



LAW OF UKRAINE

ON VALUE ADDED TAX

This Law hereby defines value added tax payers, objects, basis and rate of taxation, the list of non-taxed and exempted from taxation operations, peculiarities of taxation for export and import operations, meaning of the tax invoice and the procedure of accounting, reporting and payment of tax to the budget.

Article 1. Definition of Terms

Terms in this Law are used in the following meaning:

1.1. *Tax, taxation and a tax payer* (in appropriate grammar cases) are value added tax, taxation with value added tax and a tax payer of value added tax.

1.2. *A person* is any of persons below regardless whether or not residents or non-residents:

an agent of economic activity, including a company with foreign investments;

other legal entity that is not agent of economic activity;

individual (Ukrainian citizen, foreign citizen or stateless person) who conducts activity regarding as economic activity pursuant to legislation or who imports (sends) goods to the customs territory of Ukraine.

1.3. *A tax payer* is a person who is obliged to deduct and pay tax (paid by a buyer) to the budget pursuant to this Law or a person who imports (sends) goods to the customs territory of Ukraine.

1.4. *Goods (works, services) sale* is any operations conducted under contracts of sale and purchase, exchange, donation, supplies and other civil and legal contracts that provide for transfer of ownership rights, disposing and use of goods as well as alienation of works' (services') results, including operations with receipt (providing) of goods (works, services) free of charge.

1.5. *A reporting (tax) period* is a period for which a tax payer shall be liable to calculate tax and pay it to the budget.

1.6. *A tax obligation* is a total amount of tax received (calculated) by a tax payer in the reporting (tax) period. This amount shall be established by this Law.

1.7. *Tax credit* is an amount for which a tax payer has the right to reduce a tax obligation of the reporting period. This amount shall be established by this Law.

1.8. *Budget compensation* is an amount that should be return to a tax payer from the budget because of an excessive tax payment in cases established by this Law.

1.9. *Collection of due debts* is a banking service on behalf of a customer on receipt of funds from a debtor of such customer as the repayment of the customer's debt or acceptance for bills of exchange, cheques and other payment and goods documents.

1.10. *Factoring* is an operation on assignment of a third party's debt by the first creditor to another creditor with preliminary or further compensation of such debt to the first creditor.

1.11. *Corporate rights, bound person, resident, non-resident, goodwill, funds, securities, derivatives, goods, dividends, interest, loan, deposits, lease (rent), barter, conventional prices, goods (works, services) received free of charge, gross costs of production (turnover), fixed assets and intangible assets* that are subject to depreciation have the meaning established in the Law of Ukraine "On Taxation of Enterprises' Profit".

Article 2. Tax payers

Tax payers are as follows:

2.1. A person whose volume of tax operations on goods (works, services) sale for any period of last twelve calendar months exceeded 600 tax non-taxed minimums of individuals' income.

2.2. A person who imports (sends) goods to the customs territory of Ukraine or receives works (services) from non-residents for use or consumption on the customs territory of Ukraine except individuals who are not registered as tax payers, in case when such individuals import (send) goods (objects) in volumes that are not taxed pursuant to the legislation.

2.3. A person who conducts economic activity on the customs territory of Ukraine on sale for cash regardless volumes of sale except individuals who conduct sale on the basis of market fee payment under the procedure established by the legislation.

2.4. A person who provides services (on the customs territory of Ukraine) related to the transportation of passengers or goods through the customs territory of Ukraine.

2.5. A person responsible for payment of tax to the budget on taxed operations at railway transport and determined under the procedure established by the Cabinet of Ministers of Ukraine.

Article 3. Taxed Operations and Tax Exempt Operations.

3.1. The following operations of tax payers are taxed:

3.1.1. Goods (works, services) sale on the customs territory of Ukraine, including operations on payment of costs for services under agreements of day-to-day rent (lease) and operations on transfer of ownership rights for objects of collateral to creditor to repay accounts receivable from collateral provider;

3.1.2. import (sending) of goods to the customs territory of Ukraine and receipt of works (services) provided by non-residents for use or consumption on the customs territory of Ukraine, including operations with import (sending) of property under agreements of rent (lease), collateral and mortgage;

3.1.3. export (sending) of goods outside the customs territory of Ukraine and providing services (conducting works) for their consumption outside the customs territory of Ukraine.

