions of the Convention on the Limitation Period in the International Sale of Goods.



## WHAT FUNCTIONS CAN BE PERFORMED BY THE REPRESENTATIVE OF THE TAXPAYER?

The taxpayer has the right to deal with the payment of taxes in person or through the **representative** of the taxpayer.

The personal participation of a taxpayer in tax relations does not deprive the taxpayer of the right to have the representative, just as the participation of a tax representative does not deprive the taxpayer of the right to personal participation in such relations.

Norms provided for by Paragraph 19.1 of the Tax Code of Ukraine.

**Representatives** of the taxpayer are recognized as persons who can represent the legal interests of the taxpayer and manage cases related to the payment of taxes, **based on the law or a power of attorney**.

A power of attorney issued by an individual taxpayer to represent his/her interests and deal with the payment of taxes must be certified in accordance with the current legislation (Paragraph 19.2 of the Tax Code of Ukraine).

The representative of the taxpayer enjoys the rights established by the Tax Code of Ukraine for taxpayers (Paragraph 19.3 of the Tax Code of Ukraine).



## THE LIST OF RESTORED UNSCHEDULED INSPECTIONS HAS BEEN EXPANDED

The Law of Ukraine No. 2719-IX dated November 03, 2022 “On Amendments to the Tax Code of Ukraine and Some Other Laws of Ukraine Regarding the Privatization of State and Communal Property Subject to a Tax Pledge and Ensuring the Administration of Tax Debt Repayment” (Law No. 2719) expanded the list of inspections that **are not subject to the suspension** of terms during the period of martial law (Subparagraph “a” - “c” of Paragraph 69.2 of Subsection 10 of Section XX of the Tax Code of Ukraine).

In addition to, restored from May 27, 2020 (Law No. 2260), camera and actual inspections, documentary unscheduled inspections conducted at the request of the taxpayer, unscheduled inspections under Subparagraph 78.1.7 and 78.1.8 of the Tax Code of Ukraine, from the date of entry into force of **Law No. 2719, the following are also restored:**

1) documentary unscheduled inspections carried out on the grounds defined by:

- Subparagraph 78.1.2 in the part of control over transfer pricing;
- Subparagraph 78.1.5 – if the tax payer has submitted an objection to the inspection report to the supervisory body in accordance with the established procedure (Paragraph 86.7 of the Tax Code of Ukraine) or a complaint against a tax notice-decision adopted as a result of it with a demand for full or partial review of the results of the inspection,
- Subparagraph 78.1.12 – inspections carried out by a higher-level supervisory body in order to control the actions or inaction of officials of a lower-level supervisory body;
- Subparagraph 78.1.14 regarding the control over the non-compliance of the conditions of the controlled operation with the arm's length principle and/or the non-compliance of the conditions of the controlled operation with the arm's length principle in the manner provided for by Subparagraph 39.5.1.1 of the Tax Code of Ukraine;
- Subparagraph 78.1.15 – in case of non-submission by the taxpayer or submission in violation of the requirements of Paragraph 39.4 of the Tax Code of Ukraine of the report on controlled operations and/or documentation on transfer pricing or in case of violations during the monitoring of such report or documentation in accordance with the requirements of Subparagraph 39.4 and 39.5 of the Tax Code of Ukraine;
- Subparagraph 78.1.16 – inspection of transfer pricing control, if a report on controlled operations is received (Paragraph 39.4 of the Tax Code of Ukraine);
- Subparagraph 78.1.21 – violation by the taxpayer of tax, currency and other legislation, the control of which is entrusted to the supervisory authorities, in the case of receipt of information from foreign state bodies related to the issues of the conducted inspection after conducting a scheduled documentary inspection or an unscheduled documentary inspection;
- Subparagraph 78.1.22 – in case of receipt of information indicating that a non-resident conducts economic activities through a permanent representative office in Ukraine, in accordance with the requirements of Subparagraph 14.1.193 of the Tax Code of Ukraine, without the tax registration.

2) documentary unscheduled inspections regarding issues of taxation by legal entities or other non-residents, who carry out economic activities through a permanent representative office on the territory of Ukraine, of income received by non-residents with a source of origin from Ukraine, and/or documentary unscheduled inspections of non-residents (representative offices of non-residents).

## THE RANGE OF BUSINESS ENTITIES PROVIDING HOTEL SERVICES HAS BEEN EXPANDED

**On January 1, 2023**, the Law of Ukraine “On Amendments to the Law of Ukraine “On Tourism” Regarding Expanding the Range of Business Entities Providing Hotel Services” dated April 29, 2021 No. 1441-IX (Law No. 1441-IX) **entered into force**.

