

# LAW OF UKRAINE



3.1.1. Goods (works, services) sale on the customs territory of Ukraine, including

stamps of Ukraine which are not repaid yet ~~etc~~ collection stamps, postcards and envelopes for philatelic purposes;

3.2.5. raising and depositing funds under ~~agreements~~ of loan, deposit, investment and

4.2. In case of goods (works, services) sale without payment or with a partial payment of their cost by money within barter (goods exchange) operations; in-kind payments as a payment for work of individuals who have labor relations with a tax payer; transfer of goods (works, services) within book (balance sheet) of a tax payer for non-production use where costs are not treated as gross costs of production (turnover) and are not subject to depreciation as well as transfer to a person bound with labor basis of taxation shall be established proceeding from actual price of the operation but not lower than conventional prices.

4.3. For goods imported (sent) to the customs territory of Ukraine by tax payers, basis of taxation shall be contractual (contract) cost of such goods but not less than customs value mentioned in import customs declaration with taking into account costs for transportation, loading, unloading, reloading and insurance at a point of passing the customs border of Ukraine, payment for use of intellectual property objects that belong to such goods, excise, import duties, other taxes and charges (compulsory payments), except value added tax, that are included to the price of goods (works, services) under Ukrainian laws on taxation. Established cost is calculated in Ukrainian Hryvnias under exchange rate of the National Bank of Ukraine effective as of the date of arising tax obligations.

For works (services) that are fulfilled (provided) by non-residents on the customs territory of Ukraine, basis of taxation shall be contractual (contract) cost of such works (services) with taking into account excise, other duties and charges (compulsory payments), except value added tax, that are included to the price of works (services) under Ukrainian laws on taxation. Established cost is calculated in Ukrainian Hryvnias under exchange rate of the National Bank of Ukraine effective as of the date of arising tax obligations.

4.4. For finished produce manufactured in Ukraine from give-and-take raw materials of a non-resident and in case of sale on the customs territory of Ukraine, basis of taxation shall be contractual (contract) cost of such produce with taking into account excise, import duties, other taxes and charges (compulsory payments), except value added tax, that are included to the price of such finished produce under Ukrainian laws on taxation. Established cost is calculated in Ukrainian Hryvnias under exchange rate of the National Bank of Ukraine effective as of the date of arising tax obligations. In this situation a buyer pays tax to the budget under the procedure provided for tax of imported goods and home processor of the produce shall be liable for payment of tax by the buyer of such produce.

4.5. If after goods (works, services) sale is conducted any change of compensation amount for goods (works, services) sale, including recalculation in cases of returning sold goods or ownership rights for such goods to a seller as well as in connection with recognition of the buyer's debt as a bed debt under the procedure established by Ukrainian legislation, tax levied in connection with such sale is recalculated according to changes of taxation basis. In this situation a seller reduces amount of the obligation for the amount of tax calculated excessively and a buyer appropriately increases amount of the tax obligation for the same amount for the period within which amount of compensation to a buyer was reduced. Review of tax obligations amounts under increase of compensation amounts to a buyer is conducted inversely.

The procedure provided by this paragraph shall not be applied to review of prices for operations if either of parties of such operation is not a tax payer, except operations on review of prices related to fulfilment of guarantee obligations.

4.6. Cost of packing that is determined to be returned (as collateral) under terms of agreement (contract) is not included to the basis of taxation. In case when within limitation of action established by the law the packing determined to be returned to a sender from the moment of its receiving has not been returned, the cost of such packing is included to the receiver's basis of taxation.

4.7. In cases when a tax payer conducts economic activity on sale of consumed goods (commission sale) bought from persons not registered as tax payers, the basis of taxation shall be commission bonus of such tax payer. The Cabinet of Ministers of Ukraine shall establish

5.1.10. providing the following services under the procedure and norms established by the Cabinet of Ministers of Ukraine:

keeping children in pre-school institutions, boarding-schools and specialized institutions of the Ministry of Home Affairs of Ukraine,

keeping persons in institutions for old people and invalids,

feeding and organization of lodging for persons who have no their own accommodations. It should be done in specially organized places,

feeding of children in schools and vocational schools and individuals in institutions of health protection;

5.1.11. providing services by state employment institutions of Ukraine under the list established by the Cabinet of Ministers of Ukraine;

