

EBS QUARTERLY REVIEW Q3 2023

OVERVIEW OF
LEGISLATIVE
CHANGES



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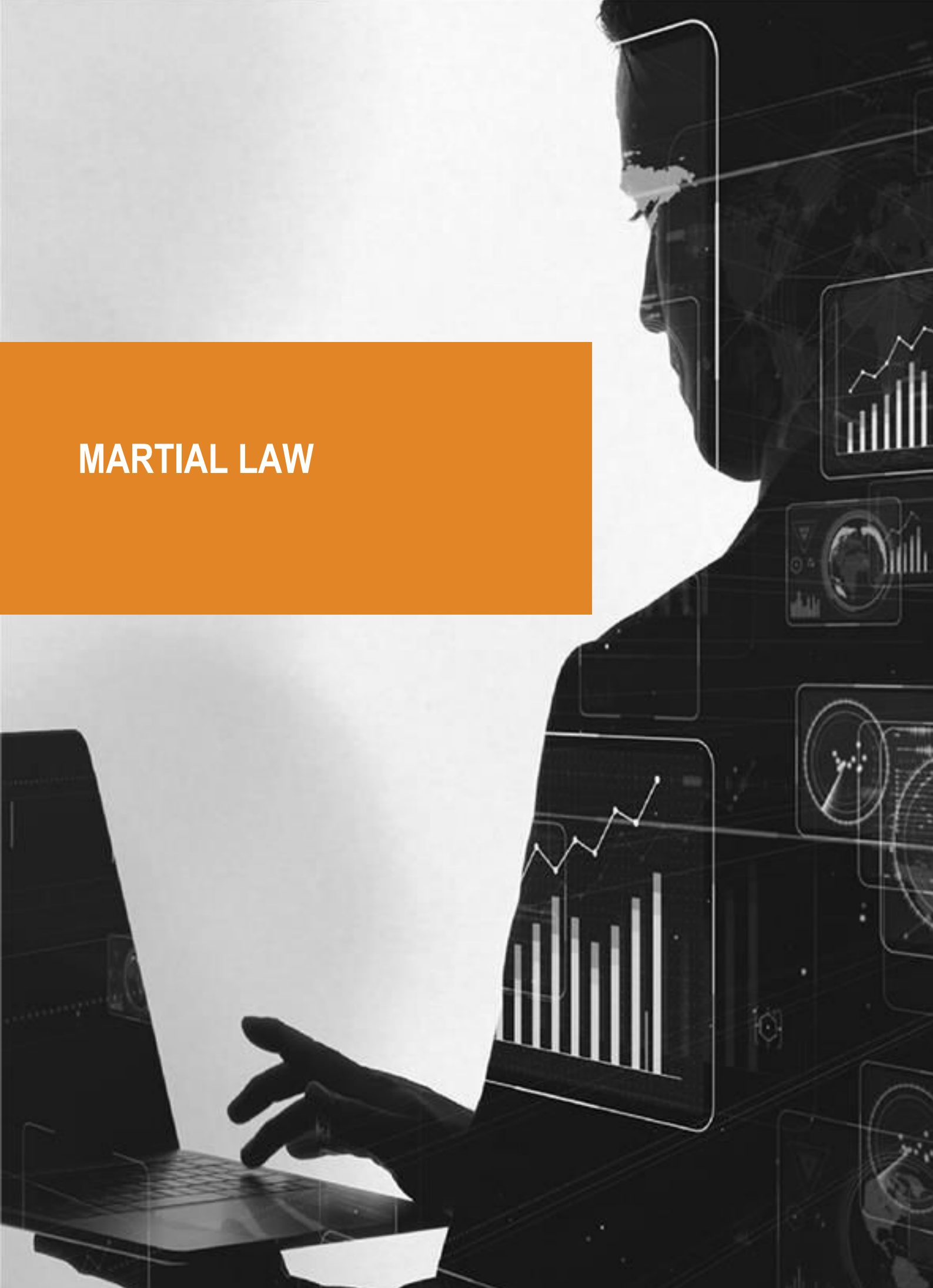
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MARTIAL LAW



HOW CAN AN EMPLOYEE TERMINATE AN EMPLOYMENT CONTRACT IF THE EMPLOYER IS LOCATED IN THE AREA UNDER HOSTILITIES?

