

Flash Report

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The Law on decriminalization of economic crimes

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The Law on decriminalization of economic crimes comes into force on 18 Jan 2012

On 15 November 2012 the Parliament adopted the Law On humanisation of responsibility for economic crimes* (the Law), which amends several laws including Criminal Code of Ukraine (CC of Ukraine).

The Law significantly softens the personal criminal responsibility of company's officials and decriminalizes certain crimes.

The Law was signed by the President on 13 December 2011 and officially published on 17 December 2011. It will come into effect starting 18 January 2012.

Decriminalisation of actions

The Law decriminalised certain actions, i.e. starting from the 18 January, 2012 certain actions will be not criminally punished and requalified into administrative offences. Among them:

- violation of the order of business activity execution, i.e. carrying out business activity without state registration, license etc. (article 202 of the CC of Ukraine);
- carrying out of prohibited business activity (article 203 of the CC of Ukraine);
- evasion from returning proceeds in foreign currency (article 207 of the CC of Ukraine);
- illegal opening/usage of foreign currency accounts beyond the territory of Ukraine (article 208 of the CC of Ukraine);
- sham bankruptcy (article 218 of the CC of Ukraine);
- forcing for anticompetitive actions (article 228 of the CC of Ukraine);
- stocks' floatation without registration of their issuance (article 225 of the CC of Ukraine) and others.

Softening of criminal responsibility. Tax evasion.

The Law essentially softens the personal criminal responsibility of company's officials for committing commercial crimes. In majority of cases, the Law replaces such punishment as imprisonment by imposing fines on guilty persons.

For instance, the maximum punishment for the tax evasion offence (article 212 of the CC of Ukraine) has been changed from 5 to 10 years of imprisonment to fine in the amount of UAH 255 000 – 425 000 (USD 31 875 – 53 125).

Additionally, since the tax evasion crime is not considered as gross offence anymore, the preliminary detention before trial is not applicable to suspected company's officials.

In our opinion, the Law will positively impacts tax dispute resolution practice and will give to company's officials more comfort in decision making.

*The Law of Ukraine "On amending certain legislative acts of Ukraine regarding humanization of responsibility for offences in the sphere of economic activity", dated 15.11.2012 No. 4025-VI.