5.1.12. providing services by archival institutions of Ukraine related to submitting documents of the National Archival Fund of Ukraine to legal entities and individuals as well as sale of documents of the National Archival Fund of Ukraine that are property of legal entities or individuals to archival institutions of Ukraine pursuant to Ukrainian legislation;

5.1.13. providing services on passenger transportation by urban and suburban passenger transport and automobile transport in district where transportation tariffs are regulated pursuant to the procedure established by laws, except operations on providing passenger transport for rent (hire);

5.1.14. providing religious services and sale of religious purposes goods to religious organizations under the list established by the Cabinet of Ministers of Ukraine;

5.1.15. providing services on funeral by any tax payer;

5.1.16. transfer of confiscated property, things found, treasures or property determined as property in abeyance into management of states or organizations authorized to store or sale them pursuant to legislation;

5.1.17. transfer of land plots where real estate objects are located or vacant sites, in case when such transfer is allowed under provisions of the Land Code of Ukraine;

5.1.18. free transfer of rolling stocks by the state-owned railway or a railway transport enterprise of common use to other state-owned railways or railway transport enterprises of common use under the procedure established by the Cabinet of Ministers of Ukraine.

5.2. The following operations are exempted from taxation:

5.2.1. goods (works, services) sale of own production (except intermediary and advertising activity and playing business) by enterprises established by All-Ukrainian public

organizations of invalids wholly owned by them to other tax payers. The above-mentioned privilege shall be applied only to enterprises where a number of invalids who have there the main employment is not less than fifty (50) per cent of total employees in reporting periods and salary fund of such invalids within reporting period is not less than forty (40) per cent of total remuneration for work payments. Invalids salary fund shall be included to gross costs of production (turnover). Enterprises to which this paragraph applies are registered in tax body under the procedure established for tax payers and have the right to fill in the tax invoice without calculation of value added tax. Tax reporting of such enterprises is carried out under the procedure established by central tax body of Ukraine. The Cabinet of Ministers of Ukraine shall establish the procedure of goods (works, services) allocation to own production;

5.2.2. fulfilment of works at investors' expense on construction of apartments for servicemen, war veterans and members of servicemen' families perished while fulfilling their duties;

5.2.3. free transfer of own production produce (works, services) by auxiliary agricultural enterprises and medical and production labour workshops (departments, units) of boarding-organizations and territorial centres for servicing lonely old people (pensioners), if such transfer is carried out for ensuring own need of mentioned institutions;

5.2.4. providing services on repair of schools, pre-school institutions, boarding-



5.6. Exemptions from taxation provided by paragraphs 5.1, 5.2 and 5.5 of this Article are not applied to operations with goods under excise.

## Article 6. Tax rates

6.1. Objects of taxation mentioned in Article 4 of this Law shall be taxed under 20 per cent rate except operations exempted from tax and operations where zero rate is applied pursuant to this Law.

6.1.1. Tax is 20 per cent of taxation basis established by Article 4 of this Law and is added to goods (works, services) price.

6.2. Tax under zero rate shall be calculated regarding the following operations:

6.2.1. sale of goods that have been exported by a tax payer outside the customs territory of Ukraine.

Including the following operations that are taxed under zero rate:

- supplies for fuelling or feeding of sea (ocean) vessels that:

are used for navigation activity, transportation of passengers or goods for payment, other commercial, industrial or piscatorial activity carried out outside territorial waters of Ukraine;

are used for salvage or providing assistance in neutral or territorial waters of other countries;

are included to the Ukrainian Navy and forwarded outside territorial waters of Ukraine, including anchorage;

- supplies for fuelling and feeding of air liners that:

carry out international trips for navigation activity or transportation of passengers or goods for payment;

are included to Air Forces of Ukraine and sent outside the air border of Ukraine including temporary bases;

- supplies for fuelling (refuelling) and feeding of space ships as well as satellite.

Goods are considered exported by a tax payer outside the customs territory of Ukraine if their export (exportation) is certified by a duly registered customs goods declaration.

6.2.2. sale of works (services) provided ~~use~~ and consumption outside the customs territory of Ukraine.