An employment contract is an agreement between an employee and an employer, according to which the employee undertakes to perform the work specified in this agreement, and the employer undertakes to pay the employee salaries and provide the working conditions necessary to perform the work.

Termination of the employment contract shall be the basis for termination of employment relations between the employee and the employer. During the period of martial law, the specifics of the labor relations of employees shall be determined by the Law of Ukraine “On the Organization of Labor Relations in the Conditions of Martial Law,” and the norms of the labor legislation shall not apply in the part of relations regulated by this Law.

Step 1. Termination of the employment contract if the employer can be reached

Notify the employer of your intention to terminate the employment contract. If the enterprise is located in the areas under hostilities and there is a threat to the employee's life and health, the employee may terminate the employment contract on his/her own initiative within the period specified in his/her application (except for cases of forced involvement in socially beneficial works under martial law and involvement in the performance of works at critical infrastructure facilities).

Step 2. Termination of the employment contract if the employer cannot be reached

- Obtain the status of an internally displaced person (by submitting an application through Diia or personally to the Administrative Services Center, the executive body of the local council or the department for social protection of the population of the local state administration, or filling out an application form on the Unified State Web Portal of Electronic Services).
- Visit an employment center at your place of residence to obtain the status of an unemployed person.
- Submit an application to the employment center in the name of the employer for the termination of the employment contract in the prescribed form (in person or in electronic form on the web portal of the employment center).

Dismissal shall take place by granting the person the status of an unemployed, receiving unemployment benefits and social services. The termination date of the employment contract shall be the day following the day of submission of such application.

On the day of termination of the employment contract, the employment center shall notify:

- the employer (by phone call or e-mail); if there is no information about the place of stay, the application shall be kept in the controlled territory until deoccupation (unblocking) of the relevant territories;
- the territorial body of the Pension Fund of Ukraine;
- the territorial body of the State Tax Service.

Employer's actions upon receiving a notice of termination of the employment contract

Upon receiving information about the dismissal of the employee, the employer shall unilaterally:

- issue a copy of the dismissal order to the employee;
- make final settlements with the employee;
- make an entry in the work record book and give it to the employee. At the employee's request, the employee's work record book can be sent to the employee by post. If it is not possible to send the work record book by post and the employee cannot receive it personally, such work record book shall be kept by the employer.



WORK DURING AIR RAID ALERTS: ACTIONS OF EMPLOYEES AND EMPLOYERS

An employer **cannot force** employees to work **during an air raid alert** if such actions pose a clear danger to the employee's health. Such a rule follows from the norms of Article 153 of the Labor Code of Ukraine. This norm shall give the employee the right to refuse to perform the assigned work in case of danger to his/her life or health or to the people around him/her and the environment.

Accordingly, a demand to continue work without moving to a safe place (for example, shelter) shall be illegal and the employee shall have the right to refuse to perform it.

Liability for the employer if the employees are working during an air raid alert

There is no legal norm that would establish the employer's liability precisely for the fact that the employer's employees continue to work during an air raid alert. Employer's officials may be subject to administrative (under Article 41 of the Code of Ukraine on Administrative Offenses – for violation of the labor protection legislation) and even criminal liability (under Article 271 of the Criminal Code of Ukraine) if the employer did not take measures to ensure the safety of employees, including, but limited to, response measures in the event of an air raid alert, and this led to harm to the life and health of employees or other persons.

The employer (company) and the director (and/or other officials of the employer) may be subject to other types of liability/sanctions in the event of inspections by government authorities in charge of labor safety.