3.2. The following operations are tax exempt:

3.2.1. issue, distribution and sale for money of securities issued (issued for circulation) by agents of economic activity, the National Bank of Ukraine, the Ministry of Finance of Ukraine, the State Treasury of Ukraine and bodies of local government, including privatization and compensation certificates, housing cheques and land vouchers; as well as derivatives. Exchange of securities for other securities. Depository, registering and clearing activity with securities.

Provisions of this paragraph are not applied to operations on sale of travellers, bank and personal cheques, securities, settlement and payment documents and credit (debit) cards;

3.2.2. transfer of a Lessor's (lease provider's) property, who is a resident, for the use by a Lessee (lease receiver) under terms of a rent (lease) agreement and its return to the Lessor (lease provider) upon expiration of such agreement;

payment of rent (lease) payments under terms of the financial rent (lease) agreement or under terms of rent agreement of housing fund that is the main place of a Lessee's residence

transfer of the property as collateral to a loan provider (creditor) under a loan agreement and return of the property after expiration of such agreement;

creditor's transfer (who is a resident) of the mortgage loan object into the borrower's ownership or use ;

money payments of a principal amount and interest under terms of the mortgage loan;

3.2.3. providing services on insurance and reinsurance pursuant to the Ukrainian Law "On Insurance". Social and pension insurance;

3.2.4. circulation of currency values, monetary metals, banknote and coins of the National Bank of Ukraine except those that are sold for numismatic purposes. Issue, circulation and repayment of lottery tickets issued for circulation under a permit of the Ministry of Finance of Ukraine. Sale of postal stamps, envelopes and postcards with postal

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

3.2.5. raising and depositing funds under agreements of loan, deposit, investment and insurance or trust. Providing, managing and assigning financial loans, credit guarantees and banking suretyships by a person that provided such loans, guarantees or suretyships;

trade for money or securities by debentures except operations on collection of promissory notes and factoring (factoring operations);

3.2.6. payment for cost of state payable services provided to individuals or legal entities by bodies of executive power and local government. Obligatory way of receiving (providing) such services shall be established by the legislation, including payment in a form of fees, state tax, etc. for registration, issue of a licence (permit) and certificates;

3.2.7. payments of salaries, pensions, scholarships, subsidies, grants, other money or property remuneration to individuals at expense of budgets, social or insurance funds under the procedure established by laws. Payments of dividends in money form or in a form of securities (corporate rights) and providing brokerage and dealing services with conclusion of agreements (contracts) for trade with securities and derivatives at stock and goods exchanges established under the procedure provided by Ukrainian laws "On Securities and Stock Exchange" and "On Stock Exchange";

3.2.8. transfer of fixed assets as a payment to authorized funds of legal entities to form their integrated property complex in exchange for their corporate rights. Payment for compensation of total gross assets of a tax payer (taking into account cost of goodwill) to another tax payer.

The integrated property complex shall mean assets, totality of which ensures conducting of an independent economic activity on the permanent and regular basis with term of their use exceeding more than twelve calendar months.

Sale of total gross assets means sale of an enterprise as independent (separate) object of economic activity or inclusion of the enterprise's gross assets or its part to assets of another enterprise. Under this situation the buying enterprise acquires rights and obligations (is a successor) of the enterprise that sells such assets.

Article 4. Basis of Taxation

4.1. Basis of taxation for operations on goods (works, services) sale shall be established proceeding from their contractual (contract) value determined under free or regulated prices (tariffs) taking into account excise, import duties and 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. Contractual (contract) value includes any amounts of money, value of tangible and intangible assets transferred to a tax payer by a buyer directly or through any third person due to compensation of goods (works, services) cost sold (fulfilled, provided) by such tax payer.

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 labour 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 a seller, 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 to 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 sale 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 its 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 taxation 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 it 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 tax 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 be not 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 as 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, 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 rules of commission sale and definition of commission bonus.