Including the following operations that are taxed under zero rate:

providing sea or aerial ships used for ~~air~~ international trips or routes as well as space ships or satellite, their parts or independent functions to non-residents as a lease, charter and freight;

providing services on transfer of ~~rights~~ copyrights, licences, patents and rights to use trademarks and other legal and economic knowledge ~~to~~ non-residents as well as processing of data and information;

providing services on organization of adver

Operations on a tax payer's providing ~~services~~ related to transportation (replacement) of passengers and goods through Ukraine by transit are taxed under the rate established by the paragraph 6.1 of this Article. This rate shall be included to the cost of services for transit;

6.2.5. sale of coal and products of its ~~mining~~, coal and turfy briquette; sale of electricity to population.

6.3. It is not allowed to apply zero ~~rate~~ taxation to operations on export of goods (works, services) in case when such operations ~~are~~ exempted from taxation on the customs territory of Ukraine under paragraphs 5.1 and 5.2 of this Law.

## Article 7. The Procedure of Calculation and Payment of Tax

7.1. Goods (works, services) sale shall ~~be~~ carried out under contractual (contract) prices with additional calculation of value added tax.

### 7.2. Tax invoice

7.2.1. A tax payer shall be liable to provide ~~the~~ buyer with a tax invoice. The tax invoice shall include the following as separate lines:

- a) ordinal number of the tax invoice;
- b) date of the tax invoice's issue;
- c) name of legal entity or surname, ~~name~~ patronymic of individual registered as value added tax payer;
- d) tax number of a tax payer (seller and buyer);
- e) location of legal entity or place of ~~tax~~ address of individual registered as a tax payer of value added tax;
- f) the list (nomenclature) of goods (works, services) and their quantity (volume, size);
- g) full name of a receiver;
- h) sale price without taking into account tax;
- i) tax rate and appropriate amount of tax in figures;
- j) total amount to be paid with taking into account tax.

7.2.2. In case of exemption from taxation, a note "Without VAT" shall be made with reference to appropriate sub-paragraph of the paragraph 5.1 or the paragraph of Article 5.



either the date of transferring funds from a buyer (customer) to the banking account of a tax payer as payment for goods (works, services) that are under sale, and in case of goods (works, services) sale for cash - the date of registration in the cash department of a tax payer and if there is no such cash department - the date of cash collection in the banking institution that serves the tax payer;

or the date of goods shipment and for works (services) - the date of registration of the document that evidences the fact of works (services) fulfilment by a tax payer.

7.3.2. In case of goods (currency values) or services sale with use of trade automatic machines or other similar equipment that do not provide for presence of cash apparatus controlled by authorized individual, the date of arising tax obligations shall be considered the

or the date of receiving appropriate compensation in any other form, including decrease of debt of such tax payer under his obligations to such budget.

7.3.6. The date of arising tax obligations while conducting import (importation) of goods shall be the date of filing in a customs import declaration with mentioning in it the amount of tax to be paid. The date of arising tax obligations while conducting import works (services) shall be the date of sending funds from current account of a tax payer as payment for works (services) or the date of registration of the document that evidences the fact of works (services) fulfilment by non-residents depending what event happened first.

7.3.7. The date of arising tax obligations of executor regarding contracts determined as a long-term under the Ukrainian Law "On Taxation of Enterprises' Profit" shall be the date of gross income increase of a long-term contract executor.

7.3.8. Prepayment (advancing) of goods that are under export outside the customs territory of Ukraine or import (sending) to the customs territory of Ukraine pursuant to agreements shall not be the basis for arising additional tax obligations.

#### 7.4. Tax credit

7.4.1. Tax credit of the reporting period consists of the taxes paid (calculated) by a tax payer within the reporting period in connection with goods (works, services) purchase, cost of which is included to gross costs of production (turnover) and fixed assets and intangible assets that are subject to depreciation.

Value added tax amounts paid (calculated) by a tax payer within the reporting period in connection with purchase (construction) of fixed assets that are subject to depreciation shall be included to tax credit of such reporting period regardless terms of putting fixed assets into operation.

7.4.2. In case when a tax payer conducts operations on sale of goods (works, services) that are exempted from taxation are not objects of taxation under Articles 3 and 5 of this Law, tax amounts paid (calculated) in connection with goods (works, services) purchase, cost of which is included to gross costs of production (turnover) and fixed assets and intangible assets that are subject to depreciation are included accordingly to gross costs of production (turnover) and fixed assets and intangible assets cost increase and are not included to tax credit.

