

EBS QUARTERLY REVIEW Q4 2023

OVERVIEW
OF LEGISLATIVE
CHANGES



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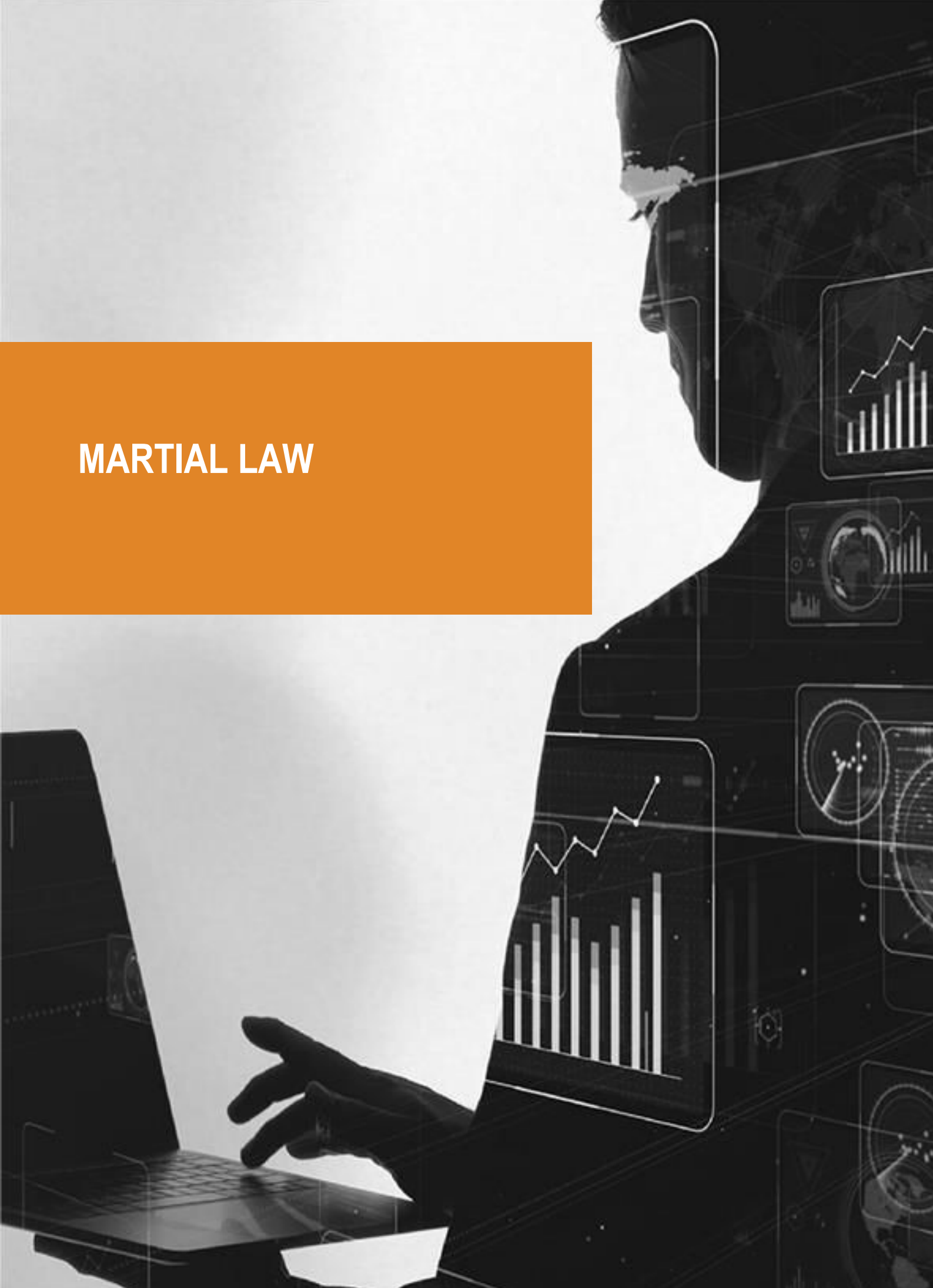
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MARTIAL LAW



AUTOMATED HUMANITARIAN AID REGISTRATION SYSTEM

According to the new rules, starting from December 2023, in order to import humanitarian aid, the recipient must register in the Automated Humanitarian Aid Registration System (AHARS).

In accordance with the Law of Ukraine “On Humanitarian Aid” dated October 22, 1999 No. 1192-XIV, recipients of humanitarian aid can only be legal entities registered in the manner established by the Cabinet of Ministers of Ukraine in the Unified Register of Recipients of Humanitarian Aid.