How are working hours paid when employees are in the shelter during an air raid alert?

If an employee is in the shelter during an air raid alert and cannot continue his/her work there, then, under Article 113 of the Labor Code of Ukraine, a downtime must be established for such an employee due to a working situation dangerous to the life or health of the employee through no fault of his/her own. In this case, the average salary will be kept for the employee.

Under the employment contract, collective agreement or the employer's internal rules on labor remuneration, higher amounts of downtime pay may be established, and then the conditions established in these documents must be observed.

If, during the stay in the shelter, the employee can perform his/her work, it is not necessary to establish a downtime, and the work shall be paid for on general grounds.

No employer's liability for arranging the shelter

According to the current legislation, the employer is not obliged to provide the shelter to employees. However, under Article 130 of the Code of Civil Protection of Ukraine, the employer is obliged to develop and implement measures to respond to emergency situations (including, but not limited to, in case of an air raid alert), as well as to comply with other requirements of the legislation on civil protection and labor safety to ensure the safety of the personnel and visitors.

The employer must develop a response plan / instructions for the personnel in case of an air raid alert and inform the personnel of the nearest shelter (even if it is located outside the employer's premises) and the need for evacuation. It is also recommended to conduct regular trainings and provide reminders to the personnel regarding the action plan in case of an air raid alert.

Actions of the employer if the employee refuses to go to the shelter

All employees must be familiarized with the response plan / instructions for the personnel in case of an air raid alert and the personnel must be informed about the nearest shelter and the need for evacuation.

If an employee refuses to familiarize himself/herself with the specified instructions/requirements of the employer or refuses to comply with the same, it is recommended not to allow such an employee to work in the employer's premises in order to ensure his/her safety and the safety of others.

In case of an accident, the situation will be assessed taking into account information on whether the employee followed the appropriate requirements/recommendations of the employer, or whether the employee violated the requirements of labor safety rules.





**TAX AND ACCOUNTING
OUTSOURCING**

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NEW RULES FOR DOCUMENTATION OF TRAVEL EXPENSES, NEW ADVANCE REPORT FORM

On April 01, 2023, the Law of Ukraine No. 2888-IX dated January 12, 2023 "On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Regarding Payment Services" (Law No. 2888) entered into force.

Under Law No. 2888, Clause 170.9 of the Tax Code of Ukraine, which determines the procedure for taxation of the amount of excess funds / electronic money received by the taxpayer for a business trip or on conditions of accountability, which were not returned within the prescribed period, is put down in a new version.

Main changes:

1) the actual number of days spent on a business trip shall be determined in accordance with the order on the business trip and **in the presence of one or more documentary evidence** of the person's stay on a business trip (border crossing marks from border services, travel documents, accommodation bills **and/or any other documents that confirm the person's actual stay on a business trip**).

Supporting documents shall include:

- transport tickets or transport bills and luggage receipts (including electronic tickets);
- documents received from persons who provide accommodation and residence services for an individual, insurance policies;
- documents (bank account statements and/or information) containing legally prescribed information about the completed payment transactions on the account to which the payment instruments were issued;
- documents confirming the execution of the transaction using payment instruments;
- other documents certifying the cost of expenses.

2) Deadlines for the documentary confirmation of expenses for a business trip or for the performance of certain civil legal actions shall be until the end of the month following the month in which the taxpayer:

- completes such business trip;
- completes the performance of a certain civil legal action on behalf of and at the expense of the person who issued the funds / electronic money on conditions of accountability.

By Order No. 239 dated May 09, 2023 (registered with the Ministry of Justice on June 22, 2023 under No. 1037/40093), the Ministry of Finance approved amendments to Order No. 841 dated September 28, 2015 "On Approving the Form of the Report on the Utilization of Funds Issued for a Business Trip or on Conditions of Accountability, and the Procedure for Preparing the Report".