Law No. 1441-IX, including, **allows individual entrepreneurs to provide hotel services**. It was also clarified that the establishment of the appropriate category for tourist infrastructure facilities (hotels, other means of temporary accommodation, catering establishments, resort establishments, etc.), and the revision of the established category **shall be carried out upon the application of the business entities** providing relevant services.

The hotel category is established for 5 years. The law applies 3 months after its entry into force.

A top-down view of a desk with various items: a white keyboard, a spiral notebook with a pen, three black pens, a silver paper clip tray, two silver figurines, and a small plant. On the right, the words 'BUSINESS' are spelled out vertically with letters on separate pieces of paper.

# TRANSFER PRICING

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## FROM JANUARY 1, PROCEDURES FOR COMPLIANCE WITH THE CONDITIONS OF CONTROLLED TRANSACTIONS WITH THE ARM'S LENGTH PRINCIPLE ARE APPLIED

The Ministry of Finance of Ukraine by order No. 19 dated January 18, 2022 (registered at the Ministry of Justice of Ukraine on June 16, 2022 under No. 662/37998) approved the list of Procedures for Establishing the Compliance of the Conditions of the Controlled Transactions with Regard to Certain Goods and Processing Products. They **entered into force on January 1, 2023**:

- the Procedure for Establishing the Compliance of the Conditions of the Controlled Transaction with Regard to Raw Materials with the Arm's Length Principle (General);
- the Procedure for Establishing the Compliance of the Conditions of the Controlled Transaction for the Export of Grain, Oil Crops and Their Processing Products with the Arm's Length Principle;
- the Procedure for Establishing the Compliance of the Conditions of the Controlled Transaction for the Export of Iron Ore Raw Materials with the Arm's Length Principle;
- the Procedure for Establishing the Compliance of the Conditions of the Controlled Transaction for the Import of Energy and Coking Coal with the Arm's Length Principle;
- the Procedure for Establishing the Compliance of the Conditions of the Controlled Transaction for the Import of Petroleum Products and Liquefied Hydrocarbon Gases with the Arm's Length Principle;
- the Procedure for Establishing the Compliance of the Conditions of the Controlled Transaction for the Export of Pig Iron, Ferrous Metal Scrap and Metal Products from Ferrous Metals with the Arm's Length Principle;
- the Procedure for Establishing the Compliance of the Conditions of the Controlled Transaction for the Export and Import of Ferroalloys with the Arm's Length Principle.

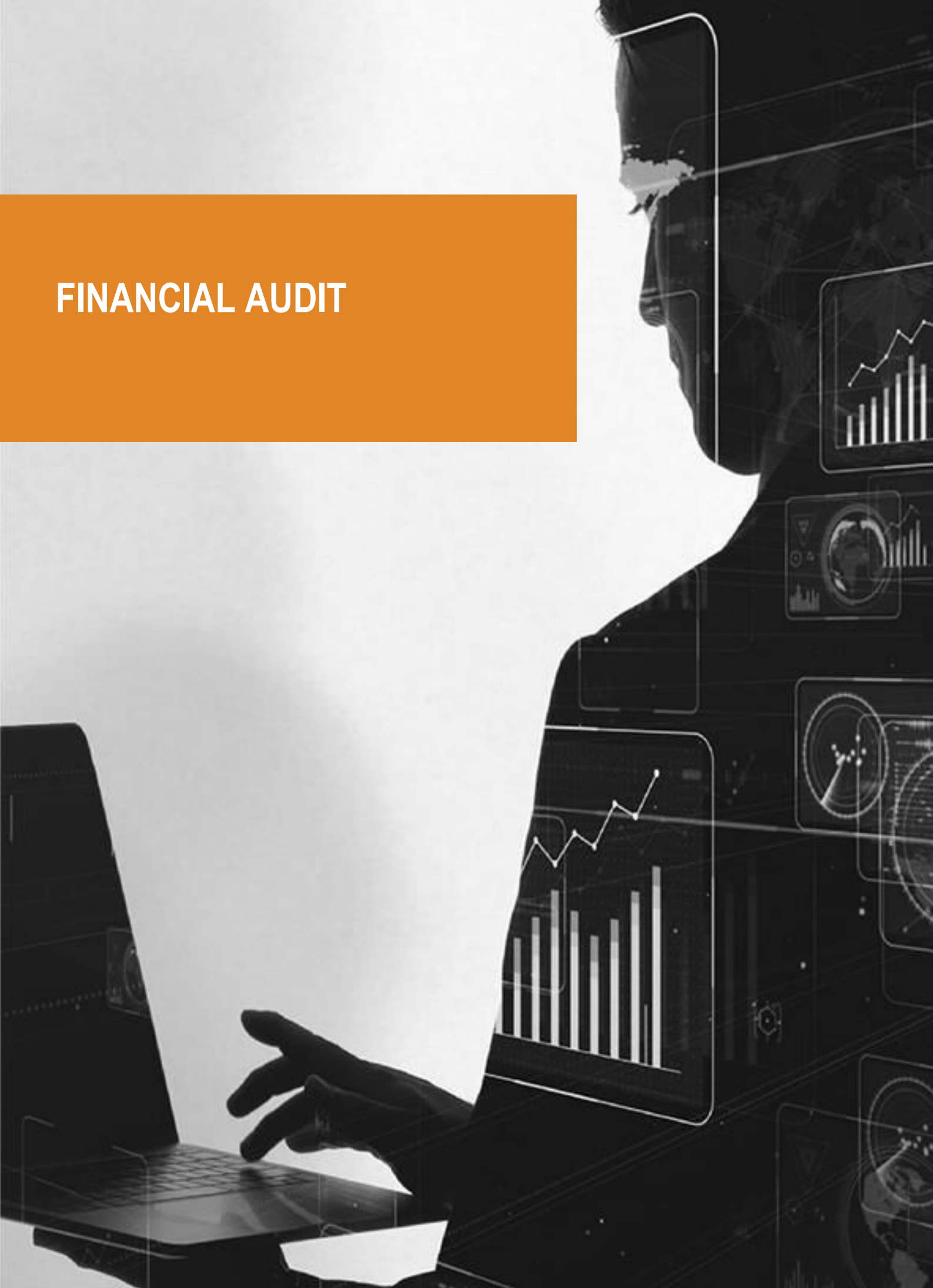
The Procedures define the following:

