

# THE TAX CODE OF UKRAINE

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## GENERAL SECTION

### **PART I. General provisions**

#### **Chapter 1. Principal provisions**

##### **Article 1001. Scope of the Tax Code of Ukraine**

(1) The Tax Code of Ukraine shall regulate the relationships with regard to the taxation in Ukraine and define the legal foundations for the construction and functioning of the taxation system.

(2) This Code shall list the taxes, duties and other mandatory payments included in the taxation system (hereinafter referred to as "taxes"), define the basis for the determination of the subjects of tax relationships, their rights and duties, the objects of taxation, the taxable amount, the tax rates, the procedure on levying and remitting taxes; it shall regulate the procedure to establish, change and abolish taxes as well as the procedure to grant tax exemptions, maintain tax accounting, ensure the compliance with the tax requirements and the conditions under which someone might be held liable for tax law violations.

(3) This Code shall regulate the levying of taxes, except for customs duties that are levied in accordance with the Customs Code of Ukraine.

(4) This Code shall not cover any mandatory payments that have been established by other laws and are not included in the taxation system.

##### **Article 1002. Tax legislation**

(1) Tax legislation shall regulate the relationships with regard to the establishment and abolition of taxes as well as the relationships arising in the course of discharging the tax liabilities and effecting the tax control and prosecuting for the offences in the field of taxation.

(2) Relationships in the field of taxation shall be regulated by the Constitution of Ukraine, this Code and the enactments on taxation passed in accordance with the latter.

(3) The enactments on taxation shall include:

a) laws of Ukraine on taxation;

b) enactments on taxation adopted by the Cabinet of Ministers of Ukraine, central executive authorities within their competences defined by this Code;

c) enactments on taxation passed by the Supreme Council of the Autonomous Republic of Crimea within its competences defined by this Code;

d) enactments on taxation adopted by local self-government bodies within their competences defined by this Code.

(4) Subjects and objects of taxation, the taxable amount, the tax rates, the procedure on levying taxes and granting tax exemptions may not be established or altered by any enactments other than this Code and the enactments on taxation.

(5) Enactments on taxation passed in accordance with this Code may not contradict it. Should any contradictions between the provisions of this Code and the enactments on taxation exist, the provisions of this Code shall apply.

(6) If there are any contradictions between the provisions of this Code and the enactments belonging in the other field of law, the provisions of this Code shall apply for the purposes of taxation.

(7) Enactments on taxation or their separate provisions may be invalidated in the event and in accordance with the procedure stipulated by the effective legislation of Ukraine.

#### **Article 1003. Subjects of taxation**

(1) Subjects of taxation shall be the persons whom the Constitution of Ukraine, this Code and the enactments on taxation oblige:

- a) to pay taxes (taxpayers);
- b) to withhold and remit taxes to budgets (tax agents).

(2) A taxpayer may be considered subject of taxation under one or more taxes depending on activity that the taxpayer engages in, property he owns or on other circumstances which, if exist, give rise to tax liabilities.

(3) A tax agent shall be a person other than the taxpayer, that is obligated by this Code to assess taxes, withhold them from the taxpayer and pay them over to the budgets.

#### **Article 1004. Object of taxation**

(1) Objects of taxation shall be the income, profits, property, transactions involving sales of goods, works and services, as well as other objects defined in this Code.

(2) Each tax has its separate object of taxation which is to be determined in accordance with this Code.

(3) For purposes of taxation, circumstances under which an object of taxation came into existence would not be taken into account. If objects of taxation resulted from performance of acts that are unlawful, this would not revoke the obligation to pay tax liabilities that are related to such objects.

#### **Article 1005. Base of taxation**

(1) Base of taxation is the value, physical or other characteristic measure of the object of taxation.

(2) The determination and calculation of the base of taxation shall be performed in accordance with this Code.

#### **Article 1006. Tax rates and procedures for setting tax rates**

(1) Tax rates - the amount of tax assessments made on a unit of measurement of the base of taxation.

(2) Tax rates shall be established by this Code and, within the limits set by its provisions, by enactments of the Supreme Council of the Autonomous Republic of Crimea and local self-government bodies.

(3) In the cases defined by this Code, the tax rates shall be established by the Cabinet of Ministers of Ukraine.

#### **Article 1007. Establishment, abolition and application of tax exemptions**

(1) Tax exemptions may be established by means of:

- a) decreasing the base of taxation or the object of taxation;
- b) introducing lower tax rates;
- c) decreasing the amounts of tax accrued;
- d) granting a release from the payment of taxes to certain categories of taxpayers;

e) granting a deferment of a tax payment (allowing it to be made by installments).

(2) The establishment and abolition of tax exemptions shall be effected by the Verkhovna Rada of Ukraine, the Supreme Council of the Autonomous Republic of Crimea and local self-government bodies within their competence as stipulated by this Code.

(3) State revenue service authorities may grant deferments of tax payments (allow those to be paid by installments) in the cases and in accordance with the procedure stipulated in Part XIII of this Code.

(4) Alteration and abolition of tax exemptions shall be made by means of introducing amendments and addenda to this Code and other enactments on taxation.

(5) The amounts freed as a result of the grant of tax exemptions to a business entity shall be accounted for by this business entity - taxpayer. In such cases, taxpayers shall provide to the State tax service organs the information as to the amounts freed owing to the granting and use of tax exemptions. Accounting and use of the money received as a result of granted exemptions shall be administered in accordance with the procedure specified by the Cabinet of Ministers.

(6) Taxpayers may either use tax exemptions or refuse to apply them. Tax exemptions not enjoyed by the taxpayer may not be carried forward to other tax periods, offset against future tax payments or refunded from the budgets.

#### **Article 1008. The procedure to calculate taxes**

Taxpayers shall themselves calculate the amounts of taxes due in the tax period based on the base of taxation and the tax rates, unless otherwise stipulated by this Code.

#### **Article 1009. Dates of tax payments**

The dates of tax payments shall be set for each tax separately, a change in the set dates of tax payments may be effected only in accordance with the procedure stipulated by this Code.

#### **Article 1010. The procedure on remitting taxes to the budget**

(1) The procedure to remit national taxes to the State Budget of Ukraine, the budget of the Autonomous Republic of Crimea and local budgets shall be defined by this Code and in accordance with the respective enactments on the budget system and process.

(2) Local taxes and duties shall be remitted to the local budgets in full in accordance with the procedure determined by the local self-government bodies that established the taxes.

#### **Article 1011. Terms for adopting the enactments on taxation, their coming into effect and their retroactive effect**

(1) Laws of Ukraine on taxation, on establishment of new taxes as well as exemptions, tax rates and the procedure on levying taxes, shall be passed no later than six months in advance of the beginning of the new tax year and shall come into effect no earlier than the beginning of the new fiscal year.

(2) Enactments on taxation adopted by the Cabinet of Ministers of Ukraine with regard to the establishment of tax rates and the procedure on levying taxes shall come into effect from the first day of the next tax period but no earlier than 30 days after they were officially publicized.

(3) Enactments on taxation defined in subparagraphs “c” and “d” of paragraph (3) of Article 1002 that regulate other taxation issues shall become effective from the first day of the next tax period but no earlier than 30 calendar days after they were officially publicized.

(4) Enactments on taxation shall have no retroactive effect except where they mitigate taxpayer's liability or absolve him of such liability.

#### Article 1012. The effect of international agreements of Ukraine

(1) If provisions of an international agreement of Ukraine, which was put into effect in accordance with established procedures, should differ from the provisions of this Code and other enactments on taxation, the provisions of the international agreement of Ukraine shall apply.

(2) A non-resident that is entitled to tax exemptions under an international agreement of Ukraine shall, within three years of the date the tax liability arose, file an application exemption or a refund for excess taxes paid in accordance with the procedure established by the Central Organ of the State Tax Service of Ukraine.

#### Article 1013. Definitions of terms used in this Code

(1) The terms used in this Code shall be used in accordance with definitions provided in this Article.

(2) Alcoholic beverages – products with more than 1.2 percent content of alcohol that are included in product categories of the State classification registry of products and services under the following codes: 15.91.10; 15.91.12; 15.92.11; 15.93.12; 15.94.10; 15.95.10.

(3) Assets - property including, in particular, funds, securities, fixed and current assets, settlements with debtors and creditors, objects of the intellectual, including industrial, rights and other similar rights, which are objects of ownership right or of the right of complete business use by the taxpayer.

1. Tangible assets - any form of fixed and current assets, including electric power, thermal and other energy, natural gas, water, which differ from money, securities, derivatives and intangible assets.

2. Intangible assets – ownership rights to the results of an intellectual activity, including industrial rights, as well as analogous non-property rights recognized in accordance with the procedure established by the appropriate legislation as the object of the taxpayer's ownership.

3. Net assets - a quantity determined as difference between the amount of assets and the amount of liabilities determined on the basis of their market value.

(4) Acceptance - an agreement to pay or guarantee the payment of payment documents in accordance with the terms defined by the payment document (the promissory note, etc.).

(5) Auction (public sales) - a competitive way of selling movable and immovable property, property rights and currency funds at a specified time and place.

(6) Barter transaction - a transaction providing for any form of payment for goods, works and services, other than the monetary form, including any forms of clearing and netting where no funds are entered to the sellers accounts with the view to compensating for the value of such goods, works and services.

(7) Bad debts - debts meeting any of the following characteristics:

a) overdue liabilities past the period of limitation;

b) a debt that was not repaid before the debtor - legal entity was declared bankrupt in accordance with the procedure specified by the legislation of Ukraine, or a debt of the legal entity that is being liquidated as well as the outstanding debt of a physical person which a court has proclaimed impossible to recover due to the absence of property;

c) a debt that wasn't paid due to insufficiency of funds raised by selling the borrower's property at open auctions (public sales) or in any other way specified in a pledge agreement, provided this



property was given as a pledge to secure the said debt and provided that other legal actions of the creditor with regard to forcible collection of other property of the borrower did not result in complete payment of the debt;

d) debts impossible to collect due to acts of God and other emergency circumstances verified in accordance with legally set procedures;

e) outstanding debts of deceased physical persons, as well as of persons proclaimed by court as missing, dead or incapable; outstanding debts of physical persons convicted to imprisonment.

(8) Non- revocable collection of funds - alienation (withdrawal) of funds from client bank accounts without the clients' prior consent.

(9) Free goods, works, services are:

a) goods provided by taxpayers in accordance with agreements on gift and similar agreements providing for no monetary or other compensation for the value of such tangibles and intangibles or their return, as well as goods given without the execution of such agreements;

b) works (services) performed (provided) by taxpayers demanding no compensation for their value;

c) goods transferred to a legal or physical person for safekeeping and used by this person in production or business activities.

(10) A grant is:

a) an amount of money given to the taxpayer under a deed of gift and other similar deeds providing for no compensation for or return of such an amount (except for budget subsidies) or an amount of money granted without the execution of such deed;

b) an amount of bad receivables reimbursed by borrower to the lender after it had been written off against the insurance provision in accordance with the procedure stipulated in paragraph (3) of Article 2094 of this Code;

c) a taxpayer's debt to other legal or natural person that remained unpaid after the period of limitations had expired, not taking into account fines and penalties accrued in accordance with the agreement;

d) a loan or a deposit issued to the taxpayer, if no maturity of its bulk amount has been specified, except for loans secured by perpetual bonds and demand deposits at banking institutions.

(11) Stock (commodities) exchange - an organized, permanently operating market were trading in securities, hard currencies as well as wholesale trading in commodities are carried out in accordance with law.

(12) Charitable organization – a non-government organization, whose primary goal is to carry on a charitable activity in the interest of public or particular categories of persons

(13) Close relatives – mother, father, husband, wife, children, blood brothers and sisters, grandchildren, grandparents, foster parents and foster children.

(14) Budget subsidy - a grant provided by the state to a business entity to strengthen its financial position and/or ensure the production or goods or the rendering of services having a strategic importance to the state.

(15) Budget organization – an organization financed from the budget in accordance with the set income and spending plan.

(16) Currency (exchange) rate - a price of a currency denominated in another currency.

1. Official currency (exchange) rate - a hryvnia rate against other currencies which is determined by the National Bank of Ukraine in accordance with the currency legislation of Ukraine.

(17) Authorized safekeeping - a business transaction whereby a taxpayer transfers valuable items to another person under a safe custody contract, without that person's right of such individual or legal person to use them in business, and to be returned to this taxpayer without any changes in terms of quality or quantity of such items.

(18) Sale proceeds - an amount of money transferred by the buyer to the bank account of a legal or natural person - business subject in return for the valuable items supplied, work performed and services rendered.

(19) Business activity - any activity by a person aimed at generating income in the monetary form, in kind or in the intangible form, if direct participation by this person in the organization of such activity is regular, continuing and substantial Direct participation should be understood as the aforementioned activity by a person, including one conducted through its branches (divisions), permanent establishments as well as through any other person acting for the benefit of the former person, in particular under commission or authorization agreements .

(20) Gambling business - an activity related to the organization of casinos and other gambling places (houses), gambling machines with monetary or property winnings, to the organization of lotteries (except for state lotteries) and contests with monetary winnings in the form of cash or property.

(21) Goodwill - an intangible asset whose value is determined as difference between the book value of the enterprise's assets and its regular value as an integral property complex arising due to the application of better managerial skills, a dominant position on the commodity market, works, services and new technologies market, etc.

(22) Give-and-take raw materials - raw materials, materials, semi-finished products, components used in the manufacturing of a finished product, subject to the further return of this product or its part to their owner or, on his instructions, to other person.

1. Give-and-take raw materials that are used in foreign economic relations - raw materials, materials, semi-finished products and components brought into the customs territory of Ukraine by a foreign customer (or purchased by a foreign customer in Ukraine for foreign currency) or taken outside such territory by a Ukrainian customer to be used in the manufacturing of a finished product, subject to the further return of this product or its part to the owner's country (or the sale in the contractor's country by the customer or, on his instructions, by the contractor) or to the exportation to another country.

2. Give-and-take raw materials transaction - a transaction to process (concentrate or use) tolling raw materials (irrespective of the number of customers and contractors as well as stages (operations)) with the view to obtaining a finished product for the respective price. Give-and-take raw materials transactions include the transactions where customer's raw materials at a given stage of their processing are no less than 20 per cent of the total value of the finished product. In performing give-and-take raw materials transactions the terms are used that have the following meaning:

a) customer - a business subject providing give-and-take raw materials;

b) contractor - a business subject carrying out the processing, concentration or use of tolling raw materials.

c) finished product - a product (a good) manufactured using the tolling raw materials (except for the part used to pay for the processing work) and defined as an end product in the contract between the customer and the contractor.

(23) Debtor - a legal or natural person having a monetary or property debt to other legal or natural person.

(24) Derivative shall be understood as a standard document attesting to the right and/or obligation to purchase or sell, sometime in the future, securities, tangible or intangible assets, and funds on terms and conditions stated therein. A standard form of derivatives and procedure for their issuance shall be established in legislation of Ukraine.

(25) Dividends - payments made by a legal entity to an owners of corporate rights (or representative of such owner) that are issued by this entity in connection with distribution of of its profits. Dividends shall not include payments by a legal entity related to the buy-out of stock, shares, issued previously by such legal entity.

(26) Income (gross income) - total amount of any money received from all types of activities, the value of tangibles and intangibles (assets), securities, other objects of ownership received (accrued) during the reporting period in the monetary form, in tangible or in the intangible form both in the territory of Ukraine, its continental shelf, its exclusive (sea) economic area and beyond.

(27) Income (profits) sourced in Ukraine - any income received by residents or non-residents from any their activities conducted in the territory of Ukraine, including interest, dividends, royalties and any other types of passive income, paid by residents of Ukraine, the income from leasing out to residents or non-residents the property located in Ukraine, including rolling stock assigned to Ukrainian ports, proceeds from the sale of immovable property situated in Ukraine as well as the income of resident insurers from insuring resident insureds against risks arising outside Ukraine, and other income from the conduct of a business activity in the customs territory of Ukraine.

(28) Income (profits) from sources outside Ukraine - any income received by residents from any their activities conducted outside the territory of Ukraine, including interest, dividends, royalties and any other types of passive income, the income from leasing out to residents or non-residents, the property located outside Ukraine including rolling stock assigned to ports situated outside Ukraine, proceeds from the sale of real property situated outside Ukraine, other income from a business activity conducted outside the customs territory of Ukraine or in the territories not controlled by customs authorities of Ukraine.

(29) Legal representative of the taxpayer - a person (persons) that conducts affairs, discharges responsibilities and represents taxpayer's interests in relationships connected with taxation.

(30) Reporting (tax) period – a period for which a taxpayer is required to assess taxes and pay them to the budget.

(31) Regular price - the price that results from the demand-supply interaction in a market of identical (or similar, if there are no identical goods) goods, works, services, and as the result of agreements entered in the respective markets of goods, works, services by non-related persons. Procedure for determining regular prices shall be established by the Cabinet of Ministers of Ukraine. Sources of information on regular prices include:

- a) official or public information concerning commodity exchange prices in locations nearest to the location or residence of a seller or buyer, and in the event of absence of contract at the said exchange, or in the case of a sale (purchase) through the other commodity exchange – the information on respective prices at this other commodity exchange, or information on international commodity exchange prices, as well as prices set by Finance Ministry of Ukraine on government valuable papers and obligations;
- b) information of the state statistics agencies and organs that regulate prices;

- c) information on market prices published or made publicly available through mass media; the information data base of the organs of the state tax service of Ukraine concerning average prices on contracts that were entered (signed) during a respective period, for identical or similar goods, works and services.

(32) Export – sale of goods (works, services) to foreign business entities where the goods (works, services) are moved outside the customs territory of Ukraine, including re-export of goods, except for the transfer of property by a foreign-trade business entity to a foreign business entity abroad as a physical part of the entity's contribution to formation of statutory capital in the case of joint activities.

1. Re-export – selling to foreign entities participating in international trade activities and moving outside Ukraine the goods that were shipped (imported) in Ukraine earlier and were not processed or altered.
2. Export of capital – bringing outside Ukraine any capital (currency funds, products, services, works, intellectual property rights and other non-property rights) for purposes of obtaining profits from manufacturing and other forms of business activities.

(33) Issuance income – the amount of excess of incomes of an enterprise from the original issue if its own stock and other corporate rights over the par value of such stock (other corporate rights).

(34) Import - bringing (shipping) goods (works, services) into the customs territory of Ukraine, including the purchase of goods for own consumption by Ukrainian institutions and organizations located outside its borders.

1. Re-import - the sale to Ukrainian business subjects and the bringing into the territory Ukraine of goods that had been previously taken out of the country (exported) and were not processed in any way.

2. Capital import - the bringing from outside Ukraine of any form of capital (currency, products, services, work, intellectual property rights and other non-property rights) with the view to generating profits from the production and other forms of business activities.

(35) Investment shall be understood as a business transaction whereby fixed and intangible assets, corporate rights, and securities are acquired in return for funds or property. Investments shall be subdivided into capital, financial investments, and reinvestments.

1. Capital investment shall be understood as a business transaction whereby buildings, structures, other immovable property, other fixed and intangible assets that are depreciable under this Code, are acquired.

2. Financial investment shall be understood as a business transaction whereby corporate rights, securities, derivatives, and other financial instruments are acquired. Financial investments shall be subdivided into direct and portfolio investments.

3. Direct investment shall be understood as a business transaction whereby funds or property are contributed to a legal person's authorized fund in exchange for corporate rights issued by this legal person.

4. Portfolio investment shall be understood as a business transaction whereby securities, derivatives, and other financial assets are purchased on a stock market in return for funds (except where shares are bought by a taxpayer directly or by any of his related persons, in amounts exceeding 50% of the total amount of shares issued by another legal person and being part of direct investments).

5. Reinvestment shall be understood as a business transaction whereby capital or financial investments are made from income (profits) received from investment transactions.

(36) Foreign investment - an investment defined in accordance with paragraph (35) of this Article that is made by foreign business entities in Ukraine.

(37) Engineering – engineering and construction works and services that include services related to preparation and maintenance of product manufacturing and sales, to supporting construction and use of industrial, infrastructure, agriculture and other facilities.

(38) Collection of debt claims - a banking service to collect, on client's instructions, the money from such client's debtor for the account of repayment of his debt or the acceptance of promissory notes, checks and other settlement or commodities documents.

(39) Indexing - a way of preserving the actual amount of monetary claims and revenues in the inflation environment. Indexing allows to calculate the amount to be paid in proportion to the change in the price index from the date of signature to the date the obligations are fulfilled.

(40) Corporate rights shall be understood as the right to own a share in the authorized fund (authorized capital stock) of a legal person, including the right to manage and receive an appropriate part of the revenues of this entity and of the assets in the event of liquidation, in accordance with current legislation.

(41) Funds - hryvnia or foreign currency.

(42) Credit shall be understood as funds and tangible assets made available [loaned] to residents or nonresidents for a definite period and at an interest. Loans shall be subdivided into financial credits, commodity credits, investment tax credits and loans given against securities as evidence of such credit relationships.

1. Financial credit shall be understood as funds loaned to an individual or entity by a certified resident or nonresident bank, acting in accordance with the laws of the country, or by a resident or nonresident existing as a non-banking establishment as per legislation of that country, for a definite period, designated purpose, and at an interest. Financial credit rules shall be established by NBU (with regard to bank credits), and by the Cabinet of Ministers of Ukraine (with regard to non-banking financial organizations), in accordance with legislation of Ukraine.

2. Commodity credit shall be understood as goods assigned by a resident or nonresident to individuals or entities as per contract stipulating deferred final settlement for a definite period and at an interest. Commodity loan shall envisage the assignment of ownership of goods (results of works or services) on the date of making such contract or when the buyer actually receives said goods (works, services), regardless of the redemption date.

3. Investment tax credit shall be understood as a deferral of the income tax payment given to a business entity for a certain period of time with the aim of increasing his financial resources to be directed for the implementation of innovative programs, subject to further redemption of the referred sums by means of extra tax allocations due to a general profit growth as a result of the implementation of innovations.

4. Credits issued against securities evidencing loan relationships shall be understood as funds obtained by legal entities (debtors) from other entities or individuals as compensation for the cost of bonds or deposit certificates issued by these debtors.

(43) Lender - a legal or natural person that extends a monetary or property loan (credit);

(44) Leasing (rent) transaction – a business transaction whereby a physical or legal person (lessor) allows fixed assets or a plot of land to be used by another physical or legal person (lessee) at an interest and for a definite term. Leasing (rent) transactions may be executed in the form of operating lease (rent), finance lease (rent), reverse lease (rent), lease of land and buildings, including residential buildings.

1. Operating lease (rent) - a business transaction carried on by a lessor, which involves the transferring to a lessee of the right to use the fixed assets during a period that does not exceed the period of the assets' complete depreciation, during which the fixed assets are to remain part of the lessor's fixed assets, on condition that the fixed assets are to be returned to the lessor after the term of the lease (rent) agreement expires.

2. Finance lease (rent) - a business transaction that is carried on by a lessor and involves acquisition by the lessor, acting under instructions of the lessee, of the fixed assets which then are to be transferred to the lessee for use (with these fixed assets being included into the lessee's fixed assets) for a period that doesn't exceed the period of full depreciation of such fixed assets, on condition that ownership right to such fixed assets are to be transferred to the lessee afterwards.

3. Reverse lease (rent) shall be understood as a business transaction carried on by a physical or legal person that involves selling of fixed assets to a financial organization and immediately taking such fixed assets by such physical or legal person back under an operating or finance lease.

4. Lease of land plots shall be understood as a business transaction whereby the lessor allows a plot of land to be used by the lessee for an agreed term and for a designated purpose, in return for the lease payment.

5. Lease of residential buildings shall be understood as a business transaction whereby the owner of a house or apartment allows it to be used by a lessee or for an agreed term or ad infinitum, for a designated purpose and in return for the lease payment.

(45) License shall be understood as a document issued in accordance with the legislation of Ukraine under which its owner is entitled to pursue a certain business activity and is obligated to observe certain terms and rules regulating the conduct of this activity (license terms).

(46) Lottery - any gambling game for money resulting in re-distribution of its participants' funds that they voluntarily paid to participate in this game which entitles them to receive winnings in case they are recognized as winners, except for paid and promotional games organized by physical persons – entrepreneurs and legal persons with the view to promoting the sale of a certain product or the provision of paid services, if the game organizers spend their profits on organizing such games.

1. State lotteries shall be understood as lotteries meeting the following requirements:

a) they have a jack-pot no less than 50 per cent of the amount of revenues received; they make contributions to the state budget of Ukraine in the amount no less than 30 per cent of the revenues remaining after the jack-pot had been paid out;

b) the issue and conducting of the lottery is registered with the Ministry of Finance of Ukraine which shall establish a procedure on the financial control over the activities by the agent who conducts the lottery.

(47) Property shall be understood as material items that may be owned, used or disposed of.

1. Immovable property shall be understood as a plot of land and everything that is connected to it or situated on it, in particular, buildings and structures, which are the items that are impossible to move without damaging.

2. Movable property shall be understood as all other material items that are not immovable property.

(48) Location of a legal entity shall be understood as the location of the permanently operating organ of the legal person, except for the cases provided in this Code specifically.

(49) Company management location shall be understood as the location where the company's top management body (council, board of directors, etc.) exercises its powers in accordance with the company's charter or other foundation document.

1. Location of the management of a company transferred into the trusteeship shall be understood as the location of a trustee.

2. Location of the management of a company which is managed by a physical person - owner of this company, or by the physical person acting in accordance with an agreement on behalf of the owner and on his instructions - shall be understood as the owner's place of residence.

3. Location of the management of a branch or other separate division of a company shall be understood as the management location of the company of which such division is a part.

(50) Arrears shall be understood as the amounts of taxes whose levying is provided by this Code and which are not remitted after the specified date.

(51) Non-profit companies, institutions and organizations shall be understood as companies, institutions and organizations whose activities are not aimed at generating profits but at conducting charitable and other work in the interest of society.

(55) Nonresidents:

a) legal persons and business entities without the status of a legal entity (branches, agencies, etc.) located outside Ukraine, set up and operating in accordance with the laws of other countries;

b) foreign diplomatic missions, consular offices and other official agencies of foreign states, international organizations and their representative establishments located and operating in Ukraine that enjoy diplomatic privileges and immunities;

c) representations of other international organizations in Ukraine that do not pursue business activities in accordance with the legislation of Ukraine;

d) physical persons who, in accordance with paragraph (68) of this Article, are not residents.

(53) Taxation - application of taxes.

(54) Persons - legal and physical persons and business entities that don't have the status of legal persons.

(55) Off-shore zones - special economic areas where special taxation rules are applied.

(56) Interest penalty – a payment the amount of which is determined by applying a certain percentage to the amount of the tax debt (without the interest), and collected from the taxpayer in connection with his failure to pay his tax liability on time.

(57) Related person shall be understood as person meeting any of the following characteristics:

a) a legal person controlling a taxpayer or being controlled by a taxpayer, or being controlled jointly with this taxpayer. Control is to be interpreted as possession, directly or via a greater number of related physical or legal persons, of the controlling interest in the taxpayer's authorized fund or having a controlling majority of votes in the taxpayer's governing body, or having not less than 20% of shares in the taxpayer's authorized fund;

b) a physical person or members of his/her family controlling a taxpayer. Family members shall include:

b1. husband/wife;

b2. Direct relatives (children or parents) of either the physical person or wife/husband;

b3. husband or wife of any direct relative of this physical person or of his/her wife/husband;

b4. persons who due to the guardian relationships are related to each other as parents and children;

c) an official at the taxpayer's management, authorized to perform, on behalf of the taxpayer, legal acts aimed at establishing, changing or terminating legal relationships.

(58) Tax liability – an obligation under which a taxpayer is required to pay to the budgets or government target funds the respective amount of money in accordance with procedures and dates specified in this Code.

(59) Tax relationships - social financial relationships arising in connection with collecting taxes from legal and physical persons, as well as from other categories of taxpayers.

(60) Tax debt (tax deficiency) – tax liability including penalties, if there are any, agreed by the taxpayer or established by court (arbitration court), but not paid when due, plus interest assessed on the amount of such tax liability.

(61) Tax credit shall be understood as the amount by which the taxpayer may decrease his tax liability in the reporting period in the cases specified in this Code.

(62) Tax accounting shall be understood as the system of mandatory forms and methods of taxpayers' accounting for the results of their business activities or other objects related to the determination of the tax liability for the respective taxes.