Order No. 239 approved:

- forms of the Report on the Utilization of Funds / Electronic Money Issued for a Business Trip or on Conditions of Accountability, instead of a form of the Report on the Utilization of Funds Issued for a Business Trip or on Conditions of Accountability;

- the Procedure for Drawing up the Report on the Utilization of Funds / Electronic Money Issued for a Business Trip or on Conditions of Accountability – instead of the Procedure for Drawing up the Report on the Utilization of Funds Issued for a Business Trip or on Conditions of Accountability.

According to the new wording of Clause 170.9 of the Tax Code of Ukraine, an expense report must be submitted in case of:

- a) presence of taxable income determined under Subclause 170.9.1 of the Tax Code of Ukraine for the purpose of calculating the amount of personal income tax (and, therefore, military tax);
- b) the use by the employee of cash in excess of the amount of daily expenses (including the amount received using payment instruments).

For example, if the employee returned from a business trip, provided all documentary evidence of being on a business trip, documents regarding expenses (if any) and returned all unspent funds, such employee does not have taxable income for such a business trip. In this case, the employee is not obliged to submit an expense report.

The new form of the expense report provides for expanding the possibilities of using different types of signature: hand-written signature or an electronic digital signature in accordance with the requirements of the laws of Ukraine “On Electronic Documents and Electronic Document Management”, “On Electronic Trust Services”.



SELLING GOODS BY MAIL ON COD TERMS: WHO SHALL ISSUE A RECEIPT TO THE BUYER?

Selling goods by mail on COD terms raises a question of who and when should issue a settlement document to the buyer, namely a cash register fiscal receipt, - the postal operator or the seller itself.

There is a single national postal operator in Ukraine – Ukrposhta, which is owned by the state and is the designated operator of postal communications (see the [Order of the Ministry of Infrastructure No. 405 dated June 14, 2013](#) and [Article 17 of Law No. 2722-IX dated November 03, 2022 “On Postal Communications”](#)).

In addition to Ukrposhta, postal services may be provided by other postal operators – state or private business entities that operate in the territory of Ukraine and provide postal services in accordance with the procedure established by law, and they are not designated operators ([Article 1 of Law No. 2722](#)).

The identity of a receipt issuer **depends on who accepts the post-payment** from the buyer: the postal operator itself as a courier or a third party – a financial company.

For example, Nova Poshta does not act as a courier, but as a freight forwarder, and the payment for parcels is accepted by a third party.

If the seller sends **the pre-paid goods** to the buyer, the question regarding the application of the cash register arises at the stage of payment for the goods, and the post office is not involved in this process.

If the postal operator delivers the parcel, the postal operator also **accepts the post-payment from the buyer** and transfers the received funds to the seller itself (that is, third parties are not involved), then in this case the settlement document – **the cash register receipt – must be issued by the post office** (carrier, courier), and the seller is not obliged to do that. The receipt shall be issued to the buyer when the goods are given to the buyer, and under such conditions the seller does not have any questions regarding the accounting of income from postal trade, as well as regarding the fulfillment of the norms of the Law on Consumer Rights Protection (when determining the 14-day period during which the buyer has the right to return the goods).

If the goods are delivered by the freight forwarder and the financial company accepts the post-payment, according to this scheme of work, the freight forwarder gives the parcel with the goods to the buyer, the financial company accepts the funds and provides the buyer with a fiscal **receipt for the acceptance of funds**, and **the seller must attach a fiscal receipt to the parcel** that confirms **the purchase of the goods by the buyer**.

According to this scheme, the financial company itself does not transfer the goods to the buyer, therefore the financial company is not obliged to provide a settlement document for such goods (the financial company only accepted the funds and did not transfer the goods, therefore there is no settlement transaction regarding the goods).

The seller is obliged to issue a cash register receipt if the seller receives the post-payment through a financial company – the document must be issued or created in electronic form no later than at the moment of handing over the goods – [Part 11 of Article 8 of the Law on Consumer Rights Protection](#). The words “no later” mean that the cash register receipt can be created either at or before the moment of handing over the goods to the buyer. But it cannot be created later.

