

Tax Newsletter

5 August 2011



Amendments to the Tax Code

On 5 August 2011, the law introducing amendments to the Tax Code was published.

Below we list the most important changes in the areas of tax administration and corporate profits tax.



I Tax administration

Penalties

- The maximum penalties for tax violations are decreased from 75 to 50% of the tax underpayment.
- Penalties of 50% for tax violations repeated within 1095 days are applied in case there is repeated underpayment of the same tax (corporate profits tax, VAT, etc.).
- Penalties for overstatement of tax losses are cancelled.

Tax consultation

- The law introduces a limitation period of 30 calendar days for provision by the tax authorities of individual tax clarification.
- The central tax office is empowered to issue general tax clarifications, which will have the same force as individual ones. In contrast, they can be used by all taxpayers.

Provision of information to the tax authorities

- In the course of the tax audit large taxpayers are obliged to provide the tax authorities tax information / documentation in electronic form only if they create such documents in electronic form.

International financial reporting standards

- Taxpayers who keep accounting under international financial reporting standards in line with Ukrainian legal requirements must apply such standards for the purposes of keeping tax accounting (unless the Tax Code provides otherwise).

Definition of permanent establishment

- A resident acting on behalf of a non-resident is not treated as an agency permanent establishment if (a) it acts on behalf of more than one non-resident, and/or (b) it acts in the ordinary course of its business.
- Agency permanent establishments are no longer required to register with the tax authorities.

Temporary and permanent tax differences

- The introduction of temporary and permanent tax differences reporting is postponed until 2013.

Coming into force

- The majority of amendments come into force on the next day after publishing. We expect the tax authorities to opine these rules to affect August 2011 (3rd calendar quarter of 2011).

II Corporate profits tax

General production expenses

- General production expenses must be included in the cost of product as it is in the accounting standards (previously such expenses were included in “other expenses”). However, general production expenses in the 2nd calendar quarter 2011 are expected to be calculated under the old rules.

Recognition of expenses in foreign currency

- Expenses incurred (and not paid) by the taxpayer in a foreign currency on the purchase of goods, works and services are recognised at the NBU’s official exchange rate on the date of such purchase.

Deductibility of non-salary remuneration to employees

- Employers can deduct non-salary remuneration to employees even if the collective agreement does not provide for such remuneration.

Amortization of intangible assets

- If not stated in the primary documents, the useful life of intangible asset is 10 years.

Securities and other corporate rights

- Expenses on the primary issue of securities, the sale by the issuer of its own shares and in-cash share capital contribution are deductible in the period when income from such transactions is recognised.
- A special regime for REPO transactions is introduced.

Deduction of bank loan loss provisions

- An increased deduction of 30% for banks’ loan loss provisions is prolonged until 2013.

Amendments to transition provisions of the Tax Code

- Corporate profits tax payers cannot be penalized for tax violations committed in all 2011 (i.e. 2nd -4th calendar quarters of 2011).
- Advance tax paid on dividends before 1 April 2011 can be carried forward and used (offset) in future reporting periods.
- Interest paid (accrued) to affiliates and not deducted before 1 April 2011 according the interest deductibility deferral limitation can be carried forward and deducted in future reporting periods.

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