These could be: enterprises of public organizations of persons with disabilities, war and labor veterans; charitable organizations created in the manner prescribed by the Law of Ukraine “On Charitable Activities and Charitable Organizations” dated July 5, 2012 No. 5073-VI (as amended); religious organizations registered in the manner prescribed by the Law of Ukraine “On Freedom of Conscience and Religious Organizations”; rehabilitation institutions for people with disabilities and children with disabilities licensed to provide rehabilitation services, regardless of hierarchical subordination, type and form of ownership.

These organizations must register in AHARS if they receive humanitarian aid.

When registering in the Unified Register, they are automatically assigned an identification number (subparagraph 9, paragraph 2 of the Regulations on the Automated Humanitarian Aid Registration System, approved by Resolution of the Cabinet of Ministers of Ukraine No. 927 dated October 9, 2020).

How humanitarian aid is registered in AHARS

Currently, a declaration on the import of humanitarian aid can be submitted:

- 1) in paper form (until March 31, 2024) or
- 2) in electronic form via an electronic cabinet.

Declaration in paper form

The Cabinet of Ministers has extended the opportunity to submit a paper declaration until April 1, 2024. However, even in this declaration form, the recipient of humanitarian aid must indicate the number (code) assigned to them during registration in the Unified Register of Recipients of Humanitarian Aid. It is possible not to indicate the code only when importing cargo for a military unit.

By March 31, 2024, the recipient of humanitarian aid imported without the use of the Automated Humanitarian Aid Registration System shall upload in AHARS a copy of a paper report on the availability and distribution of humanitarian aid, or a copy of an electronic report with an encrypted and certified electronic signature of the director.

Humanitarian aid imported without using the Automated Humanitarian Aid Registration System, for which a report has not been uploaded by March 31, 2024, is considered to be unaccounted for and misused.

Declaration in electronic form

Before declaring goods that constitute humanitarian aid, the recipient enters information about such goods in AHARS and fills out forms in their electronic cabinet.

Such a list of goods is automatically assigned a unique humanitarian aid code.

An electronic declaration is created.

The declaration (contains the recipient's number in the Unified Register, the unique code of humanitarian aid, information for customs clearance of goods) is submitted at the checkpoint on the state border of Ukraine, the unique electronic identifier is reported to the customs authority (during electronic declaration) or the declaration is submitted in paper form.

It is not allowed to submit a declaration without a unique humanitarian aid code.

The list of goods in the declaration must correspond to the list entered into the Automated System under the corresponding unique humanitarian aid code, by category and name of goods, number of pieces, number of items, and weight/volume.



A black and white photograph of a person's hand holding a string with a circular loop and arrows, surrounded by sticky notes on a wall. The scene is a brainstorming or planning session. An orange rectangular box is overlaid on the left side of the image, containing the text 'TAX AND ACCOUNTING OUTSOURCING' in white, bold, uppercase letters.

TAX AND ACCOUNTING OUTSOURCING

VACATION RESERVE ACCRUALS IN 2024

Vacation reserve accruals are created to reimburse deferred charges, including vacation accruals to employees.

According to Article 115 of the Labor Code of Ukraine and Part 1 of Article 21 of the Law on Vacations, wages to employees for the time of vacation are paid before it begins.

Paragraph 7 of AR(S)U (Accounting Regulations (Standards) of Ukraine) 26 states that payments for non-worked time that are subject to accumulation are recognized as a liability by creating a provision in the reporting period.

This requirement is stipulated in the AR(S)U, and all corporate employers must comply with it, except for those who are clearly permitted by law not to create a vacation reserve accruals.

Creating vacation reserve accruals by legal entities is described in AR(S)U 11. According to it, a provision is created when a liability arises as a result of past events, repayment of which will likely lead to a decrease in resources embodying economic benefits, and its value can be calculated.

Vacation reserve accruals are created, in particular, to reimburse subsequent (future) operating expenses for vacation pays to employees.

These should be the expenses for paying vacations, which the employer expects and which they can calculate (approximate amount).

To calculate the approximate amount of funds that they will need over the next year to pay for vacations, it is necessary to know: the number of employees, the approximate amount of their salaries and emoluments and the number of vacation days that will be provided to such employees.

Vacation reserve accruals are created for:

- annual basic leave;
- additional leave due to harmful and arduous working conditions;
- additional leave due to a special nature of work;
- additional leaves for employees with children.

Micro-enterprises and social businesses are excused from creating vacation reserve accruals in accordance with paragraph 7 of AR(S)U 25. Expenses are recognized in the period when vacation pay is accrued, that is, in the period they are actually incurred.

All other companies must create the reserve.