At the moment of adding the unpaid goods to the parcel, the seller makes a settlement transaction. The only way for the seller to fulfill the requirement of providing the buyer with a receipt in case of the postal trade is to attach the cash register receipt to the parcel during its formation. And 14 days for the return of the goods by the buyer must be counted not from the receipt date, but from the date of delivery of the goods to the buyer, which can be determined based on the reports of the freight forwarder and the financial company.

PAYROLL OUTSOURCING



PREGNANT WOMEN CAN INDEPENDENTLY DETERMINE THE START DATE OF MATERNITY LEAVE

The Law of Ukraine “On Amendments to Some Legislative Acts of Ukraine Regarding the Peculiarities of Use of Maternity Leave” No. 3238-IX dated July 13, 2023 entered into force on July 29.

This Law provides for the right of a woman, in the absence of medical contraindications, to independently determine the start date of maternity leave. **The duration of maternity leave remains unchanged**, but at the same time, 70 calendar days of maternity leave can be used by a woman in whole or in part after childbirth, starting from the day of childbirth.

A similar right is provided for women who suffered as a result of the Chernobyl disaster.

If a pregnant woman does not want to change the start date of maternity leave or there are medical contraindications for her further work, **such leave will be granted to her within the timeframe specified in the temporary disability certificate.**

CHANGES TO PROCEDURE 100 – HOW TO CALCULATE THE COMPENSATION FOR UNSPENT VACATION DAYS FROM SEPTEMBER 12

On September 12, the Resolution of the Cabinet of Ministers of Ukraine No. 957 dated September 08, 2023 “On Amendments to the Procedures Approved by Resolutions of the Cabinet of Ministers of Ukraine No. 100 dated February 08, 1995 and No. 500 dated August 08, 2016” (Resolution No. 957) was published and entered into force.

The new version of the Procedure determines that starting from September 12, 2023:

- the period for calculating the average daily salary necessary to determine the amount of financial aid shall be 12 calendar months of employment preceding the month of providing such aid;
- only payments accrued in 2023 shall be taken into account for the compensation for vacation days the employee has been entitled to before December 31, 2023.

On September 15, 2023, the Ministry of Economy of Ukraine provided an explanation regarding the procedure for calculating the average salary in connection with the entry into force of Resolution No. 957:

- the norms of Resolution No. 957 shall apply from the day of official publication, namely from September 12, 2023;
- the average earnings for the provision of financial (monetary) aid shall be taken into account based on payments for the last 12 calendar months of employment preceding the month of provision of financial (monetary) aid, all amounts of accrued salary shall be taken into account in accordance with the legislation and the terms of the employment contract, except for those specified in Clause 4 of this Procedure, payments for the time during which the employee's average earnings and benefits in connection with the temporary disability are maintained shall be also not taken into account;
- for the payment of compensation for unspent vacation days the employee has become entitled right to before December 31, 2023, a new procedure for calculating the average salary is established: the calculation shall be carried out based on the actual working time in 2023 preceding the month of payment of compensation for unspent vacation days starting from January 1, 2023.

The average salary for the period actually worked in 2023 shall be calculated on general terms, namely according to payments accrued in the months of the calculation period, taking into account the provisions of Paragraph 3 of Clause 3 of the Procedure. At the same time, if the average salary is calculated based on the official salary or minimum salary, it shall be accrued by multiplying the official salary or minimum salary by the number of months of the calculation period, then divided by the number of calendar days of the period of calculation.

Thus, the following conclusions can be drawn:

- 1) the calculation of the current vacation payment does not change (except for the payment of compensation for the unspent additional vacation upon the application of the employee who has used all the basic vacation and would like to receive additional vacation in money);
- 2) in case of dismissals carried out from September 12, 2023, the compensation for unspent vacation days must be calculated taking into account the amendments introduced by **Resolution No. 957** because all days of unspent vacation that will be paid in 2023 are those to which the employee acquired the right before December 31, 2023.