Article 5. Operations Exempted from Taxation

5.1. The following operations are exempted from taxation:

5.1.1. sale of domestic infantile nutrition produce by specialized shops and departments that function as distribution centres under the procedure and the list of produce established by the Cabinet of Ministers of Ukraine;

5.1.2. sale (subscription) and delivery of periodical published mass media of domestic production; sale of books produced domestically; sale of pupil note-books, text-books and manuals;

5.1.3. providing (under the list established by the Cabinet of Ministers of Ukraine) services on higher, secondary, vocational and elementary education by educational organizations that have a special permit (licence) to provide such services and services on training and education of children by Culture Palaces in rural districts, children's musical and artistic schools and fine arts schools;

5.1.4. special purposes goods sale for invalids pursuant to the list established by the Cabinet of Ministers of Ukraine;

5.1.5. services on delivery of pensions and money assistance to individuals;

5.1.6. providing services on registration of individuals' civil status by state bodies authorized to conduct such registration under legislation;

5.1.7. sale of medicines and goods for medical purposes registered in Ukraine pursuant to the procedure established by legislation, including providing services on such sale by pharmacies;

5.1.8. providing services on health protection by health protection organizations which have a special permit (licence) to provide such services under the list established by the Cabinet of Ministers of Ukraine;

5.1.9. sale of accommodations for sanatorium and spa treatment and rest of children in institutions under the list established by the Cabinet of Ministers of Ukraine. This privilege shall not be applied for sale of accommodations to non-residents;

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 the night 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 passengers' transportation by urban and suburban passenger transport and automobile transport within 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 state bodies 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 one 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-schools and health protection institutions in rural districts by agricultural goods producers; and ensuring material assistance (within one tax exempt minimum of individuals' income per one person monthly) by food products of own production and services on cultivation of land for many children families, labour and war veterans, rehabilitated individuals, labour invalids, childhood invalids, lonely persons of old age, persons suffered from Chornobyl accident and for schools, pre-school institutions, boarding-schools and health protection institutions;

providing services by agricultural goods producers (in the course of conducting field works) on feeding of machine-operators and cattle growers in field canteen by own production produce;

5.3. Operations on sale of goods (services, works) required for own needs of diplomatic missions, consular missions of foreign countries and representative offices of international organizations in Ukraine as well as required for use by diplomatic personnel of these diplomatic missions and members of their families living together with persons of this personnel are exempted from taxation. The Cabinet of Ministers of Ukraine shall establish the procedure and the list of operations to be exempted proceeding from reciprocity regarding each individual country.

5.4. Operations on piscatorial enterprises' import (importation) to Ukrainian ports of unprocessed catch of sea fish, invertebrate and crustacea or this catch prepared for sale until its sale are exempted from taxation. The Cabinet of Ministers of Ukraine shall establish the procedure of customs control of coast enterprises that store and process produce of such catch.

5.5. Exemptions from taxation provided by paragraphs 5.1 and 5.3 of this Article shall be applied to operations on import (sending) of mentioned goods (works, services) to the customs territory of Ukraine.

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 3 of this Law shall be taxed under 20 per cent rate except operations exempted from taxation 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 are 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 are 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.

Sale of goods for feeding of railway and automobile transport on the customs territory of Ukraine regardless its appurtenance and transportation types carried out by such transport is taxed under the rate established by the paragraph 6.1.1 of this Article;

6.2.2. sale of works (services) provided for 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 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 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 advertising and public relations outside Ukraine; providing non-residents of Ukraine with personnel; cultural, sport and educational activity outside Ukraine;

providing tourist services in Ukraine if they are sold outside Ukraine directly or under mediation of non-residents with use of wire settlements.

Sale of tourist services on the customs territory of Ukraine to residents by a person that directly carries out tourist activity or through its agents that are non-resident shall be taxed under the rate established by paragraph 6.1.1 of this Article;

6.2.3. sale of goods (works, services) to enterprises of retail trade located on the territory of Ukraine within customs control zones (duty free shops) under the procedure established by the Cabinet of Ministers of Ukraine.

