

Tax Agenda Ukraine

December 2022



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No.	Fact	Action	
1	<p>Significant adjustment to the simplified tax regime for the period of martial law</p> <p>The possibility to apply special 2% single tax rate based on income, which was introduced on 1 April 2022, remains for qualifying Ukrainian companies until the abolition of the martial law (vs 18% corporate profit tax (CPT) and 20% value added tax (VAT)). Taxable income shall be calculated on a cash basis, considering special rules. VAT registration will be suspended for the period of applying 2% tax rate. From 1 July 2022, the exemption from VAT for goods imported by 2% single tax payers is abolished, and they are liable to pay import VAT without the right to credit it.</p>	Assess eligibility of transferring the Ukrainian business to 2% single tax.	● ● ●
2	<p>Increase in tax rates for business entities having economic relations with Russian Federation is in the process of adoption</p> <p>A bill to introduce the 1.5 increasing ratio to the tax rates (CPT, environmental tax, rent fee and property tax) for companies that have economic relations with Russian Federation was adopted in the first reading and is pending further consideration.</p>	Consider potential impact and monitor developments.	● ● ●
3	<p>Double tax treaty with Belarus will be terminated</p> <p>The Cabinet of Ministers of Ukraine approved the bill to terminate the agreement between the Government of Ukraine and the Government of the Republic of Belarus on the avoidance of double taxation and prevention of tax evasion regarding income and property taxes.</p>	Consider potential impact and monitor developments.	● ● ●

Use text boxes above the timeline to plan your actions for coming months

● Compliance ● Risk management ● Cash-flow / ETR impact

No.	Fact	Action	
4	<p>Ukraine denounced the double tax treaty with Russian Federation</p> <p>Effective on 8 June 2022, the agreement between the Government of Ukraine and the Government of the Russian Federation on avoidance of double taxation of income and property and prevention of tax evasion is denounced.</p>	Check whether the denunciation affects withholding tax rates applicable to performed transactions.	● ● ●
5	<p>Qualifying donations are allowed for CPT deduction in full and are VAT-exempt</p> <p>Donations in favor of Armed Forces of Ukraine and qualifying military establishments are allowed for CPT deduction in full and are exempted from VAT.</p>	Assess applicability of the new rules.	● ● ●
6	<p>Tax relief rules for taxpayers during the period of martial law are amended</p> <p>Tax relief rules for taxpayers are available in Ukraine till the abolition of the martial law and include, inter alia, the following:</p> <ul style="list-style-type: none"> ▶ Exemption from responsibility for untimely fulfillment of tax obligations (tax filing, tax payment, registration of VAT invoices, etc.) in the most cases is conditioned by fulfillment of the respective obligations within applicable deadlines prescribed by law ▶ The exemption rules vary for taxpayers who are able and are unable to perform tax obligation as well as for those whose respective ability is renewed. The statutory procedure for confirming of the ability and inability of fulfillment of tax obligations and the list of supporting documents is effective starting 6 September 2022 ▶ Moratorium for tax audits is in force, except for desk and actual audits, audits upon taxpayer's request, audits in case taxpayer claims for VAT refund or reports negative VAT balance exceeding UAH 100K and some other audits ▶ Freeze of the statute of limitation and other procedural terms for tax purposes is in force, except for the deadline for tax payment, submission of tax reporting, registration of VAT invoices and adjustments, conduction of tax audits, administrative appeal of their results ▶ Self-adjustment of tax returns for the period of martial law is exempt from penalty and interest 	<ul style="list-style-type: none"> ▶ Assess applicability of the relief rules to Ukrainian business and impact of their change (in particular, new grounds for exemption from responsibility and applicability thereof) ▶ Analyze whether the available evidences and substantiation of inability are in line with the statutory procedure for confirming of the ability and inability of fulfillment of tax obligations and the list of supporting documents 	● ● ●
7	<p>Exemption from real estate and land tax during martial law</p> <p>Exemption from real estate tax on commercial property and tax for land plots located at the affected territories as defined by law from 1 March 2022 till the end of the year of the martial law abolition. The list of the affected territories has not been approved yet.</p> <p>A bill to exempt from real estate tax the owners of property destroyed or damaged as a result of actions by the Russian Federation is pending the second reading.</p>	Assess applicability of the exemption to Ukrainian business and monitor approval of the list of the affected territories.	● ● ●
8	<p>Indirect tax relief for supplies and imports of qualifying goods for the period of martial law</p> <p>Supplies and imports into Ukraine of gasoline, heavy distillates, and liquefied gas are exempted from excise tax. A special 7% reduced VAT rate is envisaged for the above goods as well as for crude oil and petroleum products derived from bituminous rocks (minerals).</p>	Assess applicability of the new indirect tax relief rules.	● ● ●