In order to make calculations for dismissals starting from September 12, 2023, all amounts (and accordingly calendar days) that do not belong to 2023 must be excluded from the calculation period.



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ADDITIONAL VACATION FOR WAR VETERANS

Additional vacation shall be granted to war veterans regardless of the length of service. Such vacation shall be paid for at the company's expense. However, the legislation does not provide for the possibility of replacing the specified additional vacation with the monetary compensation.

The types of annual vacations are specified in Clause 1 of Part 1 of Article 4 of the Law of Ukraine "On Vacations". They include: annual basic vacation, additional vacation for work with harmful and difficult working conditions, additional vacation for the special nature of work, other additional vacations provided for by the law.

The additional paid vacation of 14 calendar days per year for war veterans and disabled war veterans, whose status is determined by the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection", is provided for by Article 77-2 of the Labor Code of Ukraine, Article 16-2 of the Law of Ukraine "On Vacations" and Clause 12 of Article 12 of the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection".

The payment of monetary compensation for unspent days of other types of additional vacations is not provided for by Article 83 of the Labor Code of Ukraine and Article 24 of the Law of Ukraine "On Vacations".

Under Article 83 of the Labor Code of Ukraine and Article 24 of the Law of Ukraine "On Vacations", the monetary compensation for unspent vacation days can be collected at the employee's request for all days of unspent basic and additional annual vacation and additional vacation for employees who have children only in case of the employee's dismissal, and during the employment - only for a part of these vacation days, provided that the duration of the annual and additional vacations granted to the employee at the same time is at least 24 calendar days and that the employee is not under the age of 18. Other vacations, besides those mentioned, are provided only for their intended purpose and cannot be replaced with the monetary compensation.

The additional vacation for war veterans defined in Article 77-2 of the Labor Code of Ukraine and Article 16-2 of the Law of Ukraine "On Vacations" does not belong to the category of annual vacation, and therefore it is not subject to the norms provided for the annual vacation.

The additional vacation for war veterans is granted in a calendar year, not per working year, i.e., regardless of the length of service. Such vacation is paid for at the company's expense, and in order to receive it, the employee's status must be confirmed by an appropriate certificate of a war veteran or a disabled war veteran.

If the specified additional vacation has not been spent, it cannot be carried over for the next calendar year, cannot be extended in the event of an employee's illness and cannot be divided into parts.

Therefore, the legislation does not provide for the possibility of replacing the specified additional vacation with the monetary compensation.

REMOTE DOCUMENT MANAGEMENT

Today, many of our compatriots who were forced to leave their permanent place of residence continue to work remotely for the Ukrainian employers. It became necessary to exchange personnel documents (applications, orders, acts, official memos, etc.) with such employees.

As specified in Part 3 of Article 29 of the Labor Code of Ukraine the familiarization of employees with orders (instructions), notices, other documents of the employer regarding their rights and obligations shall be allowed using **the means of electronic communication networks** defined in the employment contract. At the same time, an enhanced or a qualified electronic signature must be applied.

The employment contract, upon agreement of the parties, may provide for **alternative means of familiarization of the employee** with the internal documents of the employer.

Part 2 of Article 7 of the Law of Ukraine “On the Organization of Labor Relations under Martial Law” No. 2136-IX dated March 15, 2022 provides for special military features of document management. During the period of martial law, the parties to the employment contract may agree **on an alternative method** of creating, forwarding and storing the employer’s orders (instructions), notices and other documents related to labor relations and **any other available method of electronic communication**. The main thing is to agree on this method between the employee and the employer.

Fixation of an agreement

It is necessary **to agree** on an alternative method of communication between the employer and the employee and **fix it before starting to use alternative methods of communication**. In the absence of prior agreement of the parties to exchange documents by means of electronic communication, such documents must be submitted in paper form with the original signature of the author.