WHEN PRIMARY DOCUMENTS CAN BE DESTROYED

Document retention period according to the Tax Code of Ukraine

According to the Tax Code, the retention period is **1825 days (5 years)** for primary documents, accounting registers, financial statements, other documents related to the assessment and payment of taxes and fees, which shall be maintained under the law by income tax payers and legal entities paying a single tax (subparagraph 44.3.2 of the Tax Code).

For documents and information necessary for tax control in accordance with Articles 39 and 39-2 of the Tax Code (i.e. transfer pricing and CFC profit taxation), the retention period is 2555 days (subparagraph 44.3.1 of the Tax Code).

For other documents, it is 1,095 days (subparagraph 44.3.3 of the Tax Code).

The retention periods for documents and information specified in paragraph 44.3 of the Tax Code **are counted from the date of submitting tax or other statements** provided for by the Tax Code, **which are prepared with the use of the said documents** and/or information, and upon failure to submit them, from the deadline for submitting such statements, as established by this Code, and for documents related to the fulfillment of the requirements of other legislation, compliance with which is controlled by regulatory authorities, from the date of the relevant business transaction (for relevant permits, from their expiry date).

For example, LLC is a group 3 single tax payer (5%) and reports to tax authorities on a quarterly basis. The deadline for filing a single tax return for Q3 2022 is November 9, 2022.

So, the period of 1825 days for the documents on the basis of which the tax return is drawn up begins from November 9, 2022. The deadline for retaining such documents is November 8, 2027.

But for the duration of quarantine that began on March 12, 2020, followed by martial law, this period was suspended. Quarantine has been lifted since July 1, 2023. And according to the new revision of subparagraph 69.9, subsection 10, Section XX of the Tax Code of Ukraine, the period suspended for the duration of martial law was resumed from August 1, 2023.

This means that for the documents in the example above, the period is suspended from November 9, 2022 to July 31, 2023. Thus, the period of 1825 days should be counted starting from August 1, 2023. The document retention deadline will be July 30, 2028.

The Tax Code provides for a retention period for documents only for tax purposes. However, in addition to the Tax Code, record keeping issues are regulated by other governing documents, which will be discussed below.

Deadline according to List No. 578/5

List No. 578/5 is the main regulatory legal act that is used to determine the retention periods of documents, their selection for permanent or long-term storage or for the destruction of standard documents created during the activities of government bodies and local authorities, other institutions, enterprises and organizations, indicating the document retention period.

According to paragraph 1.7 of List No. 578/5, the retention periods defined in this List are minimal and cannot be reduced. Extension of the retention period provided for in this List is permitted in the cases where this need is caused by the specific aspects of a particular organization.

The retention period begins on January 1 of the year following the year of document paperwork completion (paragraph 2.10 of List No. 578/5).

There are different retention periods for standard documents that are created at the enterprise, indicating periods of their retention and additional notes to the articles that comment on and clarify the retention periods (subparagraph 4.2, paragraph 4 “Accounting and reporting” of section I of List No. 578/5).

And one more thing: destroying documents without first conducting an examination of their value is prohibited (paragraph 2.13 of List No. 578/5).

Some notes indicate that the stated retention period applies subject to completion of an audit by the state revenue authorities, etc.

For example, if a primary document was drawn up in Q3 2022 and was used to draw up a group 3 (5%) single tax return, and the retention period for such document according to List No. 578/5 is three years, plus a tax audit for this period was carried out, the retention period of such a document begins on January 1, 2023 and ends on December 31, 2025.

But taking into account the above norms of the Tax Code, this document should be kept until July 30, 2028.

In this regard, the Individual Tax Consultation of the State Tax Service of Ukraine dated July 19, 2023 No. 1969/ПТК/99-00-21-02-02-06 states the following: the issue of retention periods for accounting and reporting documents should be resolved **separately for each type of document based on the requirements of List No. 578/5 and taking into account the requirements of paragraphs 44.3 and 44.4 of the Tax Code of Ukraine.**

In other words, when determining the retention period, it is necessary to take into account both the norms of the Tax Code and the norms of List No. 578/5, and to focus on the deadline that comes later.

Document destruction procedure

Before destroying documents, it is necessary to perform an expert examination of their value (paragraph 6 of Procedure No. 1004).

The examination of the value of documents is carried out by expert and expert inspection commissions with the participation of the document owner or a person authorized by them (paragraph 3 of Procedure No. 1004). The composition of the commission for examining the value of documents of a privately owned enterprise, institution or organization, and the regulations on it are approved by the head (governing body) of the enterprise (institution, organization), taking into account the recommendations of the State Committee of Archives of Ukraine. As part of the commission, enterprises involve representatives of expert inspection commissions (expert commissions) of state archives (archive departments of district state administrations, city councils) keeping files of the relevant legal entities (by agreement).