7.4.3. In case when produced and/or purchased goods (works, services) are partially used in taxed operations and partially, that part of paid (calculated) tax in the course of their production or purchase which shall be included to tax credit (7.4.1.65 case when a tax payer con



compensated to a tax payer from the Ukrainian State budget within a month that follows the reporting period.

Ground to receive compensation is only tax of the tax declaration for the reporting period. At a tax payer's request the amount of budget compensation can be completely or partially included to future payments on this tax. Such decision of a tax payer shall be reflected in tax declaration.

Compensation shall be conducted through transfer of appropriate amounts from a budget account to a tax payer's account in a bank that serves the tax payer or through issue of a treasury cheque accepted to immediate payment (repayment) by any banking institution. Legislation shall establish rules of issue, circulation and repayment of treasury cheques.

Conducting of compensation through decrease payments on other duties and charges (compulsory payments) shall not be allowed.

Amounts not compensated to a tax payer within term established in this paragraph shall be considered the budget debt. Interest the amount of one hundred and twenty (120) per cent of the National Bank of Ukraine basic rate are calculated for the budget



A tax payer shall submit an application to the tax body about its decision on this issue one month prior a calendar year beginning.

Within a calendar year it is allowed to change a quarter tax period for a month tax period beginning any quarter of current year. A tax payer shall submit an application to the tax body about such change one month prior a quarter beginning.

## Article 8. Peculiarities of Taxation if a Quarter Tax Period Applies

8.1. A tax payer that applies a quarter tax period and conducts export operations on goods (works, services) sale may receive budget compensation of the tax credit's part according to results of activity for the first month of a quarter and first two months of a quarter.

8.1.1. Percentage of tax credit of the calculated period equal to percentage of export volumes of goods (works, services) is a total volume of taxed operations on goods (works, services) sale of the calculated period is a subject to a budget compensation.

8.1.2. Property voluntary donations in favor of non-residents, property contributions to continue any joint activity with non-residents outside Ukraine, property contributions returned to a foreign investor are not included to export volumes of goods (works, services) sale.

8.2. Compensation is carried out under the procedure provided by the subparagraph 7.7.3 of this Law for a tax (reporting period) equal to a calendar month.

8.3. Taxation under results of the reporting quarter is conducted pursuant to the procedure established by the paragraph 7.7. of this Law.

## Article 9. Registration of Persons as Value Added Tax payers

9.1. The central tax body of Ukraine shall maintain the register of tax payers.

9.2. An individual tax number used to pay tax is given for any person whose activity is subject to taxation.

9.3. Agents of economic activity being created after entering into force this Law regardless type of activity and planned volume of operations on goods (works, services) sale, and acting persons fall under Article 2 of this Law shall be liable to register as tax payers in the tax body at place of their location. The central tax body of Ukraine shall establish the form of application for registration.

If a person that does not fall under the paragraph 2.1 as a tax payer, in connection with volumes of taxed operations on goods (works, services) sale less than 600 non-taxed minimums of individuals' income considers expedient to register as a tax payer, such registration is conducted according to its application.

9.4. Registration application shall be submitted (sent) to the tax body not later than twentieth calendar day since the moment of newly created agent of economic activity registration in bodies of local state power and for acting entity not later than twentieth calendar day that follows the last day of twelve-months period mentioned in the paragraph 2.1 of this Law. Registration application shall be sent to the address of a tax body with notification on receipt. Within ten (10) days tax-body shall be liable to provide (send by post with notification on receipt at expense of an applicant ) an applicant with the registration certificate as a tax payer.

9.5. Copies of the registration certificate approved by the tax body shall be placed in a tax payer's premises and independent units where they can be inspected.

The central tax body of Ukraine shall establish procedures of such placement and

11.2. Before bringing other legal acts into accord with norms of this Law, they shall be valid to the extent that does not contradict this Law.

11.3. Decree No. 14-92 "On Value Added Tax", dated December 26, 1992, of the Cabinet of Ministers of Ukraine shall be considered invalid ("News of the Supreme Rada of Ukraine", Year 1993, No. 10, p. 78; p. 26, p.281, No. 34, p. 356, No. 49, p. 458, No. 50, p. 471; Year 1994, No. 20, p. 120, No. 22, p.149, No. 27, p. 220; Year 1995, No. 44, p. 318; Year 1996, No. 25, p. 101, No. 27,128, No 31, p. 147, No. 41, pp.. 190 and 192).