Sale of goods (works, services) without calculation of value added tax can be carried out by duty free shops exclusively to individuals leaving Ukraine or to individuals moving on vehicles that belong to residents and are outside customs borders of Ukraine. The Cabinet of Ministers of Ukraine shall establish the procedure of control over observance of this clause. Violation of this clause shall cause liability established by legislation.

Goods bought in duty free shops without payment of value added tax if returning to the customs territory of Ukraine are taxed under the procedure established for taxation of operations on import (sending) of goods to the customs territory of Ukraine;

6.2.4. providing transport services on transportation of passengers and goods conducted outside the customs border of Ukraine and in particular: from a point outside the customs territory of Ukraine to the end point of customs clearance for passengers and goods (including internal customs); from a point of customs clearance for passengers and goods transported outside the customs border of Ukraine (including internal customs) to a point outside the customs border of Ukraine; between points outside the customs border of Ukraine.

In case when providing transport services determined in the first clause of this subparagraph is carried out as brokerage, agent or commission operations with transport tickets, transport documents and conclusion of agreements or invoices on transportation of passengers or goods by authorized person of carrier, operations on such services shall be taxed under the rate established by the paragraph 6.1 of this Article.

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 enrichment, coal and turfy briquette; sale of electricity to population.

6.3. It is not allowed to apply zero rate of 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 a 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 and 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.

7.2.3. A tax invoice is prepared in three copies at the moment of arising tax obligations of a buyer. Original and the first copy of the invoice are given to a buyer, the second copy is kept by a seller of goods (works, services).

Separate tax invoices are prepared for taxed and exempted from taxation operations.

A tax invoice is a reporting tax document and settlement document at the same time.

A tax invoice is issued for each complete or partial supply of goods (works, services). In case when a part of goods (works, services) does not include a separate cost, the list (nomenclature) of partially supplied goods is mentioned in the annex to the tax invoice under the procedure established by the central tax body of Ukraine and is taken into account in determination of general tax obligations.

A tax payer shall be liable to keep tax invoices within the term provided by legislation for obligations on taxes payment.

7.2.4. The right to calculate tax and fill in tax invoices is granted exclusively to persons registered as tax payers under the procedure provided by Article 9 of this Law.

7.2.5. For individuals unregistered as subjects of economic activity who import (send) goods (articles) to the customs territory of Ukraine in volumes that have to be taxed under Ukrainian legislation, filling in a tax declaration equals to a tax declaration submission.

7.2.6. A tax invoice is handed out in case of goods (works, services) sale at a buyer's request. In any case a goods cheque, other settlement or payment document that confirms transfer of goods (works, services) and/or acceptance of the payment with mentioning tax amount is handed out.

7.2.7. In case of goods import (importation) a duly registered customs declaration that confirms value added tax payment shall be considered a document evidencing the right to receive a tax credit.

7.2.8. Tax payers shall be liable to maintain a separate registration on sale and buying with regard to the following:

operations that have to be taxed under the rate twenty (20) per cent and exempted from taxation;

operations cost of which is not included to the gross costs of production (turnover) or are not subject to depreciation; import and export operations. The above-mentioned registration is maintained in special books. The central tax body of Ukraine shall establish type and the procedure of filling in these books.

7.3. Date of arising tax obligations

7.3.1. Date of arising tax obligations on goods (works, services) sale shall be considered the date having place in the tax period within which occurs any of the following events:

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 their 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 date of withdrawal cash receipts from such trade machines or similar equipment.

The National Bank of Ukraine establishes rules of such receipts collection.

In case when goods (works, services) sale is carried out through trade automatic machines with use of counters, cards or other Hryvnia's equivalent, the date of increased gross income shall be considered the date of such counters, cards or other Hryvnia's equivalent sale.

7.3.3. In case when goods (works, services) sale is carried out with use of credit or debit cards, travellers, commercial, personal or other cheques, the date of tax obligation increase shall be considered either the date of filling in a tax invoice that evidences the fact of providing goods (works, services) to a buyer by a seller or the date of drawing a bill (goods cheque) depending what event happened first.