Documents subject to destruction must be documented in an act. The seizure act form for destruction of documents not filed with the National Archival Fund can be found in Appendix 7 to Rules No. 16. The act of document seizure for their destruction is drawn up in two copies for all files of the institution as a whole.

Next, this act is submitted for approval to an expert inspection commission (expert commission of the archive department of the district state administration, city council). The act approved by the commission is validated by the head of the enterprise (institution, organization) and only after that the selected documents can be destroyed.

Documents can be destroyed in different ways. Some owners transfer them to organizations that collect recyclable materials, using invoices that indicate the weight of the waste paper transferred for recycling. The date of documents transfer, their weight, and invoice number are recorded in the acts for document seizure for their destruction. These acts are placed in the archive fund file and remain deposited in the enterprise archive. If the volume of documents to be destroyed is insignificant or if the owner does not want to spend money on transporting waste paper, they can be burned, which shall be noted in the act.

PAYROLL OUTSOURCING



MINIMUM WAGE, UNIFIED SOCIAL CONTRIBUTION, SOCIAL BENEFITS IN 2024

The Law of Ukraine "On the State Budget of Ukraine for 2024" dated November 9, 2023 No. 3460-IX (Law No. 3460-IX) will come into force on January 1, 2024 (published in the "Holos Ukrayiny" newspaper). This law established the following main indicators and minimums for the current year:

Minimum wage and minimum subsistence level

From January 1, 2024:

- minimum monthly wage — **UAH 7 100**;
- at an hourly rate — **UAH 42.60**.

From April 1, 2024:

- minimum monthly wage — **UAH 8 000**;
- at an hourly rate — **UAH 48**.

The minimum subsistence level for one person is **UAH 2 920** per month, for the main social and demographic groups of the population:

- *for children under 6 years of age – UAH 2 563*;
- *for children from 6 to 18 years of age – UAH 3 196*;
- **for able-bodied persons – UAH 3 028**;
- *for incapacitated persons – UAH 2 361*.

Additionally, there is the minimum subsistence level for able-bodied persons, which is used to determine:

- the basic fixed salary of a judge – UAH 2102;
- the salaries of employees of other government bodies, whose wages are regulated by special laws, as well as employees of tax and customs authorities – UAH 2102;
- the official salary of a prosecutor of the district prosecutor's office – UAH 1600.

Unified social contribution (USC) in 2024

As of January 1, 2024, the maximum USC is UAH 23 430, and the maximum base for USC accrual is UAH 106 500 (7100 x 15);

As of April 1, 2024, the maximum USC is UAH 26 400, and the maximum base for USC accrual is UAH 120 000 (8000 x 15);

From January 1, 2024, the minimum USC is UAH 1 562 (7100 x 22%); from April 1, 2024, the minimum USC is UAH 1 760 (8000 x 22%).

Nuances about the minimum USC:

USC for the salary of a **full-time employee** who is not a person with a disability shall be **not less than UAH 1 562 and from April – not less than UAH 1 760**.

If this is a **part-time employee**, then 22% of the USC is applied to his **actual** wage.

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

If an individual works for an enterprise that is a **Diia City resident**, the following shall be paid from January 1, 2024:

- **UAH 1562** (minimum USC) **for the amount of remuneration** to an individual for performing works (providing services) **under gig-contracts**, and from April 1 – **UAH 1 760**;
- **UAH 1562** (minimum USC) for the amount of salary accrued to each insured person by payment types, which include basic and additional wage, other compensatory payments, in particular in kind, determined in accordance with the Law of Ukraine "On Labor Remuneration" – for persons working under employment agreements, and from April 1 – **UAH 1 760**.

The determined **amount of the minimum wage (MW) affects:**

The per diem expenses in 2024 – amounts that are not subject to personal income tax:

- **within the territory of Ukraine – UAH 710** (no more than 0.1 of the MW established by law as of 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 – no more than EUR 80 for each calendar day of such a business trip at the official hryvnia to euro exchange rate established by the National Bank of Ukraine, calculated for each day – subparagraph 170.9.1 of the Tax Code of Ukraine.