(63) Officials shall be understood as persons who permanently or temporarily perform the functions of the persons of authority as well as permanently or temporarily occupy positions related to the fulfillment of organization or administrative duties at companies, institutions and organizations irrespective of their forms of ownership, or fulfill such duties under a special authorization.

(64) A non-resident's permanent establishment in Ukraine shall be understood as a permanent venue of activity in which this non-resident conducts all or part of its business in the territory of Ukraine. Permanent establishments include: location of management, local departments, branches, offices, plants, factories, workshops, mines, oil or gas wells, quarries or other sites of prospecting or extraction of mineral wealth. For taxation purposes, residents acting under non-residents' authority resulting in civil law rights and obligations (e.g., in terms of signing contracts on the non-resident's behalf, retain/store goods owned by the non-resident, using them for shipments on the non-resident's behalf; except residents with the customs warehouse status) shall be treated as permanent establishments.

(65) Sale of services (works) shall be understood as any civil-legal transactions to provide services (works), to grant the right to use or dispose of goods, including intangible assets and objects of ownership other, than goods, for compensation as well as transactions to provide services (works) for free. Sale of services (works) shall include, in particular, the provision of a right to use goods under lease agreements, the sale, the transfer of the right under copyright or license agreements as well as other ways of transferring copyright, patents, trade and service marks, and other objects of intellectual, including industrial, ownership.

(66) Sale of goods shall be understood as any transactions performed in accordance with sale, barter, supply and other civil-legal agreements providing for the transfer of title to such goods for payment



or compensation irrespective of the terms of such payment or compensation, as well as transactions involving free-of-charge provision of goods. Sale of goods shall not include transactions performed under consignment, guarantee, safekeeping, commission, trust, lease agreements and other civil-legal agreements that do not provide for the transfer of title to such goods.

(67) Interest shall be understood as income paid (accrued) by a borrower to the creditor as a fee for the use of funds or property borrowed for a specified term.

1. Interest shall include:

- a) payments for use of loaned funds or goods (works, services);
- b) payments for use of deposited funds;
- c) fee for purchase of goods under installment arrangements;
- d) payments for use of loaned (rented or leased) property.

2. Interest shall be accrued as a percentage of the principal amount of the debt, value of property or in the form of set amounts. If funds are obtained by sales of obligations, treasury bonds or savings (deposit) certificates issued by the borrower, the amount of the interest shall be determined by accruing it on the nominal value of such valuable paper, payment of fixed premiums or winnings, or by determining the difference between the cost of placement and redemption of this valuable paper (e.g., discount).

3. Payments under other civil – legal agreements, whether set as absolute (fixed) prices or as percentage of the amount of contract or other value base, shall not be treated as interest.

(68) Residents shall be understood as:

- a) legal persons and business persons of Ukraine that don't have the status of a legal person (branches (subsidiaries) representative establishments, etc.) and that are set up and operate in accordance with Ukraine's legislation and located in its territory;
- b) branches (subsidiaries) and representative establishments of legal persons specified in subparagraph (a) of this paragraph that are located abroad and do not conduct any business activities;
- c) diplomatic missions, consular offices, and other official agencies of Ukraine operating abroad and which have diplomatic privileges and immunities;
- d) physical persons - citizens of Ukraine, as well as foreigners and persons without a citizenship, who:
  - d1. reside permanently in Ukraine;
  - d2. physical persons who maintain close economic ties with Ukraine (have their essential interests in Ukraine);
  - d3. reside in Ukraine no less than 183 calendar days during an continuous 12-months period.

The period of actual residence in Ukraine shall be understood as the period of a physical person's physical presence in the territory of Ukraine, including the time for which this person left the territory of Ukraine specifically for the purpose of medical treatment, vacation, for a business trip or studying.

(69) Works (services) shall be understood as any works and services that are carried on the basis of an agreement or some other basis and that are performed, consumed, realized or exchanged or are designed for this purpose.

(70) Royalty shall be understood as any payments received as compensations for using or allowing to use the rights of intellectual, industrial property and other similar property rights [interests] recognized as the object of the right of ownership of the given business entity, including use of copyright to any works of science, literature, art, data carrier records, the right to duplicate and disseminate any patent or license, trade marks and brand names, the right to inventions, industrial designs, research specimens, model diagrams, software designs and those of computer-aided or data processing systems, secret formulas or procedures, and the right to industrial, commercial or scientific know-how.

(71) Special (free) economic area shall be understood as part of Ukraine's territory where a special legal treatment of business activities and procedure on the application of the Ukrainian legislation are established.

(72) Goods shall be understood as tangible and intangible assets that are sold or intended to be sold, as well as valuable papers and derivatives used in any transactions except the transactions of the issuance and redemption of these derivatives and valuable papers.

Identical goods – goods that have the same major characteristics. When establishing identity of goods, there shall be taken into account, in particular, physical characteristics, quality, market reputation, country of origin and manufacturer. Insignificant discrepancies in appearance of the goods may be disregarded for purposes of establishing identity of these goods.

Homogeneous goods are goods that are not identical, have similar characteristics and consist of similar components, which enables these goods to perform the same functions and be interchangeable.

For purposes of establishing homogeneity of goods there shall be taken into account, in particular, their quality, presence of a trade mark, market reputation, country of origin.

(73) Trade by installment shall be understood as a business transaction whereby a resident or nonresident sells goods to an individual or entity, with final settlement deferred for a definite period and at an interest. Trade by installment stipulates transfer of goods to the seller at the time of the first installment (advance), with the right of ownership assigned after final settlement. The rules of trade by installment with natural persons other than taxpayers shall be determined by the Cabinet of Ministers of Ukraine.

(74) Tobacco products – all products that are included in groups of goods of the State classification of goods and services under codes 16.00.11; 16.00.12; 16.00.20.000.

(75) Penalty sanction (fine) – a payment in the form of the set amount or in the form of a percentage of the amount of a tax liability without taking into account the interest and penalty sanctions, which is collected from the taxpayer in connection with violation of the tax rules established in this Code.

(76) Factoring shall be understood as a transaction whereby the first creditor cedes the right to claim the third person's debt to another creditor with prior or subsequent compensation for the value of such debt to the first creditor.

(77) Branch (department), representation shall be understood as a branch, a division, any other detached division, irrespective of its name, having no legal entity status, as well as a representation of a resident legal entity operating on authority of the power of attorney obtained from that legal entity.

(78) Financial guarantee shall be understood as a guarantee in the form of a bank guarantee letter or a monetary collateral, or carrier's financial responsibility insurance with regard to the obligatory delivery of goods to the customs of destination which is issued in the event of temporarily bringing

goods to Ukraine for the term and under the conditions and in accordance with the procedure specified by the customs legislation of Ukraine.

(79) Physical person shall be understood as a citizen of Ukraine, a person without a citizenship or a citizen of a foreign state.

(80) Freight – a payment to the carrier for transportation of cargoes or passengers

(81) Other terms used in this Code and not defined by it shall be interpreted in the same manner they are interpreted by other Ukraine's statutes.

Articles 1014-1021 - reserved

## **Chapter 2. Taxation system**

### **Article 1022. Taxation system**

The taxation system in Ukraine shall be the aggregate of national and local taxes provided by this Code payable to the budgets of all levels; principles, forms and methods of their establishment, change, abolition, calculation, remittance and levying; as well as ensuring the responsibility for offences in the field of taxation and effecting the tax control; rights and obligations of the subjects of taxation and tax control authorities.

### **Article 1023. The notion of taxes**

Taxes are obligatory, individually irrevocable payments remitted to the respective budgets in accordance with the procedure and in the amounts and within the terms specified by this Code and other regulatory – legal acts on taxation matters.

### **Article 1024. Types of taxes exacted in Ukraine**

The following taxes are exacted in Ukraine:

- a) national taxes;
- b) local taxes.

### **Article 1025. National taxes**

National taxes shall include:

- a) enterprise profit tax;
- b) personal income tax;
- c) value added tax;
- d) excise tax;
- e) property tax;
- f) state duty;
- g) customs duty;
- h) tax on transport vehicles;
- i) rent payments;
- j) uniform fee collected at the check-points at the national border of Ukraine;

- k) fee on special use of natural resources;
- l) fee for development of grape farming, gardening and hop farming;
- m) ecology fee.

#### **Article 1026. Local taxes**

Local taxes shall include:

- a) advertisement tax;
- b) fee for permits to set up trade service providing outlets;
- c) school tax;
- d) duty on the use of local and regional symbols;
- e) market fee;
- f) hotel duty;
- g) car parking duty;
- h) resort duty;
- i) fee for organizing concert activities;
- j) duty on the issuance of permits to build, within the settled areas, production and non-production facilities, individual houses, cottages and garages.

#### **Article 1027. Authorities that have the power to institute and cancel taxes**

(1) Imposition and cancellation of taxes, tax administration procedures are to be carried on by the Verkhovna Rada of Ukraine, Verkhovna Rada of the Autonomous Republic of Crimea, by the village, town and city Radas within the scope of their competence as defined by this Code.

1. Taxes specified in subparagraphs e, j, m of Article 1025 of this Code shall be instituted in the territory of the Autonomous Republic of Crimea by the Verkhovna Rada of the Autonomous Republic of Crimea without changing the procedure for administering these taxes stipulated by this Code. The tax rates shall be determined by the Verkhovna Rada of the Autonomous Republic of Crimea within the limits specified by this Code or other regulatory – legislative acts on taxation adopted in accordance with it.

2. Cabinet of Ministers of Ukraine may adopt regulatory – legislative acts dealing with establishing the procedures for administering taxes in the cases stipulated by this Code.

3. Local taxes and the procedures on their administration shall be established by village, settlement and town Radas in accordance with the listing and within the rate margins stipulated by this Code.

(2) Taxes defined in subparagraphs a, b, c, e, f, g and i of Article 1026 of this Code shall be obligatory for establishment by village, settlement and town Radas, provided that there are the objects of taxation or the conditions with which imposition of these taxes is connected. Before the decision to impose the taxes, specified in paragraph (2) of this Article is adopted, the said taxes shall be administered in the minimum amounts stipulated by this Code.

Articles 1028-1035 - reserved

### **Chapter 3. Rights and duties of taxpayers**

#### **Article 1036. Taxpayers' rights**

(1) Taxpayers have the right to:

- a) apply tax exemptions in the case they are eligible for such exemptions and do so in accordance with the procedure specified by this Code and other regulatory – legal acts on taxation matters;
- b) be granted a deferment of tax payments or allowed to make such payments by installments in accordance with the procedure and subject to the conditions specified by this Code;
- c) receive for free from state revenue service authorities at the place of taxpayer's residence or registration, the information on existing taxes and tax legislation provisions;
- d) receive from State revenue service authorities, written explanations concerning the application of tax legislation upon their written request;
- e) be present during tax inspections, to familiarize themselves with the reports drawn as a result of such inspections and obtain copies of such reports;
- f) provide the state tax service organs with explanations regarding assessment and payment of taxes, as well as regarding tax examinations' results;
- h) appeal, in accordance with legally set procedures, against the decisions made by state tax service organs and their officials, as well as their actions or failure to take necessary actions;
- i) represent one's interests before state tax service organs directly or through an agent or a legal representative;
- j) be timely refunded, or offset, the amounts of overpaid or over-collected taxes in the cases stipulated by this Code;
- k) demand that the officials of state revenue service authorities observe the requirements of the tax legislation of Ukraine and international agreements of Ukraine specified in Article 1012 of this Code, when their acts impact the taxpayer;
- l) demand maintaining the tax secret and the confidentiality of the information filed.

(2) Taxpayers shall also have other rights defined in this Code.

#### **Article 1037. Taxpayers' duties**

(1) Taxpayers shall be obligated to:

- a) pay the taxes due in accordance with the procedure and within the terms specified by this Code and other regulatory – legal acts on taxation matters;
- b) register with the state tax service organs of Ukraine in accordance with procedure specified in this Code;
- c) maintain, separately from the financial accounting, tax accounting and prepare tax reporting documents and financial statements and keep those during the periods specified by laws, unless otherwise is provided by this Code;
- d) submit to controlling organs, in accordance with this Code and other regulatory – legislative acts on taxation matters, tax returns, other tax reporting documents and other documents and data related to assessment and payment of taxes;

e) grant the officials of the state tax service organs the access to the premises used to generate incomes or to maintain objects of taxation, for the purpose of conducting tax inspections;

f) obey the legitimate demands of state revenue service authorities as to the elimination of the identified violations of this Code and other enactments on taxation and sign the reports finalizing the tax inspections and, in case of a refusal to sign such a report - to state such refusal in writing and list the reasons for such refusal;

g) notify organs of the state tax service about the opening or closing a current or/and other bank account within the terms and in accordance with procedure specified in this Code;

h) observe other requirements stipulated by this Code.

(2) During inspections conducted by the organs of the state tax service of Ukraine, managers and other officials of legal entities that are being inspected are obligated to provide, at the demand of the inspecting official, a written explanation in the cases specified by this Code and other regulatory – legal acts on taxation matters.

(3) A taxpayer, if fails to perform or fulfill properly the duties imposed on him, shall be held responsible in accordance with procedures and conditions specified established by this Code and other regulatory – legal acts.

#### **Article 1038. Taxpayers' representatives**

(1) Taxpayers shall enjoy their rights and fulfill their duties, as specified by the Constitution of Ukraine, this Code and regulatory – legal acts on taxation matters, in person or through a legal or authorized representative. Taxpayer's personal participation in tax relationships shall not deprive him of the right to have a representative.

(2) Legal representatives of a legal entity shall be its respective officials that act within the limits of their authority granted to them by law, an agreement, an act of an organ of the legal person or by an administrative act.

(3) Legal representatives of a physical person in the cases provided by this Code may be parents (foster parents), guardians, custodians or persons appointed by a guardianship body, if such individual should be physically missing, or other persons possessing the documents that certify their family relationships or powers.

(4) A taxpayer's authorized representative may be a person authorized by the taxpayer to represent taxpayer's interests in controlling organs or courts (courts of arbitration). An authorized representative shall perform his duties on the basis of authority of a notarized agreement or power of attorney issued in accordance with the established procedure.

(5) If during the consideration of a taxpayer's case by a controlling organ or a court (a court of arbitration) the taxpayer does not have a lawful or authorized representative, an official representative may be appointed on the initiative of the controlling organ or the court (the court of arbitration), if, due to some circumstances, the person involved in the case can not personally participate in the consideration of the case, or if the property that is relevant to the case has no owner. An official representative shall be entitled to a consideration and will receive a compensation for expenses related to his performing the duties imposed on him, from the budget, to which the respective tax is payable, or at the expense of the person that participates in the case. Procedure for payment of such considerations and compensations, as well as maximum amounts thereof, is to be established by the Cabinet of Ministers of Ukraine.

(6) The taxpayer cannot be represented by officials of the state tax service organs, judges, investigators and public prosecutors as well as former officials of the state tax service organs, judges, investigators and public prosecutors during two years after they were dismissed from the office (during five years – in the case of the persons dismissed from controlling organs).

#### **Article 1039. Rights and duties of tax agents**

Tax agents shall perform the duties, enjoy the rights and bear the responsibility stipulated by this Code for the taxpayers.

#### **Article. 1040. Rights and duties of the controlling organs**

(1) The controlling organs specified in Article 16003 of this Code, for purposes of ensuring timeliness, accuracy and completeness of assessment and payment of taxes, have the right to inspect financial documents, accounting books, statements, budgets, tax returns and other documents related to collection of taxes at enterprises, agencies and organizations irrespective of their forms of ownership, and citizens.

(2) Other rights of controlling organs shall be defined by the applicable legislation.

(3) Officials of controlling organs shall be obligated to observe the Constitution and laws of Ukraine, other regulatory acts and the interests of citizens, enterprises, institutions and organizations that are protected by law.

(4) Controlling organs and their officials, when performing their official duties and enjoying their rights shall be obligated to:

- a) strictly observe the Constitution of Ukraine, this Code and other legislative acts;
- b) keep records of taxpayers and property that is the object of taxation;
- c) inform taxpayers, at their requests, about the effective taxes and terms of their payment as well as about the respective legislative acts;
- d) demand payments of taxes, tax and other penalties and interest, in case of non-compliance with such demands, apply measures aimed at ensuring compliance with these requirements in accordance with the procedure stipulated by this Code;
- e) demand that taxpayers eliminate tax law violations identified and control the fulfillment of such requirements;
- f) maintain the tax secret and the confidentiality of the information filed by taxpayers;
- g) other duties of controlling organs shall be defined by the relevant legislation.

#### **Article 1041. Tax address of a physical person**

Physical persons shall be obligated to specify one's a tax address.

1. The tax address of a physical person shall be the place of such person's permanent or predominant residence and/or the place where such person receives his principal income.

2. A physical person's place of permanent or predominant residence shall be the location of an apartment building or a flat used by the natural person as the place of his permanent or predominant residence related to his day-to-day and permanent activities and/or the place where such physical person or his family receives their largest (regular) incomes (except for passive incomes) irrespective of whether such residential building or flat are owned by such physical person or used by him under the terms of a lease (sublease, sublet) agreement.

3. If a physical person owns or uses more than one residential building or flat, he shall specify his tax address at his own discretion based on where he receives his largest (regular) income (except for passive income) and shall report this address to the respective state tax service organ before the beginning of the tax period.
4. If there is sufficient evidence that a physical person has defined his tax address incorrectly, state revenue service authority may define it itself and notify the taxpayer of its decision.
5. A physical person may not have more than one tax address at a time.

Articles 1042-1045 - reserved

## **Chapter 4 - reserved**



# Part II. Enterprise Profit Tax

## Chapter 5. General Provisions

### Article 2001. Definition of terms

In this Section, the terms shall have the following meaning:

- a) irredeemable securities shall be understood as the securities which have no fixed maturity term or maturity term of which is more than 10 years after the moment of their emission (issuance), or the emission requirements provide for the right of issuer to make an independent decision at his own discretion on extending the redemption (liquidation) date of these securities regardless of overall validity period of these securities;
- b) long-term agreement (contract) shall be understood as any agreement on manufacturing, construction, installation or assembling of tangible assets which constitute fixed assets of the client or components of these assets, or are to be sold to physical person, as well as for creation of non-tangible assets related to such manufacturing, construction, installation or assembling (services like «engineering», scientific research, development, and design ), under condition that such contract is not planned to be fulfilled in less than 12 months since the date the first expenses were made or prepayment was accepted;
- c) fixed assets shall be understood as tangible assets supposed to be used in a taxpayer's business activity within a period in excess of 365 calendar days from the date when these tangible assets are put into operation, and value of which is gradually decreased due to depreciation or amortization;
- d) tax, taxpayer, taxation (in all grammar cases) shall be understood as the enterprise profit tax, payer of the enterprise profit tax, levying of the enterprise profit tax (in respective cases).
- e) trade patent shall be understood as a state certificate proving the right of the subject of entrepreneurship or its structural (independent) unit to carry out the entrepreneurial activities stated in the Article 2119;
- f) trading activities shall be understood as wholesale and retail trade as well activities in the production-and-trade industry (public catering) paid with cash as well as through other forms of payment, including credit cards;
- g) outlets:
  - 1) stores and other outlets that are located in separate rooms, buildings or their parts and have a salesroom for clients or use its part for trade;
  - 2) kiosks, tents, and other minor forms of architecture that occupy separate room but do not have a built-in salesroom for clients;
  - 3) auto-shops and other forms of movable trade network;
  - 4) counters, stands, and other types of outlets in the places assigned for trade;
  - 5) immovable, bantam, and movable gas stations and outlets selling oil products as well as compressed and liquid gas;
  - 6) cook rooms, preserving factories, dining halls, restaurants, cafes, snack bars, bars, buffets, open summer grounds, kiosks, and other places of public catering;
  - 7) wholesale bases, warehouse-stores, or other rooms used for trade;

- h) paid services shall be understood as activities related to providing paid services to satisfy personal needs of the client paid with cash as well as through other means of payment, including credit cards;
- i) trade of cash currency assets shall be understood as sales of foreign currency in cash, other cash means of payment in foreign currency (including travel checks, bank checks and personal checks) as well as transactions on debiting of the credit (debit) cards in exchange for the Ukrainian currency, other cash means of payment in Ukrainian currency, as well as in exchange for other foreign currency;
- j) foreign currency exchange offices shall be understood as :
  - 1) the exchange offices of the authorized banks;
  - 2) the exchange offices of the authorized banks, but located outside their operating halls;
  - 3) the exchange offices of other credit and financial institutions which have obtained licenses of the National Bank of Ukraine to perform transactions on trade of foreign currency;
  - 4) the exchange offices of subjects of entrepreneurship acting on the basis of agency agreements with the authorized banks;
- k) rendering of services in gambling business shall be understood as activities related to establishment of casino, other gambling houses, gambling machines with prizes in money or in kind, games with the use of computer, lotteries (except for the state lotteries) and raffles with in monetary form or in kind;
- l) returnable financial aid (loan) shall be understood as funds provided for use (lent) by residents and nonresidents to legal or physical person on the basis of repayment for the stated term, but not more than for three months, without any compensation for their use. The rules for financial aid (loans) shall be determined by the Cabinet of Ministers.

Articles 2002-2005 reserved.

## **Chapter 6. The Taxpayers.**

### **Article 2006. Taxpayers - residents**

(1) Taxpayers - residents shall include:

- (a) Subjects of business activity (except for the physical persons – subjects of entrepreneurship not registered as legal persons), non-governmental enterprises funded from the budget, and other enterprises, institutions, and organizations conducting activities and receiving income (profit) both in Ukraine and beyond its borders;
- b) Affiliate offices (branches), representative offices of taxpayers mentioned in Item (a) of this Clause;
- c) Railroad departments shall be recognized as taxpayers who pay taxes on income received from the main activities of the railway transport. List of works and services referred to the main activities of railroad shall be set by the Cabinet of Ministers of Ukraine. Income of railroad companies received from the main activities of rail transport shall be determined within the limits of allocations distributed among railroad companies in keeping with procedures approved by the Cabinet of Ministers of Ukraine;
- d) Rail transport enterprises and their structural departments shall be recognized as taxpayers who pay taxes on profits received from activities other than the main activities of rail transport.

(2) A taxpayer which has branches (affiliates) can make a decision to pay consolidated tax. Such taxpayer shall be under obligation to pay tax to the relevant budgets at the location of branches (affiliates), representative offices and at taxpayer's location as defined in accordance with procedures of this Code and reduced by the tax paid to relevant budgets at the location of detached affiliates (departments), representative offices.

(3) Taxpayer shall choose the payment procedure for the enterprise profit tax defined in Clause (2) of this Article at his own discretion, before July 1 of the year previous to the reporting one, informing tax authorities of the state tax service at the location of such taxpayer and the location of his affiliates (detached departments) on the decision made. It shall not be allowed to change the procedure on profits tax payment during the reporting period.

#### **Article 2007. Taxpayers - nonresidents**

(1) Taxpayers – nonresidents shall include:

(a) Physical persons and legal entities in any institutional and legal form receiving income originating from Ukraine, except for institutions and organizations with a diplomatic status or immunity in compliance with international treaties of Ukraine whose validity was approved by the Verkhovna Rada of Ukraine or law;

(b) Permanent representative offices of nonresidents receiving income originating from Ukraine or acting as agents, representatives or performing other functions for such nonresidents or their founders.

(2) Nonresidents shall conduct business activity at the territory of Ukraine exclusively through permanent representative offices, as well as shall keep records of their activity in accordance to procedures established for residents of Ukraine.

Articles 2008-2020 reserved

### **Chapter 7. The Object of Taxation**

#### **Article 2021. Object of Taxation**

(1) The object of taxation shall be:

(a) For residents - the profit (income) which is subject to taxation, originating from Ukraine as well as from abroad.

(b) For nonresidents – the profit (income) which is subject to taxation, originating from Ukraine.

(2) Income subject to taxation shall be determined by reducing the amount of the adjusted gross income received during the reporting period, defined in compliance with Article 2025 of this Code, by:

(a) The amount of the taxpayer's gross expenses of production and turnover defined in Chapter 9 of this Code;

(b) The amount of depreciation accrued in compliance with Chapter 13 of this Code.

Article 2022 reserved.

## **Chapter 8. Gross Income**

Article 2023. Amounts included into gross income

The gross income shall include:

- (a) Total revenue from sales of goods, works, services, including auxiliary production without the legal entity status, as well as income from sales of securities (except for their primary issuance (placement) and final redemption (liquidation) operations);
- (b) Income from banking, insurance, and other financial services, trade of foreign currency assets, securities, liabilities, and claims;
- (c) Income from transactions envisaged by Articles 2045 - 2052, 2058 - 2059, 2061 - 2062, 2065 of this Code;
- (d) Income from joint venture operations and in the form of dividends, interest, royalties, possession of liabilities, as well as income from lease operations, received from nonresidents;
- (e) Income not taken into account while computing gross income in the periods preceding the reporting one and identified during the reporting period;
- (f) Income from other sources and operations other than sales, including income in the form of:
  - f1 Grants received by a taxpayer, as well as value of goods, works, services provided to the taxpayer free of charge during the reporting period, except for the cases when such grants and free goods, works, services are received by nonprofit organizations in keeping with procedures stipulated by Article 2058 of this Code, or when such operations are performed between a taxpayer and its detached affiliates (departments), representative offices, regardless of the fact whether this detached affiliate (department), representative office is not recognized as taxpayer, or whether taxpayer is paying consolidated tax;
  - f2 Undrawn allocations excluded from insurance reserves in keeping with procedures set forth in Clause (2) of Article 2094 of this Code;
  - f3 Insurance reserves established by banks and other non-bank financial institutions that were used for purposes other than the designated one. The National Bank of Ukraine shall determine whether the institution is a non-bank financial institution on approval of the Cabinet of Ministers of Ukraine;
  - f4 The amount of liabilities to be included into gross income in compliance with Clauses (3) and (4) of Article 2094 of this Code;
  - f5 Value of tangible assets transferred to the given taxpayer under safe custody contracts and used by this taxpayer for his own production and business purposes;
  - f6 Amounts of penalties and (or) forfeits or fines received (incurred) as agreed by the parties to the contract or as imposed by relevant government bodies, courts of law or arbitration;
  - f7 Amounts of state duties paid in advance by the claimant and then refunded to him as decided by a court of law (arbitration);
  - f8 Amounts of interest received by a taxpayer that are accrued on amounts of taxes, financial sanctions transferred to budget in excess as a result of incorrect recomputation (accrual, application) or untimely VAT refunds by state tax service authorities;

f9 Other amounts received by a taxpayer from the activity that is not related directly to sales of goods, works, services.

(g) Amounts received by a taxpayer from the budget and off-budget funds for the state regulation of prices for goods, works, services.

(h) Income from sales of goods acquired when performing goods exchange (barter) transactions, which is determined as the difference between the amount of income from sales and the value of goods used to account for them.

#### Article 2024. Amounts Not Included into Gross Income

The following shall be not be included into gross income:

(a) Amounts of excise tax and value added tax received (accrued) by an enterprise as part of the sale price of good, works, services;

(b) Amounts of funds or value of property received by a taxpayer as compensation (refund) for government-enforced alienation of that taxpayer's other property or funds in cases foreseen by the legislation of Ukraine;

(c) Amounts of funds or value of property received by a taxpayer as rewarded by a court of law (arbitration) or as a result of claims' satisfaction in compliance with procedures established by the legislation, in terms of compensation of direct expenses or damage incurred by infringements of that taxpayer's rights and interests protected by the law, provided such expenses and losses were not included to gross expenditures by that taxpayer or were not reimbursed at the expense of insurance reserve;

(d) Amounts of excessive payments of taxes, duties paid to state targeted funds being refunded or to be refunded back to this taxpayer from the budget, if such amounts have not been included in gross expenditures, as well as amounts of tax sanctions, fines that have been refunded to a taxpayer because of their incorrect application (imposition) by the state tax service authorities;

(e) Amounts of funds or value of property received by a taxpayer in the form of direct investment or reinvestment in the corporate rights issued by that taxpayer, including monetary contributions or contributions of property in accordance with contracts on joint operations on Ukraine's territory without registering as a legal entity;

(f) Amounts of revenues received by government executive bodies and local self-administration offices from rendering public services (issuance and granting of permits (licenses), certificates, verification, registration, and other services to be acquired in a compulsive manner under the law), provided said revenues are remitted to relevant budgets;

(g) Revenues of other nonprofit institutions and organizations which comply with the requirements of Article 2058 of this Code;

(h) Amounts of mutual investment of investment funds and investment companies, if none of the founders (participants) and their related parties related owns more than 25% of the authorized fund of these investment funds or investment companies, and if these investment funds and mutual funds of investment companies distribute not less than 90% of the yearly income from investments between the founders (participants) within 30 calendar days from yearly tax return filing.