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9	<p>Preferential tax regime for IT industry</p> <p>Preferential tax regime for IT industry (Diia City) was launched on 8 February 2022. As of 9 November 2022, 390 companies have already joined the regime. Eligibility requirements to Diia City residents are simplified for the period of the martial law.</p>	IT businesses could consider joining the Diia City regime and monitor developments.	
10	<p>Transfer pricing rules for transactions with raw materials</p> <p>Procedures for assessment of compliance of controlled transactions with raw materials (e.g., export of grain, oil crops, iron ore raw materials, import of energy and coking coal, etc.) with the "arm's length" principle were published, taking effect on 1 January 2023.</p>	Assess the potential impact on transfer pricing compliance in transactions with raw materials (if any).	
11	<p>European Union (EU) abolished import duties on certain Ukrainian goods</p> <p>On 4 June 2022, Regulation 2022/870 on temporary trade liberalization measures entered into force. This Regulation allows complete exemption from EU import duties for a number of Ukraine-originating goods (e.g., goods for which duty-free quotas and anti-dumping quotas were applied, etc.).</p>	Check whether the goods exported from Ukraine to the EU meet preferential origin requirements. If so - arrange issuing a proof of origin.	
12	<p>Import duties and tariff quotas in bilateral trade between Ukraine and the United Kingdom have been canceled</p> <p>The law of Ukraine ratifying the agreement on the abolition of import duties and tariff quotas in bilateral trade between Ukraine and the United Kingdom is adopted. The agreement enters into force from the date of receipt of the last written notification of the parties' fulfillment of domestic procedures necessary for the entry into force and will be valid for 12 months (could be further prolonged).</p>	Monitor developments, if relevant.	
13	<p>Australia has canceled customs tariffs on import from Ukraine</p> <p>Starting 4 July 2022, Australia has canceled customs tariffs for import of goods produced in Ukraine, effective for 12 months. This elimination of tariffs does not affect excise duties applied to fuel, alcohol and tobacco products.</p>	Consider the applicability of the enacted exemption. If so - arrange issuing a proof of origin.	
14	<p>Changes in the list of goods subject to licensed import and export</p> <p>Effective from 8 July 2022, wheat and a mixture of wheat and rye (meslin) are no longer subject to licensed export. In addition, the export ban is canceled for oats starting 8 July 2022 and for rye starting 28 July 2022, however both are subject to licensed export.</p>	Check the applicability of the enacted changes.	
15	<p>Exemption from the import duty for goods used for the storage of grain or oil crops</p> <p>The import duty during the period of martial law and within 30 days after its abolition for products and equipment used for storage, transportation, loading and unloading of grain or oil crops (e.g., polymer sleeves, bags, trailers and semitrailers) has been removed on 17 August 2022.</p>	Monitor developments, if relevant.	

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16	<p>Excise tax on fuel is re-introduced</p> <p>The law of Ukraine to re-instate the excise tax on motor gasoline, heavy distillates, other petroleum products, biodiesel and its mixtures and alternative motor fuel in the amount of EUR 100 per 1,000 liters and on liquefied gas, butane, isobutane in the amount of EUR 52 per 1,000 liters for the period of martial law but no longer than till 1 July 2023 has entered into force on 30 September 2022. Qualifying exemptions apply if the customer of fuel is the Ministry of Defense of Ukraine. The law also reduces VAT rate for alternative motor fuel and biodiesel to 7% for the period of martial law but no longer than till 1 July 2023.</p>	Monitor developments, if relevant.	
17	<p>Initiative to increase the military levy up to 3%</p> <p>A bill to increase the military levy up to 3% (instead of the current 1.5% rate) was registered in the Parliament and is pending consideration.</p>	Monitor developments.	
18	<p>Release from liability for violation of the deadline for publication of financial statements during martial law</p> <p>The law was adopted to release from liability for untimely and incomplete submission of financial statements during the period of martial law and within three months after its abolition.</p>	Monitor developments, if relevant.	
19	<p>Import duties exemption is canceled</p> <p>Exemption from most favored nation import duties for all goods imported by businesses, which was enacted during martial law, is abolished from 1 July 2022.</p>	Check the applicability of re-enacted import duties.	
20	<p>Ukraine has joined the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (CbC-MCAA)</p> <p>Joining the CbC-MCAA is a condition for the obligation to file country-by-country reporting in Ukraine to become effective. The taxpayers meeting criteria set by the Tax Code of Ukraine are obliged to file this report. So far, there is no official guidance from the authorities on the first reporting period. The filing deadline is 12 months following the end of the reporting year.</p>	<ul style="list-style-type: none"> ▶ Assess the applicability of the country-by-country reporting obligation in Ukraine ▶ If applicable, analyze the first reporting period 	
21	<p>Ukraine has joined the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information</p> <p>Joining the multilateral agreement is one of the steps to implement Common Standard on Reporting and Due Diligence for Financial Account Information (CRS). The first reporting obligation is scheduled for June 2024 in relation to financial accounts reportable in 2023. Banks, insurance companies, investment companies, etc., are liable for due diligence and reporting on qualifying accounts.</p>	Assess applicability of new reporting obligations and monitor legislative developments.	