Limits of tax-free subsistence support per year:

- non-targeted charitable assistance provided by residents — legal entities or individuals in favor of the taxpayer during the reporting tax year, in total (subparagraph 170.7.3 of the Tax Code) - **UAH 4 240**; (monthly minimum subsistence level for an able-bodied person as of January 1 of the reporting tax year, multiplied by 1.4 and rounded to the nearest 10 hryvnias; 3028×1.4)
- charitable assistance for the restoration of lost property, for housing, social, domestic and other needs in accordance with the list determined by Resolution of the Cabinet of Ministers of Ukraine dated November 26, 2014 No. 653, incurred by taxpayers, specified in subparagraph 165.1.54 of the Tax Code (subparagraph "b" of paragraph 170.7.8 of the Tax Code - no more than 500 minimum wages as of January 1 of the reporting year) – **UAH 3 550 000 (500*7 100)**;
- **non-monetary gifts** are not taxable in 2024 if their **monthly value** does not exceed **UAH 1 775** (25% of UAH 7100) - subparagraph 165.1.39 of the Tax Code;
- in 2024, it will be possible to receive payment **for education** from another person **without paying personal income tax and military tax** in the amount of **UAH 21 300 per month** – subparagraph 165.1.21 of the Tax Code.

Also, the minimum wage affects:

The cost of education without personal income tax and military tax in 2024 – UAH 21 300 per month (3 minimum wages as of January 1 of the year) for the benefit of national higher and vocational educational institutions for education, training or retraining.

The maximum amount of income not subject to personal income tax and military tax **in the form of redress for non-pecuniary damage** under the court decision is UAH 28400 (4 minimum wages as of January 1 of the year) - subparagraph "a" of paragraph 164.2.14.

Penalties for violation of labor legislation: violation of salary payment deadlines - 3 minimum wages (**UAH 21 300**); unregistered employees and "envelope wages" - 10 minimum wages (**UAH 71 000**) for the first violation, 30 minimum wages (**UAH 213 000**) for each employee against whom the violation was committed – for a repeated violation within two years from the date of detecting the violation; non-compliance with minimum state guarantees in wages - 2 minimum wages (**UAH 14 200**) for each employee; non-compliance with guarantees and benefits for mobilized workers and conscripts - 4 minimum wages (**UAH 28 400**) for each worker; other labor violations - 1 minimum wage for each violation (**UAH 7 100**), for repeated violations within a year from the date of detecting the violation - 2 minimum wages (**UAH 14 200**).

Tax social privilege in 2024

The tax social privilege is provided for any taxpayer in an amount equal to 50% of the minimum subsistence level for an able-bodied person (per month) established by the law as of January 1 of the reporting tax year (subparagraph 169.1.1 of the Tax Code).

In 2024, its basic amount (100%) will be: UAH 3,028 x 50% = **UAH 1 514**.

According to subparagraph 1 of paragraph 169.4.1 of the Tax Code, the tax social privilege is applied to the income accrued in favor of the taxpayer during the reporting tax month as a salary (or other payments, compensations and remunerations equated to it by law), if its amount does not exceed a certain threshold, i.e. an amount equal to the monthly minimum subsistence level for an able-bodied person as of January 1 of the reporting tax year multiplied by 1.4 and rounded to the nearest 10 hryvnias.

Thus, in 2024, this threshold will be: UAH 3 028 x 1.4 = **UAH 4 240**.

Certain categories of employees will still have the right to apply the tax social privilege at a higher rate (Article 169 of the Tax Code):

Tax Social Privilege (TSP) amounts in 2024

TSP type (norm of the Tax Code)	Maximum salary that gives the right to apply the TSP in 2023, UAH	TSP amount, UAH
Regular (<u>subparagraph 169.1.1</u>)	4240	1514
Regular for children (<u>subparagraph 169.1.2</u>)	— for one of the parents 4240 x number of children under 18 years of age;	1514 x number of children under 18 years of age
Increased for children (<u>subparagraphs "a" and "b" of paragraph 169.1.3</u>)	— for one of the parents 4240 x number of children under 18 years of age	2271 x number of children under the age of 18 for whom the TSP is provided
Increased (<u>subparagraphs "c" — "g" of paragraph 169.1.3</u>)	4240	2271
Maximum (<u>paragraph 169.1.4</u>)	4240	3028

Alimony

The minimum amount of alimony per child cannot be less than 50% of the subsistence minimum for a child of the corresponding age (Part 2 of Article 182 of the Family Code of Ukraine). Therefore, the amount of alimony from January 1, 2024 to December 31, 2024 will be:

- for children under 6 years of age – at least **UAH 1282** ($UAH 2563 \times 50\%$);
- for children from 6 to 18 years of age – at least **1598 UAH** ($3196 UAH \times 50\%$).

Sick leave payments and maternity benefits in 2024:

The amount of temporary disability benefits (including care for a sick child or a sick family member), as well as maternity benefits **per month should not exceed the maximum base for USC assessment** (Part 3 of Article 24, Part 2 of Article 26 of Law No. 1105).

From January 1, 2024, this base will be: $7100 \times 15 = UAH 106\ 500$.

And from April 1, 2024, it will be: $8000 \times 15 = UAH 120\ 000$.

