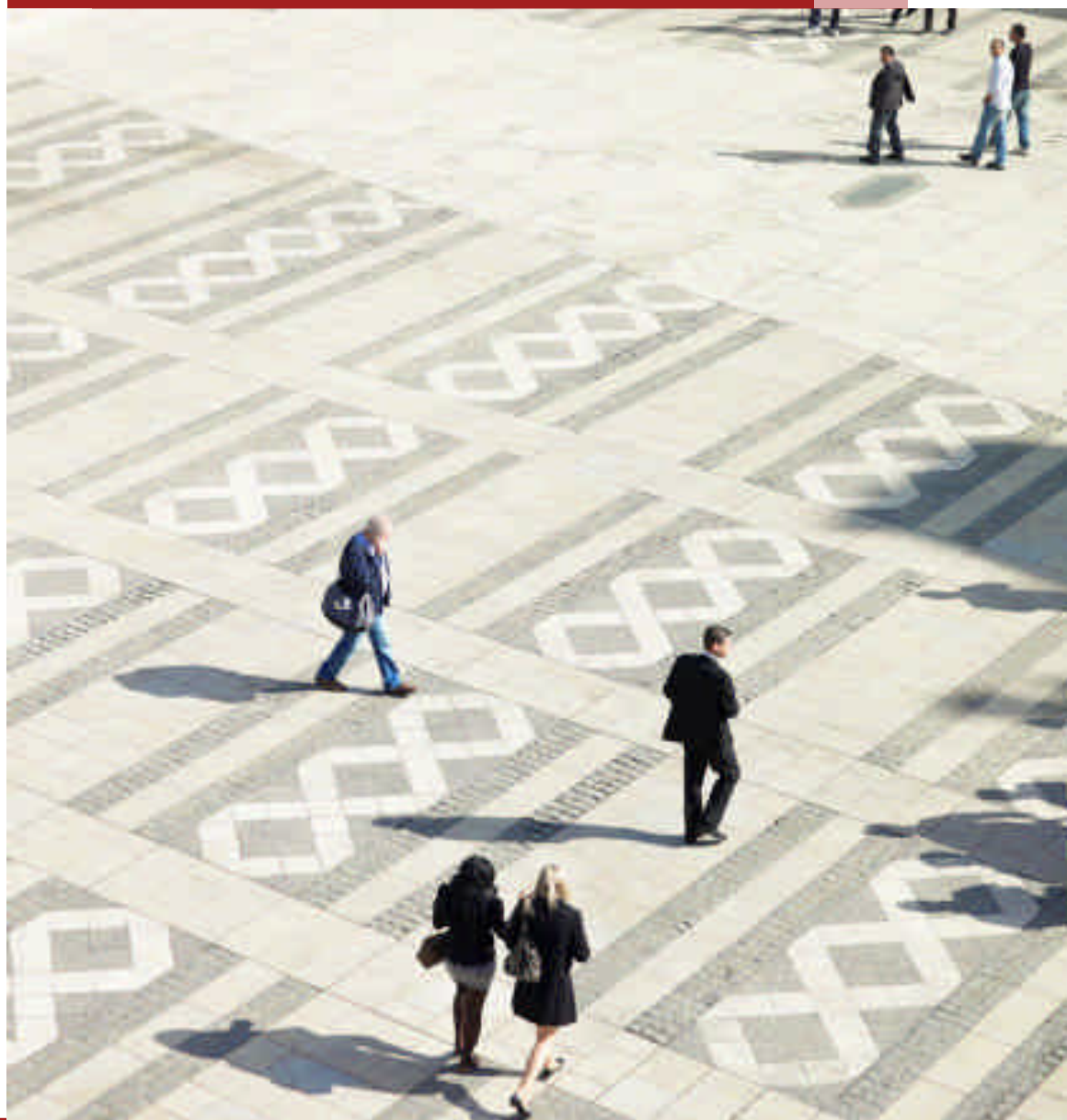


Indirect Tax Newsletter

13 August 2014



Changes in indirect taxation

*On 31 July 2014, the Ukrainian Parliament passed a Law * introducing a number of major changes to the Tax Code.*

Following our recent Flash Report, this Indirect Tax Newsletter provides a deeper analysis of the most important changes in respect of indirect taxation.



I. VAT

A. Changes effective 1 January 2015

1. Minimum VAT base

- The VAT base for taxable supplies cannot be lower than the purchase price of goods/services and/or balance value of fixed assets. This change will make the VAT rules inconsistent with the Corporate Profit Tax Transfer Pricing rules.
- This change will result in a material additional tax burden for many businesses in Ukraine even if the transactions are at market level and/or there is a commercial reasoning for the price. It is likely to impact promotional/marketing activities (e.g. distribution of samples and prizes), shortages of stock, and sale or write off of fixed assets.

