

Legislative changes related to COVID-19 in Ukraine

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On 30 March 2020, the Ukrainian Parliament has urgently adopted the Law "On Amendments to Certain Legal Acts Aimed at Ensuring Additional Social and Economic Guarantees in Relation to the Spread of Coronavirus Disease (COVID-2019)" (based on the draft law registered under No. 3275), hereinafter – the "Law". The Law will become effective on the day of its publication.

The Law introduces further amendments to the tax, labor, customs, procedural and other legislation of Ukraine aimed to address issues that business is facing due to the quarantine introduced by Resolution of the Cabinet of Ministers of Ukraine "On Prevention of Spread of the Acute Respiratory Disease COVID-19 caused by the virus SARS-CoV-2 in the territory of Ukraine" No. 211 dated 11 March 2020. Currently, the quarantine is introduced until 27 April 2020. However, this term may be extended.

We prepared an overview of the changes introduced by the Law that, in our view, are the most important ones based on the text of the draft Law published on the official website of the Verkhovna Rada of Ukraine as of 31 March 2020.

1. Corporate tax changes

Value added tax and customs duty

- ▶ Prolongation of relief from VAT and import duty for import and supply of medicines, medical products and equipment aimed at combating COVID-19 (under the list of the Cabinet of Ministers of Ukraine) until the last day of the month ending quarantine.
- ▶ Extension of VAT relief to supplies of these goods within the territory of Ukraine, with the right to a tax credit.
- ▶ The above transactions as well as provision of charity aid should not participate in calculating the threshold for mandatory VAT registration by non-governmental organizations and charitable organizations.

Land fee and real estate tax

- ▶ **Cancellation** of relief from land fee (land tax and rent for state and municipal land) and from tax on real estate other than land for April 2020 (relief for March 2020 remains effective).
- ▶ Special term for payment of these taxes for April 2020 is 30 June 2020, without fines and penalties.

Corporate Income Tax

- ▶ During quarantine period the increasing adjustment does not apply to amount of funds or value of goods (under the list of the Cabinet of Ministers of Ukraine) exceeding 4% of taxable income for the previous reporting year, which are donated to prevent the spread of COVID-19 to public associations, charitable organizations, public authorities, public/municipal healthcare institutions, person authorized for healthcare procurement.
- ▶ Public/municipal healthcare institutions and/or a person authorized for healthcare procurement that are registered as income tax payers should apply decreasing adjustment to income from the receipt of such funds or goods and increasing adjustment to expenses related to use of such funds or goods.

Excise tax

- ▶ Until 30 April 2020, the production of disinfectants will be subject to simplified requirements for the equipment of ethyl alcohol receiving / dispensing places (in cases and subject to the requirements of the Law).
- ▶ Extension until 15 August 2020 (inclusive) of the maturity dates of tax bills issued by manufacturers or importers of jet engine and / or gasoline fuels, which occur between 1 March and 31 May 2020. The procedure is established for their redemption and protest, as well as penalty for failure to confirm the designated use under them by 15 August 2020.
- ▶ Until 31 May 2020, the amended procedure will apply for shipment of ethyl alcohol for production of disinfectants.
- ▶ Until 31 May 2020, the excise tax will be UAH 0 per liter of 100% ethyl alcohol used for production of disinfectants.

Tax audits

- ▶ Specified that moratorium on documentary and factual tax audits established by the Law of Ukraine № 533-IX dated 17 March 2020 does not apply to factual audits for violations in the sphere of accounting, licensing, production, storage, transportation, targeted use of ethyl alcohol, alcoholic beverages, tobacco, fuel, excise warehouse equipment.
- ▶ Extension of the timing for desk audits of tax returns (excluding VAT returns) and of adjustments submitted during March-May 2020 - to 60 calendar days after the submission deadline and, if filed later, after the day of actual submission (currently 30 calendar days).

Terms for administrative appeal procedure

- ▶ Until 31 May 2020 (inclusive) suspended the terms for administrative appeal procedure on taxpayers' complaints (except for complaints on legality of VAT refund and / or negative VAT balance), which are received till 31 May 2020 and/or which are not considered as of 18 May 2020

2. Changes in taxation of individuals

Private entrepreneurs

- ▶ Increase of the annual income limits for private entrepreneurs on simplified system of taxation:
 - ▶ For 1st group - from 300k to 1m hryvnias
 - ▶ For 2nd group - from 1,5m to 5m hryvnias
 - ▶ For 3rd group - from 5m to 7m hryvnias.

Tax discount

- ▶ The amount of funds or the value of medications, medical equipment or other medical goods donated to public or municipal healthcare institutions or other state or local healthcare authorities during the quarantine may be fully included into the individual tax discount for 2020 tax year.

Unified social tax

The following measures were extended till 31 May 2020:

- ▶ Relief from the fines and penalties for violations committed between 1 March and 31 May 2020
- ▶ Moratorium on UST-related documental tax audits, effective as of 18 March; suspension of ongoing audits
- ▶ Deadline for UST payers' claims filing with the regular deadline between 18 March and 31 May 2020
- ▶ Deadline for tax authorities' consideration of the submitted claims, which have not been reviewed by the authorities as of 18 March 2020.