If an insured person has **less than 6 months of pensionable service during the 12 months prior to the loss occurrence**:

- **The amount of temporary disability benefits** (including care for a sick child or a sick family member) is calculated based on the accrued wages from which insurance payments are paid, but per month **not higher than the amount of MW** established by the law **in the month of loss occurrence**;
- **The amount** of maternity benefits is calculated based on the accrued wages from which insurance payments are paid, but per month **not exceeding the double minimum wage** established by the law in the month of loss occurrence (Part 4 of Article 12 of Law No. 1105 and Part 2 of Article 19 of the same Law).



WAGE INDEXATION – 2024

In 2024, the right to index employees' wages is **renewed**.

According to **Article 39** of the **Law of Ukraine "On the State Budget for 2024" dated November 9, 2023 No. 3460-X**, the consumer price index (CPI) for indexing the population income is calculated on a cumulative total basis starting from **January 1, 2024**.



HR CONSULTING

PERFORMANCE OF EMPLOYMENT DUTIES BY A PART-TIME EMPLOYEE

According to Article 43 of the Constitution of Ukraine, everyone has the right to work, which includes the capability of a person to earn a living by work that he freely chooses or freely agrees to.

According to part 2 of Article 21 of the Labor Code, an employee has the right to realize his capacity for productive and creative work by concluding an employment agreement at one or simultaneously at several enterprises, institutions, organizations, unless otherwise provided for by the law, collective employment agreement, or mutual agreement of the parties.

This allows employees to additionally enter into part-time employment contracts (agreements) along with the main employment contract.

Remuneration for part-time work is regulated by the Labor Code.

According to the requirements of Article 102-1 of the Labor Code and Article 19 of the Law of Ukraine "On Labor Remuneration", part-time work is considered to be the performance by an employee, in addition to the main one, of other paid work under the terms of an employment contract in the time free from the main job at the same or another enterprise, institution, organization or at a natural person acting as the employer.

Part-time employees receive wages for the work actually done.

However, a person cannot perform his job duties at the primary place of employment and at the place of part-time work at the same time (during the same hours).



VACATION SCHEDULE

According to Article 79 of the Labor Code; Article 10 of the Law of Ukraine “On Leaves” dated November 15, 1996 No. 504/96-BP, the sequence of granting leaves to employees is determined by schedules approved by the employer.

Each employer (legal entity, individual entrepreneurs with employees) shall draw up vacation schedules:

- **regardless of its form of ownership**, nature of business and industry affiliation;
- **regardless of the number of employees** working at the enterprise, institution, organization.

Even if the enterprise or individual entrepreneur has only two employees (together with the director), the employer shall draw up a vacation schedule.

There are only two exceptions for the period of martial law:

- **for employers applying a simplified regime for regulating labor relations.** They are not subject to the requirements for keeping personnel documentation, adopting local regulations and organizational and administrative documentation, including about leaves (Part 5 of Article 49^s of the Labor Code);
- for enterprises, institutions, organizations located **in areas of active hostilities** (as of today, the List of territories where hostilities are (were) conducted or temporarily occupied by the Russian Federation, was approved by Order of the Ministry of Integration No. 309 dated December 22, 2022).

The vacation schedule is drawn up for each calendar year and is brought to the attention of all workers and employees. The schedule can be drawn up in any form.

During the period of martial law, the employer may **refuse to provide an employee with any type of leave** (except maternity leave and leave to care for a child under 3 years of age), if such an employee works at a critical infrastructure facility (Part 2 of Article 12 of the Law of Ukraine "On the Organization of Labor Relations in Martial Law" dated March 15, 2022 No. 2136-IX (Law No. 2136)).

All employers (with the exception of those listed above) must make vacation schedules, even if for today:

- such an enterprise, institution, organization is temporarily idle or the employment contracts with some of the employees have been suspended;
- all employees of the enterprise, institution, organization work remotely.

If necessary, changes can be made to the **existing vacation schedule during the year.**

To do this, the head of an enterprise, institution, or organization issues an order (instruction) to amend the vacation schedule, which must be brought to the attention of the employees affected by such changes.

Based on the issued order (instruction), the HR department makes changes to the vacation schedule. For example, using a separate appendix to the vacation schedule, which displays the corresponding adjustments.

If an individual employee needs to reschedule their leave, the manager can issue an order (instruction) on rescheduling the leave, and then enter its details in the vacation schedule (it is necessary to provide a separate column “Notes” for this). Such an order (instruction) must be brought to the attention of the employee whose leave will be rescheduled.