7.3.4. The date of arising tax obligations while conducting barter (goods exchange) operations shall be considered any of events happened first:

either the date of goods shipment by a tax payer and for works (services) - the date of document's registration that evidences the fact of works (services) fulfilment by a tax payer;

or the date of goods registration by a tax payer, and for works (services) - the date of filling in the document that evidences receipt of works (services) results by a tax payer.

The date of arising tax obligations while conducting barter (goods exchange) operations with non-residents shall be considered the date of event happened first:

either the date of filling export customs declaration that evidences goods export by a tax payer and for works (services) - the date of registration of the document that evidences the fact of providing goods (works, services) to a non-resident;

or the date of filling import customs declaration that evidences receipt of goods by a tax payer and for works (services) - the date of registration of the document that evidences the fact of goods (works, services) receipt by a tax payer.

7.3.5. The date of arising tax obligations in case of goods (works, services) sale at expense of budget funds shall be the date of such funds receipt on the account of a tax payer

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 filling 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 or 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 to 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 not, that part of paid (calculated) tax in the course of their production or purchase which corresponds to the part of use of such goods (works, services) in taxed operations of the reporting period is included to the amount of tax credit.

7.4.4. In case when a tax payer purchases goods (works, services), cost of which is not included to gross costs of production (turnover) and is not subject to depreciation, taxes paid in connection with such purchase are compensated at expense of appropriate sources and are not included to tax credit.

7.4.5. It is not allowed to include to tax credit any expenses for tax payment that are not confirmed by tax invoices or customs declaration or other payment (accounting) documents.

7.5. The date of arising the tax payer's right for tax credit shall be considered the following:

7.5.1. the date of conducting any of the following event:

either the date of sending funds from banking account of a tax payer as payment for goods (works, services); the date of drawing appropriate account (goods cheque) in case of settlements with use of debit cards or commercial cheques; or

the date of a tax invoice receipt that evidences the fact of goods (works, services) purchase by a tax payer;

7.5.2. for operations on import (sending) of goods (works, services) - the date of tax payment under tax obligations pursuant to the sub-paragraph 7.3.6 of this Article;

7.5.3. for barter (goods exchange) operations - the date of the end operation conclusion happened after the first of any event provided by the sub-paragraph 7.3.4. of this Article.

7.5.4. the date of arising the customer's right for tax credit on contracts determined as long-term under the Ukrainian Law "On Taxation of Enterprises' Profit" is the date of gross costs increase of a long-term contract's customer.

7.6. For goods (services) purchase (providing) of which is controlled by registration devices, the fact of receipt (providing) of such goods (services) is confirmed by registration data.

7.7. The procedure of tax amount determination to be paid to the budget or to be compensated from the budget and terms of settlements with the budget

7.7.1. Amounts of tax to be paid to the budget or to be compensated from the budget are determined as difference between total amount of tax obligations arisen in connection with any sale of goods (works, services) within reporting period and tax credit amount of the reporting period.

Payment of tax shall be carried out not later than twentieth day of the month that follows the reporting period.

7.7.2. Within terms provided for tax payment a tax payer shall submit the tax declaration in the place of its location regardless the fact whether or not tax obligation arisen.

7.7.3. In case when under results of the reporting period the amount determined pursuant to the sub-paragraph 7.7.1 of this Article is a negative, such amount shall be

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

Ground to receive compensation is only data 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 of 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 in the amount of one hundred and twenty (120) per cent of the National Bank of Ukraine basic rate are calculated for the budget debt at the moment of its arising up to the day of its repayment inclusively. A tax payer shall have the right to appeal to the court at any moment after arising the budget debt with a claim to compensate the budget funds and call to responsibility officials guilty in untimely compensation of taxes paid excessively.

7.7.4. A tax body shall have the right to issue resolution on calculation of tax in case when amount of tax mentioned in the declaration is lower of the amount appeared from submitted calculations.

Additional amount of tax calculated under this sub-paragraph shall be paid to the budget within terms mentioned in the resolution of a tax body but not later than ten (10) calendar days from the date of such resolution issue.

