

Tax Newsletter

Amendments to the Tax Code related to VAT

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 respect of value-added tax.



Voluntary registration as a VAT payer

- The list of business entities eligible for voluntary registration has been extended. In addition to existing criteria, an entity may apply for voluntary VAT registration in case the amount of its statutory share capital or the book value of its assets (fixed assets, intangible assets, inventory) exceeds UAH 300 thousand. Such entity may apply for voluntary VAT registration irrespectively of volume of VAT-able transactions performed and the volume of supplies to other VAT-payers. Therefore, a company with UAH 300 thousand of statutory share capital can register as a VAT payer as soon as it is incorporated.

Obligatory registration as a VAT payer

- The liability for violation of procedure for obligatory registration has been clarified. Only business entities, subject to obligatory registration, which have not applied for such registration within legislatively stated deadline, will be equally liable to VAT as registered VAT payers without the right for VAT input.

“Similar services of a consulting nature”

- The list of services not subject to VAT if provided to non-residents has been shortened. In particular, the item “other similar services of a consulting nature” has been excluded from the list. Therefore, only services that can be clearly classified as “consulting” will not be subject to VAT if provided to non-residents. This may result in an additional 20% cost for the non-resident recipients of such services.

Criteria for automatic VAT refund

- More favourable criteria for automatic VAT refund are introduced, in particular :
 - the volume of zero-rated transactions of the taxpayer should not be less than **40%** of total supply during the preceding twelve consecutive tax reporting periods (months)/four quarters;
 - total discrepancies between VAT credit of the taxpayer and VAT liabilities of its contractors, based on the VAT invoices issued during **three preceding reporting periods (quarter)** should not exceed 10% of the total amount of the VAT claimed for refund.

VAT invoice

- New mandatory requisite for the VAT invoice has been introduced. Thus, the taxpayer should indicate in the VAT invoice the **product code per the Customs tariff** in case the supply relates to excisable goods and goods that have been previously imported into Ukraine.

Unified register of VAT invoices

- The period for registration of VAT invoices in the Unified register has been extended. VAT invoice should be registered within **20 calendar days** following the date of its issuance.
- VAT invoices issued upon supply of excisable goods and goods that have been previously imported into Ukraine should be registered in the Unified register irrespectively of the VAT amount starting from 1 January 2012.

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Taxable base for certain transactions

The taxable base in respect of certain transactions has been amended. In particular:

- The taxable base for supply of productive or non-productive assets, other goods/services (including supply without consideration, with partial payment, supply to entities that are not registered as taxpayers etc.) is determined based on their **contractual value, but not less than market value**.
- The taxable base for transfer of goods/services and fixed assets for (a) non-productive usage; (b) usage in exempt/non-VAT-able transactions; (c) usage in non-business activity etc. is determined as follows:
 - **for fixed assets – book value at the moment of transfer (supply)** and
 - **for goods/services – purchase prices**.
- The taxable base in case of liquidation of productive or non-productive assets under the taxpayer's decision is determined based on **the market price, but not less than the book value at the moment of their liquidation**.

Exempted sales of grain and industrial crops

- Local supply of grain-crops and industrial crops (except those stated in the Customs tariff under positions 1006 and 1008 10 00 00) will be VAT exempt until 1 January 2014, except for their first supply by agricultural producers and **entities which purchased such grain-crops and industrial crops directly from agricultural producers**.
- VAT exemption on import of such grain and industrial crops has been cancelled. Thus, importation transaction will be subject to 20% VAT under general rule.

Temporary 0% VAT on supply of gas

- In July – September 2011 the supply of natural gas imported by National Joint-Stock Company "Naftogas" will be VAT zero rated, except when such supply is performed to individuals, budget organizations, producers of energy for the population and other consumers that are not VAT payers.