Penalties for not having a vacation schedule:

— **for an enterprise**, institution, organization — a fine in the amount of 1 minimum wage (paragraph 8, part 2 of Article 265 of the Labor Code) (from January 1, 2024 — UAH 7100, from April 1, 2024 — UAH 8000);

— **for officials** — an administrative fine in the amount ranging from UAH 510 to UAH 1700 (Part 1 of Article 41 of the Administrative Code). For repeating this violation within a year — from UAH 1700 to UAH 5100.

Unearned vacation days in the event of an employee's retirement

The employee used his annual leave "in advance". He leaves the job due to retirement. Can the employer withhold money from the employee for unearned leave days?

According to Article 22 of the Law of Ukraine "On Leaves", in the event of an employee's dismissal before the end of the working year for which he has already received full leave, deductions to cover his debt are not made if the employee leaves his job upon retirement.



LEGAL CONSULTING

E-COURT REGISTRATION

Since October 18, 2023, the Law of Ukraine No. 3200-IX of June 29, 2023 “On amending certain legislative acts of Ukraine on mandatory registration and use of electronic cabinets in the Unified Judicial Information and Telecommunication System or its separate subsystem (module), which ensures the exchange of documents” is in force. Upon failure of persons participating in legal proceedings to register, commercial courts may suspend procedural documents, return or dismiss them.

Statements of claim

1. Having received a statement of claim, the court must determine whether the person who filed it is obliged to register an electronic cabinet in accordance with Part 6 of Article 6 of the Code of Commercial Procedure of Ukraine (CCPU).
2. Having established that the statement of claim was filed by a person who is obliged to register the electronic cabinet, but has not registered it, the court issues a ruling to *suspend* the statement of claim (Part 1 of Article 174 of the CCPU).
3. In the ruling on suspending the statement of claim, the court notes the obligation of such a person to register an electronic cabinet in accordance with Article 6 of the CCPU, within a period that cannot exceed ten days after receiving the ruling on suspending the statement of claim (part 2 of Article 174 of the CCPU).

If such a person has registered an electronic cabinet within the time limit prescribed by the court, such a claim is considered filed on the day of its initial submission to the commercial court and the court accepts it for consideration and issues a ruling on commencing proceedings (Part 3 of Article 174 of the CCPU).

If a person has not registered an electronic cabinet within the time limit prescribed by the court, their statement of claim is considered not filed and is returned to the person. The court adopts a ruling on *returning the statement of claim* (Part 4 of Article 174 of the CCPU).

Procedural statements

The court *returns* the written statement (petition, objection) to the applicant *without consideration* if it was submitted by a person who is obliged to register an electronic cabinet, but did not register it (Part 4 of Article 170 of the CCPU).

Please note that the *procedural consequences* provided for above, in the event that a person who is obliged to register an electronic cabinet but has not registered it goes to court with a document, *are also applied by the court in the cases where the interests of such a person are represented by a lawyer* (Paragraph 2 of Part 6 of Article 6 of the CCPU).

Features of the litigation documents flow

If a person has registered an electronic cabinet, the court shall serve any documents in the cases in which such person is involved **exclusively in electronic form** by sending such documents to the electronic cabinet of such a person. However, this provision does not deprive such a person of the right to receive a copy of the judicial decision in a paper format upon a separate application.

Note that if the CCP of Ukraine provides for the obligation of a party to a case to send copies of documents to other parties to the case, such documents in electronic form can be sent using the Unified Judicial Information and Telecommunication System or its separate subsystem (module) that ensures the exchange of documents, by sending to the electronic cabinet of another party to the case, and if the other party to the case does not have an electronic cabinet or there is no information about

the electronic cabinet of the other party to the case – in hard copy form by a letter with the list of enclosure.

At the same time, if another party to the case is obliged to register an electronic cabinet, but has not registered it, the party to the case who submits documents to the court in electronic form using the electronic cabinet is released from the obligation to send copies of documents to such a party to the case.

The court, sending judicial summons, notices, and rulings to such a party to the case in the instances provided by the CCP of Ukraine, notes in these documents the obligation of such a person to register their electronic cabinet and the possibility of studying the case materials via the Unified Judicial Information and Telecommunication System.

The execution and issuance of enforcement documents is carried out by the court that made the relevant judicial decision, in hard or soft form with the help of the Unified Judicial Information and Telecommunication System or its separate subsystem (module), which ensures the exchange of documents. The court is not allowed to issue a writ of execution to the same person both in soft and hard copies.

Please note that if proceedings in the courts of first, appellate and cassation instances **were initiated before** the Law on Mandatory Registration and Use of Electronic Cabinets in the Unified Judicial Information and Telecommunication System came into force, **such cases must be considered according to the rules that apply after the entry into force of this law.**



**TRANSFER PRICING:
CONTROLLED FOREIGN
COMPANIES**



LIST OF INFORMATION SOURCES FOR OBTAINING QUOTED PRICES FROM THE STATE TAX SERVICE FOR 2024

For controlled transactions with raw commodities, compliance of the terms of controlled transactions with the "arm's length" principle is established using the comparative uncontrolled price method (subparagraph 39.3.3.4 of subparagraph 39.3.3 of paragraph 39.3 of Article 39 of the Tax Code).