(i) Amounts of emission income received by taxpayer from placement of securities certifying the corporate rights;

(j) Par value of accounted for but not paid for (unredeemed) securities attesting to loan relationships, as well as of instruments issued by the debtor in favor (in the name) of this taxpayer as a collateral or confirmation of this debtor's liabilities to this taxpayer (k) Income from joint operations on Ukraine's territory without forming legal entities, dividends received by a taxpayer from other taxpayers and taxed in keeping with the procedures established by Articles 2049 and 2050 hereunder;

(l) Funds or property returned to the holder of corporate rights issued by a legal entity after that entity's complete and final liquidation or after the expiry of the joint operations contract, but not in excess of the shares' par value;

(m) Funds or property received as international technical aid from other countries in accordance with international agreements of Ukraine that came into force according to the established procedure;

(n) Funds provided to a taxpayer, to be returned, when implementing certain innovation projects, in keeping with procedures established by the Cabinet of Ministers of Ukraine;

(o) Value of fixed assets received by a taxpayer free of charge with the purpose of their utilization in the following cases:

o1 if such fixed assets have been received in accordance with decisions of central executive authorities;

o2 If specialized operating enterprises receive objects of power and water supply, gas- and heat providing, sewerage system in compliance with decisions of local executive authorities within their authority;

o3 If enterprises of communal property receive public infrastructure objects indicated in Item (k), Clause (1), Article 2032 hereunder, that were included in the balance sheet of other enterprises and maintained at their expense;

o4 Fixed assets received in cases mentioned in this Item (o) are included in the balance sheet at the book value;

o5 Procedures for transferring such fixed assets free of charge shall be established by the Cabinet of Ministers of Ukraine;

o6 When such fixed assets are received by a taxpayer from his affiliates (departments, representative offices);

(p) Amounts of funds or value of property received by a taxpayer in terms of fulfilling buyers' (investors') investment liabilities in concordance with contracts on buying-selling the governmental and municipal part of the property (shares package) in the process of privatization of governmental and municipal enterprises when investments on the irrevocable basis without the right of acquisition of corporate rights on such amount of money are made;

(q) Other income directly defined by regulations of this Code.

## Article 2025. Adjusted Gross Income

(1) Adjusted gross income shall be understood as gross income determined in concordance with Articles 2022 and 2023 leaving out of account incomes stated in Article 2024.

Articles 2026-2028 reserved.

## **Chapter 9. Gross Expenses of Production and Turnover**

### **Article 2029. Gross Expenses of Production and Turnover**

(1) Gross expenses of production and turnover shall be understood as the amount of any expenses incurred by a taxpayer, in monetary form, in tangible or intangible form, as compensation for the value of goods, works, services being purchased, produced, made, rendered by that taxpayer for further use in his/their own business (2) Establishing additional limits as to considering expenditure as a taxpayer's gross expenses, except those mentioned in this Code, is not permitted.

### **Article 2030. Amounts Included in Gross Expenses**

Gross production and turnover expenses shall include:

- (a) Amounts of any expenses paid (accrued) over the reporting period in conjunction with preparation, manufacture, and sales of goods, works, services, job safety, taking into account restrictions set forth in Articles 2031 of this Code;
- (b) The amount of funds or value of property voluntarily remitted (transferred) to the State budget of Ukraine or territorial budgets, as well as to nonprofit organizations in cases stipulated in Article 2058 of this Code, but not in excess of 4% of taxable income of the reporting period determined without deductions of the stated voluntary contributions;
- (c) Amounts of funds transferred by enterprises of all-Ukrainian associations of victims of the Chernobyl disaster to these associations for charity programs, provided there are at least 75% of such victims on the payroll, and provided such amounts do not exceed 10% of their taxable income in the reporting period determined without deductions of the stated voluntary contributions;
- (d) Amounts of funds transferred to insurance reserves in keeping with procedures set forth in Article 2094 of this Code;
- (e) Amounts of taxes, duties and other compulsory payments paid (accrued), established by Articles 1025, 1026 and Chapters 43 and 45 of this Code, except taxes, duties and other compulsory payments stipulated by Items (c), (d) and (e), Clause (1) of Article 2031 of this Code. (f) Amounts of expenses not included in the category of gross production and turnover expenses of previous tax periods due to the loss, elimination or damage of documents established by the tax accounting regulations and attested to by such documents in the current tax period;
- (g) Amounts of expenses not taken into account in previous tax periods due to erroneous accounting and revealed when accruing tax liabilities in the current accounting tax period;
- (h) Amounts of bad debts in a part that has not been referred to gross production and turnover expenses in cases when appropriate measures aimed at collecting such debts proved to be ineffective, as well as overdue debts past the period of limitation. Regulations of this Item shall be applied taking into account regulations stipulated in Article 2094 of this Code;
- (i) Amounts of expenses involved in operations envisaged Chapters 10-12 of this Code;
- (j) Amounts of expenses involved in improving fixed assets in the amount determined by this Code;
- (k) Amounts by which the book value of fixed and intangible assets exceeds their sale price, determined in keeping with procedures set forth in Articles 2076-2081 of this Code; (l) amounts of expenses incurred as payments for purchase of fixed assets on terms of financial lease.

## Article 2031. Amounts Excepted from Gross Production and Turnover Expenses

(1) The following shall not be included to gross expenses of production and turnover:

(a) Expenses on needs that are not associated with conducting business activity, namely:

a1 Organization and holding of receptions, presentations, celebrations, entertainment programs, purchase and allocation of gifts (except charity donations and aid to unprofitable organizations in compliance with Article 2058 of this Code, and expenses involved in advertising in compliance with Item (g), Clause (1) of Article 2032 of this Code). Restrictions set forth in this Sub-Item shall not apply to taxpayers whose principal activities include organization of receptions, presentations, and celebrations as ordered by and at the expense of other persons;

a2 Purchase of lottery tickets and gambling;

a3 Financing individual needs, except payments stipulated by regulations of this Code;

(b) Purchase, construction, reconstruction, modification, repairs, and other improvements of fixed assets, as well as purchase of intangible assets, irredeemable securities, and expenses related to the extraction of mineral wealth subject to depreciation, in compliance with Articles 2076-2082 and Clause (5) of Article 2051 of this Code;

(c) Payment of enterprise profit tax and taxes stipulated by Articles 2050, 2103, 2133 and Chapter 49 of this Code; value added tax included in the cost of goods, works, services being purchased by a taxpayer for production or otherwise, as well as individual income taxes that are paid to budget at the expenses of such income payments according to Section III of this Code.

c1 With regard to payers of enterprise profit tax, where the company is VAT-exempt, gross production and turnover expenses shall include VAT payments made as part of the purchase price when purchasing goods, works, services, the cost of which is referred to gross production and turnover expenses.

c2 In a case if a payer of enterprise profit tax registered as a VAT payer conducts simultaneously operations on sale of goods, works, services which are subject to VAT as well as goods, works, services which are released from taxation or are not subject to this tax, VAT paid as a part of expenditure on purchase of goods, works, services that are related to the category of gross production and turnover expenses, and fixed and intangible assets subject to depreciation is included respectively in gross production and turnover expenses, or book value of appropriate group of fixed assets is increased by the amount that is not included in tax credit of such taxpayer in compliance with Section IV of this Code;

(d) Payment of the value of trading patents accounted when reducing tax obligations of a taxpayer in keeping with procedures set forth in Clause (3), Article 2131 of this Code;

(e) Payment of penalties and/or interest as agreed between the contracting parties or as resolved by relevant government bodies, a court of law or arbitration;

(f) Maintenance of governing bodies of unions of taxpayers, as well as holding companies. Holding companies - legal entities that are owners of other legal entities or control such legal entities as related parties in compliance with Article 1013 of this Code;

(g) Payment of issue income for the benefit of the issuer of corporate rights;

(h) Payment of dividends and royalties that are subject to amortization according to procedure defined by this Code;



(i) Amounts of losses over the norm of natural loss, occurred on taxpayer's fault which is stated according to the legislation of Ukraine, and production expenditures of goods, works, services acknowledged as defective. Regulations on the natural losses of goods are set by the Cabinet of Ministers of Ukraine.

(2) Taxpayer's expenses for fuel and lubricants, technical maintenance, repair, storage in a garage, and parking of passenger cars, as well as expenses on rent of passenger cars shall not be referred to gross production and turnover expenses .

(3) Any expenses not confirmed by relevant accounting records, payment instruments, or other documents that are to be executed and stored under the tax accounting regulations shall not be referred to gross production and turnover expenses .

#### **Article 2032. Peculiarities of Referring Dual Expenses to Gross Production and Turnover Expenses**

(1) The following shall be referred to gross production and turnover expenses :

(a) Taxpayers' expenses on overalls, footwear, and uniforms, as may be required by the personnel in the line of duty, as well as on special foods in keeping with lists and standards adopted by the Cabinet of Ministers of Ukraine;

(b) Other than those subject to depreciation, expenses on research and technological support, inventions, innovation, research and development, manufacture and testing of models and designs being part of the taxpayer's principal activities, also payment of royalties and purchase of intangible assets, except those subject to depreciation, to use them in taxpayer's principal activities.

b1 This item shall be applied to the above-mentioned expenses whether or not they serve to increase the taxpayer's income.

b2 If there are some disagreements between the state tax service authority and a taxpayer regarding connection between expenses on purposes stipulated in Item 'b' of this Article and principal taxpayer's activities, such state tax service authority shall be obliged to address a body authorized by the Cabinet of Ministers of Ukraine to give expert opinion on said issues, which are the ground for the state tax service authority's decision.

b3 Decisions made by the state tax service authorities based on expert findings indicated in Sub-Item 'b2', Item 'b' of this Article may be appealed by taxpayers in keeping with the generally established procedures;

(c) Expenses on literature for information support of taxpayer's business activity, including legislation issues, including literature on legal issues, as well as subscription to specialized periodicals, and expenses on audit conducted in compliance with the legislation of Ukraine;

(d) Taxpayers' expenses on professional training or refresher courses for that taxpayer's employees at Ukraine's educational institutions, except individuals which are related to that taxpayer. Procedures for professional training and refresher courses, as well as the amount of expenditures shall be adopted by the Cabinet of Ministers of Ukraine. Each taxpayer shall be under the obligation to justify expenses with the principal activities in compliance with Items (b), (c) and (d) of this Clause.

(e) Any expenses on warranty repair or service, or replacement of goods sold by a taxpayer, the cost of which is not to be refunded by the buyers and is not in excess of the amount corresponding to the cost of warranty replacement approved or distributed in the advertisement context, technical documentation, agreement or other document as regards taxpayer's obligations concerning service

terms of the taxpayer, and not in excess of 10% of the aggregate cost of goods sold and still under warranty.

e1 In the event of warranty replacement, the taxpayer shall be under the obligation to keep separate books of defective goods returned by buyers, and of buyers to whom warranty replacement or repair (service) were provided, in keeping with procedures established by the central body of the State Tax Service of Ukraine .

e2 Replacements without returning defective goods or without keeping such books shall not warrant raising the seller's gross production and turnover expenses by the cost of such replacements.

e3 Procedures of warranty repair (service) or replacement and lists of goods subject to warranty service shall be adopted by the Cabinet of Ministers of Ukraine in accordance with the laws on protection of consumer rights;

(f) Taxpayer's expenses on resale and advertising of goods, works, services being sold, provided by this taxpayer. Expenses on arrangements for receptions, presentations, celebrations, purchase and allocation of gifts, including dispensation of free specimens of goods or providing free services, doing works for advertising purposes, shall be included into gross production and turnover expenses in the amount that does not exceed 2% of the taxpayer's taxable income over the previous accounting tax quarter;

(g) Any expenses incurred by the taxpayer on maintaining and using environmental protection assets (except expenses subject to amortization or indemnification in compliance with Chapter 13 of this Code) in that taxpayer's possession; expenses on independent storage, recycling, burial [entombment] or in paying other organizations for storage, recycling, burial, and disposal of the taxpayer's production waste, for purification of affluent, and other expenses on preservation of ecological systems being negatively affected by that taxpayer's business activity. In the event of disagreements between a taxpayer and the state tax service authority in conjunction with such environmental measures, the state tax service authorities shall be under an obligation to bring the matter before a body authorized by the Cabinet of Ministers of Ukraine to make expert conclusions on said issues that shall be the ground for the state tax service authority's decision.

(h) Any expenses on insurance against loss of crops, taxpayer's transportation of produce, civil liability involved in the operation of means of transportation as part of the taxpayer's fixed assets, ecological or nuclear damage that the taxpayer may cause to other persons, taxpayer's property, credit and the commercial risks ( except life or health insurance or other risks involved in the activities of individuals employed by the taxpayer and which insurance is not compulsory under the legislation of Ukraine, or any expenses on insurance of exterior physical or legal persons). If the payment of insurance to the taxpayer is stipulated by the terms of insurance, all insured damage shall be referred to that taxpayer's gross production and turnover expenses in the tax period in which this damage was sustained, and the amount of insurance payment shall be included in that taxpayer's gross income in the tax period in which this insurance was received;

(i) Any expenses on buying licenses and other special permits issued by government bodies, allowing certain business activities, including registration fee payable to the government registration authority, namely to self-government authorities and its executive bodies, except expenses on purchasing trading patents in compliance with Chapter 17 of this Code;

(j) Expenses on purchasing licenses and other special permits to draw out fish and sea food and to provide with transportation service out of Ukraine;

(k) Expenses on official business trips of the taxpayer's employees or executives, within the limits of each such individual's actual expenses but not in excess of rates and according to the list established by the Cabinet of Ministers of Ukraine.

k1 Expenses said in Item (k) of this Article may be referred to taxpayer's gross production and turnover expenses only in the presence of documents attesting the cost of such expenses by transport tickets or checks (luggage tickets), hotel/motel bills or receipts from other persons rendering accommodation services, insurance policies, etc.

k2 Alcoholic drinks and cigarettes/tobacco shall not be referred to expenses on food, as well as tips, except when such tips are included in receipt according to laws of the host country, and amounts paid for entertainment.

k3 Expenses not corroborated by documents and made on living and food of an individual (per diem subsistence allowance) during his business trip within the limits set by the Cabinet of Ministers of Ukraine can also be referred to taxpayer's gross expenses in particular cases.

k4 Cabinet of Ministers of Ukraine defines separately limits of per diem subsistence allowance for members of crews of vessels (other transportation means) or the amount that is directed for food of such members of vessels instead of per diem subsistence allowance if such vessels (other transportation means):

Carry out commercial, producing, scientific searching or fishing activity beyond Ukraine's territorial sea (waters) borders;

Perform international trips to carry out navigation activity or passengers or cargo transportation for payment beyond the Ukraine's air or customs borders;

Being used for emergency-rescue and search-rescue works beyond the Ukraine's customs or territorial sea (waters).

k5 The amount of per diem subsistence allowance shall be determined:

When sending employees on business trips within Ukraine and to countries without or with simplified border control procedures, in compliance with entries made by the sending and the receiving side in the warrant for traveling on official business, the form of which shall be adopted by the central state tax service authority;

When sending employees to countries with full-scope border control and customs procedures, in compliance with entries made by border control/customs authorities in the traveler's passport or document in its stead or certificate on crossing the border.

k6 In the absence of entries indicated in Sub-Item (k5), the amount of per diem subsistence allowance shall not be included in the taxpayer's gross expenses .

k7 Any traveling expenses may be referred to the taxpayer's gross expenses when attested to by appropriate documents from which it is evident that such trips were made in line with the taxpayer's principal activities — e.g., invitations from the receiving side, provided its activities are similar to the taxpayer's principal activities; in accordance with contract; other documents establishing or attesting to the intention to establish civil law relationship; documents corroborating the traveler's official status as business negotiator or delegate to a conference or symposium dealing with a subject concurrent with the taxpayer's principal activities.

k8. A translation of sustaining foreign language documents shall be provided at taxpayer's own expense on a request of a representative of the state tax service body.

(l) Gross expenses shall include taxpayer's expenses on the maintenance and operation of social facilities, specifically:

l 6 Premises used by the taxpayer as cafeterias for employees;

l 7 Apartment buildings including hostels, single room flats in the rural areas and objects of housing facilities and public utilities on the balance of legal entities in regard to which the taxpayer has documents attesting to their transfer to be accounted for by local councils (radas).

#### **Article 2033. Peculiarities of Determination of the Structure of Taxpayer's Expenses when Paying Interest on Debt Liabilities**

(1) The category of taxpayers' gross expenses shall include any payments or accrual of interest on debt liabilities, including all types of loans, deposits or payments for property received for use, throughout the reporting period, provided such payments and accrual were warranted by the taxpayer's business.

(2) With regard to taxpayers indicated in sub-item '1' of this Clause, expenses on payment or accrual of interest on debt liabilities to the benefit of the persons defined in the sub-item '1' of this Clause in any reporting period shall be allowed in the amount that does not exceed the amount total of the taxpayer's incomes in the given reporting period, received as interest, increased by a amount equivalent to 50% of taxable income of this period less the amount of interest received.

1. The requirements of this Clause shall apply to taxpayers with 50% or more of the authorized fund being owned or managed (directly or indirectly) by persons that are not residents of Ukraine and by entities exempted from enterprise profit tax in compliance with Article 2058 of this Code.

2. For the purposes of this Clause, taxable income less the interest shall be defined as an adjusted gross income in the given reporting period less the income during the same period received as interest, reduced by the amount of gross expenses of this reporting period attributed to interest payments.

(3) Interest payments meeting the requirements of Clause (1) of this Article but not referred to production (turnover) expenses in compliance with Clause (2) of this Article, in the given reporting period shall be carried forward to the results of subsequent reporting periods, retaining restrictions set forth in Clause (2) of this Article.

#### **Article 2034. Peculiarities of Determination of Expenditure on Payment for Work**

(1) Considering the provisions of Article 2031, the category of taxpayer's gross expenses shall include expenses as wages and salaries paid to individuals being in labour relations with these taxpayers (hereinafter referred to as employees), including basic and additional wages and other types of compensations and payments based on tariff rates in form of premiums, compensations, refund of value of goods, works, services, expenditure on payment of author's rewards according to the terms of labour contract and payments for performing works, rendering services in compliance with civil law contracts.

(2) In addition to payments stipulated by Clause (1) of this Article, taxpayer's gross expenses shall include compulsory contributions actually made, compensation for services rendered to employees in cases provided by law, compulsory payments made by a taxpayer as his employees' health and life insurance premiums in cases provided by the legislation.

#### **Article 2035. Peculiarities of Including Social Payments to Gross Expenses**

(1) Gross production and turnover expenses of a taxpayer shall include compulsory contributions actually made to the government pension fund and other types (including governmental) of the compulsory social insurance of individuals bound by employment contracts with taxpayer, computed on payments defined by Clause (1) of Article 2034 of this Code, at the rates and in keeping with procedures provided by the legislation of Ukraine.

(2) Voluntary payments to employee's pension account opened within pensions plans, shall be carried by the employer taxpayer on account of payments of that employee's incomes and shall not be referred to such employer taxpayer's gross expenses.

#### **Article 2036. Procedures for Carrying Negative Value of Taxation Object Forward to Subsequent Reporting periods**

(1) If a resident taxpayer registers a negative value of the taxation object in compliance with results of accounting (tax) year and taking into account amounts of depreciation charges, the relevant reduction of the taxation object of subsequent accounting (tax) year as well as each of four accounting tax years shall be allowed in the amount of such negative value of taxation object of relevant previous tax years that has not been paid off. If a taxpayer raises too high a negative value that is included in tax object reduction of the subsequent accounting tax year, the taxpayer shall have a responsibility in a form of financial sanctions established by this Code, accrued on the raised amount of the negative value of the taxation object.

(2) In a case when the negative value of taxation object is not being paid by a taxpayer at the expenses of gross income received keeping with procedures defined in Clause (1) of this Article, taxation object of subsequent accounting (tax) years shall not be reduced by the amount of negative value of taxation object that has not been paid off.

Articles 2037-2044 reserved.

### **Chapter 10. Taxation of Special Operations**

#### **Article 2045. Taxation of Commodity Exchange (Barter) Operations**

(1) Profits and losses resulting from commodity exchange (barter) operations shall be determined by taxpayers proceeding from the contractual price of each such operation, but not less than the usual price.

(2) Each taxpayer shall submit on a yearly basis an estimate of financial results [profit or loss] of commodity exchange (barter) operations, along with income tax declaration, to the local tax authority.

#### **Article 2046. Taxation of Insurance Activity**

(1) Resident taxpayers' gross income from insurance policies, except life insurance, shall be taxed at a rate of 3% of such gross income and shall be exempted from taxation at a rate established by Article 2086 hereunder.

(2) For taxation purposes, gross income from insurance activities shall be interpreted as the amount of insurance fees, insurance payments or premiums (hereinafter referred to as the amount of gross fees), except for amounts of gross fees given for reinsurance, accumulated (accrued) by insurers throughout the reporting period in compliance with risk insurance and reinsurance policies on Ukraine's territory and beyond its borders.

(3) Each insurer shall keep separate records of individual life insurance policies.

1. Resident insurers' income in the form of insurance fees, insurance payments or premiums accumulated during the reporting period in compliance with life insurance and reinsurance policies within or outside Ukraine shall not be referred to gross expenses established by Clause (2) of this Article.

2. Insurance reserves (reserve funds) to cover risks (losses) involved in life insurance shall be formed separately from all other insurance reserves (reserve funds) to cover risks (losses) from other types of insurance policies, and shall be used exclusively to cover life insurance risks. Methods of formation of such insurance reserves (reserve funds) shall be established by the Insurance Oversight Committee.

3. Insurers' incomes from life insurance and reinsurance policies shall be exempt from taxation set forth in Clause (2) of this Article and in Article 2086 of this Code, and shall be taxed in compliance with Clause (4) of Article 2103 of this Code, in cases stipulated by this Article.

(4) If an insurer receives incomes from sources other than those indicated in Clauses (2) and (3) of this Article, these incomes shall be taxable on the general terms. If this to be the case, expenses incurred by this insurer when conducting insurance (reinsurance) transactions shall not be referred to gross expenses related to receiving such incomes.

(5) For taxation purposes, individual life insurance operation shall be interpreted as operation stipulating payment at the time of insured accidents, namely:

(a) Death of the insured individual;

(b) Court ruling proclaiming the insured individual dead;

(c) The insured individual's survival of the insurance policy's date of expiry or reaching the age stated in the insurance policy. If this be the case, the term of the insurance policy shall not be less than 120 calendar months, and neither shall it stipulate partial payments before the date of expiry or before the insured accident. For the transition period until the year 2003, the term of insurance policies made with citizens aged over 50 shall not be less than 60 calendar months.

(6) When abrogating a life insurance policy for reasons other than the death of the insured person, the insurer's income shall be taxable in keeping with procedures set forth in Clause (2) of this Article, depending on the results of the reporting period in which this policy was abrogated, at a rate of 6%.

(7) Income from individual insurance policies on different terms shall be taxable in compliance with Clause (2) of this Article.

#### **Article 2047. Taxation of Foreign Exchange Operations**

(1) Income received (accrued) by a taxpayer in terms of foreign currency and resulting from the sale of goods, works, services, during the reporting period shall be translated into the hryvnia at the official exchange rate of the National Bank of Ukraine effective on the date of receipt (accrual) of said income and shall not be recomputed, due to exchange rate fluctuations throughout this reporting period.

(2) Losses sustained (accrued) by a taxpayer in foreign currency terms during the reporting period, as a result of purchase of goods, works, services, the cost of which is referred to gross expenses, shall be expressed in an amount equal to the book value of this amount in foreign currency, as determined in accordance with Clauses (1), (4) and (6) of this Article, and nor shall they be recomputed, due to exchange rate fluctuations throughout this reporting period.

(3) Any liabilities of a taxpayer or toward a taxpayer, with the principal amount (less the interest and commission fees) expressed in a foreign currency, shall be reflected in the debtor's or creditor's tax return by translating the liability's amount into the hryvnia at the NBU official exchange rate effective on the date of execution (hereinafter referred to as the liability book value ), and shall not be recomputed, due to exchange rate fluctuations throughout this reporting period. Should any such liabilities be sold (redeemed) during the reporting period, their value shall be determined by converting the amount into the hryvnia at the National Bank of Ukraine official exchange rate effective on the date of sale (redemption).

(4) When purchasing amounts in foreign currencies in return for the hryvnia, the taxpayer's gross expenses or incomes shall not change. In such cases the amount paid in the hryvnia (less the commission fees or the cost of other services rendered by persons doing the conversion (exchange) on the taxpayer's instructions) shall be considered as the book value of such amount in foreign currency. When purchasing an amount in a foreign currency in return for an amount in another foreign currency, the book value of the amount in a foreign currency thus acquired shall correspond to the book value of the amount in a foreign currency thus sold.

(5) When selling an amount in a foreign currency in return for an amount in the hryvnia, the taxpayer's gross incomes shall increase by the amount in the hryvnia received from the buyer, and his/their gross expenses shall increase by the book value of this amount in a foreign currency.

(6) For taxation purposes, any foreign currency or liability in terms of a foreign currency registered by a taxpayer by the end of the reporting period shall be converted into the hryvnia at the National Bank of Ukraine official exchange rate effective on the last business day of this reporting period .

1. The positive or negative difference between such re-computation and the book cost of this amount in a foreign currency or liability shall be referred to the gross income or gross expenses of indebted taxpayer, or to the gross expenses or gross income of a taxpayer-debtor respectively, depending on the results of the reporting period .

2. For the next tax period the book cost of such amount in a foreign currency or such liability shall be set equal to the cost established at the end of the previous reporting period .

3. The foreign currency received by a taxpayer at the separate bank account as technical aid in compliance with international agreements with other countries, or international financial institutions, or international organizations or financial institutions of foreign countries, that became valid through established by the legislation procedures, is not considers while making conversion into hryvnias for taxation purposes.

(7) Gross expenses of taxpayers operating on the currency market shall include any expenses related to payment for other persons' services on conversion (exchange) operations provided by such persons on these taxpayer's instructions.

(8) Banks shall keep separate records of foreign exchange transactions.

1. Books and records of foreign exchange sale or purchase operations performed on bank clients' instructions and at their expense shall be kept separately from those of such transactions made by such banks at their own discretion and using other own finance sources.

2. In the case of foreign exchange sale or purchase transactions on bank clients behalf and at their expense, the bank's gross income shall include commission (brokerage) and other fees paid (accrued) by this bank in conjunction with such transactions during the reporting period .

3. In the case of foreign exchange sale or purchase transactions made at the bank's decision, its gross income or expenses shall include the net financial result [gain or loss] of conversion

operations during the reporting period . The procedure of determining financial result is established by the National Bank of Ukraine upon coordination with the Cabinet of Ministers of Ukraine.

4. The net financial result [gain or loss] of such conversion operations in compliance with results of the reporting period shall be computed as an amount of financial result [gain or loss] of conversion operations in compliance with results per business day. The financial result [gain or loss] of conversion transactions per business day shall be the difference between gross income received (accrued) by the bank from foreign exchange sales during this business day and gross expenses resulting from foreign exchange purchases during the same day.

5. The financial result [gain or loss] of conversion operations shall not include commission (brokerage) or other fees paid or received (accrued) by the bank in conjunction with such conversion transactions as they are to be referred to gross income or expenses of the bank on the general terms.

6. Procedures set forth in Clause (6) of this Article shall apply to any such foreign currencies as may be part of the bank's assets on the last day of the reporting period .

#### Article 2048. Taxation of operations with affiliated persons

(1) For taxation purposes:

(a) Taxpayer's income from goods, works, services sold to affiliated persons shall be determined proceeding from contractual prices, but not less than their usual prices effective on the date of sale;

a1. Income received by the taxpayer from deposit of funds to the related parties shall be determined based on the agreed deposit interest rate, but not lower than the usual deposit interest rate in effect at the day when the deposit was made; income received from providing a loan to the related party shall be determined based on the agreed loan interest rate, but not higher than the usual loan interest rate in effect at the day when interest was paid for loan;

(b) Expenses incurred by a taxpayer when purchasing goods, works, services from affiliated persons shall be determined proceeding from contractual prices, provided they do not exceed their usual prices effective on the date of purchase;

(c) The requirements of Items (a), (b) of this Clause shall also apply to operations with legal entities that are exempted from tax payments set forth by Article 2086 of this Code, or that they pay income tax at rates other than the taxpayer does.