2. VAT Invoices

- All VAT invoices will be issued in electronic form and registered in the Unified Register of Tax Invoices, irrespective of the VAT amount. The registration requirement also relates to self-issued invoices (i.e. invoices issued upon purchase of services from non-residents, deemed sale etc.).
- The customers will not be entitled to recover input VAT if the supplier fails to register the VAT invoice in the Unified Register of Tax Invoices within 15 days after issuance of the VAT invoice.

- These electronic VAT invoices and the Unified Register of Tax Invoices will be linked to the electronic VAT accounts (refer below).

3. Electronic VAT administration

- VAT will be administered by the State electronically: special electronic VAT accounting system will be introduced and a VAT bank account will be opened for all VAT payers (a bank [banks?] will need to be determined by the Cabinet of Ministers of Ukraine).
- Taxpayers will only be able to issue VAT invoices if they have sufficient funds available in that VAT bank account or have sufficient input VAT.
- The following formula will apply to determine VAT liabilities:
 - + \sum VAT receivable under received VAT invoices
 - + \sum VAT paid during customs clearance of goods
 - + \sum Cash on VAT account
 - \sum VAT liabilities in VAT invoices already issued
 - \sum VAT claimed for refund
 - \sum Positive difference between VAT liabilities reported in VAT return and VAT liabilities according to the Unified Register of VAT Invoices.

** The Law "On introduction of amendments to the Tax Code of Ukraine and other legislative acts of Ukraine" # 1621-VII dated 31.07.2014*

- This means that if the VAT output exceeds VAT input, the taxpayer needs to transfer cash to the VAT bank account in order to issue a VAT invoice.
- VAT payers will continue to submit VAT returns for the reporting tax periods. But the tax authorities will withdraw the liability from the VAT bank account on a timely basis.
- No transfer of overpayment from the electronic VAT account to the bank account of the taxpayer is prescribed by the legislation. Special rules will apply for agricultural enterprises.
- VAT payers should be able to claim VAT refund immediately in the period when the VAT receivable occurs. The amount claimed for refund should not exceed the balance on the electronic VAT account at the date of submission of the VAT return (but collection will remain an issue under the system).
- The tax authorities will still need to address various issues in the coming months, including the system to be used for VAT pro-rata recognition.

4. VAT refunds

- The provisions establishing the deadlines for the actual refund of VAT claimed from the State will be removed. This will create uncertainty regarding the procedure and timing to obtain a VAT refund (including an automatic refund).

5. Automatic VAT refund

- The criteria for an automatic VAT refund will be more restrictive and is likely to significantly limit the number of companies eligible for a VAT refund.
- Automatic VAT refund will only apply to VAT payers that have fixed assets with a balance value 12 times more than the amount of VAT claimed for a refund for the particular period (month), and:
 - the volume of zero-rated transactions of the taxpayer should not be less than 40% of the total supplies during the preceding twelve consecutive tax reporting periods (months)/four quarters; and/or
 - the volume of new investments in fixed assets during the last 12 calendar months is not less than UAH 3 mln.

6. Reverse charge VAT

- Self-accrued VAT liabilities under the reverse-charge procedure, for services received from non-residents, can be credited in the same month.
- Due to the introduction of electronic VAT accounts, this is unlikely to remove the cash flow impact of reverse-charge.

7. VAT registration

- The threshold for mandatory VAT registration will be raised from UAH 300,000 to UAH 1,000,000 per the last twelve consecutive calendar months.

B. Other changes

1. Agricultural sector

- Export of grain grown by agricultural producers on rented land plots will be subject to 0% VAT starting from 1 October 2014.
- The temporary VAT exemption for grain traders is extended until the end of 2014.
- Timber harvesting is no longer subject to the special agricultural VAT regime.

2. Other VAT issues

- Transportation of passengers by “Intercity +” trains is subject to 20% VAT from 3 August 2014.
- Supply and import of fuelwood is no longer exempt from VAT from 3 August 2014.

II. Excise

A. Tobacco products

- The specific excise rates on tobacco products, as well as the amounts of minimal excise liability, will increase by 5% from 1 September 2014.

B. New excisable goods

- From 1 November 2014, bitters and other food items containing more than 8.5% of alcohol become excisable products. The excise rate for such products will be UAH 70.53 per 1 litre of 100% alcohol.
- Until 1 January 2015, excise tax is levied on alternative motor fuel at the rate of EUR 99 per 1000 kilograms.

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