11.4. Changes of the procedure in taxation by value added tax can be conducted only through introduction of changes to this Law.

Value added tax is an internal tax and cannot be regulated by international agreements' norms except agreements ratified by the Supreme Rada of Ukraine before entering this Law into force.

11.5. From the moment of entering this Law into force, while importing (sending) goods to the customs territory of Ukraine taxpayers at their own wishes shall have the right to provide customs control bodies with bill of exchange for the amount of tax obligation (hereinafter referred as tax bill of exchange). One copy of this tax bill of exchange is kept by a customs control body, one copy is sent by a customs control body to a tax body in the place of a tax payer's registration and one copy is given to a tax payer;

amount mentioned in a tax bill of exchange shall be included to amounts of tax obligations of a tax payer in the reporting period within which the bill of exchange should be repaid. In this situation a tax bill-of exchange shall be considered repaid;

in the next reporting (tax) period amount mentioned in a tax bill of exchange shall be included to a tax payer's tax credit;

liabilities on repayment of a tax bill of exchange cannot be transferred to other persons, a tax bill of exchange cannot be endorsed there are no interest or other type of payments for use of a tax bill of exchange;

tax bills of exchange issued by taxpayers with volume of taxed operations on goods (works, services) sale for last twelve (12) months more than ten (10) million Hryvnias, who had no debt to the budget (except to be restructured pursuant to legislation) and without cases on bankruptcy shall not be secured. Certificate on importer's compliance with the above-mentioned requirements shall be provided by a tax body free of charge upon a tax payer's request. It shall be renewed each three (3) calendar months. The Cabinet of Ministers of Ukraine shall establish terms and the procedure of providing such certificates;

tax bills of exchange issued by other taxpayers shall be confirmed by commercial banks through banker's guarantee;

The Cabinet of Ministers of Ukraine shall establish the procedure of issue, circulation and repayment of tax bills of exchange.

This paragraph shall not be applied to operations on import (sending) excise goods and goods included to goods groups 1-24 of Harmonized System of Goods Description and Coding.

11.6. Up to January 1, 1999 provisions of law related to establishment of value added tax with zero rate shall be effective for sale of the following produce:

coal and products of its enrichment, coal and turfy briquettes;

electric power for population.

11.7. Before June 30, 1997 persons that according to Law have to be registered as value added tax payers shall be liable to conduct such registration and receive the right to fill in a tax declaration.

11.8. Legal entities and individuals that according to legislation registered as agents of economic activity and had to cal

4) tax payer's amount of tax obligations shall be increased by value added tax amounts calculated according to cost of loaded goods (fulfilled works, provided services) but not paid in a timely manner or the date of payment for which has not occurred yet except cost of goods (works, services) added (fulfilled, provided) according to subparagraphs "a" - "e" of the paragraph 11.9 of the Cabinet of Ministers' of Ukraine Decree "On Value Added Tax";

5) in case when as a result of such recalculation a tax payer receives the right for compensation of the tax credit amount from the state budget of Ukraine, such amount shall be taken into account in increase of future periods tax credits by equal portions before January 1, 1998;

6) in case when as a result of such recalculation a tax payer is liable to transfer amount to the state budget of Ukraine additionally, such amount shall be taken into account in increase of future periods tax obligations by equal portions before January 1, 1998.

11.9. From the date of entering this Law into force, norms of the Ukrainian Law "On Operations with Give-and-Take Raw Materials in Foreign Economic Relations" in the part of value added tax payment shall be applied only to fulfilment of obligations under bills of exchange issued to tax payers before the date of entering this Law into force.

11.10. Norms of the Ukrainian Law "On Providing Privileges Regarding Burdening with Value Added Tax for Products (Works, Services) Produced Under the Contract No. 1346/38" adopted January 17, 1997, shall be valid within terms of this contract fulfilment.

11.11. Within two (2) months after publication of the Ukrainian Law "On Value Added Tax" the Cabinet of Ministers of Ukraine shall submit proposals to the Supreme Rada of Ukraine on introduction of changes to legislative acts of Ukraine rising from this Law as well as brings its normative and legal acts into accord with this Law.

President of Ukraine

L. KUCHMA

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