(d) Expenses incurred by a taxpayer when paying interest on deposits, rental charges, and civil law contracts with affiliated persons shall be determined proceeding from contractual prices (deposit interest rate), provided they are not in excess of the usual prices (usual deposit interest rates).

(e) Payments of rewards and other types of compensations to persons or legal entities affiliated to such taxpayer shall not be referred to gross expenses if there is no documentary evidence that such payments or compensations were made as a compensation for actually rendered service (work time).

e1. If there is said documentary evidence actual amounts of payments (compensations) can be referred to gross production and turnover expenses, in keeping with the procedures and amounts established by the Cabinet of Ministers of Ukraine.

e2. If payments of rewards or other types of compensations are paid in natural form (for example, in a form of goods) actual amounts of payments and compensations can be referred to gross production and turnover expenses, provided are not in excess of such payments cost calculated using usual prices.



e3. If the amount of payments or compensations to affiliated persons or its part is not considered as gross expenses, such amount or its part shall be the basis for accrual of payments for social purposes stipulated in Article 2035 of this Code.

(f) Amounts of taxpayer's losses incurred due to sale of goods, works, services to affiliated persons or their exchange at the prices lower than usual ones shall not be included to gross production and turnover expenses.

(g) Taxpayer's gross income shall include proceeds from sales (swap, other types of alienation) of fixed or non-material assets subject to amortization in compliance with Articles 2077-2081 of this Code.

#### **Article 2049. Taxation of Joint Operations on Ukraine's Territory without Forming Legal Entities**

(1) Joint operations without forming legal entities shall be carried out in accordance with joint operations contracts stipulating joining the funds and/or conglomeration of property of the parties to reach a common business target.

(2) A taxpayer and other persons authorized under such contracts shall keep record of such joint operations separately from the financial results [profit or loss] of such taxpayer.

(3) Payments of parts of income received by participants in joint operations shall be set equal to payments of dividends in compliance with Clauses (2), (6), (7) of Article 2050 of this Code.

(4) When income from joint operations are not allocated during an reporting period for taxation purposes, they shall be considered allocated among the participants in compliance with joint operations contract by the end of this reporting period and shall be taxable in compliance with Clause (3) of this Article.

(5) For taxation purposes, business relationships among the participants in joint operations shall be set equal to such relationship as may be stipulated by separate civil law contracts.

(6) Procedures of tax accounting and reports on joint operations shall be adopted by the central state tax service authority of Ukraine.

#### **Article 2050. Taxation of Dividends**

1. (1) When resolving to pay dividends, the issuer of corporate rights on which these dividends were accrued shall make these payments to the holder of these corporate rights (except for non-residents) in proportion to that holder's interest in the authorized fund of the issuer's enterprise, regardless of whether this enterprise showed any profit during the reporting period provided the issuer has other finance sources allowing the payment of such dividends. Dividends payment shall be exclusively made in pecuniary form except cases stipulated in Clause (5) of this Article. Payment of dividends to non-residents is carried out proportionally to his/her share in the authorized capital, from the profit remaining in issuer's disposal after taxation.
2. Payment (transfer) of dividends for the share of state corporate rights shall be performed according to the procedure determined by the Cabinet of Ministers.
3. In case the net profit received by business as a result of economic activities in the previous reporting (tax) year is not distributed within the current reporting (tax) year, than for tax purposes it shall be considered completely distributed between the shareholders (owners) of the business, and shall be taxed according to part (2) of this Article;

(2) A taxpayer issuing dividends to his/their shareholders (owners), except for non-residents, as well as the share of state corporate rights, shall accrue and withhold the dividend tax at 15% of the accrued dividends, at expense of these payments, regardless of whether the issuer pays income tax. The said tax payments shall be remitted to the budget before or simultaneously with the payment of dividends.

1. The payment document submitted by this taxpayer to the servicing bank shall reflect the amount of dividends payable and of dividend tax payments withheld. The bank shall have no right to accept a payment document that does not meet the above requirements.

2. When paying dividends to non-residents, taxation is carried out at 15% rate from the assessed payment amount at expense of such payments, if nothing else is stipulated by the valid international agreements provisions. The tax payment is made before or simultaneously with the moment of paying dividends but not later than tax payment made in accordance with results of the reporting period when assessment of such dividends was carried out.

(3) The dividend tax stipulated by Clause (2) of this Article shall not apply to dividends on shares that belong to the government in stock companies established during the process of privatization and incorporation of enterprises of the government's ownership.

(4) Taxpayers receiving dividends levied in compliance with Clause (2) of this Article or paid out in the form of securities in compliance with Clause -(4) of this Article shall not include them to their gross income.

(5) If, following complete liquidation of an enterprise, a taxpayer holding corporate rights issued by this enterprise receives funds or property, the cost of which exceeds the book cost of these corporate rights, the excess amount shall be referred to that person's gross income.

#### Article 2051. Taxation of Operations with Debt Claims and Liabilities

(1) Considering the peculiarities established by this Code, funds or property acquired by a taxpayer as described below shall not be referred to gross income and shall be tax-exempt:

(a) Loans received by a taxpayer from other creditors and principal amounts loaned by a taxpayer to other persons and redeemed by them;

(b) -Funds or property received by a taxpayer in trust or funds received as a deposit, including by means of issuing securities, certificates of deposit or investment certificates, or to other terminable or trust accounts, including issuance of securities, notes, or investment certificates, as well as returning funds or property from trust to the taxpayer, and returning of the principal of a deposit, including by means of paying off (repurchasing) the certificates of savings (deposit certificates), or from other terminable or trust accounts opened by other persons for the benefit of such a taxpayer, including by means of paying off the securities, notes, or investment certificates;

(c) Property acquired by a taxpayer under contracts of lease, concession, commission, consignment, trusteeship, safekeeping, and pursuant to other civil law agreements that do not stipulate transfer of ownership of such property.

(2) Considering the peculiarities established by this Code, funds or property acquired by a taxpayer as described below shall not be referred to gross expenses :

(a) Principals of loans as well as of the funds borrowed for fee, returned by a taxpayer, without taking into account interests to other creditors and loans and funds lent for fee to other borrowers;

(b) Funds or property returned by the taxpayer from trust, principal of deposit returned, including those attracted through issuance of certificates of deposit (certificates of savings), or funds from other term or trust accounts, including through paying off (repurchasing) the securities, notes, or investment certificates, as well as placement of funds or property by the taxpayer to trust or depositing of funds, including through purchase of certificates of savings (certificates of deposit), or to other term or trust accounts opened for the benefit of such a taxpayer, including those through purchase of securities, notes, or investment certificates.

b1. Principal shall be understood as the amount of loan or deposit (insurance or trust account) without interest, fixed payments, premiums, or winnings;

(c) Property provided by a taxpayer under contracts of lease, concession, commission, consignment, trusteeship, safekeeping or other civil law agreements that do not stipulate transfer of such ownership to a third party.

(3) As for interest securities issued by a taxpayer, the interest amount shall be referred to gross expenses of this taxpayer during the reporting period in which such payment took place.

(4) As for discount securities issued by a taxpayer, the balance expenses from their placement shall be referred to gross expenses of this taxpayer during the reporting period in which their retirement (repurchase) took place in the amount calculated on the basis of interest rate that does not exceed the discount rate of NBU more than by three percentage points.

(5) Taxpayer performing trust transactions with funds or property of the truster shall include into its gross income the final financial result [profit or loss] of such trust transaction determined according to the results of the tax period, during which repayment of part of income to the truster takes place, which was actually received by the trustee from transactions on placement of funds or property of the truster, and is equal to compensation for performing such trust transactions, which is withheld for the benefit of the trustee at the expense of payment of such income.

(6) Taxation of operations with irredeemable securities shall be carried out following the procedures prescribed for the taxation of dividends.

1. This Clause shall not apply to securities attesting to corporate rights.

2. Expenses incurred by a taxpayer when purchasing irredeemable securities shall not be referred to gross production and turnover expenses and shall be subject to amortization as intangible assets, in accordance with Articles 2076-2081 of this Code.

(7) When alienating property left as a collateral of the full amount of liability, the pledger's and pledgee's gross production and turnover expenses and gross income shall be determined as follows:

(a) For the pledger, alienation of the object of pledge shall be equal to selling this object during the reporting period in which this alienation took place, with the principal of loan and accrued interest still to be returned to the creditor (guarantor) being equal to the selling price of the pledged property;

(b) If under the contract or law the object of pledge is assigned to the pledgee on account of the debt, such assignment shall be equal to the purchase of the object of pledge by the pledgee in the reporting period in which this assignment took place, with the principal of loan and accrued interest still to be returned to the creditor (guarantor) being equal to the buying price of the pledged property;

(c) If the creditor subsequently sells the object of pledge to other persons, that creditor's income or losses shall be recognized on the general terms;

(d) If under the contract or law the object of pledge is to be sold at an auction (public tenders) to cover the debt, the pledgee's gross income and expenses shall be determined in compliance with Clause (3) of Article 2098 of this Code and in accordance with the effective legislation.

(8) Procedures of issuance and redemption of pledged debt liabilities shall be established by the Ukrainian legislation.

#### **Article 2052. Taxation of Income Resulting from Execution of Long-term Contractual Obligations**

(1) A taxpayer may choose special procedures of taxation of the financial result [profit or loss] of long-term contracts.

(2) In case the taxpayer shifts to the procedure of taxation of the results of activities performed on the long-term agreement (contract), the taxpayer shall be obliged to submit the income tax return to the authorities of state tax service quarterly within the terms established by item 1 of Article 2134 of this Code. -Income and expenses incurred by the contractor on the long term agreement (contract) during the reporting period shall be included into gross expenses or gross income of such contractor according to the results of the period in the amounts determined based on the stage of completion.

Articles 2053-2057 reserved.

### **Chapter 11. Peculiarities of Taxation of Specific Taxpayers**

#### **Article 2058. Taxation of Nonprofit Institutions and Organizations**

(1) This Article shall apply to nonprofit institutions and organizations having the status of:

a) Government authorities of Ukraine, bodies of local self-administration, as well as institutions or organizations established by them at the expense of relevant budgets;

b) Charity funds and organizations set up in keeping with procedures determined by the law on charity, including non-government organizations formed for the purpose of ecology, health-building, amateur sports, culture, education, and sciences, as well as various creative unions and political parties, scientific and research institutions and higher educational institutions of the III-IV levels of accreditation included into the State register of scientific institutions supported by the government;

c) Pensions funds and credit unions set up in keeping with legally set procedures;

d) Legal entities other than those indicated in Item (b) of this Article, whose activities are not aimed at receiving profits, set up in accordance with relevant legislation;

e) Unions, associations and other alliances of legal entities, housing construction societies (youth residential complexes, unions (associations) of joint owners of a block of flats) set up to represent their founders' interests, sustained exclusively by their founders' membership dues and conducting no profit-making business except when receiving passive incomes, except for management bodies of the legal persons carrying out business activities;

f) Religious organizations registered in keeping with legally set procedures;

g) Trade unions sustained by membership dues and conducting no business activity except when receiving passive incomes.

(2) The following income of nonprofit organizations indicated in Item 'a', Clause (1) of this Article shall be tax-exempt:

- a) Funds or property received free of charge or as grants or voluntary donations;
  - b) Passive incomes;
  - c) Funds or property received by such nonprofit organizations as compensation for government services rendered.
- (3) The following income of nonprofit organizations indicated in Item 'b', Clause (1) of this Article shall be tax-exempt:
- a) Funds or property received free of charge or as grants or voluntary donations;
  - b) Passive incomes;
  - c) Funds or property received by such nonprofit organizations as a result of their principal activities, taking into account the provisions of Clause (14) of this Article.
- (4) The following income of nonprofit organizations indicated in Item 'c', Clause (1) of this Article shall be tax-exempt:
- a) Assets received by credit unions and pension funds in the form of contributions for additional pensions or for other purposes provided by law;
  - b) Passive incomes from sources determined by the laws on credit unions and pensions funds.
- (5) Income of nonprofit organizations indicated in Item 'd', Clause (1) of this Article received as funds or property resulting from their principal activities and as passive incomes shall be tax-exempt.
- (6) The following income of nonprofit organizations indicated in Item 'e', Clause (1) of this Article shall be tax-exempt:
- a) Single or regular contributions of their founders;
  - b) Passive incomes.
- (7) The following income of nonprofit organizations indicated in Item 'f', Clause (1) of this Article shall be tax-exempt:
- a) Funds or property received free of charge or as grants or voluntary donations;
  - b) Any other income from religious services rendered and passive incomes.
- (8) The following income of nonprofit organizations indicated in Item 'g', Clause (1) of this Article shall be tax-exempt:
- a) Membership dues;
  - b) Passive incomes.
- (9) Income or property of nonprofit organizations, except for nonprofit organizations indicated in Items 'a' and 'c', Clause (1) of this Article, shall not be allocated among their founders or participants, and nor shall these income or property be used for the benefit of any separate founder or participant thereof, including executives (except in the form of wages and deductions for social facilities).
- (10) Income of budget-sustained nonprofit organizations indicated in Item 'a', Clause (1) of this Article including income of educational, scientific and cultural institutions, health care institutions and archives, received from rendering the paid services determined by the legislation of Ukraine, shall be remitted to the special account according to the procedure determined by the Cabinet of Ministers.

1. If the results of the accounting (tax) year shows that the income of such budget on sustaining said organizations exceeds the amount of budget expenditure determined, then the amount of excess shall be accounted in such budget next year.

2. In this case income tax indicated in Clause (1) of Article 2086 of this Code shall not be paid from the amount of excess of revenue over expenditure of said nonprofit organizations.

3. Lists of services to be rendered by the above-mentioned organizations and institutions shall be approved by the Cabinet of Ministers of Ukraine.

(11) Income of nonprofit organizations indicated in Item 'c', Clause (1) of this Article shall be allocated only among their founders (participants) in keeping with legally set procedures.

(12) If income received by nonprofit organizations (except for those mentioned in the sub-item 'a', part 4 of this Article) during accounting (tax) year from sources other than those specified in Clauses (3) – (8) of this Article exceeds 25% of gross income, such nonprofit organization shall be under an obligation to pay the tax on the excessive amount according to the established procedure.

2. if the nonprofit organization receives income from the sources other than those specified in Clauses (2)-(8) of this Article, such nonprofit organization shall be under an obligation to pay a tax on income defined as a sum of incomes received from such sources less a sum of expenditure related to receiving such incomes, not taking into account depreciation charges.

3. When calculating an amount of the excess of income over expenditure according to Clause (12) of this Article the amount of amortization payments shall not be included.

(13) For taxation purposes, the central tax administration authority of Ukraine shall keep records of all nonprofit organizations exempted in accordance with provisions of this Article. State registration of nonprofit organizations shall be carried out in keeping with legally set procedures.

(14) In the event of liquidation, a nonprofit organization's assets shall be transferred to another relevant nonprofit organization or remitted to the budget.

(15) The central tax administration authority of the state tax service of Ukraine shall establish procedures of accounting and presentation of expenditure and income reports, and shall resolve to eliminate an organization guilty of abusing this Law or other legislative acts on nonprofit organizations from the lists of nonprofit organizations. Decisions of the central tax administration authority of the state tax service of Ukraine may be contested in due course of law.

(16) Government services shall be understood as any paid services that must be acquired under the law and which are rendered to individuals and entities by executive authority bodies, local self-administration, and institutions and organizations formed by them and sustained by relevant budgets. The category of government services shall not include taxes determined by the Section I of this Code.

(17) Passive incomes shall be understood as income received as interest (except payments for using property), dividends, insurance payments and refunds, as well as royalties.

(18) For the purposes of this article, principal activities of nonprofit organizations shall be understood as activities in terms of charity, education, culture, sciences, and other services in the public domain, also in setting up a system of citizens' self-sufficiency and such other goals as may be specified in their documents of association drawn up pursuant to the laws on nonprofit organizations. The statutory documents of nonprofit organizations shall contain detailed lists of their principal activities. Category of principal activities shall not include the sale of goods, works, services by nonprofit organizations defined in Items 'c' and 'd' of Clause (1) of this Article to

persons who are not founders, participants or members (their authorized persons) of such nonprofit organizations.

#### **Article 2059. Peculiarities of Taxation of Enterprises Belonging to Public Organizations of the Disabled**

(1) Income entirely belonging to enterprises founded by all-Ukrainian public organizations of the disabled which own their property, received from sales of their products, works, services (except for incomes from gambling business, commission, agency commission, or compensation for trust services) shall be tax-exempt. Said privilege shall extend only to enterprises with at least 50% of invalids of the work force on payroll within preceding accounting (tax) period, and where during the same period the invalids' wage packet during the same period is at least 25% of the general payroll expenses included in gross production and turnover expenses .

(2) The lists of all-Ukrainian public invalids' organizations having that privilege at their enterprises shall be approved by the Cabinet of Ministers of Ukraine.

#### **Article 2060. Taxation of Agricultural Manufacturers**

(1) Enterprises specializing in agricultural output shall pay income tax in amounts and in keeping with procedures determined by this Code, in compliance with results of the tax year, without installment payments.

1. For the purposes of taxation, the category of enterprises specializing in agricultural output will include enterprises with gross income from selling self-produced agricultural products for the preceding accounting (tax) period (for the newly created businesses it can be less than 12 months, but not more than 15 months) in excess of 50% of total amount of gross profit.

2. If for the preceding accounting (tax) period gross profit of such enterprises from selling self-produced agricultural products does not exceed 50% of total amount of gross income, income of such enterprises from selling goods, works, services that are not included in the category of self-produced agricultural output shall be taxed on general terms. Gross expenses and expenditures of said enterprises related to sales of self-produced agricultural output shall be accounted during the taxation based on results of the accounting year.

3. Enterprises specializing in the output and/or sales of products of ornamental gardening, wild plants, wild animals and birds, fish, except for fish caught in rivers and isolated reservoirs, furs and fur garments, wines and spirits, beer, wine and material for wine production, except when such material is sold for further treatment, shall be taxed on the general terms.

(2) The amount of assessed tax shall be reduced by the amount of property tax in the part concerning land taxation in compliance with Chapter -48 of this Code, used in agricultural production turnover.

(3) If by the results of the accounting tax year such enterprises show balance sheet losses, the latter shall be carried forward to reduced gross income of subsequent tax years, in keeping with procedures set forth in Article 2036 of this Code.

#### **Article 2061. Peculiarities of Taxation of Particular Taxpayers**

(1) Tax reporting of enterprises stipulated by Articles 2059, 2061 of this Code shall be carried out in keeping with the procedures established by the central tax authority of Ukraine.

(2) Amount of income tax of branches (affiliates) for the reporting (tax) period is calculated from the total tax amount added by a payer of consolidated tax, divided proportionally to the rate of branches' gross expenditures and amortization deductions added on such taxpayer's capital assets

that are placed at a branches (affiliates) location, in the total amount of gross expenditure and amortization deductions of this taxpayer.

1. When a consolidated tax is to be paid, branches (affiliates) losses for the previous tax periods are not counted.

2. A payer of consolidated tax and his branches (affiliates) shall provide a tax authority at their location with calculation of tax liabilities as to paying consolidated tax in keeping with the form and procedures established by the central tax authority of the state tax service.

3. Responsibility for the timely and full payment of the tax amounts in the territorial community budget at the branches (affiliates) location is carried out by a payer of consolidated tax who has such branches.

(3) Institutions of penitentiary system and their enterprises that use the work of special contingents (inmates) shall direct income received from activity defined by the corresponding central executive power body on financing the business activity of such institutions and enterprises including amounts of such income to relevant budgets that finance them approved by the corresponding central executive power body.

(4) The National Bank of Ukraine and its institutions, except for self-financing ones subject to taxation on general terms, shall pay to the State Budget of Ukraine the amount of excess of gross income of consolidated balance over gross expenditure and a part of gross expenses during years preceding the accounting one (if they have not been covered by gross income of such years) after the end of the finance year. If the results of the year show that the expenditure established by the National Bank of Ukraine exceed income received, the deficit shall be covered at the expense of the State budget of Ukraine.

Articles 2062 -2064 reserved.

## **Chapter 12. Taxation of Profit or Loss from Placement of Certain Types of Assets**

### **Article 2065. Taxation of Operations Related to Trade with Securities and Derivatives**

(1) For taxation purposes, taxpayers shall keep separate records of the financial results [profit or loss] of securities and derivative trading operations. Trading with securities and derivatives is recognized as any transactions on:

a) purchasing securities or stock derivatives from or selling them to traders in securities whose status is defined by relative legislation on securities and stock market;

b) purchasing commodity derivatives from or selling them to members of commodity exchanges whose status is defined by relative legislation on commodity exchanges;

c) purchasing securities from and selling them to business activity operators with no status on traders with securities.

(2) If, at any time during an reporting period, expenses incurred (accrued) by a taxpayer when purchasing securities and derivatives exceed the proceeds from sales (alienation) of securities and derivatives during the same reporting period, such book losses shall be carried over to be used for reducing income of subsequent [accounting] periods from such operations, within time-limits determined by Article 2036 of this Code.

(3) If, at any time during an reporting period, a taxpayer's proceeds received (accrued) from sales (alienation) of securities and derivatives exceed that taxpayer's expenses incurred (accrued) when purchasing securities and derivatives within this reporting period, increased by the amount of book



losses sustained in the course of such operations in previous reporting periods, such income shall be included to gross income as per results of this reporting period .

(4) Expenses shall include an amount or cost of property actually paid by a taxpayer to the seller of securities and derivatives as compensation for their cost, as well as include any amounts of such buyer's liabilities as may arise from such purchase.

(5) Income shall include an amount or value of property received by a taxpayer as a result of sale, barter or other types of alienation of securities and derivatives, increased by the value of any tangible or intangible assets being transferred to this taxpayer in conjunction with such purchase, swap or alienation, as well as include any amounts of this taxpayer's liabilities as may be redeemed as a result of such purchase, barter or alienation.

(6) The norms of this Article shall also be applied when defining book losses or profits of taxpayers resulting from operations with corporate rights in terms other than securities.

(7) The norms of this Article shall not be applied to operations involving term purchase of tangible assets.

(8) Operations on conversion of securities carried out by the Cabinet of Ministers of Ukraine decision are tax-exempt.

Articles 2066-2075 - Reserved

### **Chapter 13. Procedure on Determining Depreciation Allocation.**

#### **Article 2076. Depreciation**

(1) Depreciation, with regard to fixed and intangible assets, shall be interpreted as a gradual referral of actual expenses on their acquisition, manufacture or modification to a reduced and adjusted gross incomes within the limits of allocation for depreciation as determined by this Article.

(2) The following actual expenses shall be subject to depreciation:

a) Acquisition of fixed and intangible assets for own production needs, including expenses on purchasing pedigree livestock, on purchasing, sowing, and growing of perennial plantations prior to their fruit-bearing period;

b) Independent creation of fixed assets for own production needs, including expenses on paying wages to manpower employed in the production of these assets;

c) Conducting of all types of repair, renovation, modernization or other improvements of fixed assets;

d) Land improvements other than construction and housing land plots.

(3) The following expenses of taxpayers shall not be subject to depreciation and shall in their entirety be referred to such taxpayers' gross operating expenditures and turnover in the given reporting period :

a) Purchase and fattening of commercial livestock;

b) Growing perennial fruit-bearing plantations;

c) Acquisition of fixed or intangible assets for subsequent sale to other taxpayers or their use as component (constituent) parts in the production (construction) of other fixed assets to be subsequently sold to other taxpayers;

d) Maintaining of fixed assets under conservation.

(4) The following shall not be subject to depreciation and shall be carried out from appropriate financial sources:

a) Budgets expenditures on purchase of equipment, other material values, construction and maintenance of housing improvements and dwelling buildings, purchase and maintenance of library stocks and archives;

b) Budgets expenditures on construction and maintenance of highways;

c) Expenses on purchase and maintenance of the National Archives Fund of Ukraine, as well as library stocks formed and preserved at the expenses of budgets, library and archival funds;

d) Expenses on the acquisition, repair, modernization, or other improvements of non-productive assets.

d1. Procedure on referring part of fixed assets to non-productive category shall be established by the Cabinet of Ministers of Ukraine;

d2. Procedure on book-keeping of non-productive assets' value shall be established by the Ministry of Finance of Ukraine. Such accounting shall be kept separately from tax accounting and shall not effect taxpayer's tax liabilities;

d3. Tax accounting of fixed assets for non-productive use is conducted in the form of objective statement for all groups;

d4. Transactions on sale of non-productive assets shall be treated equally to the transactions on sales of property.

e) Value of land plots owned or leased by the taxpayer or at his disposition.

#### **Article 2077. Definition of Fixed Assets and Their Groups**

(1) This Article shall not govern the procedures on referral to a taxpayer's production (turnover) expenses involved in the acquisition of tangible assets referred to the category of low value and perishable articles as determined by the Cabinet of Ministers of Ukraine, that should be referred to gross expenses according to the general procedure.

(2) Fixed assets shall be subdivided into the following groups:

a) Group 1, including buildings and premises, their components and transmitting devices, as well as dwelling buildings and their components (flats and sanitary facilities);

b) Group 2, including motor transport and its components (spare parts); furniture; household electronic, optical and engineering appliances and tools, including working stations, other devices for automatic data processing, information systems, telephones, microphones and radios, other office equipment and engineering appliances;

c) Group 3, including any other fixed assets not included in Groups 1 and 2.

#### **Article 2078. Determination of Book Value of Fixed Assets' Groups and Accrual of Depreciation Deductions**

(1) Procedures on determination and accrual of depreciation deductions' sums.

1. Amounts of allocations for depreciation in the given reporting period shall be determined by using depreciation norms specified in Article 2080 of this Code, with regard to the book value of the fixed assets' groups at the beginning of the reporting period .

2. Amounts of depreciation shall not be withdrawn to the budget, and shall not be the basis for any taxes, fees, obligatory payments.
3. The book value of [each] group of fixed assets at the beginning of an reporting period shall be determined by using this formula:

$$B(a) = B(a-1) + P(a-1) - C(a-1) - A(a-1)$$

where:

- B(a) indicates the book value of the given group at the beginning of the reporting period ;
- B(a-1) indicates the book value of this group at the beginning of the period preceding the given reporting period ;
- P(a-1) indicates the amount of expenses involved in the acquisition of fixed assets, carrying out of major repairs, renovation, modernization, and other improvements of fixed assets in the period preceding the given reporting period ;
- C(a-1) indicates the amount of fixed assets withdrawn from use in the period preceding the given reporting period ;
- A(a-1) indicates the amount of allocations for depreciation accrued according to the norms of this code in the period preceding the given reporting period .

4. Taxpayers under all forms of ownership shall have the right to adjust on the annual basis the book value of the [above] groups of fixed and intangible assets to conform it with the indexation coefficient obtained using this formula:

$$K_i = [I(a-1) - 110] : 100$$

where:

K<sub>i</sub> is indexation factor;

I(a-1) indicates the year's inflation index, by the results of which this indexation is carried out.

- a) No indexation shall be performed if the K<sub>i</sub> value is not exceeding 1;
- b) Taxpayers having used the indexation coefficient shall be under the obligation to declare capital income in amounts which equal the difference between the book value of the given group of fixed (intangible) assets, determined at the beginning of the given reporting period using the indexation coefficient, and the book value of this group of assets prior to this indexation;
- c) Said capital income shall be referred to gross income of the taxpayer in each accounting year
- d) When using the accelerated depreciation method, as defined in Part (2) of Article 2080 of this Code, no indexation coefficient shall be applied;

5. The book value of fixed assets referred to as Group 1 shall be accounted for each building, structure or their structural component, and for Group 1 in general as the amount total of book values of separate items of this group.

6. The book value of fixed assets referred to as Groups 2 and 3 shall be accounted for aggregate book value of the given group of fixed assets. Taxpayer shall have the right to determine at his own discretion the date when fixed assets purchased or produced are included into the value of the respective group of fixed assets. No separated accounting shall be conducted with regard to any items of individual assets included in Group 2 or 3 of the fixed assets for the taxation purposes (except for the fixed assets for which the accelerated depreciation method is applied).

7. Book value accounting procedures with regard to the above mentioned groups and items of fixed assets shall be adopted by the Ministry of Finance of Ukraine.

8. Groups 1, 2, and 3 fixed assets shall be subject to depreciation procedures before book value of the groups reaches zero value.