7.7.5. Value added tax amounts are included to the state budget and are used first of all for the budget compensation of value added tax and forming of the budget amounts directed as subventions to local budgets.

7.8. Tax amounts paid by individuals within a price of goods (works, services) purchase that are exported by such individuals in framework of non-trade (tourist) turnover are not subject to compensation.

7.9. Tax periods

7.9.1. For tax payers with a volume of taxed operations on goods (works, services) sale for previous year exceeding 7200 non-taxed minimums of individuals' income, the tax (reporting) period is equal to a calendar month.

7.9.2. Tax payers with volume of sale operations less than that mentioned in the paragraph 7.9.1 may apply tax period on their choice equal to a calendar month or quarter.

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 a 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) sale in 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 favour 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 levy 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 volumes 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 a 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 can be sent to the address of a tax body with notification on receipt. Within ten (10) days a 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 liability for their violation.

9.6. The registration certificate shall be valid until the date of its termination. The termination shall happen in cases if:

a newly created agent of economic activity is not considered a tax payer pursuant to Article 2 of this Law and is removed from the registration according to results of activity for twelve calendar months since the moment of its creation;

a person registered as a tax payer within twenty four (24) current calendar months pursuant to the paragraph 2.1 of this Law had taxed volumes of goods (works, services) sale for last twelve (12) current calendar months less than six hundred (600) non-taxed minimums of individuals' income;

a person registered as a tax payer stops its activity according to the decision on liquidation of such tax payer.

Article 10. Liability of Tax payers and Control over Tax Payments

10.1. Tax payers shall be liable for authenticity and timely calculation and payment of tax to the budget according to Ukrainian legislation.

10.2. Tax bodies shall conduct control over calculation and payment of tax to the budget; and customs bodies pursuant to the procedure agreed with the central tax body of Ukraine shall conduct control over payment and transfer of tax to the budget in the course of import (sending) of goods to the customs territory of Ukraine. The Cabinet of Ministers of Ukraine shall establish the procedure to pay value added tax to the budget in the course of import (sending) of goods to the customs territory of Ukraine.

10.3. The central tax body of Ukraine shall establish rules of tax accounting.

Article 11. Final Provisions

11.1. The Law of Ukraine "On Value Added Tax" shall come into force on July 1, 1997.

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, No. 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, p. 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 tax payers 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 (tax) 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 tax payers 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 that to be restructured pursuant to legislation) and without cases on bankruptcy shall not be secured. Certificate on importer' 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 tax payers 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 the Harmonized System of Goods Description and Coding.

11.6. Up to January 1, 1999 provisions of this 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 this 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 calculate value added tax while selling goods (works, services) before entering this Law into force, shall conduct one-time recalculation of tax credit amounts and tax obligations amounts proceeding from rules of taxation bases determination pursuant to norms of this Law and book's indexes of economic activity at the moment of entering this Law into force. The central tax body of Ukraine shall establish the procedure of conducting such recalculation and related to this forms of tax reporting taking into account the following peculiarities:

1) book's registration of the above-mentioned results shall be conducted by tax payers separately from registration of tax obligations and tax credit occurred after entering this Law into force;

2) tax payers that conduct trade and mediation, wholesale and retail sale activity shall be liable to carry out complete inventory of goods remains as of the moment of entering this Law into force and determine value added tax amount actually paid in connection with purchase of such goods remains.

Information on results of inventory and value added tax calculations shall be submitted to a tax body together with a tax declaration for the first reporting period.

From the moment of entering this Law into force tax payers that conduct the above-mentioned types of activity shall not include value added tax amounts paid in the course of such goods remains purchase to gross costs of production (turnover);

3) tax payer's amount of tax credit shall be increased by value added tax amounts paid or calculated in connection with purchase (self-production) of fixed assets not put into operation; and for tax payers that conduct trade and mediation, wholesale and retail sale activity - as well as by tax amounts actually paid in connection with goods remains purchase;

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) loaded (fulfilled, provided) according to subparagraphs "a" - "e" of the paragraph 1, Article 5 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

Kyiv

April 3, 1997

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