In the opinion of judges (see Resolution dated December 03, 2018 in Case No. 686/21222/16-ц), otherwise, sending documents by means of electronic communication does not make it possible to establish the true will of their author.

The possibility to use electronic communication networks or alternative methods of communication to familiarize the employee with the employer’s documents shall be stipulated by the parties **in the employment contract** (see Part 3 of Article 29 of the Labor Code of Ukraine). It can also be regulated in any other document.

If there was no such agreement initially and at the time of its need the employee is in another settlement, it is necessary to send the agreement on electronic/alternative means of communication by mail and wait for the return of the copy signed by the employee.

The existence of electronic signatures in the document will also be an unambiguous confirmation. To sign the document, one can use the **id.gov.ua** digital platform. The person will be identified using an electronic signature (if any) or the Diia application.

An electronic cloud signature can also be created (some banks offer this option to their clients).

It is important that **the procedure for confirming the receipt of the document by the addressee** be confirmed in the agreement.

Under Part 1 of Article 11 of the Law of Ukraine “On Electronic Documents and Electronic Document Management” No. 851-IV dated May 22, 2003, an electronic document is considered to be received by the addressee **from the moment the author receives the corresponding message from the addressee** in electronic form. Other conditions may be provided for by the legislation or prior agreement of the parties.

Other methods of electronic/alternative communication

The agreement with the employee can provide for other ways of exchanging information, for example, the document drawn up and signed on paper is photographed and forwarded to the other party of the employment contract **by e-mail or any messenger** (Viber, WhatsApp, Telegram, etc.).

In order to familiarize the employee with the employer's order, the parties must take the following actions:

1. The authorized official of the employer prints and signs the order, takes a photo or scans it and sends it to the employee by e-mail or messenger.
2. The employee having received the order prints it (if possible), affixes a signature for familiarization, takes a photo of or scans the order and forwards it to the employer in the same way.

If the employee does not have the possibility to print the document received from the employer, the agreement on determining the method of information exchange shall stipulate that the fact of familiarization with the document shall be confirmed by the employee with **a text message in the relevant messenger or by e-mail**. The employee's applications can be submitted in the same way.

Additionally, you **can draw up** a protocol on the fact of proving the information to the employee (**this is not obligatory**).

The protocol can include the following information:

- date and place of drawing up;
- title and full name of the person to whom the document is sent;
- date, time and type of means of communication with the help of which the document was sent;
- contact details of the employee to whom the documents were sent using the means of communication (phone number, e-mail, etc.);
- brief content of the document sent to the employee;
- title and full name of the person who sent the documents to the employee;
- signatures of the persons who drew up the act;
- appendices to the act confirming the fact of sending documents and receiving them by the employee (copy of the screenshot of the communication mean, etc.).

Such protocol shall be kept in the personnel department.

It is not obligatory to make a protocol. It is enough to save screenshots (or photos) of the screen confirming the fact of sending the document for familiarization and the employee's response.

A black and white silhouette of a person in profile, facing right, working on a laptop. The person's hand is on the keyboard. The background is a light, textured grey. Overlaid on the right side of the image are several semi-transparent digital data visualization elements, including bar charts, line graphs, and circular gauges, all in white and light grey tones. A solid orange rectangular block is positioned on the left side of the image, containing the text 'LEGAL CONSULTING' in white, bold, uppercase letters.

LEGAL CONSULTING

FROM JULY 29, THE SIMPLIFIED BANKRUPTCY PROCEDURE FOR BUSINESSES DURING THE PERIOD OF WAR IS IN EFFECT

The President signed the Law of Ukraine No. 3249-X dated July 13, 2023 on simplifying the bankruptcy procedure for businesses during martial law and it has already been published in the Holos Ukrainy newspaper. The Law is effective from July 29.