9. Linear depreciation method shall be applied to intangible assets, whereby each type of intangible assets is amortized by equal portions proceeding from its primary value, taking into account indexation as defined in part (1) of this Article, within a time-limit determined by the taxpayer at his/their own discretion, proceeding from the term of beneficial use of these intangible assets or the taxpayer's business activity term, but not in excess of 10 years of continuous operations. Depreciation shall be applied to intangible assets which are purchased through one-time complete payment of royalty to the seller of an intangible asset, without further regular payments of royalty for the right to use an intangible asset.

a) Allocations for depreciation shall be carried out before the intangible assets' residual value reaches zero value;

b) Value of goodwill is not subject to depreciation and shall not be used while calculating the amount of taxpayer's gross expenses .

(2) Procedures on increasing and decreasing the book value of all mentioned fixed assets' groups are as follows.

1. When making expenditures for purchasing fixed assets, the book value of the corresponding group shall be increased by the amount spent for their acquisition, taking into account transportation and insurance charges, as well as other expenses involved in this acquisition, less VAT paid provided the enterprise profits tax payer is also registered as a VAT payer. If fixed assets are obtained free of charge, including equity contributions to legal entity's statutory fund, or same contributions under provisions of contracts on conducting joint business activities without establishing a legal entity, the book value of the respective fixed assets' group shall be increased by the amount of the received fixed assets value.

2. In case if taxpayers are producing fixed assets for their own production needs, the book value of the given group of fixed assets shall be increased by the amount of all production costs involved in the creation of these fixed assets and launching them into operation, as well as expenses sustained when making such fixed assets using other finance sources, less VAT paid provided the enterprise profits tax payer is also registered as a VAT payer. Value of the fixed assets produced shall be included to value of the group after all the production expenses incurred on their production are determined.

3. In case certain items of Group 1 fixed assets are withdrawn from use through sales, Group 1 book value shall be decreased by the amount of book value of these items determined for taxation purposes. The excess amount of proceeds from the sale of certain items of Group 1 fixed assets over the book value of these tangible and intangible assets shall be referred to that taxpayer's gross income, and the excess amount of book value over such proceeds shall be referred to that taxpayer's gross expenditures.

4. In case certain items of Group 2 and 3 fixed assets are withdrawn from use through sales, their book values shall be decreased by the acquisition cost of these assets (e.g., costs of goods, works, and services received by a taxpayer under barter (commodity swap) deals). If the total amount of fixed assets equals or surpasses the book value of the corresponding group, -book value of the group shall be considered to have zero value, with the excess amount referred to that taxpayer's gross income for the given reporting period .

5. In case of withholding from use a separate item of Group 1 fixed assets due to its disposal, major repair, renovation, and conservation, as resolved by the taxpayer or the Cabinet of Ministers of Ukraine, such item's book value shall have zero value for depreciation purposes, and no allocations for depreciation shall be accrued. Reactivation of fixed assets after conducting a major repair, renovation or modernization shall be carried out in compliance with procedures set forth in paragraph 2 of part (2) of this Article.

6. In case assets Group 2 and 3 are withheld from use due to their disposal, major repair, renovation, modernization and conservation, as resolved by the taxpayer or the Cabinet of Ministers of Ukraine, the groups' book value shall not be decreased.

a) When these fixed assets are introduced into operation again after conducting major repairs, renovation and modernization, the group's book value shall be increased by the amount of costs related to these works.

7. If at the beginning of the accounting year Group 2 and 3 fixed assets turn out to have no material value, their book value shall be referred to that taxpayer's gross expenditures in this reporting period. The norms of this paragraph are not applied while defining taxpayer's allocations for depreciation for the amount of costs incurred for improving fixed assets received for operational lease.

8. When forced to replace fixed assets, when for reasons beyond that taxpayer's control these assets (or their part or component) turn out to be destroyed, stolen or damaged beyond repair, or when the taxpayer is forced to abandon use of these fixed assets, due to a threat of or pending their replacement, destruction or tearing down (provided the existence of such threat or inevitability is confirmed to be in accordance with item 5, Clause(3), Article 2094 of this Code), this taxpayer, within the reporting period when all this occurs, shall:

a) increase gross expenditures by the book value of every separate item of fixed assets' Groups 1, 2, or 3 subject to such forced replacement, with this item's value being equaled to a zero value;

b) leave book value of Groups 1, 2, or 3 unchanged under such circumstances in respect of fixed assets of these Groups.

9. If an insurance company or other legal entities or individual taxpayers guilty of such damage are covering the taxpayer's losses incurred by the replacement of such fixed assets, this taxpayer, within this reporting period when such refund is made, shall:

a) increase gross income by the amount of such refund for the fixed assets of Group 1;

b) reduce the balance of appropriate Group of fixed assets by the amount of refund for the fixed assets of Groups 2, or 3.

10. If a taxpayer makes a decision to dispose a certain item of Group 1 fixed assets, due to reasons other than those indicated in paragraph 8 of this Article, the book value of this item shall not be referred to gross expenditures, and shall be reimbursed from the taxpayer's own sources. If the taxpayer makes a decision on disposal of a specific object of fixed assets of group 2 and 3, which is not related to the circumstances stated in item 7 of this Clause, than value of objects of group 2 and 3 shall be decreased by the amount of primary value of this object.

#### **Article 2079. Procedures of Accounting for Leased Fixed Assets**

(1) The book value of a given Group of fixed assets shall not be decreased by the value of the taxpayer's fixed assets which he/she transferred in operational leasehold.

(2) The book value of the given Group of fixed assets shall be reduced by the value of fixed assets transferred in financial leasehold, in compliance with the procedures stipulated for the sale of fixed

assets. The lessee shall increase the book value of the relevant Group of fixed assets in accordance with the procedures stipulated for the acquisition of fixed assets.

#### **Article 2080. Depreciation Rates**

(1) Depreciation rates shall be set in terms of percentage of the book value of each fixed assets' Group as of the beginning of the accounting (tax) period (assessed per calendar year ) using these rates:

- a) Group 1 -- - 5%;
- b) Group 2 -- 25%;
- c) Group 3 -- - 15%.

(2) Each taxpayer may at his/their own discretion make a decision to apply accelerated depreciation to Group 3 fixed assets (assessed per calendar year) using these rates:

- a) 1st year of operation -- 15 percent;
- b) 2nd year of operation -- 30 percent;
- c) 3rd year of operation -- 20 percent;
- d) 4th year of operation -- 15 percent;
- e) 5th year of operation -- 10 percent;
- f) 6th year of operation -- 5 percent;
- g) 7th year of operation -- 5 percent.

2. Such decisions shall not be made by taxpayers manufacturing goods, providing works, rendering services the prices (tariffs) of which are set (regulated) by government, or by taxpayers recognized as being monopolies on the market

3. Accounting for such fixed assets shall be done separately, with regard to every single item. Allocations for depreciation shall be accrued on the book value of such items, equal to their primary value increased by the amount of expenses incurred for improvement of these fixed assets, in compliance with the procedures stipulated by item 2 of part (1) of Article 2078, and part (1) of Article 2081 of this Code.

#### **Article 2081. Operating and Major Repair, Renovation, Modernization, Re-Equipment, and Other Improvements of Fixed Assets**

(1) Taxpayers shall have the right within any given reporting period to refer to gross expenditures any expenses involved in the improvement of fixed assets, provided their amount does not exceed five percent of total book value of fixed assets of the respective Groups as of the beginning of the accounting year. Expenses in excess of this amount shall be referred to book value increase with regard to Groups 2 and 3, book value increase of a separate item of Group 1 fixed assets, and shall be subject to depreciation at the rates stipulated for respective fixed assets.

1. The taxpayers whose total residual value of groups 2 and 3 of fixed assets for the beginning of the year is 50% or less of their primary value, expenditures related to improvement of fixed assets can be referred to gross expenses in the amount not to exceed 10% of the total value of these groups.

(2) When, under operational lease contract, lessee is obliged, or allowed to improve operational lease item, the lessee shall increase (create separately) book value of the respective Group of fixed assets by the amount of costs incurred for actual improvements of the item.

1. The lessee shall not take into consideration the book value of the operational lease item except for the costs incurred for actual improvements of the item in the amount stipulated in part (1) of this Article.

2. After the lease expires the book value of actual improvements carried out by lessee in respect of the leased fixed assets shall not be decreased under the condition that the operational lease contract does not stipulate that the lessor should reimburse the lessee's costs for fixed assets' improvements.

## Article 2082. Depreciation of Expenses Related to Mining

(1) Any expenses related to the prospecting (supplementary exploration) and development of any mineral deposits (including prospecting of any oil or gas wells) shall be referred to a separate group of taxpayers' expenditures, if these deposits (wells) are placed on these taxpayers' balance, and are subject to depreciation.

(2) The said group of expenditures shall include expenses involved in the prospecting (supplementary exploration) and equipping of any deposits (wells). Lists of expenses referred to this group shall be adopted by the Cabinet of Ministers of Ukraine.

(3) Accounting of the book value of expenses related to mining shall be carried out separately, with regard to each deposit (quarry, pit, well). Procedures for such accounting shall be established by the Cabinet of Ministers of Ukraine.

(4) The amount of allocations for depreciation of expenses incurred for mining shall be calculated by using this formula:

$$S(a) = B(a) \cdot O(a) : O(t)$$

where:

S(a) means the amount [sum] of allocations for depreciation during the accounting period ;

B(a) means the book value of the Group [of fixed assets] as of the beginning of the reporting period, which equals the book value of this Group at the beginning of the -period preceding the reporting period increased by the amount of expenses incurred for the prospecting (supplementary exploration) and equipping of deposits (wells) that were sustained during the previous -period;

O(a) means the amount (actual size) of minerals factually extracted during the accounting period;

O(t) means the total rated value (actual size) of minerals yielded by the given deposit during the reporting period .

(5) Taxpayers under all forms of ownership shall have the right to annually adjust the book value of expenses involved in mining to the indexation coefficient obtained using the following formula:

$$K_i = [I(a-1) - 110] : 100$$

where:

I(a-1) means the indexation coefficient by the results of which indexation is carried out.

a) No indexation shall be performed if the  $K_i$  value is not over 1.

(6) Taxpayers having used the indexation coefficient shall be under the obligations to declare capital income in amounts equal to the difference between the book value of expenses involved in

extraction of minerals, as of the beginning of the accounting year, by using this indexation coefficient, and book value of those expenses prior to this indexation.

(7) The said capital income shall be referred to that taxpayer's gross income in each accounting year, in the amount calculated as the result of adding the amount of capital revenue to the coefficient:

$O(ay) : O(t) : 4$

where:

$O(ay)$  means the amount (actual size) of minerals actually extracted throughout the year which precedes the reporting period ;

$O(t)$  means the total rated value (actual size) of minerals yielded by the given deposit.

(8) The total rated value of minerals thus extracted shall be determined by using methods adopted by the Cabinet of Ministers of Ukraine.

(9) In the case when activities aimed at prospecting (supplementary exploration) of mineral deposits fail to yield any results, or if the given taxpayer makes a decision to abandon further prospecting or developing of such deposits because of its cost inefficiency, it shall be allowed to depreciate the actual expenses incurred by such prospecting (supplementary explorations), according to the provisions of this Code.

Articles 2083-2085 -- Reserved

## **Chapter 14. Tax rates**

Article 2086. Tax Rate's Amount

1. Taxpayers' income shall be taxed at 20% of taxation object.

Articles 2087, 2088 -- Reserved

## **Chapter 15. Tax Accounting Rules**

Article 2089. Tax Periods

For the purposes of this Section, the reporting period (tax period) of one year shall be used. This period shall start on January 1 of the current year and shall end on December 31 of the current year.

Article 2090. Procedure of Accounting for Incomes and Expenses

(1) Taxpayer shall be obliged to account timely and accurately for incomes and expenses on the basis of accounting records and data confirmed by the corresponding documents, and refer those incomes and expenses to those reporting periods, when they are received or incurred, in compliance with rules of accrual system.

(2) Taxpayer shall be obliged to account for all transactions related to his/her activity which would allow to identify their beginning, flow, and end.

Article 2091. Principles of Accounting for Incomes and Expenses

Taxpayer shall account for the incomes received and the expenses incurred based upon the moment when taxpayer accrues the right for the incomes, or recognition of the fact that the expenses were incurred by him/her regardless of the time when these incomes are received, or payments are done.



Those moments when the income is received, and expenditures are made shall be defined keeping with the procedures established in Articles 2092, and 2093 of this Code.

#### Article 2092. Date Of Gross Revenue's Increase

(1) The date of increase of gross income shall be determined when all the following conditions have been satisfied:

- (a) the enterprise has transferred to the buyer the risks and rewards of ownership of the products (goods, other assets);
- (b) the enterprise retains neither management nor control over the products (goods, other assets)sold;

Date when the gross income is incurred for transactions on rendering of services, performing of works, shall be the reporting date, based on :

- a) Possibility to measure reliably the extent of finalization of the services rendered and works performed, on the reporting date;
- b) Probability to receive economic benefits from the services rendered and works performed;
- c) Possibility to measure the costs incurred or to be incurred in respect of rendering of services and necessary for their finalization.

(2) When trading in products (currency assets) or work, services using vending machines or other such equipment that does not require the presence of cash registers to be supervised by an authorized individual, the date of increase of gross income shall be the date of cash proceeds' withdrawal from such vending machines or other equipment.

1. The rules of such cash collection shall be established by the National Bank of Ukraine.

2. In the cases when such goods (works, services) are dispensed by vending machines using tokens, cards or other substitutes of hryvnia, the date of increase of gross income shall be the date of sale of such tokens, cards or other substitutes of hryvnia.

(3) When such goods (works, services) are sold using credit or debit cards, traveler's, commercial, personal or other checks, the date of increase of gross income shall be the date of drawing up an appropriate bill (purchase receipt).

(4) In the case of barter (commodity swap deals), the date of increase of gross income shall be [the date of] any of the following events that happened previously:

- a) Either the date of shipment; in the case of works (services), this shall be the date on which their results become actually available to the given taxpayer;
- b) or the date of receipt of goods; in the case of works (services), this shall be the date on which the taxpayer actually receives their results.

(5) When conducting credit and deposit operations, the date of increase of gross income shall be the date of accrual of interest (commission fee), within time limits determined by the credit/ deposit contract. If the amount of interest (commission fee) received from the debtor exceeds the accrued amount (early redemption of interest/ commission liabilities), the creditor's gross income shall increase by the amount of such interest/commission actually received during the given reporting period, and the debtor's gross expenditures shall increase by the same amount in the reporting period in which such remittance was made.

1. If the debtor delays interest/ commission payments, the creditor shall have the right to apply the rules for doubtful (bad) debt regulation, as defined in part (1) Article 2094 of this Code. The accrual method used to determine the creditor's tax liabilities on such loans/ deposits shall not be applied until full redemption of such liabilities by the creditor occurs, or until such debts or parts of them are written off and referred to the creditor's expenditures, in compliance with the procedures established by this Section.

2. In the presence of outstanding debts on interest and as funds are received from the debtor to cover the liability, these funds shall be directed in the first place to cover the arrears on interest.

#### **Article 2093. Date of Increasing Gross expenses of Production and Turnover**

Gross expenses shall be recognized as expenses of a certain period at the same time with recognition of income for which they were incurred. Expenses that can not be directly referred to income for the specific period shall be shown as a part of gross expenses of the reporting period when they were actually made.

(2) When a taxpayer acquires goods (works, services) using credit or debit cards, traveler's, commercial, personal or other checks, the date of increase of gross expenses shall be the date of drawing up an appropriate bill (purchase receipt).

(3) With regard to commodity barter transactions, this date shall be the date of the final (balancing) transaction performed after the first operation as defined by part (4) of Article 2092 of this Code. In case of partial supply of goods, works, services as a payment method used for the final (balancing) barter operation, taxpayers' gross expenditures for the respective reporting period shall be increased by the amount of such partial supply of goods, works, services.

(4) Only expenditures envisaged by the provisions of this Code shall be included to gross expenses.

#### **Article 2094. Bad Debts**

(1) Procedures of regulation of doubtful, bad debts.

1. Taxpayers selling goods (works, services), including banks and non-banking financial institutions, shall have the right to reduce gross income in the given reporting period by the cost of goods shipped, works executed, services rendered in the cases when their buyers delay payments without prior agreement with these taxpayers. The said reductions shall be allowed when the taxpayer has appealed to a court of law (arbitration court) to enforce such payments, or to declare the buyer bankrupt, as well as in the cases when at the seller's request a notary issued an executive order to enforce the debt, or property under lien.

2. If within the next tax reporting periods the court of law (arbitration court) fails to answer to such claim because of the taxpayer's fault, or answers to it partially, the taxpayer shall be under the obligation to increase gross income of the relevant reporting period by the cost of goods forwarded (works provided / services rendered) or by that part of such cost which was not recognized by the court of law (arbitration court), and accrue penalties at the National Bank's of Ukraine discount rate effective on the date of such increase, multiplied by 1.2. The said penalties shall be accrued from the first day of the reporting period following the one in which gross incomes were thus increased.

3. When appealing such court ruling (arbitration award), in compliance with legally set procedures, the taxpayer shall not have to increase gross income, as stipulated in item 2 of this part, until the day when the final ruling in the case is made by the appropriate court.

4. Notice on gross income reduction and a copy of the court's decision (ruling) to initiate civil proceedings in the case shall be submitted to the [local] tax service authority in compliance with the procedures established by the headquarters of the state tax service of Ukraine.

5. If the court of law (arbitration court) makes a decision in seller's favor, gross income of this seller shall be increased by the amount of debt actually reimbursed by the buyer.

6. In within 30 calendar days after the above mentioned decision (ruling) is accepted the buyer fails to pay back the debt amount established by the court of law (arbitration court), the seller shall appeal within the following 30 calendar days to an arbitration court with the request to declare the buyer bankrupt. In this case, seller's gross income shall not be increased by the amount of the buyer's determined debt within the time period when the case is under the court's consideration.

7. In the case when the seller fails to appeal within the above mentioned term to an arbitration court, he/ she shall be obliged to increase his/ her gross income by the amount of debt arrears determined by the court of law (arbitration court).

8. Indebtedness that has remained unredeemed after the assets of the buyer who was declared bankrupt by the court's decision are being divided shall be redeemed in compliance with the procedures stipulated by this Article.

#### (2) Peculiarities of covering bad debts by banks and non-banking financial institutions

1. Any bank or non-banking financial institution which was established in compliance with legally set procedures, except for insurance companies (hereinafter referred to as financial institutions), shall be under the obligation to form insurance reserves to cover such losses as may be sustained in terms of the principal debt (less interest and commission fees) under all types of loans.

2. With regard to the provisions of item 3 of this part, such insurance reserves shall be formed by each financial institution independently, in an amount sufficing to fully cover the risk of not recovering the principal debt under such loans (other liabilities) which may be recognized as nonstandard loans by using the methods established by the National Bank of Ukraine for banks, and by the Cabinet of Ministers of Ukraine for non-banking financial institutions; as well as under loans (other liabilities) recognized as bad debts by the provisions of this Code.

3. The amount of such insurance reserves as may be formed by the way of increasing gross expenditures of such financial institutions shall not be in excess of:

a) 20% of the receivables with regard to commercial banks, in particular in terms of the joint debt under loans actually given to debtors as of the last business day of the given tax period;

b) Amount established by the laws and normative acts with regard to a particular non-banking financial institution, but not in excess of 20% of the amount of receivables, in particular in terms of the joint debt of such non-banking financial institutions as of the last business day of the tax period;

c) The amount of said liabilities shall not include debtors' liabilities arising from carrying out transactions that do not constitute principal activities of the given financial institution;

d) The notion "types of principal activities" shall be interpreted as those transactions defined by the current legislation of Ukraine.

4. When reducing the aggregate amount of nonstandard or bad loans (other types of receivables) based on the results of the given reporting period, due to their transfer to the standard category, or their referral to gross production and turnover expenditures by using the procedures set forth in part (3) of this Article, or when reducing the amount of receivables used as the basis for defining restrictions as stipulated by item 3 of this part, the excess amount of insurance reserves shall be used

to increase the gross income of this financial institution based on the results of such reporting period. The amount of insurance reserves created in compliance with the procedures stipulated in item 3 of this part shall be decreased by the amount of expenses allocated to insure loan risks, which are referred to gross production and turnover expenditures in accordance with item h of part (1) of Article 2032 of this Code.

5. Procedures and sources of formation and operation of insurance reserves (funds) to insure individual deposits shall be established by a separate law.

(3) Procedures on reimbursement of bad debts at the expense of taxpayers' insurance reserves.

1. Bad debts shall be referred to the creditors' gross expenditures, provided the period of limitation under the given loan agreement with the debtor has expired, and if the taxpayer took measures stipulated by the current legislation to enforce the debt collection. In the cases when this period of limitation is still valid, bad debts shall be reimbursed from the insurance reserves. In each such case, the debtor's gross income shall be increased by the amount of his/ their liabilities past the period of limitation in the given reporting period.

2. Bad debts under contracts which envisage the issue of a bill for the creditor's benefit as the guarantee of the debtor's commitments shall be reimbursed at the expense of that creditor's insurance reserves, provided the protested bill has remained unpaid for 30 calendar days from the date of the protest, and provided the payee of this bill has commenced arbitration proceedings for declaring bankruptcy of the promiser in the arbitration court. In each such case the promiser shall have his/ their gross income increased by the cost of the protested bill in the reporting period within which the 30th day of protesting the bill ends.

3. Bad debts of those taxpayers who were proclaimed bankrupt in due course of legally set procedures shall be reimbursed at the expense of the creditor's insurance reserves after the arbitration court makes a decision to proclaim this debtor bankrupt;

a) Funds received by the creditor after the liquidation proceedings are over, and sale of the debtor's property shall be referred to that creditor's gross income within the reporting period when such funds were received;

b) If a creditor provide loan to a debtor who was already involved in the bankruptcy proceedings by the time of signing such loan agreements, and if the information on these proceedings was made publicly available (except for the cases when such loans are given as part of the debtor's recovery procedures, and are secured by that debtor's corporate rights) bad debt under such loan shall be reimbursed by the creditors using their own funds. In each such case the gross income of a debtor proclaimed bankrupt in due course of law shall not be increased by the amount of said bad debts.

4. Secured debts shall be redeemed in compliance with the procedures set forth in the current legislation of Ukraine, if the following conditions are satisfied:

a) The pledgee shall have the right to use the insurance reserves to reimburse that part of the debt which remains unredeemed because of insufficient amount of proceeds which the creditor has received from the sale of the debtor's pledged property, provided other legal actions taken by the creditor to collect the creditor's other property failed to fully refund the debt amount;

b) When alienating the pledged property by using other methods, the creditor shall refund losses from the income left at the creditor's disposal after taxation;

c) Procedures of auctions (public tenders) shall be established by the Cabinet of Ministers of Ukraine.

5. Bad debts arising from the debtor's inability to pay caused by force major circumstances shall be indemnified from the creditor's insurance reserves' funds, in the presence of any of the documents listed below:

a) Statement of the Chamber of Commerce and Industry of Ukraine attesting to force major circumstances having occurred on Ukraine's territory, or similar statements issued by authorized bodies of other countries and legalized by Ukraine's consular offices, if force major circumstance occurred on the territory of other country;

b) Decisions made by the President of Ukraine on instituting an emergency ecological situation in specific areas of Ukraine, approved by the Supreme Council of Ukraine, or a Resolution of the Cabinet of Ministers of Ukraine on defining certain areas as disaster areas in the cases of flood, drought, fire and other calamities, including resolutions on defining certain areas as areas damaged by the weather conditions resulting in crops damage to an extent of above 30% of the average yields of the past five calendar years. In each such case, the debtor's gross income shall not be increased by the amount of liabilities arising from that creditor's inability to pay due to force majori circumstances for the duration of said circumstances.

6. Outstanding debts of enterprises, institutions, and organizations whose property is immune from debt claims (or in the case of enterprises exempted from privatization) under the laws of Ukraine shall be refunded using creditor's insurance reserves, provided said liabilities were not refunded or otherwise compensated by the State Budget of Ukraine or by relevant local budgets within 30 calendar days from the date when the debt became overdue. In each such case, the creditor, within time-limits defined by the current legislation, shall be under the obligation to bring the matter before a court of law (arbitration court), claiming damages incurred by this loan. If the creditor fails to address the matter in a court of law (arbitration court) within a legally set time-limit, or if the court of law (arbitration court) dismisses the case, the creditor shall be under the obligation to increase his/ their gross income by the amount of such bad debts in the appropriate tax reporting period .

7. Outstanding debts of individual taxpayers found by a court of law to be missing or deceased shall be reimbursed from the creditors insurance reserves, provided the court ruling pronouncing the debtor missing or dead is dated later than the date of signing the loan agreement. In each such case, the creditor shall perform legal actions aimed at collecting bad debts from the individual's legacy within the limits and using the procedures established by the law.

8. Outstanding debts under contracts found by court to be wholly or partially invalid because of the debtor's fault shall be reimbursed from the creditor's insurance reserves provided the debtor fails to honor the liability within 30 days from the date of approving the court ruling on proclaiming such contract wholly or partially invalid. In each such case, the debtor's gross income shall be increased by the amount of such liabilities in the tax reporting period in which the court ruling (arbitration award) recognizes the contract wholly or partially invalid because of the debtor's fault.

9. Outstanding debts under contracts or their sections found legally invalid because of the debtor's fault or because of both parties' fault shall be redeemed by the debtor by redeeming the amount of the accounts payable, and if no such amount is provided within 30 calendar days out of the income left at the creditor's disposal after taxation. In each such case, the debtor's gross income shall be increased by the amount of the debt in the tax reporting period in which the court ruling (arbitration award) recognizes such contract or its section as being invalid because of the parties' fault.

10. Outstanding debts of individual taxpayers placed on wanted lists in compliance with the procedures stipulated by the Criminal Procedural Code of Ukraine shall be indemnified from the creditor's insurance reserves, provided the debtor's whereabouts are not ascertained within 180 calendar days since the day the name was placed on the wanted list.

11. Outstanding debts of legal entities whose executives are placed on wanted lists in compliance with the procedures established by the Criminal Procedural Code of Ukraine shall be indemnified from the creditor's insurance reserves, provided these executives are not located within 180 calendar days since the day their names were placed on the wanted list.

12. When all measures taken to collect bad debts, as stipulated by the procedures set forth in part (3) of this Article, failed to bring positive results, banks and non-banking financial institutions shall refer such debts to gross production and turnover expenditures inasmuch as they were not indemnified from the insurance reserves formed in accordance with the provisions of this Article.

(4) Additional provisions related to bad debts

1. If the debtor wholly or partially redeems the bad debt previously referred by the creditor to that creditor's gross expenditures or indemnified from the insurance reserves' funds, as stipulated in parts (1) and (3) of this Article, the creditor shall increase his/ -their gross income by the amount of compensation received from the debtor, and refer it to the tax reporting period in which said debt was wholly or partially repaid.

2. In the cases when a duly authorized body, as stipulated by item 5 of part (3) of this Article, finds the natural disasters, calamities (force major circumstances) to be of a temporary nature and incapable of influencing the debtor's solvency after their termination, the creditor shall be under the obligation to demand redemption from the debtor within 30 calendar days from the date when such force major circumstances cease to exist. If the debtor fails to honor the said liability, or if the creditor fails to appeal to a court of law (arbitration court) within the time-limit established by the legislation of Ukraine to collect such debt, that creditor's and that debtor's gross income shall be increased by the amount of this liability.

3. If the debtor, being an individual taxpayer, is proclaimed by court decision to be missing or dead, and if this debtor [suddenly] makes an appearance, the creditor shall be under the obligation to take measures to collect the debt. Should such individual taxpayer cover the debt which the creditor previously referred to gross expenditures or had indemnified from the insurance reserves' funds, the creditor shall increase gross income by the amount of funds received from this debtor within the reporting period in which this redemption was made.

4. If a [court] ruling on the invalidity of a contract because of the debtor's fault is canceled as provided by the provisions of Ukraine's laws, and if the creditor fails to contest this ruling within a legally set time-limit, the creditor shall increase gross income by the amount of the liability previously referred to gross expenditures or indemnified from the insurance reserves, within the tax reporting period in which the period of limitation for such appeal expired.

5. If an individual taxpayer who was placed on wanted lists is detected [and apprehended], and is made to pay the amount of debt previously referred to the creditor's gross expenditures or indemnified from the insurance reserves, the creditor shall increase gross income by the amount received from the debtor within the reporting period in which this debt or its part was redeemed.

