

Tax Newsletter

Tax Code: Key changes impacting the alternative energy industry

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Enhanced incentives for an alternative energy sector

Prior to the introduction of the 2011 Tax Code, numerous incentives were potentially available for the alternative energy industry; however, there was no certainty regarding their sustainability.

The 2011 Tax Code confirms the majority of the incentives previously in place and provides further ones as well.

This is a clear illustration that the government intends to support the development of the alternative energy sector. However, there are a number of uncertainties that still need to be resolved.

This newsletter highlights the key incentives that have been introduced and/or reinforced and also indicates the specific issues requiring further clarification or input from the government or regulatory bodies.

I Corporate profits tax (CPT)

1. The Tax Code has confirmed the previously available CPT exemption for the income received from the sale of equipment, raw materials, machinery, etc. used in the production of alternative (renewable) energy.

The Tax Code sets a limitation on the exemption, and so not more than 80% of such income will be exempt from CPT. It will only apply to sales on the customs territory of Ukraine (i.e. not to exporting).

Highlights

CPT

- Up to 80% of income received from the sale of equipment, raw materials and machinery used for the production of alternative energy is exempt from CPT.
- 50% exemption for income received from the realization of energy-saving projects.
- Up to 1 January 2020, income of bio-fuel producers received from the sale of such fuel is exempt from CPT.

VAT

- The import of equipment, machinery, spare parts, etc. in Ukraine used for production of alternative energy is exempt from VAT.
- Up to 1 January 2019, the supply of equipment, machinery, spare parts, etc. in Ukraine used for the production of alternative energy is exempt from VAT.
- Up to 1 January 2019, the import of equipment, machinery etc. used in production of bio-fuel and vehicles using bio-fuel is exempt from VAT.

The Cabinet of Ministers of Ukraine has already established a list of goods that is subject to this exemption. It has also provided the rules for utilization of exempt funds (generally, such amounts should be used to increase the manufacturing capacities of an enterprise).

2. The previously adopted CPT incentive regarding taxation of income received from the realization of energy-saving projects remains unchanged. Pursuant to that, 50% of income derived from the implementation of energy-saving projects by enterprises that are included into a specific state register, is exempt from CPT. The Cabinet of Ministers of Ukraine has set the requirement to maintain separate accounting of profits and losses incurred from the realization of such projects. Interestingly, there is no current restriction concerning the utilization of exempt amounts.

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3. In addition to the above, the Tax Code has introduced a special tax regime for bio-fuel producers. According to the new rules, up to 1 January 2020, income of bio-fuel producers received from the sale of such bio-fuel is exempt from CPT. There are no provisions stipulating the requirement to utilize the exempt income.

II Value-added tax (VAT)

1. The Tax Code has preserved the tax incentive regarding VAT treatment of the import of equipment, raw materials, machinery, etc. used in the production of alternative (renewable) energy. Thus, the import of such goods to Ukraine is exempt from VAT if they are used by a taxpayer for its own production and there are no identical goods manufactured in Ukraine. The extensive list of the goods falling into this VAT exemption has been stipulated by the Cabinet of Ministers of Ukraine.
2. The Tax Code established several new VAT incentives for the alternative energy sector. In particular, up to 1 January 2019, the aforementioned VAT exemption has been extended to the supply of relevant machinery and equipment within Ukraine.
3. Additionally, up to 1 January 2019, the Tax Code specifically provides VAT exemption for the import of equipment and machinery used in the production of bio-fuel and vehicles using bio-fuel. These exemptions only apply if there are no identical goods manufactured in Ukraine.