- the priority of the comparative uncontrolled price method;
- peculiarities of carrying out adjustments of comparability of transactions with raw goods;
- peculiarities of the application of other methods of transfer pricing (approaches to functional analysis, definition of business models, selection of the researched party, use of external information sources);
- peculiarities of the application of quoted prices and adjustments in terms of groups of raw materials (grains, oilseeds, petroleum products, ferroalloys, metal products, etc.).





# FINANCIAL AUDIT



## CHANGES REGARDING THE SUBMISSION OF FINANCIAL STATEMENTS (WHO SUBMITS CONDENSED FINANCIAL STATEMENTS, ACCORDING TO INTERNATIONAL STANDARDS, TAXONOMY OF FINANCIAL STATEMENTS ACCORDING TO INTERNATIONAL STANDARDS)

**Resolution of the Cabinet of Ministers of Ukraine dated November 29, 2022 p No. 1327** “On Amendments to the Procedure for Submitting Financial Statements” (**Resolution No. 1327**) entered into force on December 2, 2022 (published in the issue of the Uriadovyi Kurier No. 256 dated December 02, 2022).

**Main changes:**

**Single tax payers will submit “large” financial statements, but not all!**

Paragraph 16 of Paragraph 2 of the “Procedure for Submitting Financial Statements” approved by the Resolution of the Cabinet of Ministers of Ukraine dated February 28, 2000 No. 419 (Procedure No. 419) specifies that companies that maintain simplified accounting of income and expenses under the tax legislation shall submit annual financial statements condensed by indicators as part of a balance sheet and a statement of financial results.

Such companies include legal entities who are single tax payers of the third group (see Paragraph 44.2 of the Tax Code of Ukraine).

**By Resolution No. 1327, this norm is excluded.**

Therefore, after making the changes, **only** the following persons **will submit condensed financial statements** as part of the balance sheet and the statement of financial results:

1. companies that, according to the Accounting Law, pertain to **micro companies**,
2. **non-entrepreneurial** companies (except those required to prepare financial statements according to international financial reporting standards).

**If the company, which is a single tax payer of the 3rd group, pertains to micro companies or non-entrepreneurial companies, it will submit condensed financial statements.** Under Subparagraph 2 of Paragraph 2 of Section I of the National Regulation (Standard) of Accounting 25, such persons shall submit financial statements of micro companies (forms No. 1-ms and No. 2-ms).

Part 3 of Article 11 of the Law of Ukraine “On Accounting and Financial Reporting in Ukraine” dated No. 996-XIV dated July 16, 1999 (Accounting Law) specifies that, for small companies, condensed financial statements are also established as part of the balance sheet and the statement of financial results.

At the same time, Paragraph 15 of Paragraph 2 of Regulation No. 419 specifies that companies that prepare financial statements and consolidated financial statements according to national accounting regulations (standards) shall prepare interim financial statements that cover the relevant period (1 quarter, first half of the year, nine months), on a cumulative basis from the beginning of the reporting year as part of the balance sheet and the statement of financial results.

That is, it also applies to small companies. Unlike micro companies and non-entrepreneurial companies, which do not prepare and do not submit interim financial statements, small companies shall submit interim financial statements - shortened by indicators as part of the balance sheet and the statement of financial results. But small companies also submit condensed annual financial statements.