6. If individual taxpayers or legal entities found guilty of damage, as stipulated by the provisions of the Civil Code of Ukraine, cover the debt of the individual taxpayer which was referred by the creditor to gross expenditures or indemnified from the insurance reserves, the creditor shall increase gross income by the amount of funds received to cover the debtor's debt within the tax reporting period in which such liability or its part was redeemed.

7. For the purposes of this Article a doubtful debt shall be understood as a debt which was not paid back within the agreed time-limit, but there is still a possibility that it will be covered under the procedures set by the legislation of Ukraine.

## **Chapter 16. Taxation of Financial Results of International Transactions**

### **Article 2103. Taxation of Non-Residents**

(1) Any incomes of non-residents received from Ukrainian sources (including those transferred at non-resident's hryvnia bank accounts) shall be taxed in compliance with the procedures and by applying the tax rates established by this Article.

(2) For the purposes of this Article, incomes of non-residents received from Ukrainian sources shall be understood as:

- a) interests paid to a non-resident, including interests on loan liabilities issued by residents;
- b) dividends paid (accrued) by a resident;
- c) royalty, «engineering» services, as well as incomes from freight;
- d) payment for leasing paid (accrued) by residents, non-residents, or permanent representatives to a non-resident - lessor;
- e) incomes from sale of immovable property located on Ukraine's territory which belongs to a non-resident, including property of non-resident's permanent representative;
- f) incomes received from operations with securities, or other corporate rights determined in compliance with the provisions of this Code;
- g) incomes received from carrying out joint business activities on Ukraine's territory, incomes received from execution of long-term contracts on Ukraine's territory;
- h) compensation for carrying out cultural, educational, religious, sport, entertaining activities of non-residents (or persons authorized by them) on Ukraine's territory;
- i) brokerage, commission, or agency compensation received from residents, or permanent representatives of other non-residents for broker, commission, or agency services rendered by non-resident, or his/her permanent representative on Ukraine's territory for the benefit of residents;
- j) amounts of insurance contributions, or re-insurance of risks in Ukraine (including life insurance), or insurance of risks provided to residents outside Ukraine's territory;
- k) incomes in the form of winnings (prizes) in lottery, casino, gambling houses located on Ukraine's territory, incomes from organizations and gambling business activities, lotteries, except for those organized by state;
- l) incomes in the form of charitable contributions for the benefit of non-residents;
- m) other incomes from business activities performed by non-resident (his/ her permanent establishment, or permanent establishment of other non-resident) on Ukraine's territory, except for incomes in the form of proceeds or any other type of compensation for the cost of goods shipped, works provided, services rendered to a resident by the non-resident (his/ her permanent representative), including cost of services for international [long-distance] communication, or international information services.

(3) Resident, non-resident, or non-resident's permanent representative making payments out of the income in any form originated in Ukraine, as defined in part (2) of this Article, for the benefit of a non-resident, received by such non-resident from business activities (including remittance of funds on the non-resident's hryvnia accounts), except for incomes mentioned in parts (4) – (8), shall

withhold the tax at the 15% rate from the amount of such income, at the expense of such payments, if not otherwise stipulated by the provisions of international treaties in force.

(4) Income from carrying out portfolio investments in interest bearing bonds, or in treasury interest bearing bonds issued by the resident's decision, in particular by authorized state body, or local self-government body (except for external state bonds of Ukraine) paid out by residents to non-residents (including remittance of funds to the non-resident's hryvnia accounts) shall be taxable at 20% at the source of such income, at the expense of such payments without imposing the tax established by part (3) of this Article. Non-residents' income received from passive (discount) bonds, or treasury bonds shall be taxed at 20% rate in compliance with the following procedure:

a) Basis for assessment shall be the profit calculated as the difference between passive (discount) securities nominal value paid (accrued) by the issuer and the purchase price of the securities at the initial or secondary stock market;

b) For the purposes of tax control, purchase or sale of the securities mentioned in this item can be done in the name of and for the account of non-resident solely by his/ her permanent representative, if it's stipulated in the current legislation of Ukraine, or by a resident who acts in the name of and for the account of the non-resident;

d) The above mentioned resident or non-resident's permanent representative shall be responsible for accrual and payment of the taxes to the budget at full and on time when paying out income from interest bearing and passive securities to a non-resident.

(5) Income received by non-residents in the form of interest or income (discount) on state bonds sold (placed) by non-residents outside of Ukraine's territory through authorized agent – non-resident, or interests paid out to non-residents for granted to Ukraine loans (credits or external loans) which are reflected in the State Budget of Ukraine or the budget estimate of the National Bank of Ukraine shall not be taxed.

(6) The amount of income of nonresidents paid to them by residents in return for freight of their means of transportation shall be taxable at the 6% rate at the source of payment of such income, at the expense of such payments.

(7) Residents who are making payments out to non-residents in the form of insurance premiums, payments or premiums for risk reinsurance, including life insurance on Ukraine's territory (except for risks of residents outside of Ukraine's territory) shall be taxable at the 15% rate at the source of payment of such income, at the expense of such payments. Residents paying out to non-residents income in the form of insurance premiums, payments or fees for risk insurance, as well as from rendered advertising services on Ukraine's territory shall be taxable at the 20% rate at the source of such income, at the expense of such payments.

(8) Income received by nonresidents in the form of dividends accrued on corporate rights issued by residents of Ukraine shall be taxed in compliance with the procedures stipulated in Article 2050 at the source of such income, at the expense of such payments.

(9) Income received by nonresidents operating in Ukraine through their permanent representatives shall be levied on the general terms. Such permanent representative shall be considered, for taxation purposes, equal to taxpayers operating independently of such nonresidents.

(10) If a nonresident conducts business activities both within and outside Ukraine and fails to declare income from business activities conducted through permanent representative in Ukraine, the taxable amount in Ukraine shall be determined by relying on the nonresident's separate financial report agreed with the state tax service authorities at the place of the permanent representative. If



nonresident's income in Ukraine cannot be determined by way of direct calculation, such income shall be assessed by the state tax service authority on the basis of that nonresident's gross income, or incurred expenses with a 20% profitability rate.

(11) Residents, who render agency, trust, commission or other such services aimed at selling or purchasing goods, works, services at the nonresident's expense and for that nonresident's benefit (including conclusion of contracts with other residents and non-residents in the name and for the benefit of the non-resident), shall withhold and remit to the respective budget the amount of tax on the income received by the non-resident from sources in Ukraine, determined according to the procedures established for taxation of incomes of non-residents, who carry out his/ their activities on Ukraine's territory through a permanent representative. Such residents shall not be additionally registered with tax bodies as payers of enterprise profits tax.

(12) Residents, who for the purposes of taxation are considered as nonresidents' permanent representative, shall within 10 days after they begin to carry out such activities submit to his/ her tax offices a notice by following the form of notification document established by the central authority of the state tax service of Ukraine. In those cases, when a resident pays out any compensation to a non-resident (including remittance of funds on the non-resident's hryvnia accounts) from the incomes received by the non-resident from sources in Ukraine shall independently submit to his/ her tax office a report about withholding and remittance of the taxes set forth by this Article to the respective budget, according to the procedure established by the central authority of the state tax service of Ukraine.

#### Article 2104. Avoidance of Double Taxation

(1) The amount of profit (income) received by residents outside of Ukraine's customs territory shall be added to the total amount of profit (income) which is subject to taxation, and shall be taken into account when determining the tax amount.

(2) The amount of income tax paid by business entities abroad for the income received outside of Ukraine's customs territory shall be set off when paying income tax in Ukraine. Such amounts shall be accrued in compliance with the rules set forth by this Code.

(3) The amount of income tax payable from sources outside of Ukraine's territory within the tax reporting period shall not exceed the amount of tax levied on such taxpayers in Ukraine during the same tax reporting period .

(4) The following taxes paid in other countries shall not be accepted as a reduction of the amount of tax liabilities [in Ukraine]:

a) Capital (wealth) and capital gain tax;

b) Postage;

c) Sales tax;

d) Other indirect taxes, regardless of whether they can be qualified as income tax, or are taxed as separate taxes in accordance with national legislation of other countries;

e) Amounts paid as passive income tax (or on dividends, interest, insurance, royalty).

(5) Amounts paid as income taxes outside of customs territory of Ukraine shall be accepted on account of income tax liabilities in Ukraine in the presence of written confirmation issued by an inland revenue authority of the given foreign country, and provided Ukraine is a party to an international treaty on double taxation avoidance which were approved by the Verkhovna Rada of Ukraine.

#### **Article 2105. Taxation of Income Received in Countries with Beneficial Taxation**

(1) In the cases of conclusion of contracts stipulating payment for goods, works, services for the benefit of non-residents, located in off-shore zones, or carrying out of payment settlements of these non-residents through their bank accounts regardless whether these settlements are done in monetary or other form directly or through other residents or nonresidents, expenses of the taxpayers incurred for payment for goods, works, services shall be included to gross expenditures in the amount which constitutes 85% of the value of these goods, works, services.

(2) The list of regional off-shore zones shall be made publicly available on the annual basis under the procedures established by the Cabinet of Ministers of Ukraine.

Articles 2106-2118 - Reserved

### **Chapter 17. Special Taxation Procedures for Certain Types of Entrepreneurial Activities**

#### **Article 2119. General Provisions**

(1) The object of legal regulations shall be trading activity on exchange of cash currency assets (including transactions with cash in foreign currency and with credit cards), as well as activities on rendering of paid services and gambling services for cash as well as other means of payment and credit cards at the territory of Ukraine.

(2) It shall not be allowed to determine the types of entrepreneurial activity subject to patenting, procedure and agents of patenting in other normative and legal acts as well as in decisions of governmental bodies and self-government bodies.

(3) Subjects of legal relations governed by this Section are legal entities and subjects of entrepreneurial activity without the status of a legal entity, i.e. residents and non-residents as well as independent units thereof (branches, subsidiaries, representative offices, etc.) involved in entrepreneurial activity specified in the first part of this Article.

(4) This Section does not cover trade activity and activity on providing with paid services conducted by the following entities:

a) subjects of entrepreneurial activity covered by the simplified system of taxation pursuant to Chapter 98 of this Code, except for services in gambling business;

b) subjects of entrepreneurial activity established by public organizations of disabled persons (invalids) that have privileges under this Code, and trade exclusively with food products of a domestic production and with produce manufactured by enterprises of the Ukrainian Association of Blinds and Ukrainian Association of Deaf Persons;

c) subjects of entrepreneurial activity carrying out outside trade from stands on the territory adjoining to enterprises of trade and public catering;

e) subjects of entrepreneurial activity-physical persons which

e1. Perform sales of plant-growing produce, cattle, rabbits, nutria, poultry (both alive and slaughtering produce, as well as produce of primary processing thereof) and bee-keeping produce grown in a private ancillary farm, personal, dacha and garden plots.

e2. Pay fixed tax according to the legislation of Ukraine.

#### Article 2120. Definition, Content of the Trade Patent and Acquisition Terms Thereof

(1) The trade patent is acquired by subjects of entrepreneurial activity that carry out activity specified in the first part of Article 2119 of this Code.

(2) Application filed pursuant to part eight of this Article is the basis for the trade patent acquisition. Establishment of any additional terms in the course of the trade patent acquisition is not permitted.

(3) Bodies of the state tax service issue the trade patent to subjects of entrepreneurial activity in locations thereof or their structural (independent) units; to subjects of entrepreneurial activity which carry out trade activity or provide services (except movable trade network) - in locations of points for sale of goods or point on providing with services; and, to subjects of entrepreneurial activity which carry out wholesale trade through movable trade network - in places of such subjects registration. Subjects of entrepreneurial activity pay fee for the trade patent acquisition.

(4) A subject of entrepreneurial activity shall have the right to acquire trade patents for years following the current one, but no more than for three (3) years, after the payment of a full price of these patents upon acquisition thereof. In this case, the subject of entrepreneurial activity shall not pay the final value of the trade patent if approved normative and legal acts increase price of the trade patent.

(5) A subject of entrepreneurial activity which terminated its activity subject to patenting under this Chapter before the 15th day of the month preceding the reporting one notifies the appropriate body of the state tax service about termination of such activity in writing. In this case, the trade patent should be returned to the body of the state tax service by which it was issued, and the subject of entrepreneurial activity obtains the excessive amount paid for the trade patent.

(6) The trade patent has the following requisites:

- a) the trade patent number;
- b) the name of a subject of entrepreneurial activity owning the patent;
- c) type of entrepreneurial activity;
- d) type of services;
- e) indication "transport trade" if trade is carried out from vehicles;
- f) the trade patent validity period;
- g) location of the body of the state tax service which issued the trade patent; and,
- h) note of the body of the state tax service on the payment for the issued trade patent.
- i) location where the citizen was registered as a subject of entrepreneurship or location of the legal entity –subject of entrepreneurship (location of its independent structural unit).

(7) A central body of the state tax service of Ukraine shall establish the trade patent form and procedure for filling thereof.

(8) Application for the trade patent acquisition must have the following requisites:

- a) the name of a subject of entrepreneurial activity;
- b) extract from the founding documents regarding the legal address of a subject of entrepreneurial activity. If the patent is acquired for a structural (independent) unit - a certificate of the body which agreed location of such structural (independent) unit mentioning such location;
- c) type of entrepreneurial activity conducting of which requires the trade patent acquisition; and,

- d) the name of a document on complete or partial payment of the trade patent.
- e) list of persons in labour relationship with the subject of entrepreneurial activity –physical person or the list of his family members participating in entrepreneurial activities, and their registration numbers in the taxpayer's records.

#### Article 2121. Acquisition Procedure and Price of the Trade Patent to Carry out Trading Activities

- (1) Trade activity carried out by subjects of entrepreneurial activity or structural (independent) units thereof in trade outlets is subject to patenting.
- (2) If a subject of entrepreneurial activity has structural (independent) units, the trade patent is acquired separately for each structural (independent) unit (outlet).
- (3) Bodies of local self-government shall establish price of the trade patent to carry out trade activity depending on the location of outlet and assortment of goods. The following are limit for a calendar month:
  - a) from UAH 70 to 340 in Kyiv city and oblast centers;
  - b) from UAH 40 to 170 in Sevastopol and cities of oblast subordination (except oblast centers);
  - c) up to UAH 90 in other localities; and,
- d) price of a short-term trade patent to carry out trade activity within one day is established in the fixed amount equal to UAH 20.
- (4) If retail outlets are located in resort localities or on territories adjoining to customs offices and other pass points through the customs border, bodies of local self-government to budgets of which the trade patent payments are transferred may make a decision regarding increase of the patent payment but no more than -UAH 340 for a calendar month. Additional income obtained as a result of the above decisions is transferred to the appropriate local budgets in full.
- (5) The trade patent validity term to carry out trade activity is twelve (12) calendar months.
- (6) Validity of the short-term trade patent to carry out trade activity is from one (1) to fifteen (15) days.
- (7) Short-term trade patent shall be purchased by the subject of entrepreneurial activity when organizing fairs, sale exhibitions, and other short-term measures related to demonstration and sales of goods, at the location where such an activity is carried out.
- (8) Payment for the trade patent to carry out trade activity is made monthly before the 15th day of the month previous to the reporting one. Payment for the short-term trade patent is made not later than one (1) day prior to carrying out trade activity.
- (9) During acquisition of the trade patent to carry out trade activity, a subject of entrepreneurial activity effectuates one-time payment in the amount of the trade patent price for one month. Thus, amount paid during acquisition of the trade patent is not paid within the last month of the trade patent validity.
- (10) A subject of entrepreneurial activity may make an advanced payment of the trade patent price to carry out trade activity for the whole validity term thereof.
- (11) The privileged trade patent is issued to subjects of entrepreneurial activity or structural (independent) units thereof which carry out trade activity exclusively with use of the following goods of domestic production:

a) bread and baked products, wheat and rye flour, salt, sugar, sunflower and corn oil, milk and dairy products, except for condensed milk and cream with additives and without them, children foodstuffs, non-alcoholic beverages, ice-cream, beef and pork, poultry, eggs, fish, berries and fruits, honey and products of bee-farming, equipment and protectants for bee-farming, potatoes and vegetables, and feed-stuff.

b) postal stamps, cards, greetings cards and blank envelopes, cases, boxes, sacks and other packaging made of wood, paper and cardboard used for postal dispatches by enterprises of the Ministry of Communication of Ukraine, as well as accessories thereto;

c) travelling tickets;

d) goods of folk arts (except antique ones and those having a cultural value pursuant to the list established by the Ministry of Culture of Ukraine); and,

e) coal, coal briquettes, house furnace fuel, lightning kerosene and liquefied gas, fuel peat broken in lamps and wood for sale to population.

(12) The privileged trade patent is issued to subjects of entrepreneurial activity or structural (independent) units thereof which carry out trade activity exclusively with use of the following goods regardless a country of their origin:

a) periodicals;

b) finished medicines (medical preparations, drugs, medicines, subjects of nursing, dressing and other medical accessories) and vitamins for population; veterinary preparations, toilet paper, toothpaste and toothpowder, cosmetic napkin, child's nappy, tampons and other types of sanitary and hygienic goods made of cellulose or substitutions thereof, thermometers and other diagnostic instruments;

c) washing soap, as well as matches; and,

d) seeds of vegetable, melons and gourds, flower crops, fodder root plants and potato, as well as seeds of seedlings and saplings.

e) books for coloring, notes, geographic or hydrographic maps, including atlases, globes, topographic plans, postal cards, greeting cards, envelopes, stickers, notebooks, paper for printing, paper for drawing and copying, blanks, registration journals, calendars, other paper office supplies.

f) pens and pencils.

(13) The privileged trade patent indicates the complete list of goods designated for sale.

(14) The privileged trade patent does not grant the right to carry out retail trade with goods not specified in this Article.

(15) Subjects of entrepreneurial activity selling goods of day-to-day use and food products to disabled persons through trading institutions established for such purpose by public organizations of disabled persons shall have the right to the privileged trade patent (except subjects of entrepreneurial activity specified in subparagraph "c", Part (4) of Article 2119 of this Code).

(16) Subjects of entrepreneurial activity carrying out exclusively sale of goods of military attribute and day-to-day use for servicemen on the territory of military units and military training centers shall obtain the privileged trade patent. The list of goods for day-to-day use shall be established by the Cabinet of Ministers.

(17) The following activities shall not require patenting:

a) sale of own production produce by a subject of entrepreneurial activity to physical persons who are in labor relations with such subject through outlets built in manufacturing or administrative premises of this subject;

b) activities of a subject of entrepreneurial activity related to purchase of produce from population (procurement activities), if further sale of such produce is carried out via non-cash payments (acceptance points of glass tare, paper for recycling, paper, cardboard and rag wastes; procurement of agricultural produce and processing products thereof); and,

c) activities in trade and production field (public catering) carried out in premises of enterprises, institutions and organizations, including educational institution, on servicing employees of enterprises, institutions and organizations, as well as pupils and students in educational institutions.

(18) In case of the privileged trade patent acquisition provided by parts (11) – (18) of this Article, a subject of entrepreneurial activity shall make a one-time payment in the amount UAH 100 the whole validity term of the patent.

(19) Validity term for the privileged trade patent for trade activities shall be 12 calendar months.

(20) Payment of the value of the privileged trade patent shall be made before the 15<sup>th</sup> of the month previous to the reporting one.

#### **Article 2122. Procedure for Acquisition of the Trade Patent to Carry out Activities on Providing with Paid Services**

(1) Activities on providing with services carried out by subjects of entrepreneurial activity or structural (independent) units thereof both in separate premises and outside such premises shall be subject to patenting.

(2) The Cabinet of Ministers of Ukraine shall establish the list of services. This list cannot be changed within a budget year.

(3) If a subject of entrepreneurial activity has structural (independent) units, the trade patent to carry out activities on providing with services is acquired separately for each structural (independent) unit (services providing point).

(4) Bodies of local self-government shall establish price of the trade patent to carry out activities on providing with services depending on the location of object on providing with services and type of services. The following are limit levels for a calendar month:

a) -from UAH 70 to UAH 340 in Kyiv and oblast centers;

b) from UAH 40 to UAH 170 in Sevastopol and cities of oblast subordination (except oblast centers); and,

c) UAH 90 in other localities.

(5) The trade patent validity term to carry out activities on providing with consumer services is twelve (12) months.

(6) Payment for the trade patent to carry out activities on providing with services is effectuated monthly before the 15th day of the month previous to the reporting one.

(7) A subject of entrepreneurial activity may make an advanced payment of the trade patent price to carry out activities on providing with services for the whole validity term thereof.

(8) On payment for the trade patent to provide paid services, the subject of entrepreneurship shall make one-time payment equal to the value of the trade patent for one month. Amount of payment

for the trade patent to be made in the last month shall be decreased by the amount paid on purchase of trade patent.

#### Article 2123. Procedure for Acquisition of the Trade Patent to Carry out Transactions on Trade with Cash Currency Assets

(1) Transactions on trade with cash currency assets carried out by subjects of entrepreneurial activity or structural (independent) units thereof in foreign currency exchange points are subject to patenting.

(2) If a subject of entrepreneurial activity has structural (independent) units, the trade patent is acquired separately for each structural (independent) unit (exchange point).

(3) Price of the trade patent to carry out transactions on trade with currency assets is established in the fixed amount, UAH 430 for the calendar month.

(4) The trade patent validity term to carry out transactions on trade with currency assets is twelve calendar months.

(5) Payment for the trade patent to carry out transactions on trade with currency assets is effectuated monthly before the 15th day of the month previous to the reporting one.

(6) During acquisition of the trade patent to carry out transactions on trade with currency assets, a subject of entrepreneurial activity effectuates one-time payment in the amount of the trade patent price for one month. Thus, amount paid during acquisition of the trade patent is not paid within the last month of the trade patent validity.

(7) A subject of entrepreneurial activity may effectuate an advanced payment of the trade patent price to carry out transactions on trade with currency assets for the whole validity term thereof.

#### Article 2124. Procedure for Acquisition of the Trade Patent to Carry out Operations on Providing with Services in a Gambling Business

(1) Operations on providing with services in a gambling field carried out by subjects of entrepreneurial activity or structural (independent) units thereof are subject to patenting.

(2) Casinos and other gambling places must be located in separate premises or buildings. They must have a gambling hall for customers (except gambling machines, computers, and billiard tables).

(3) Providing with services in a gambling field outside of premises or buildings designated for such purposes, as well as in premises without a gambling hall for customers is not permitted.

(4) If a subject of entrepreneurial activity has structural (independent) units, the trade patent is acquired separately for each structural (independent) unit (a gambling place).

(5) Price of the trade patent to carry out operations on providing with services in a gambling field is established in the fixed amount (per month ) in the following amounts:

a) UAH 120 for use of a gambling machine with money or in-kind prize;

b) UAH 5400 for use of a gambling table with roulette ring;

c) UAH 4000 per table for use of other gambling tables (special tables for casino, except tables for billiard);

d) UAH 170 per each playing gutter (lane) for use of bowling alleys operating with a token, coin or without it;

e) UAH 50 per each billiard table for use of billiard tables operating with a token, coin or without it, except billiard tables used for sport amateur competitions; and,

f) UAH 200 per each type (place) of a gambling business, for other types of gambling, including raffles with granting prizes in cash or in-kind in that place.

(6) Trade patent to carry out operations on providing with services in a gambling field must be issued for each separate gambling place (a gambling automatic machine, gambling table).

(7) Trade patent to carry out operations on providing with services in a gambling field shall not grant the right to carry out a gambling business not mentioned in such patent.

(8) The trade patent validity term to carry out operations on providing with services in a gambling field is twelve (12) calendar months.

(9) Payment for the trade patent to carry out operations on providing with services in a gambling field is effectuated monthly before the 15th day of the month previous to the reporting one.

(10) During acquisition of the trade patent to carry out operations on providing with services in a gambling field, a subject of entrepreneurial activity effectuates one-time payment in the amount of the trade patent price. Thus, amount paid during acquisition of the trade patent is not paid within the last month of the trade patent validity.

#### **Article 2125. Procedure for the Trade Patent Use**

(1) The trade patent must be available in the following places:

- a) trade outlets;
- b) foreign currency exchange points; and,
- c) in premises where services are provided.

(2) The trade patent must be available for inspection.

(3) The trade patent is effective on the territory of a body that carried out registration of a subject of entrepreneurial activity or with which the location of such subject's structural (independent) unit was agreed in a place of the trade patent issuance to such subject. Transfer of the trade patent to other subject of entrepreneurial activity or other structural (independent) unit thereof is not permitted. The trade patent issued to carry out trade activity with use of movable trade network (car-shops, conveying-shops, etc.) is valid only on the territory of Ukraine.

#### **Article \_\_\_\_ . Procedure for Transfer of the Funds Obtained as a Result the Trade Patent Sale**

Articles 2126 – 2130 are reserved.

### **Chapter 18. Accrual Procedures and Terms of Payment of the Tax to the Budget**

#### **Article 2131. Accrual Procedures**

(1) Taxpayers shall independently determine the amounts taxed and payable.

(2) Income tax shall be accrued at the rate indicated in Article 2086 of this Code, on income determined in compliance with the provisions of Section II of this Code.

(3) Tax payable to the budget shall be equal the amount determined in compliance with Part (2) of this Article, reduced by the cost of trading patents acquired by taxpayers in accordance with the provisions of Article 17 of this Code, but shall not exceed the amount of accrued profit tax related to the patented activity. Taxpayer, within terms established for filing enterprise profits tax return, shall



submit to a tax service office a reference notice about the amount of profit obtained from the patented activity.

(4) Taxpayers engaged in insurance business shall determine the amount of tax liability to be paid to the budget in compliance with the procedures established by Article 2046 of this Code.

(5) Tax payments shall not be made by persons other than the respective taxpayer.

#### **Article -2132. Tax Withholding from Nonresident's Incomes**

(1) The amount of tax on incomes (profits) of nonresidents determined in compliance with the procedures set forth in Article 2103 shall be paid to the budget by persons making such payments including non-resident's permanent establishments before or along with payment of the income.

(2) Persons, who pay out the income [of non-residents] shall be responsible for withholding and remitting to the budget the amount of the tax on non-resident's incomes (profits).

(3) Not later than on February 25 of the year following the reporting once, residents, or non-resident's permanent representatives who withhold tax on non-resident's incomes (profits), shall submit to a state tax service office financial reports and tax report about withholding and remittance to the budget of the tax on non-resident's incomes (profits), with the form of such report being established by the headquarters of the state tax service of Ukraine.

(4) Non-resident shall receive on the annual basis confirmation on payment of the tax from a state tax service office in accordance with the procedures established by the central authority of the state tax service of Ukraine.

(5) In the cases of concluding contracts with non-residents, any tax provision stipulating the responsibility of the enterprise to pay the tax on non-resident's incomes (profits) shall be forbidden from being included into the contract

#### **Article -2133. Withholding of Incomes from Gambling Business**

(1) Taxpayer who performs payment of winnings in lottery, or other types of gambling where persons purchase the right to participate in the games before their beginning or drawing, shall be obliged to withhold at the source and remit to the budget 30% of the amounts of such winnings.

(2) Regardless of the provisions of the part (1) of this Article, any person making payment to a person because of his/ her winning in casino, bingo, in other gambling games carried out in gambling places (houses) shall be obliged to withhold and remit to the budget 30% of the person's profit which is calculated as a difference between the amount of winnings for the corresponding working day and the amount of expenditures incurred during the same day by the individual taxpayer and related to the winnings, but not more than the total amount of such winnings. The procedure of tax accounting for persons' winnings and their expenditures, as well as the procedure on reporting from gambling business participants shall be established by the headquarters of the state tax service of Ukraine.

(3) State lottery winnings shall not be taxed. State lottery shall be considered those lotteries whose prize pool is established in an amount of not less than 50% of the proceeds, and deductions to the State Budget of Ukraine of at least 30% of the proceeds less payments from the prize pool.

(4) Drawing of and conducting lotteries, which meet the above said requirements, shall be registered in the Ministry of Finance of Ukraine, which shall establish the requirements on conducting financial control over the activities of a lottery agent. Amount of income that exceeds the

expenditures related to drawing of and conducting such lotteries, shall not be taxed under income tax requirements stipulated by Article 2086 of this Code.

#### Article -2134. Terms of Tax Returns' Filing

(1) Taxpayers shall file tax returns in the form which is established by the headquarters of the state tax service of Ukraine to a state tax service office not later than on February 25 of the year following the reporting one. Taxpayers which have purchased trade patents during the reporting period, shall submit the statement of income from the activities for which trade patents were purchased, in addition to tax return, in the form which is established by the central authority of the state tax service of Ukraine.