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22	<p>Tax reliefs for industrial parks are introduced</p> <p>Conditional tax exemptions for industrial parks in the qualifying processing industries were introduced: CPT exemption for 10 consecutive years and VAT exemption for import of qualifying equipment for use exclusively within industrial parks, without the right to rent, lease or transfer for use during five years. The procedure for use of funds relieved from taxation by industrial park participants was approved. Such funds can be used for the creation or re-equipment of the material and technical base, increase in production volume and introduction of the latest technologies.</p>	Review the provisions of the law and assess whether this regime is applicable.	
23	<p>Law "On the Customs Tariff of Ukraine" has been amended</p> <p>Ukraine has updated its customs tariff classification of goods to the 2022 version of the international Harmonized System of Description and Coding of Goods (HS 2022). New goods' tariff codes would apply starting 1 January 2023.</p>	Importers should check whether change of their goods' classification may impact their tax and regulatory treatment.	
24	<p>Tax losses carry forward is limited</p> <p>The right of large taxpayers to carry forward tax losses is limited from 1 January 2022: the losses of previous periods will be carried forward until fully utilized, but only up to 50% of the unutilized amount can be deducted in a reporting period. As an exception, if the tax losses are up to 10% of taxable profit of the current period, such losses can be deducted in full.</p>	For large taxpayers - assess the availability of tax losses and the applicability of the new rules on limitation of the tax losses carry forward.	
25	<p>Controlled Foreign Company (CFC) rules came into force since 1 January 2022</p> <p>Starting 1 January 2022, the rules on CFC reporting and tax control over the CFC apply in Ukraine.</p> <p>The Ministry of Finance has published the draft procedure for the inspection of the controllers.</p>	Check the applicability of CFC rules and monitor developments.	
26	<p>New VAT rules for non-residents supplying electronic services to Ukrainian customers were implemented</p> <p>Supplies of electronic services by non-resident providers to Ukrainian private customers became VAT-able in 2022. Foreign suppliers may be required to register for VAT in Ukraine, charge 20% VAT on their services, submit simplified VAT returns and pay VAT in Ukraine.</p>	Non-resident companies providing electronic services to Ukrainian private customers should assess whether the obligation to register for VAT purposes in Ukraine arises.	
27	<p>2018 Protocol amending Ukraine-Netherlands double tax treaty applies from 1 January 2022</p> <p>The protocol inter alia abolishes withholding tax (WHT) exemption in the source country for dividends paid to a resident of other contracting state which holds directly at least 50% of the capital of the company paying dividends and provided that an investment of at least 300 000 US dollars has been made in the capital of the company paying dividends. Among other changes are introduction of principal purpose test (PPT) and changes in interest and royalty rates.</p>	Assess impact of the change in WHT rates enacted by the protocol and ensure application of the rates with due account to the protocol in the periods from 1 January 2022. Assess whether the payments to the Dutch residents pass PPT.	

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28	<p>Special rules for CPT calculation by producers of electricity under the "green" tariff</p> <p>Special rules on calculating CPT liability on a cash basis method were enacted on 1 January 2022 for producers of electricity under the "green" tariff, which will be valid until 2024.</p>	Check the applicability of new rules and monitor developments.



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