If the company, which is a single tax payer of the 3rd group, pertains to small companies, it will submit condensed financial statements - both interim and annual. Under Subparagraph 1 Paragraph 2 of Section I of the National Regulation (Standard) of Accounting 25, such companies shall submit financial statements of small companies (forms No. 1-m and No. 2-m).

If the company, which is a single tax payer of the 3rd group, pertains to medium or large companies, it will submit financial statements in the order adopted for such companies.

That is, **for the purpose of submitting financial statements, now the size of the company or its non-entrepreneurial status will be taken into account, and not the fact of being a single tax payer of the 3rd group.**

In addition, companies, which are single tax payers of the 3rd group, are excluded from Paragraph 1 of Paragraph 5 of Regulation No. 419, which establishes the deadline for submitting financial statements for the year - until February 28 of the year following the reporting year. Thus, they report within the time limits provided for companies of the corresponding size.

#### **Who will submit financial statements prepared according to international standards?**

**The Law of Ukraine No. 2435-IX dated July 19, 2022** “On Amendments to the Law of Ukraine “On Accounting and Financial Reporting in Ukraine” (Law No. 2435) amended, including, but not limited to, Part 2 of Article 12-1 of the Accounting Law, which entered into force on August 10, 2022.

According to the changes, financial statements and consolidated financial statements according to international standards must also be prepared by:

- parent companies of groups that include companies of public interest,
- parent companies of a large group that do not pertain to the category of large companies.

Regulation No. 419 is brought into compliance with these changes. In Paragraph 3 of Paragraph 2 of the Regulation, the specified companies were also added to the list of companies that prepare reports according to the international standards.

#### **Taxonomy of financial statements according to the international standards**

Such a taxonomy is issued by the International Accounting Standards Board (see changes in Paragraph 7 of Paragraph 2 of Regulation No. 419).

This part of Regulation No. 419 is also brought into compliance with the amendments made by Law No. 2435 to Article 1 of the Accounting Law:

The Council is an international body that develops international standards. Prior to the changes, the taxonomy was approved by the Ministry of Finance.

Taxonomy of financial statements means a composition of articles and indicators of financial statements and its elements that are subject to disclosure.

#### **Peculiarities of submission of clarified financial statements**

Part 6 of Article 14 of the Accounting Law lists three different reasons for which the clarified financial statements are submitted:

- an audit has been conducted;
- self-detected errors must be corrected;
- other reasons.

Under the Accounting Law, companies may submit clarified financial statements and clarified consolidated financial statements to replace previously submitted financial statements and consolidated financial statements based on the results of an audit, in order to correct self-identified errors or for other reasons.



**IT CONSULTING**

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## FROM JANUARY 1, 2023 THE IT BENEFIT ON THE VALUE ADDED TAX BECOMES INVALID

**From January 1, 2023 the IT benefit on the value added tax (VAT) becomes invalid.**

The benefit is temporary:

According to the clause 26<sup>1</sup> of subsection 2 of chapter XX of the Law of Ukraine dated December 2, 2010 No. 2755-VI “Tax Code of Ukraine” temporarily, from January 1<sup>st</sup>, 2013 to January 1<sup>st</sup>, 2023, the following operations are exempted from the value-added tax: the operations on the supply of software products, as well as operations with software products, the fee for which is not considered as royalty in accordance with paragraphs from two to seven paragraphs from two to seven of subsection 14.1.225 of clause 14.1 of article 14 of this Code.

**The most significant changes** in the algorithm of the value-added tax calculation starting January 1<sup>st</sup>, 2023:

- from January 1<sup>st</sup>, 2023, operations on the supply of software products, as well as operations with software products, the payment for which is not considered as royalty, the place of supply of which is located in the customs territory of Ukraine, are subject to VAT taxation in accordance with the Article 186 of the Tax Code of Ukraine (clause 185.1 of the TCU).

Software products, on the supply of which VAT shall be charged, are listed below:

- the result of computer programming in the form of an operating system, as well as system, application, entertainment and/or educational computer program (their components), as well as in the form of Internet sites and/or online services and access to them;
- computer programs copies, their parts, components in material and/or electronic form, including in the form of code(s) and/or links for downloading the computer program and/or their parts, components in the form of code(s) for activating a computer program or in another form;
- any changes, updates, applications, additions and/or expansion of the functionality of computer programs, the right to receive such updates, changes, applications, additions within a certain period of time;
- cryptographic means of data protection.





# THANK YOU FOR YOUR ATTENTION

**This issue has been prepared for publication  
by expert practitioners in  
Financial Management  
and Accounting Outsourcing**

If you have any questions about the materials  
provided, please send your comments or  
suggestions to:

[info@ebskiev.com](mailto:info@ebskiev.com)

We will be grateful for the feedback!