1. Taxpayers having negative value of taxation object according to the results of the previous year, as well as newly created businesses –taxpayers shall submit income tax return quarterly to the bodies of the state tax service during their first year of activities. Tax return shall be submitted not later than on the 20th day of the month following the accounting quarter, in the form which is established by the central authority of the state tax service of Ukraine. -(2) Taxpayers shall have the right to file documents to state tax service authorities, sending them by registered mail, but not later than 10 days prior to the deadline envisaged in this Article. State tax service authorities shall not be required to approve the calculations of taxpayer's tax liabilities for the tax periods which precede the payment.

(3) Nonresidents operating in Ukraine through their permanent representatives shall keep books and records as well as conduct tax accounting pursuant to Ukraine's legislation, and shall file on the quarterly basis tax returns to the state tax service authorities at their representatives' places of location pertaining profits received from sources in Ukraine, as well as income tax calculations using the form established by the headquarters of the state tax service of Ukraine. In the event of termination of such permanent representative offices' activities before the end of the accounting quarter, said documents shall be forwarded to the state tax service authority within 15 calendar days from the date of such termination.

(4) Procedures of execution and presentation of tax returns, declarations on income of enterprises, and tax calculations shall be established by the headquarters of the state tax service of Ukraine.

(5) Taxpayers shall submit their annual balance sheets, confirmed by the way of conducting an audit if this is provided by law, to the state tax service authorities not later than by February 25 of the year following the reporting period.

#### Article 2135. Due Dates for Tax Payments

(1) Tax shall be paid to the budget not later than on March 1 of the year following the reporting one.

(2) Payment orders on remitting the tax amounts to the budget shall be submitted by enterprises to banks prior to the due date.

(3) (3) Within the accounting (tax) quarter taxpayers–shall make installment tax payments to the budget Amounts of installment payments shall be calculated by the taxpayer independently and shall be paid according to the following procedure:

a) installment payments for April-December of the reporting year shall be made not later than on 25<sup>th</sup> of each of the nine months of the reporting year after April, in the amount calculated according to the formula:

$$IP = (Ot - N) / 12 * 0.2 * F$$

where

IP is the amount of installment payment

Ot is the amount of object of taxation for the previous reporting period, determined without taking into account the negative amount of the object of taxation for the previous reporting periods;

N is the non-refunded negative amount of the object of taxation for the previous period, by which the object of taxation for the reporting period is decreased; the object of taxation for the reporting period shall be calculated according to Article 2036 of this Code;

F is a factor which is calculated according to the following formula:

$$F = IC/IP,$$

where

IC is taxpayer's income for the previous quarter of the reporting year determined according to the data in financial reports

IP is taxpayer's income for the previous quarter of the last year determined according to the data in financial reports

- b) for calculation of advance payments for the second, third, and fourth quarter of the current year, the factor F shall be determined according to the accounting records for the first, second, and third quarter respectively;
  - c) adjusted calculations of installment payments with the F factors applied for the second, third, and fourth quarter, shall be submitted by the taxpayer to the authorities of the state tax service quarterly, before the 25<sup>th</sup> of the month following the reporting quarter, according to the form established by the central authority of the state tax service of Ukraine.
  - d) Installment payments for January to March of the reporting year shall be paid in the amounts not lower than the amounts of installment payments for October to December of the previous year, not later than on the 25<sup>th</sup> of the month following the reporting month.
- (5) According to the data stated in the yearly tax return, the taxpayer shall perform recalculation of the difference between the installment payments actually made and installment payments to be made, which should be determined as 1/12<sup>th</sup> of the income tax liabilities for the reporting year. Recomputations shall be submitted to the authorities of the state tax service in the terms stated by the Article 2134 of this Code in order to submit the tax return according to the form established by the central authority of the state tax service of Ukraine.
- (6) Taxpayers mentioned in the item 1, Clause (1) of the Article 2134, shall pay income tax to the budget quarterly, according to the results of the reporting (tax) year, by the 25<sup>th</sup> of the month following the reporting quarter.

Article 2126. Tax Remittances to the Budget

## **Chapters 19 - 20 – Reserved**

# **Part III. Physical Person Income Tax**

## **Chapter 21. General Provisions**

### **Article 3001. Definitions**

For purposes of this Section the terms shall be used in the following meaning:

- a) tax, taxation, taxpayer (used in any grammar case) shall be understood as the physical person income tax, imposition of the physical person income tax, payer of the physical person income tax (used in an appropriate grammar case);
- b) income shall be understood as a sum of any money, cost of tangible and intangible assets, securities, other items subject to ownership rights, including intellectual ownership rights, that have value and that have been received (or computed) from all sources during the taxation period;
- c) employer shall be understood as a legal person, its branch offices (subsidiaries), representative offices, non-resident's permanent representative offices, a physical person – agent of entrepreneurial activities;
- d) primary income shall be understood as income received from one of the sources specified below:
  - d1) from an employer specified by a taxpayer as place of the receipt of primary income in the form of wages or other kinds of physical person's labor remuneration having employment relationships with this legal person. Primary income shall also include all other income the source of payment of which belongs to the employer;
  - d2) from conducting one's independent entrepreneurial activity and other activities equaled to it according to taxation terms if such income under this Section of the Code shall be recognized as primary;
- e) movable property shall be understood as transportation vehicles subject to registration according to the legislation of Ukraine;
- f) self-employed person shall be understood as a physical person - agent of entrepreneurial activity or person equaled to it according to taxation terms;
- g) mortgage shall be understood as a financial credit extended to physical person to finance expenses related to the construction of a house or an apartment, that remain in the creditor's ownership until the day when the physical person pays back principal and interest on the credit or when this house or apartment are transferred into the debtor's ownership and are considered collateral. A credit shall be recognized as a mortgage only if it is extended for a period not less than 60 calendar months and envisages that the principal must be paid back in advance or proportionally with the payment of the interest on this credit;
- h) members of the physical person's family - a wife or a husband of this physical person, children of both a physical person and a spouse, parents of both a physical person and a spouse, brothers (sisters) of both a physical person and a spouse, other dependents of such physical person residing with this physical person.

Articles 3002-3003 - reserved

## **Chapter 22. Tax Payers**

### **Article 3004. Tax Payers**

- (1) Taxpayers are physical persons - residents and nonresidents.
- (2) Physical persons - nonresidents with diplomatic immunity and privileges envisaged by international agreements or Ukrainian legislation are not taxpayers.

Article 3005 - reserved

## **Chapter 23. Object of Taxation**

### **Article 3006. Object of Taxation**

- (1) The object of taxation of residents is an aggregate taxable income for the reporting year, which is computed by reducing the amount of the adjusted gross income in the reporting year, determined according to article 3010 of this Code, by the amount of taxpayer's expenses determined according to article 3011 of this Code.
- (2) The object of taxation of nonresidents is their gross income received from sources originated in Ukraine and determined according to article 3041 of this Code.

### **Article 3007. Gross Income**

- (1) Gross income shall be understood as a total amount of income from all sources received (accrued) during the reporting period in monetary, tangible and intangible forms either on the customs territory of Ukraine or outside it.

- (2) Estimates of taxpayer's gross income shall include, in particular:

income received at the primary or other sources of income as primary, additional or other wages, bonuses, premiums, refunds of the cost of goods, work, services, royalties and payments under agreements (contracts) concluded in accordance with the civil and labor legislation of Ukraine, any other payments in cash or in kind as compensation for the cost of work, services provided by the taxpayer according to Ukrainian legislation;

income in the form of gifts received from physical persons (except for gifts from the members of a family, the cost of which exceeds 5 minimum wages a year, in the amount of the excess sum;

- a) income received in the form of insurance payments and refunds;

income from the sale of assets determined according to articles 3022 and 3023 of this Code, as well as income from the full transfer of intellectual property rights;

income from leasing (terminable ownership and use) property, intellectual property rights;

income not included into the computation of gross income for the preceding three years prior to the reporting one and detected in the reporting year, if this income was to be included in the taxpayer's aggregate income in the preceding years;

taxable income (profit) from entrepreneurial activities and other activities that equaled to entrepreneurial in terms of taxation, except for income determined according to article 15006 of this Code;

income obtained as additional benefits.

h1. Additional benefits include any payments (transfer into ownership) made to a physical person at the expense of employers in monetary form, in kind and in the form of work, services (except for social aid services), if these payments are not wages or payments made under agreements of civil/ legal nature. In particular, but not exclusively, additional benefits include provision of automobile transportation, housing, food and clothes (except for food and clothes specified in sub-item "b" of article 3008 of this Code); services of household personnel; loans at interest lower than market interest rates; gifts; difference between book value of goods and selling value, if the goods are sold at discount; tuition fees of the physical person or his/her family members studying at educational institutions; insurance of a physical person or one's property at the expense of employer (except for mandatory state insurance); contributions to physical person's pension accounts in amounts exceeding ceilings for such contributions determined according to the legislation of Ukraine; reimbursement of expenses incurred by physical person except for expenses mandatory nature of the reimbursement of which is determined by the legislation of Ukraine or civil-legal agreement;

income in the form of:

- i1) amounts of irrevocable financial aid and cost of free goods, work, services received by a taxpayer during the reporting year, except for cases specified by sub-item "b" of article 3008 of this Code;
- i2) amounts of penalties and/or fines received with consent of parties to a civil/legal or labor agreement, or by the court's decision;
- i3) money or property received with consent of parties to a civil/legal or labor agreement, or by the court's decision as the compensation received as the indemnity for a property damage inflicted to a taxpayer.

#### **Article 3008. Amounts of Payments Not Included into the Gross Income Computation**

There shall not be included in the taxpayer's computed gross income and shall not be shown in the annual tax return:

- a) amounts of the government ear-marked aid, housing and other subsidies, compensations and remuneration's (except for wages and other analogous payments), that are paid (refunded) to the taxpayer in accordance with the legislation of Ukraine, value of government awards and premiums, as well as pensions received by the taxpayer from the Pension Fund of Ukraine or budget, compensations for damages caused by Chornobyl catastrophe, as well as additional pensions paid under voluntary pension insurance scheme in case when contributions were made at the expense of the insured physical person;
- b) value of free food, work uniforms and shoes, service uniforms, in accordance with the registry and requirements established by the Cabinet of Ministers of Ukraine;
- c) amounts received by a taxpayer for business trips that are computed in accordance with provisions of Part II of this Code.
  - c1) If the amount of per diem allowance for business trips exceeds the ceilings computed according to Section II of this Code, an employer (or self-employed person) is required to compute and withhold at the time of payment of this excess amount the tax in the amount of 20% of the excess amount at the expense of such sum.

c2) If on the results of the submission of the report on the use of per diem allowances for business trips, their amount exceeds the ceilings computed according to Section II of this Code, and the accountable physical person does not return the amount paid in excess by the end of the reporting monthly period, an employer (or a self-employed person) is required to include the spent per diem excess amount into the gross income of the accountable physical person in the reporting month and withhold the tax on such an amount in accordance with tax rates and brackets envisaged for primary and non-primary income depending on whether the employer (self-employed person) represents the place of the receipt of primary income or not. In this case the amount of taxable income of the taxpayer shall be increased by the amount computed according to article 3021 of this Code;

- d) cost of goods received by the taxpayer as the goods warrantee replacement;
- e) money and cost of property received by the taxpayer as a result of the partition of property for the reason of a married couple's divorce;
- f) amount of irrevocable financial aid and cost of free-of-charge goods, work, services received by taxpayer during the reporting year according to the procedures envisaged by the legislation of Ukraine on charity activities and charity organizations, as well as the resolutions of the Cabinet of Ministers of Ukraine as regards acts of God, catastrophes, accidents, etc.;
- g) income from the sale of agricultural produce grown in household gardens or orchards, if the land plot does not exceed one hectare;
- h) income received in the form of interest, dividends, royalty, winnings, prizes, on which taxes were withheld according to the procedure envisaged by this Code;
- i) amount of money and value of property received by taxpayers according to bestowal agreements from other family members, considering constraints envisaged by part (3), Article 3024 of this Code.

#### **Article 3009. Amounts by which Taxpayer's Gross Income is to be Deducted**

(1) For taxation purposes, taxpayer's gross income shall be deducted by the:

- a) amount of money or value of property received by the taxpayer as the compensation (refund) for enforced seizure (divestiture) by the state of the taxpayer's property in cases envisaged by the legislation of Ukraine, as well as the amount of money or value of the property obtained by the taxpayer by the decision of the court (arbitration court) as compensation for property damage incurred by the taxpayer as a result of the violation of his rights and interests protected by law;
- b) amount of excess taxes paid and refunded to the taxpayer;
- c) amount of money or value of property returned to a taxpayer - an owner of corporate rights in proportion to his share of stock (land plot) after final liquidation of the legal person - the issuer of the corporate rights due to such a taxpayer, but not greater than the nominal value of such shares (plots);
- d) amounts of payments (refunds) from the funds of trade and creative unions paid to members of such organizations in cases envisaged by the legislation of Ukraine, except for payments and wages paid to officers of such unions and person related to them;
- e) amounts of payments (refunds) from the funds of other non-profit organizations to outside persons in cases envisaged by the legislation of Ukraine, except for such payments and wages disbursed to the officers of such non-profit organizations and persons related to them;

- f) amount of alimony received by the taxpayer according to the resolution of the court;
  - g) amount of mandatory health insurance payments according to the procedures and amounts stipulated by the legislation of Ukraine;
  - h) amounts of insurance payments and refunds in case of unemployment or taxpayer's disability or death paid to such a taxpayer or to his/her heirs;
  - i) sums of money received by a taxpayer from the sale of his own apartment or house that was used by the taxpayer as the place of residence, as well as the sale of other property, if such property is sold not more than once a year, with articles 3022 and 3023 of this Code considered;
  - j) dividends paid to the taxpayer in the form of shares (plots), issued by the resident legal person that accrues dividends, provided such payments do not alter the proportions (shares) of the participation of all shareholders (owners) in the authorized capital of such a legal person-issuer (reinvestment);
- (2) income specified in articles 3007, 3009 shall be reflected in the annual tax return of a physical person-taxpayer.

#### **Article 3010. Adjusted Gross Income**

Adjusted gross income is the income determined according to part (2) of article 3007 and reduced according to the procedures envisaged by article 3009 of this Code.

#### **Article 3011. Gross Expenses**

- (1) Computed gross expenses of taxpayer shall include the:

amount of money or value of property provided in the form of donations, charity contributions to not-profit organizations determined by articles 2058 of Section II of this Code, in the amounts not exceeding 4 percent of the adjusted gross income of the physical person according to the results of the tax year;

expenses incurred in the course of entrepreneurial activities and other similar in terms of taxation activities by a physical person conducting such activities according to the procedure envisaged by article 3032 of this Code;

- a) expenses for the maintenance of leased property;

expenses related to the creation of objects of intellectual property rights during the transfer of the property ownership right;

amounts of interest paid for mortgage credits according to the procedure specified in Article 3026 of this Code.

- (2) Gross expenses of the physical person shall not include any expenses other than expressly specified in this section.

Articles 3012-3014 - reserved

### **Chapter 24. Tax Rates**

#### **Article 3015. Tax Rates**

- (1) The aggregate taxable income for a year shall be subject to the tax rates depending on the volume of the aggregate taxable income as follows:



Volume of taxable income for a year (with tax brackets denominated in UAH)	Rates and volumes of tax (denominated in UAH and as percentage of tax base)
Up to UAH 6480 inclusively	10% of the amount of the income
More than UAH 6480	Tax in the amount of UAH 648 plus 20 % of the amount exceeding UAH 6480

(2) Income of physical persons received outside the place of the receipt of primary income and disbursed as wages and other kinds of remuneration (income), including remuneration (income) received under civil-legal agreements, shall be taxed at the source of such income at the rate of 20 percent of the accrued amount of payments at the expense of such payments.

(3) Cost of additional benefits, income received by physical persons from transactions of the sale of movable and immovable property more than once a year, shall be taxed at the rate of 20 percent, unless specified otherwise by articles 3022 and 3023 of this Code.

(4) Income paid to physical persons in the form of interest from money borrowed from them, and royalties shall be taxed at the rate of 10% of the charged amount at the expense of such payments.

(5) Income paid to physical persons as dividends shall be taxed at the rate of 15% of the charged amount of payments at the expense of such payments.

(6) Income of nonresidents (excluding interest and royalties taxed at the rate envisaged by part (4) of this article) with the source in Ukraine, shall be taxed at a 20-percent rate.

Tax rates and brackets determined by this Code shall not be changed during one budget year.

(7) Volumes of aggregate taxable income for a year reflected by tax brackets are subject to annual indexation by indexation coefficient proceeding from the inflation rate for the reporting year if the annual inflation level exceeds 10 %. Procedure of indexation is determined by the Cabinet of Ministers of Ukraine.

Article 3016 - reserved

## **Chapter 25. Procedure for Charging and Withholding Tax**

### **Article 3017. Procedure for Charging and Withholding Tax on Primary Income**

(1) Primary income received by the taxpayer at the source of payment shall be taxed at rates and brackets determined by part (5) of this article.

(2) Primary income shall include any taxable income received at the source of payment from the employer, identified as the source of the taxpayer's primary income, as well as income envisaged by part (7) of this article.

(3) To compute monthly tax liabilities the employer (self-employed person) uses tax brackets specified in part (5) of this article, computed on the basis of annual tax brackets envisaged by article 3015 of this Code.

1. Periods for the payment of primary income are determined by the employer himself meeting the requirements of the labor legislation and/or terms of contracts concluded with hired employees or trade unions that represent the interests of hired employees.

2. If the primary income is disbursed more than once a calendar month, any such payment is taxed at the rate envisaged by the first income bracket for respective month with further recalculation of tax liabilities on the results of the month.

4) The employer that pays any income to the taxpayer is responsible for deducting, on behalf of the taxpayer, mandatory social and pension insurance contributions charged on the total amount of income (but without reducing it by the amount of monthly social tax deductions determined by Article 3018 of this Code) at the expense of sources specified by respective legislation of Ukraine. This part applies to any income specified in sub-item "a" of part (2) of Article 3007 of this Code, as well as any other income paid to the taxpayer at the source of primary income.

5) Employer shall use the following tax brackets for determining the object of taxation and volumes of tax subject to monthly withholding at the source of primary income:

a) tax brackets for January of a taxable year:

Taxable income in January (tax brackets denominated in UAH)	Rates and volumes of tax (denominated in UAH and as percentage of tax base)
Up to UAH 540 inclusively	10% of the amount of income
More than UAH 540	Tax in the amount of UAH 54 plus 20% of the amount exceeding UAH 540

b) tax brackets for January - February of the taxable year:

Taxable income in January-February (tax brackets denominated in UAH)	Rates and volumes of tax (denominated in UAH and as percentage of tax base)
Up to UAH 1080 inclusively	10% of the amount of income
More than UAH 1080	Tax in the amount of UAH 108 plus 20% of the amount exceeding UAH 1080

c) tax brackets for January - March of the taxable year:

Taxable income in January-March (tax brackets denominated in UAH)	Rates and volumes of tax (denominated in UAH and as percentage of tax base)
Up to UAH 1620 inclusively	10% of the amount of income
More than UAH 1620	Tax in the amount of UAH 162 plus 20% of the amount exceeding UAH 1620

d) tax brackets for April and subsequent months of the reporting year shall be computed by way of the monthly increase of the:

- d1) marginal (ceiling) values of each taxable income bracket by the 1/12 of their annual value;
  - d2) fixed part of tax for each taxable income bracket by the 1/12 of the respective annual value.
- (6) Tax liabilities on taxpayer's primary income charged at the source of payment shall be computed by the employer cumulatively from the beginning of the tax year offsetting tax amounts withheld for the preceding months. The final tax liabilities of the taxpayer shall be computed on the basis of tax results by December of the taxable year and shall be taken into account for purposes of increasing (reducing) tax liabilities from the aggregate taxable income on the basis of the results of the taxable year.
- (7) Primary income shall also include income:
- a) received as payment for public work financed fully or partially from the budget, also by the State Employment Service;
  - b) received by physical persons – schoolchildren, students, post-graduate students, trainees, enlisted military officers, as scholarships and/or in cash or in kind allowances from the budget;
  - c) received by persons sentenced to imprisonment;
  - d) received by foreign citizens and persons without citizenship working under contracts or civil-legal agreements on the territory of Ukraine and having regular place of residence outside Ukraine;
  - e) received by foreign citizens and persons without citizenship working in facilities rented (temporarily owned or used) by foreign legal entities or foreign governments, except for persons enjoying diplomatic privileges extended according to an international agreement or legislation.
- (8) Primary income shall not include interest, dividends, royalties, additional benefits and other income, not related to wages paid by an employer (self-employed person) to the hired employee at the source of primary income.
- (9) Primary income does not include wages and other income paid to the taxpayer from abroad or by nonresidents.
- (10) The taxpayer may not have two or more sources of primary income at the same time. The fact that a taxpayer elects an employer as his source of primary income must be verified by the application note submitted by the taxpayer to such an employer. In case a taxpayer changes the source of primary income, the employer charging taxes to this taxpayer before the change is required to recompute the object of taxation on the basis of the amount of actually accrued income and remit this tax to the budget. The certificate specifying the amount of aggregate taxable income received by the physical person, as well as the amount of tax withheld from such an income at the latest place of primary income is the basis for determining the next place of primary income. If such a certificate is not provided by the taxpayer to the new employer, all subsequent income of a physical person received from any source after the change of the place of primary income shall be deemed as income from sources other than primary.

#### **Article 3018. Reducing the Amount of Tax Charged**

- (1) The amount of tax charged for a reporting month shall be reduced by social tax deductions in the amount of:
- a) 10% of one minimum wage of a physical person-taxpayer if monthly income does not exceed UAH 540;
  - b) in addition to exemption provided by sub-item "a" of part (1) of this Article, 10% of one minimum wage of a physical person, who is:

- b1) single mother or father (guardian, fiduciary) - for each child under 16;
  - b2) mother or father (guardian, fiduciary) - for each child under 16 in case when one of the parents has no source of primary income;
  - c) in addition to exemption provided by item "a" of part 1 of this article, 5 % of one minimum wage of each of the parents per each child under 16 if both spouses have sources of primary income;
  - d) in addition to exemption provided by item "a" of part 1 of this article, 10% of one minimum wage of a physical person taking care of a disabled child;
  - e) 20% of one minimum wage of a physical person, who is:
    - e1) as envisaged by the legislation, a Chernobyl victim of the 1-st or 2-nd categories;
    - e2) a person who has special merits before the Homeland according to the list envisaged by the legislation of Ukraine;
    - e3) a World War II veteran, who participated in military actions, according to the list envisaged by the legislation of Ukraine;
    - e4) an invalid of war or invalid of 1 or 2 categories or for any other reasons;
    - e5) a former prisoner of concentration camps, ghettos and other detention centers during the World War II, as well as the victim of repressions during the Stalinist regime;
    - e6) person who was deported from the territory of the former Soviet Union during the W.W.II and brought to the territory of the countries that were in the state of war with the Soviet Union or were occupied by the Nazi Germany or its allies;
    - e7) person that was on the territory of Leningrad (now St.- Petersburg, Russian Federation) during the siege period from September 8, 1941, until January 27, 1944.
- (2) The exemption specified by sub-items (b) - (d) of part 1 of this Article remains valid until the end of the year in which children reached the age of 16, and in the case of children's death - during the next 12 months. Reduction of taxable income starts being implemented from the month in which the child was born.
1. The right to obtain the said privilege is eliminated if the child is taken care of by the Government, being brought up in an orphanage, boarding school the maintenance of which is free, boarding school affiliated to a state school, is a cadet or has independent sources of income.
2. Documents certifying that a physical person has children are submitted by physical persons at the place of primary employment (service, study) before they receive their wages for the first half of January and in case of changes in number of their dependents - not later than on the 15th of the month following the change. When tax offices compute the amount of tax liabilities, such certificates are submitted to them together with income declarations.
- (3) The taxpayers listed in sub-item (e) of part (1) of this Article and having the right to reduce the amount of the charged tax by the amount of tax social privileges for two or more reasons (justifications) specified in items "a" - "d" and in paragraphs of sub-item "d" of part (1) of this Article, may use such a reduction on the ground of the fact envisaging for the highest amount of deduction from the amount of the computed tax.
- (4) The social tax exemptions envisaged by part (1) of this Article are applied at the time physical person's tax liabilities on primary income are computed, as well as when the tax is finally computed from the declared aggregate taxable income based on the results of the reporting year.

1. To compute annual taxpayer' tax liability based on the taxable income for a year, the amount of social tax privileges shall be determined by multiplying the sum of such privileges by the number of calendar months during which the physical person was entitled to these privileges.

2. Social tax exemptions do not apply for the definition of tax liabilities of a physical person on income other than primary.

(5) Social tax exemptions, envisaged by part (1) of this Article shall be extended in the amount not exceeding the amount of the tax charged in the place of the receipt of primary income, and during the final computation of the amount of the tax charged on a declared aggregate taxable income on the results of the reporting year.

#### **Article 3019. Procedure for Charging and Withholding Tax on Income other than Primary**

(1) Income other than primary shall include any income received by the physical person during a taxable period, which has sources other than the employer declared by the taxpayer as the place of primary income (or defined as such according to this part of the Code).

(2) An employer shall compute and withhold the physical person income tax paid as wages and other kinds of remuneration (including remuneration provided under civil-legal agreements) outside the source of primary income of such physical persons, in the amount specified in part (2) of Article 3015 at the expense of such payments.

1. The said tax shall be remitted to the budget simultaneously with accrual or disbursement of such wages or other kinds of remuneration.

2. Computed amount of wages and other kinds of remuneration (not reduced by the amount of taxes withheld) shall be included in the gross income of the physical person for the reporting year, and the taxpayer's total tax liability for the taxable year shall be reduced by the amount of the paid physical person income tax on income from sources other than primary.

(3) Employer - resident shall assess and withhold the tax on additional benefits received by physical persons in the amount specified by part (3) of Article 3015. The said tax shall be paid to the budget simultaneously with the receipt of additional benefits.

1. Value of additional benefits (not reduced by the amount of the tax withheld) shall be included in the gross income of the physical person for the reporting year, and the taxpayer's total tax liability for the taxable year shall be reduced by the amount of the paid physical person income tax on additional benefits.

2. Value of additional benefits provided in the form other than money shall be determined on the basis of regular prices of such benefits determined by Article 1013 of this Code.

3. The procedure of taxation, specified in this item, shall also apply to money, goods, work and services that were given as gifts (provided free-of-charge or without the requirement to return them in future) to the physical persons that do have employment relationships with the person – the donator, as well as to physical persons who hold not paid for positions with the donators (except for recipients of charity aid), if the change of ownership of such gifts is subject to notary certification.

(4) A resident legal person (its separate branches), which is authorized by the legislation of Ukraine to borrow money from physical persons, shall assess and withhold the tax on the interest paid to such persons in the amounts specified in part (4) of Article 3015 at the expense of such payments. This tax shall be remitted to the budget simultaneously with the imputation of interest.

1. Procedures for computing and withholding the tax on interest on government securities shall be determined by the Cabinet of Ministers of Ukraine.

2. The withheld amount of the tax on interest shall not be deducted from the total tax liability of the taxpayer for the reporting year.

3. Provisions of this item shall also apply to royalties paid for the benefit of the taxpayer.

(5) Imputation and payment of dividends shall be carried out according to the procedure envisaged by Article 2050 of Section II of this Code.

The withheld amount of the tax on dividends shall not be deducted from the total tax liability of the taxpayer for the year in question.

(6) The amount of tax, determined on the basis of the aggregate taxable income for the reporting year, shall be reduced by the amount of taxes withheld at the source of the payment of wages or other kinds of remuneration (income) of any sort, excluding taxes, withheld (paid) from income not included into the aggregate taxable income for the year.

(7) Taxes withheld from prizes, lottery and casino winnings (jackpots), other gambling places (houses) in accordance with article 2133 of Section II of this Code, shall not be reckoned in the reduction of the liability for the tax determined by this Code. Such winnings are not included into the physical person's gross income.

(8) Deductions specified in part (6) of this Article shall be made by the results of the tax year at the time of the taxpayer preparing the annual tax return.

#### **Article 3020. Persons in Charge of Withholding (Computing) and Remitting Tax to the Budget**

(1) The person responsible for withholding and remitting to the budget the tax on primary income received from an employer, shall be the employer that disburses such income.