According to the document:

- during the period of martial law and within six months from the date of its cancellation, meetings and the committee of creditors can be held remotely, and the commercial court can extend the terms of meetings;
- it is proposed to stop accruing interest on the debtor's obligations to creditors which are restructured according to the rehabilitation plan or the debt restructuring plan;
- a bankruptcy (insolvency) case, when the insolvency is caused by hostilities, can be initiated at the request of the debtor without paying an advance fee to the arbitration manager to the deposit account of the court.



HOW WILL THE INFORMATION PROVIDED BY THE LEGAL ENTITY ABOUT THEIR ULTIMATE BENEFICIAL OWNER AND OWNERSHIP STRUCTURE BE VERIFIED?

The Ministry of Justice of Ukraine, by Order No. 3265/5 dated September 14, 2023, approved the Procedure for Verification of Information Provided by a Legal Entity in the Explanation and Documents to Confirm Information about Their Ultimate Beneficial Owner and/or Ownership Structure.

This Procedure defines the procedure for conducting an inspection by the state registrar.

The state registrar shall start verifying the information about the ultimate beneficial owner and/or the ownership structure within 10 working days from the day of receiving the relevant documents from the legal entity.

The verification of information about the ultimate beneficial owner and/or the ownership structure shall be carried out within 10 working days after its start. If it is necessary to obtain additional information, the state registrar shall provide a request and the period of the inspection shall be extended for the period from the day the state registrar sends the corresponding request until the day the state register receives the requested information.

A request for providing additional information shall be sent in one of the following ways:

- through the system of electronic interaction of executive power bodies;
- to the e-mail specified in the Unified State Register;
- by the registered letter with a notice of delivery at the location (place of residence) specified in the Unified State Register.

A legal entity is obliged to comprehensively assist the state registrar in establishing reliable data about the ultimate beneficial owner and/or the ownership structure during the inspection, including, but not limited to:

- to provide the requested information and/or documents within 7 working days from the date of receipt of the request;
- to provide the state registrar with access to the premises of the legal entity to inspect items and documents.

The Procedure has been published in the Uryadovi Courier newspaper on October 03, 2023. Thus, **the methodology is effective from October 03, 2023.**





**TRANSFER PRICING:
CONTROLLED FOREIGN
COMPANIES**

SUBMISSION OF CLARIFYING REPORTS ON CONTROLLED TRANSACTIONS AND MAKING ADJUSTMENTS WITHOUT PENALTIES – TEMPORARY CHANGES

The Law of Ukraine No. 3219-X dated June 30, 2023 “On Amendments to the Tax Code of Ukraine and Other Laws of Ukraine Regarding Special Features of Taxation During Martial Law” (Law No. 3219) **temporarily canceled fines for self-correction** of errors that led to non-payment of taxes.

Temporarily, for the period from August 01, 2023 until the termination or cancellation of martial law on the territory of Ukraine introduced by the Decree of the President of Ukraine “On the Introduction of Martial Law in Ukraine” No. 64/2022 dated February 24, 2022, in case of self-correction by the taxpayer, in accordance with the procedure, requirements and restrictions defined by Article 50 of the Tax Code of Ukraine, of errors that led to an understatement of the tax liability, such a payer shall be exempted from the accrual and payment of fines, provided for in Clause 50.1 of Article 50 of this Code, and interest.

Changes under Law No. 3219 concern, including, but not limited to, adjustments that will be made by business entities for corporate income tax in terms of:

- payment of income to non-residents;
- compliance with the arm’s length principle, adjustment of the object of taxation with income tax.

At the same time, the statute of limitations, determined by Clause 102.1 of Article 102 of the Code, including, but not limited to, with regard to transactions carried out in accordance with the requirements of Article 39 of this Code, is 2555 days.

It is possible to submit a Clarifying Report on Controlled Transactions starting from the 2015 reporting year and make the appropriate adjustments without penalties.



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

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