3. Changes in regulation of employment

Labor Code of Ukraine

- ▶ The category of remote work (work from home) was introduced, together with mandatory conclusion of a written employment agreement with employees working remotely (from home). The rules of the internal work regulations are not applicable to individuals working remotely (from home) and they are free to allocate their working hours at their own discretion.
- ▶ The concept of "flexible working hours" was introduced; such arrangement may include fixed working time, variable time, and time for break.
- ▶ During epidemics, pandemics or other threats, remote work (work from home), as well as flexible working hours, may be established by the employer's order unilaterally, written employment agreement for remote work shall not be required in such case. Under normal circumstances, such working conditions shall be established by agreement between the employee and the employer.

Miscellaneous

- ▶ Quarantine measures have been specified as one of the grounds for suspending (reducing) operations, reducing of employees working hours and announcing downtime; also, quarantine measures have been listed as a separate possibility for employers to apply for partial unemployment aid. It has been specified that during the downtime due to quarantine, the employees shall be paid not less than two thirds of their base wage rate.

When quarantine measures are taken by the employer, all employees have the right to partial unemployment allowance - under regular circumstances, eligibility for such aid is subject to certain requirements as to work record and a percentage of working time reduction.

- ▶ During the quarantine period, the Cabinet of Ministers of Ukraine has the right to temporarily suspend issuance of work permits for foreigners and stateless persons, including, for certain regions or certain types of activities.
- ▶ Unemployment allowance shall be paid starting the first day of registration as an unemployed person, without the requirement to consider suitable work first. Unemployment allowance may be granted without personal check-ins with the relevant territorial authority, the intention to receive the unemployed status should be confirmed via any other means of communication (e.g., via phone or e-mail).
- ▶ Local state administrations were granted the right to decide on the requirement for employers to take certain measures to prevent the spread of epidemics, pandemics.

4. Changes in regulation of commercial activity

In addition to the above, the Law also provides for several other changes to codes and laws, including the following:

- ▶ A temporary freeze on scheduled inspections of commercial entities by public oversight (control) bodies will be extended until 30 June 2020, except for the exemptions previously established by the law
- ▶ Privatization (sale) of large-scale privatization objects will be suspended for the quarantine period
- ▶ Financial institutions will not be allowed to raise interest rates on loans during the quarantine period
- ▶ Tenants/lessees that cannot use the real estate or other property because of the quarantine will be exempted from rent payments
- ▶ Powers of the Cabinet of Ministers of Ukraine will be extended; in particular, it will have the power to (i) adopt the lists of anti-epidemic supplies needed to prevent the spread of epidemics, pandemics and of goods of significant social importance and (ii) set price limits for sale of such goods
- ▶ The prohibition to provide state support to small and medium enterprises that already receive similar state support will be lifted.

5. Changes regarding terms and deadlines

Holding general shareholders' meetings

- ▶ Deadlines for holding annual general shareholders' meetings for FY2019 in joint stock companies, corporate funds, credit unions and limited liability companies that are issuers of securities will be extended – such meetings should be held within three months after the quarantine ending date.
- ▶ General shareholders' meetings in joint-stock companies, corporate funds, credit unions and limited liability companies that are issuers of securities may be held remotely, within the procedure and terms determined by temporary procedures for holding remote general shareholders' meetings for relevant entities, which are to be developed and approved by the National Securities and Stock Market Commission and the National Commission for the State Regulation of Financial Services Markets.
- ▶ Powers of members of supervisory boards of joint-stock companies, supervisory boards and audit committees of credit unions will be automatically extended in full until the date of the next general shareholders' meeting.

Publication of financial statements

- ▶ Persons responsible for filing and disclosing financial statements will not be liable for breaches of disclosure deadlines for statements of 2019 if such statements are disclosed during the quarantine or within 90 calendar days following the day of the end quarantine, but no later than 31 December 2020.
- ▶ Deadlines for the publication of annual financial statements for banks, disclosure of annual information by issuers of securities, disclosure of the annual report on activities of joint investment institutions will be extended – this information should be disclosed within 5 business days after holding the general meeting of shareholders/ participants by the entity, and for a unit fund within 5 business days after the approval of the annual report by the authorized body of the asset management company.
- ▶ Deadlines for the disclosure of annual consolidated financial statements of a banking group will be extended – up to 30 working days after the annual financial statements are published.

Procedural deadlines

- ▶ Statute of limitations and a number of procedural deadlines in civil, commercial and administrative proceedings will be extended for the quarantine period, while the participants to cases will be allowed to participate in court hearings via videoconference held outside of the court premises using their own technical devices.

Other terms

During the quarantine period, statutory terms will also be extended for, inter alia:

- ▶ Accrual of penalties for late performance (currently, six months)
- ▶ Identification of defects of goods delivered (warranty period)
- ▶ Submission of claims arising from the delivery of goods of poor quality (currently, six months)

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- ▶ Exercise of pre-emptive right to purchase a share in joint share ownership right (currently, one month for real estate and ten days for movable property), and
- ▶ Surety.
- ▶ Violation of the procedure for formation, setting and application of prices and tariffs, as well as discounts, margins and surcharges thereto
- ▶ Providing the authorized bodies with false information and non-compliance with their instructions or obstruction of performance of their functions.

6. Penalties

Fines for violation of laws on prices and price setting will be increased (in some cases up to 10 times or more), in particular, for:

We would be glad to address any questions you may have with regard to the above.
We will continue monitoring the developments and will inform you of further important changes

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