The list of raw commodities is determined by the Cabinet of Ministers of Ukraine. Raw commodities are goods for which unrelated persons use quoted prices as a reference (benchmark) to set the price of uncontrolled transactions.

When applying the comparative uncontrolled price method to controlled transactions with raw commodities, the price of the controlled transaction may be compared with the price of comparable uncontrolled transactions actually carried out by the taxpayer or other persons with unrelated parties, and/or with quoted prices.

In accordance with subparagraph 39.3.3.4 of subparagraph 39.3.3 of paragraph 39.3 of Article 39 of the Tax Code of Ukraine, the State Tax Service of Ukraine has published a recommended (non-exclusive) list of information sources for obtaining quoted prices on the STS website for the purposes of the 2024 reporting year.

The list is placed in the section "Home page" / "Activities" / "Transfer pricing and international taxation" / "Transfer pricing" / "Recommended (non-exclusive) list of information sources for obtaining quoted prices".

The Code determines the advisory nature and non-exclusivity of the specified List of sources for determining compliance with the "arm's length" principle, and does not limit the taxpayer in choosing any of the sources whose information on the quoted prices used for comparison will comply with the comparability conditions defined in subparagraph 39.2.2 of paragraph 39.2 of Article 39 of the Tax Code.



FINANCIAL AUDIT



CHANGES TO NATIONAL ACCOUNTING REGULATIONS (STANDARDS)

Orders of the Ministry of Finance No. 624 dated November 7, 2023 and No. 659 dated November 27, 2023 approved changes to some National Accounting Regulations (Standards) (NAR(S)):

NAR(S) 1

A new provision was added to NAR(S) 1, whereby in the notes to the financial statements, investors must provide (disclose) the list of business entities, their own share in their authorized capital, and the amount of arrears on contributions to those authorized capitals (new paragraph 12 of Section IV of NAR(S) 1).

At the same time, the corresponding article "Arrears on contributions to the authorized capital of other enterprises" (line code **1036**) appeared in the List of Additional Items of Financial Statements (Appendix 3).

NAR(S) 12

NAR(S) 12 **has been supplemented** with a new paragraph, which stipulates that the investor of a joint venture, subsidiary and associated enterprise shall disclose information about the amount, terms and conditions of their liabilities on contributions to the authorized capital of business entities (new paragraph 27 of NAR(S) 12).

NAR(S) 13

An **addition** has appeared in NAR(S) 13, according to which the investor shall disclose information about the amount, terms and conditions of their liabilities on contributions to the authorized capital of business entities (new paragraph 48 of NAR(S) 13).

NAR(S) 29

It has been clarified that enterprises maintaining simplified accounting of income and expenses **will not apply** NAR(S) 29 (updated paragraph 2 of NAR(S) 29).

NAR(S) 32

NAR(S) 32 underwent the biggest changes.

First of all, the terms "investment property" and "operating property" were **redrafted** (updated paragraph 4 of NAR(S) 32).

Investment property is property (plot of land, structure, building (part of a building) or a combination thereof) held by the owner or lessee under a finance lease for the purpose of receiving rental payments and/or gains in equity, and not for use in the production and supply of goods, in the delivery of services and for administrative purposes or sales in the ordinary course of business.

Operating property is property (plot of land, structure, building (part of a building) or a combination thereof) held by the owner or lessee under a finance lease for the purpose of use in the production and supply of goods, in the delivery of services and for administrative purposes.

Secondly, it was clarified what exactly is **not considered investment property** for accounting purposes (*updated paragraph 5* of NAR(S) 32). That is:

Investment property includes, for example:

- a plot of land held for long-term gains in equity, and not for short-term sale in the ordinary course of business;
- a plot of land held for future use, which intended usage has not yet been determined. If the company has not yet determined how to use the land plot – as operational property or for sale in the short term in the ordinary course of business, such a land plot is considered to be held for gains in equity;
- a building that is owned by the enterprise (or as a right to use a building held by the enterprise) and leased under one or more operating leases;
- a building that is not occupied but is held for lease under one or more operating leases.

Thirdly, paragraph 6 of NAR(S) 32 is supplemented by a new provision whereby if the fair value of a part of the object that belongs to investment property cannot be measured reliably, all the property this part belongs to should be accounted as fixed assets in accordance with NAR(S) 7.



THANK YOU FOR YOUR ATTENTION

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

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