(2) The person responsible for withholding and remitting to the budget the tax on non-primary income from an employer (excluding passive income), shall be the employer that disburses such income.

(3) The person responsible for withholding and remitting to the budget the tax on passive income is a legal entity, or an agent of entrepreneurial activity that has no status of a legal entity, and that pays such passive income.

(4) The person responsible for computing and remitting to the budget the tax on income from entrepreneurial or other similar for tax purposes activities is the physical person conducting such activities.

(5) The person responsible for withholding and remitting to the budget the tax on income from the sale (exchange) of property, including immovable property/real estate, is a physical person that implements the divestiture of such property (immovable property/real estate), or other authorized person (a broker, commissioner, consignor, trustee).

(6) The person responsible for withholding and remitting to the budget the tax on income in the form of inherited property, is a manager (trustee) of the property, a bailiff/executor or an inheritor that receives such property. Procedure for withholding tax and remitting it to the budget is the same as that established in part (2) of Article 3019 for income other than primary.

(7) The person responsible for withholding and remitting to the budget the tax on the aggregate taxable income for the reporting year is:

a) in case the aggregate taxable income is received in the form of primary income, as well as in the form of passive income, paid to the physical person by the employer - the employer that disburses such income;

b) in case the aggregate taxable income includes income from sources other than those specified in item "a" of this part, and such income exceeds 2 minimum wages a year - the physical person - the recipient of such aggregate taxable income.

(8) Legal entities, their branches (subsidiaries), representative offices, permanent representations of non-residents, physical persons - entrepreneurs hiring employees, are required to withhold and remit to the budget the tax on any income of physical persons received from these agents of entrepreneurial activity according to procedures envisaged by this section. Wage checks are cashed by banks only on the condition that clients submit payment orders for the remittance to the budget of the tax withheld from wages received with this check.

(9) If a physical person directly receives income in the forms specified in articles 3022-3024 of this Code, the tax shall be paid either before or at the time the notary certifies relevant agreements. If a physical person sells property to a legal person, the tax is withheld by the purchaser at the time of the payment at the expense of these amounts and shall be remitted to the budget within the deadlines envisaged by this Code.

#### **Article 3021. Specifics of Withholding Tax on Income Received in Form other than Monetary**

(1) Taxes on any income paid to a physical person in form other than money, shall be withheld at the source of payment at the expense of the person that makes such payments.

2) The base for the computation of such tax for a physical person on income from sources other than the source of primary income is determined as the value of goods, work, services, received by the physical person, divided by 0.80.

(3) The base for the computation of such tax on a physical person's income received at the place of receipt of primary income shall be determined as the value of goods, work and services received by the physical person, increased by the amount of tax computed in accordance with article 3015 of this Code. The said base shall be used for computing aggregate taxable income of the physical person for the reporting year, as well as for determining gross expenses of the person that carries out payment of such an income.

4) The value of goods, work, services shall be understood as their regular price, determined in accordance with article 1013 of this Code.

#### **Article 3022. Procedure for Taxation of Transactions Involving Sale, Exchange or Other forms of Divestiture of Real Estate Owned by Physical Person on the Day of Enactment of this Code**

(1) Net income of a physical person from sale, exchange or other form of the divestiture of a house (apartment) used by the physical person as a permanent place of residence and owned (used) by this person on the day of the enactment of this Code shall not be subject to taxation.

The exemption specified in part (1) of this section is used when net income does not exceed the sum (of each such sale, exchange, divestiture) of:

a) 600 minimum wages for a single person;

b) 900 minimum wages;

c) 300 minimum wages for each additional family member who lived permanently in such a house (apartment) on the day of the sale during the period specified in item "9" of part (1) of this Article.

2. For single citizens of a retirement age an exemption envisaged by part (1) of this Article applies without limitations determined by item 1 of part (1) of this Article in the event of the sale (divestiture) of a house (apartment).

3. Restrictions envisaged by item 1 of part (1) of this Article shall not apply to transactions involving free exchange or other forms of divestiture of property among members of a family regardless of their place of residence.

4. If net income exceeds the amount specified in item 1 of part (1) of this Article, exemption may not be higher than the level computed using the following formula:

$E = M \cdot (M:I)$ , where

E - the amount of exemption;

M - the amount to be determined depending on the number of family members under item 1 of part (1) of this Article;

I - net income from the sale of a house (apartment).

5. Net income is the income computed by reducing the selling value of the house (apartment) by the amount of paid by the seller state duty, costs of notary services, other mandatory fees established by the legislation of Ukraine, as well as broker commissions, paid on a non-cash basis according to the legislation of Ukraine. For purposes of determining net income, transactions involving exchange or other kinds of divestiture of residential houses (apartments) shall be treated as the transactions of sale.

6. The sale value shall be understood as the value of real estate certified by a notary agreement on divestiture (including the value of land where such an immovable item is located, as well as the value of a private land plot (garden)), but not less than the value base determined for such a real estate item according to the legislation of Ukraine. A physical person may appeal to the court regarding the decision on the determination of the value base of the real estate item to be divested.

7. The amount of net income shall not be included in the physical person's aggregate taxable income for the year.

8. Part of the net income left after the application of exemptions computed according to item 4 of part (1) of this Article, shall be taxed at the 20% rate. The tax indicated in this item shall not be included in reassessed tax liabilities of a physical person for the reporting year.

9. Exceptions extended according to this Article may be applied to a physical person and one's family members that have used this immovable property item as a place of permanent residence during three full years before the date of the sale, and by at least one family member who owned the property for three years. For tax purposes, the three-year term of ownership includes the period during which the physical person used the immovable property which was owned by the state, was a communal property or was held on the balance of state enterprises and then was privatized by the physical person, regardless of whether this privatization took place before or after the enactment of this Code.

10. If a physical person emigrates from Ukraine or changes one's citizenship, the privilege, provided in this item, is not effective on the day the person fills out one's last declaration on income and property according to the procedures specified in part (5) of article 3054 of this Code.



11. Physical person is required within a month following the day of the sale of a house (apartment) to send to the address of a local tax service office the computation of the net income from this transaction and the amount of applied privileges and remit to the budget the required amount of tax. If the sale takes place after November 1 of a reporting year, the computation shall be filed together with the annual income declaration within the determined deadlines. If the physical person made computations incorrectly, the tax office must either require that the person makes additional tax payment or return to the taxpayer the excess amount of the tax, which must be accomplished within a calendar month after the computation was submitted.

12. Physical person is required to receive and keep on an ongoing basis original and certified by a notary copies of agreements (contracts, invoices, other payment documents), on the basis of which a privilege determined by this Article can be applied, and to provide tax offices with such documents upon the first request of the latter.

(2) Net income obtained by a physical person from the sale of a house, apartment or other immovable property, except for those specified in part (1) of this Article, that were in the person's ownership on the day of this Code enactment, shall be taxed at the rate of 20%.

1. Tax specified in part (2) of this Article is not subject to reassessment when determining the aggregate taxable income of the physical person.

2. Net income is the income determined by reducing the selling price of the property by the amounts paid by the seller as the state duty, cost of notary services, other mandatory fees and payments envisaged by the legislation of Ukraine, as well as commissions (brokerage), paid on a non-cash basis in accordance with the legislation of Ukraine.

3. The sale value is understood as value of the property specified in the sale-purchase agreement (certified by a notary) (including value of land on which the real estate is situated, as well as value of private garden plots), but not less than the value base.

4. The value base of real estate items specified in part (2) of this Article shall be determined either in accordance with the legislation of Ukraine, or by the method of analogy. Physical person has the right to contest in court the decision on the definition of the value base of the real estate to be divested.

5. The amount of net income shall be included into the physical person's aggregate taxable income for the reporting year.

6. The tax determined in part (2) shall be remitted to the budget either before or at the time the purchase-sale agreement, or other form of property divestiture, certified by a notary. A notary issues a certificate verifying the agreement on sale-purchase or other divestiture of such property only on the condition of availability of the document issued by a bank (a post office) to confirm the payment of the tax.

7. Physical person (the seller) is required to provide the tax office with the computation of the net income from the sale of property and a notification of the payment of the tax as stipulated by item 11 of part (1) of this Article.

(3) If the physical person has documents certified by a notary, confirming the cost of the acquisition of property defined by parts (1), (2) of this article, net income from the sale of such property can be determined by the physical person according to the procedure envisaged by item 1-3 of part (1), article 3023 of this Code.

**Article 3023. Procedure for Taxation of Transactions of Sale, Exchange and other Kinds of Divestiture of Movable and Immovable Property/Real Estate Bought by Physical Person after the Enactment of the Code**

(1) Income of a physical person received from sale, exchange, other forms of divestiture, of residential houses, apartments, other real estate items acquired after the enactment of this Code, shall be included in the aggregate taxable income of such physical person on the results of the reporting tax year and shall be taxed according to the procedures specified for taxation of non-primary income, with provisions of this part being considered.

1. The income determined in part (1) of this Article shall be calculated as the sale value of a residential house, apartment, other real estate reduced by the amount of the value base, and paid by the taxpayer, for the reason of the sale of the property, state duty, costs of notary services, other mandatory fees and payments provided by the legislation of Ukraine, as well as commissions (brokerage), paid on the non-cash basis in accordance with the legislation of Ukraine.

2. The sale value is understood as the price of the residential house, apartment, other real estate specified in the sale-purchase agreement (certified by a notary) (including the value of land on which the residential house, apartment, other real estate is situated, as well as value of adjacent garden land plots), but not less than the value base.

3. The value base of the residential house, apartment, other real estate, specified in part (1) of this Article, shall be understood as its purchase value (verified by a notary) (including value of land on which such residential house is situated, as well as value of adjacent garden land plots). The absence of documents certified by a notary that would confirm the value of the acquisition of the residential house, apartment, other real estate, gives no right to reduce the sale value of the property.

4. For tax purposes the amount of the assessed income from the sale of the residential house, apartment, other real estate, which has been used by a physical person as primary residence during three full years prior to the date of the sale, shall be reduced by 10 percent for each full year of ownership of such residential house, apartment, other real estate by the physical person who sells it, starting from the fourth year from the date of the acquisition of such a residential house, apartment, other real estate.

5. For tax purposes the amount of the assessed profit from the sale of the residential houses (apartments) other than specified in item 4 of this part, as well as from the sale of any other real estate, shall be reduced by 5 percent for every full year of ownership of such houses, apartments, other real estate by the physical person who sells it, starting from the fourth year from the date in which residential houses, apartments, other real estate items were bought.

6. Physical person is required during a month following the date of the sale of the residential house (apartment, other real estate items) to send to the local tax office the computation of the profit from this transaction, and to remit the required amount of tax to the budget. If the sale takes place after November 1 of the reporting year, such computation shall be filed together with the annual income and property declaration within the determined deadlines.

7. For tax purposes income received from transactions involving selling land-based, aircraft and water transportation vehicles shall be assessed in accordance with the rules specified in item 4 of this part for purposes of assessing income from sales of immovable property/real estate without applying provisions of item 5 of this part and shall be taxed in accordance with rates and rules provided for taxation of income other than primary.

(2) Agreements on divestiture of property envisaged by part (1) of this Article are subject to mandatory certification by a notary.

1. In cases where an agreement on divestiture of real estate is registered according to the legislation of Ukraine at commodity exchanges, these exchanges must file a notice of the agreement not later than on the 3rd working day after the registration of such an agreement to a state notary office at the location where the real estate is situated. The notary shall enter the received information into the registry of real estate divestiture agreements. Any additional registration of the agreements is not required.

2. The procedure for filing such notices and registering the agreements shall be established by Cabinet of Ministers of Ukraine.

(3) For tax purposes transactions involving transfer of real estate into interminable ownership or use (management) under agreements on interminable ownership, pecuniary tenancy without the specification of the closing date of the agreement, as well as transactions of the transfer of the right to use (manage) the property according to the general power of attorney (by proxy) for the use of real estate or vehicles, excluding transactions between family members (inheritors), shall be considered real estate sale transactions.

#### **Article 3024. Procedure for Taxation of Income Received As Inherited Property Or Property Donated to Taxpayer**

(1) Value of property transferred to the physical person's heir/heirress should not be included in gross income of the inheritor, if this property is :

a) a residential building or apartment used by this person as his/her permanent place of residence. If the owner at the time of his death owned several houses or apartments, the heir (at one's own choice) receives only one house (apartment) without being taxed;

b) personal garage, parking place (garage) in garage co-operatives; private land plots, dacha and other plots, including plots in garden co-operatives and associations; dacha houses and other items of dacha (garden) infrastructure;

c) personal property of such person, excluding property used for entrepreneurial activities;

d) funds deposited on pension accounts of such a physical person, either documented as securities or not.

(3) Other than specified in part (1) of this Article kinds of property (money) and ownership rights, including corporate rights (ownership of an enterprise or of property used in entrepreneurial activities), other securities, objects of intellectual property and rights to royalty of an inheritor should be included in gross income of the inheritor and taxed at the time of the receipt of inheritance (excluding property that was jointly owned by the family of the legator and inheritor/legatee).

(4) Property specified in part (1) of this Article that was granted (transferred for free or without requirement to compensate for its value) by the physical person to members of his/her family, regardless of their place of residence, shall not be included in gross income of such members. If other than specified in part (1) of this article property was donated to the members of the family, or if other property was granted to persons other than members of the family, the value of such property, excluding charity contributions (determined under part 1 of Article 3008 of this Code), shall be taxed under procedure established for the taxation of additional benefits and shall be included in gross income of the recipient in the amount by which it exceeds two minimum wages a year.

## Article 3025. Lost Property Replacement Procedure

(1) If the physical person - the taxpayer loses his/her property because of looting or destruction of such property or if this property was recognized as not usable due to the 'Acts of God' circumstances or if the property was designated for the demolition, the physical person has the right to reduce one's aggregate taxable income received during periods specified in part (3) of this Article by the amount of the value of lost property, but not more than 500 minimum wages.

(2) If the lost property was insured, the amount of insurance indemnity shall be included in the gross income of the insured person, and the value of the insured real estate/immovable property shall be included in gross expenses of the physical person during the periods specified in part (3) of this article and taxed according to the results of the reporting year during which such insurance indemnity was charged. In this case the limitations concerning value of the lost property provided under part (1) of this article shall not apply. The taxpayer's gross expenses shall be increased only after the insurance compensation is actually received.

(3) Privilege envisaged by part (1) of this article shall be effective during periods during which the lost real estate/immovable property is to be replaced by the similar real estate/immovable property, specifically:

a) in case of the loss of real estate in the form of a residential house or apartment - before the expiration of the fifth year after the end of the year during which such real estate was lost;

b) for property other than specified in item "a" - before the end of the second year following the year when the real estate was lost.

(4) If the person does not replace the lost property within the terms specified in part (3) of this Article, the amount of tax privileges in the amount of the value of the lost property shall be added to the amount of taxable income of such person in accordance with the results of the respective taxable year and shall be taxed according to the general procedure. If the person replaces the lost property within the term specified in part (3) of this article, but in the amount which is less than that reckoned for taxation purposes according to part (1) of this article, the excess amount of tax privileges over the value of the replaced property shall be added to the amount of taxable income of such person.

(5) The basis for the reduction in the taxable income in accordance with the results of the reporting year is provided by the confirmation of the value of the lost property on the basis of:

a) either assessment made by insurance company, which insured such property;

b) or value estimation made by notary bodies which confirmed the value of such property according to purchase-sales agreements or agreements on other kind of divestiture of the real estate;

c) or value of property indicated in payment documents confirming the fact of the purchase of such property;

d) or other procedure established by the legislation of Ukraine.

(6) If there are more than one estimations of property value, the lowest estimate shall be taken for purposes of reducing the tax base.

(7) If the above mentioned estimations of value are not available, the tax entity has the right to estimate the value of the lost property by using the analogy method; if the estimation of value is impossible, the right of the taxpayer to enjoy privilege specified in part (1) of this article shall not be granted.

8) The fact of the loss of real estate/immovable property must be confirmed by official reports of the offices of internal affairs of Ukraine or other organizations designated by the legislation of Ukraine as those that may confirm 'Acts of God' (force major) circumstances, or by a court ruling.

(9) If the taxpayer loses other insured property, the amounts of insurance compensation shall be included in the gross income of the physical person, and the value of the property, estimated in accordance with insurance contract, shall be included in the person's gross expenses for the respective year, but not prior to the receipt of the insurance compensation. Requirement of mandatory replacement of the lost property shall not be applicable in this case.

#### Article 3026. Taxation of Income Related to Mortgages

1) Physical person-resident has right to reduce one's aggregate taxable income received upon the results of the reporting year by the amount of the interest on mortgage paid during the year and received from residents authorized according to the legislation of Ukraine to extend credits for housing or apartment construction, which is used or will be used as the place of primary residence of the physical person. The aforesaid reduction is permitted in the amount that does not exceed the aggregate taxable income of the physical person - borrower and does not exceed annual amount of interest accrued on the specified amount of the mortgage credit principal.

(2) For purposes of determining the amount of the privilege stipulated by part (1) of this article, mortgage credit principle is recognized in the actually extended amount but not more than 500 minimum wages for the entire period of validity of such mortgage credit. If the credit principal exceeds 500 minimum wages, then for taxation purposes it is recognized in the part computed according to the following formula:

$RC = 500 * (500 : AC)$ , where

RC - recognized part of the principal of the credit on which interest is accrued for the purposes of calculation of tax exemptions (denominated in minimum wages);

AC - the amount of actually extended credit (denominated in minimum wages).

(3) Physical person who used the exemption stipulated by part (1) of this Article is obligated for the taxation purposes to identify house or apartment built on a mortgage loan as one's place of permanent residence.

Exemption stipulated by part (1) of this Article can be extended to a physical person and members of this person's family for the purposes of purchasing a house (apartment), for ownership or use, not more frequently than once in 10 calendar years, starting from January 1 of the year which follows the year when the house (apartment) was bought for use (ownership) .

1. If a mortgage credit repayment period is more than 120 calendar months, the physical person may enjoy the privilege provided in part (1) of this Article for the new mortgage credit only after the complete repayment of the liability for the previous mortgage credit.

(4) For the purposes of part (3) of this Article under the term "members of the physical person's family" means wife or husband of such physical person; children of both husband and wife of such a physical person who live together with the physical person and are not married yet; parents of both the physical person and one's wife or husband, other dependents of such physical person who live together with the physical person, regardless whether marriage contract provisions stipulate joint ownership of property or not.

(5) In case of divorce (discontinuation of a marriage) or when children or other dependents form another family, a ten-year restriction on the renewal of the privilege provided under part (3) of this

Article shall be applied to the physical person and members of the family who is (are) still using (keep using) a house or apartment built on a mortgage credit funds as their primary place of residence.

1. If divorce results in the change of the owner of a house or apartment built on a mortgage credit, a ten-year limitation period stipulated by part (3) of this Article shall be applied to a new owner starting from the day of the legal (notary) registration of the change of the owner.

2. If a physical person sells a house (apartment) built on a mortgage credit or changes one's place of residence before the expiration of a 5-year period stipulated by part (3) of this article, the exemption stipulated by part (1) of this article shall no longer apply to such physical person from the day of the sale (change of the place of primary residence) and shall be renewed after such physical person has received a new mortgage credit, on condition of the compliance with requirements of part (3) of this Article.

3. If an agreement on the sale of a house (apartment) provides for the transfer of seller's liabilities to repay mortgage credit to the buyer, then the buyer has the right not to use exemption stipulated in part (1) of this Article, provided that requirements of part (3) of this Article are met.

(6) Physical person (members of one's family) has the right to renew the right to the restitution of the right to the receipt of the exemption stipulated in part (1) of this Article, before the expiration of a 10-year period stipulated by part (3) of this Article, provided that:

a) a house (apartment) is sold because of the insolvency of the physical person;

b) the physical person transfers a house (apartment) as inheritance to other persons, as a result of which the members of a family who lived together with the physical person lose their right to use such a house (apartment) as their place of primary residence under the terms of the will, if the marriage contract envisaged for separate ownership of property;

c) a house (apartment) is confiscated in cases envisaged by the law;

d) a house or apartment is sold or demolished on the decision of state bodies as regards the purchase of such a house (apartment) or reimbursement of its value in cases stipulated by the legislation;

e) a house (apartment) is demolished or considered to be unfit for residence because of the 'Acts of God' (force major) circumstances.

(7) If a physical person - recipient of mortgage credit violates conditions of credit agreement, Article 109 of the Housing Code of Ukraine shall not be applicable for such a physical person.

#### **Article 3027. Definition of Aggregate Annual Taxable Income and Amount of Annual Tax Liabilities**

(1) The aggregate taxable income for the reporting year is determined by reducing the amount of the adjusted gross income of the physical person for the reporting year by the amount of gross expenses incurred by the physical person during the reporting year.

1. The adjusted gross income of the physical person includes the amounts of any income received in cash or in kind during the reporting year, excluding income taxed by the final tax in situations specified in parts (4) and (5) of Article 3019, Articles 3041-3043, Article 15006 of this Code, and those that are not included in gross income in line with Articles 3008, 3009, part (1) of Article 3022, Article 3023, part (1) of article 3024 and part (1) of article 3025 of this Code.

2. Gross expenses of the physical person include expenses specified in part (1) of Article 3011 of this Code.

(2) Aggregate taxable income determined by part (1) of this Article is the base for the accrual of the tax at rates and brackets specified in part (1) of article 3015 of this Code.

(3) If the person responsible for the assessment and remittance to the budget of the tax on the aggregate taxable income is the taxpayer himself, or physical person, agent of entrepreneurial activity, the taxpayer is required to:

a) determine the amount of one's tax liabilities and/or the amount of the budget liabilities concerning the refund of excess taxes paid by the taxpayer;

b) file by April 1 of the year following the reporting one with the local tax office the declaration on the aggregate taxable income and property (hereinafter referred to as income and property declaration).

c) pay the assessed by oneself tax liability to the budget prior to the day of filing an income and property declaration with a tax office.

(4) Tax liabilities of a physical person by the assessment of its expenses are determined according to this part.

1. Tax organ shall determine the tax liability of the taxpayer by estimating the person's expenses, in particular, for one's personal and family needs, provided such expenses exceed the declared aggregate (gross) income in the reporting period by 100 minimum wages. The said estimation is done on the basis of actual expenses for purchase and maintenance of real estate, other property, transportation vehicles, gems, land, currency and stock, antiques and pieces of arts, corporate rights, and for other purposes.

2. If there is inconsistency between the declared in the income and property declaration for the reporting period amounts of income of the physical person and expenses of this person, the state tax service office shall send that person a written notice requesting justification of the amounts and sources of income that were used for buying and maintaining the specified above property items or to cover other expenses.

3. The taxpayer is required to provide a state tax service office with such a justification within 30 calendar days following the date of the receipt of the written notice. The period for filing such a justification by a taxpayer can be extended by the state tax service office provided the taxpayer has significant arguments.

4. If the taxpayer fails to provide such a justification on time, or if this justification does not contain sufficient information concerning the sources and amounts of his income, such a behavior of the physical person will be considered tax evasion. The fact of tax evasion shall entail tax investigation for the purpose of determining the amount of taxpayer's tax liabilities.

5. Unconfirmed information received from outside/incidental sources about additional sources of income of the physical person or physical person's family may not serve as the basis for the assessment of the tax liability on the grounds of estimated expenses of the person.

6. The amount of expenses incurred by the physical person shall be determined by the state tax service offices on the basis of regular prices and obtained from customs entities, banks, notaries, stock exchanges, as well as other legal and physical persons, information on agreements carried out by the taxpayer and on related expenses.

7. The difference between the declared gross income and amount of actual spending, unjustified by the taxpayer, shall be included in the taxpayer's aggregate (gross) income and shall be subject to taxation at tax brackets according to part (1) of Article 3015 of this Code.

8. The decision to impose such liabilities upon a taxpayer shall be made by a head officer of the state tax service office at the taxpayer's tax address by a higher level entity of the state tax service office.

9. If the taxpayer pays the additionally assessed tax liability based on estimates of his spending, financial sanctions shall not be applied to such a taxpayer.

10. The decision specified in item 8 of this part may be contested by the taxpayer with the higher level entity of the state tax administration or in court, with burden of evidence of the justification of the tax accrued being on the taxpayer. During the period of the consideration of the appeal against the decision of the state tax service office (until the final decision has been made by the court) financial sanctions shall not be applied to the taxpayer.

11. Procedure for determining tax liabilities of the physical persons on the basis of estimates of spending and requirements by the state tax service offices of written clarification of income and its sources according to this article, is also applicable to physical persons that have used their right not to file the income and property declaration in line with this Code.

12. Provisions of this article shall not apply to real estate and other property acquired by the physical person before the day this Code came into effect and was declared on the basis of the results for the previous year as provided by the legislation of Ukraine.

(5) If according to the estimates of the aggregate taxable income in the reporting year the physical person is entitled to a refund for the excess taxes paid, such refund shall be provided according to Chapter 108 of this Code.

Articles 3028-3030 - reserved

## **Chapter 26. Taxation of Income of Physical Persons Engaged in Entrepreneurial Activities without Establishing Legal Person**

### **Article 3031. Methods of Taxation of Received Income**

(1) For purposes of taxation by this tax, entrepreneurial activity is understood as the activity of the physical person (without establishing a legal person) aimed at obtaining profit, if the participation of the person to such activity is regular and substantial. Activities involving subsistence farming at the dacha land plot and selling such crops shall not be considered entrepreneurial activities provided that the income from this activity does not exceed 12 minimum wages per physical person a year.

(2) For purposes of taxation, entrepreneurial activities shall also include individual legal practice, private notary activities, and activities aimed at obtaining any income under agreements of civil--legal nature (excluding wages and passive income), specifically - under agreements on rent (lease), storage (safekeeping), sale or purchase.

(3) Resident physical person carrying out entrepreneurial activities without establishing a legal person (self-employed person), may choose one of the following methods of taxation:

a) either by applying provisions of this Code for taxation of personal income in line with Article 3032, with quarterly payments as provided by part (3) of Article 3052 of this Code;

b) or by choosing the fixed tax paid in accordance with chapter 98 of this Code.

(4) The method must be chosen before the beginning of the reporting year, be valid during such year and may not be changed in the course of the reporting year. Tax office must be notified by the



physical person of the method chosen in accordance with the procedure established by the central entity of the state tax service of Ukraine before the beginning of the reporting year.

#### **Article 3032. Determination of Gross Expenses and Gross Income of Physical Person Incurred (Received) in the Course of Entrepreneurial Activities**

If physical person has chosen the method of the taxation of income from entrepreneurial activity envisaging application of provisions of this section for the taxation of income of physical persons, gross income and expenses incurred in the course of entrepreneurial activities, as well as taxable profits shall be determined in accordance with provisions of Section II of this Code with the following provisions taken into account:

- a) according to Article 2038 of this Code the balance losses may be carried forward to subsequent taxable periods only within the income received from entrepreneurial activities;
- b) it is not allowed to include in gross expenses the amounts of disbursed wages and other similar payments to the physical person - entrepreneur and his/her family members, as well as the acquisition and maintenance of cars, housing, food, clothing, reception expenses, expenses on entertainment and vacations, charity contributions, interest on mortgages or other expenses not related to the activity;
- c) it is not allowed to reduce tax liabilities charged on profits by the amount of the paid property (real estate) tax, but this right is granted with respect to the reduction of aggregate tax liability of the physical person on aggregate taxable income according to the results of the taxable year in accordance with article 3009 of this Code;
- d) the taxpayer's gross income shall be increased (decreased) by the amount of the increase (decrease) in the book value of manufacturing stock (reserve), finished products and goods, which shall be determined as the difference between their book value as of the end and the beginning of the reporting year.

#### **Article 3033. Taxation of Income Received by Physical Person who is Engaged in Entrepreneurial Activity without Establishing Legal Person**

- (1) If the person has chosen the method of taxation of income from entrepreneurial activities as part of the aggregate taxable income, the amount of the taxable income determined according to Article 3032 shall be taxed according to part (1) of Article 3015 of this Code.
- (2) If the physical person taxes income from entrepreneurial activity according to the procedure determined by Article 3032, the amount of social privileges shall be taken into account depending on whether the income is primary or not.
- (3) If the physical person engaged in entrepreneurial activities without establishing a legal person, has acquired a trade patent according to Chapter 17 of this Code, the cost of the patent shall be deducted from the tax liabilities assessed for the respective taxable period in accordance with part (3) of Article 3031, regardless of the chosen method of taxation.
- (4) A physical person may have an on-demand bank account to be used for transactions, including transactions with cash earned from entrepreneurial activities. Procedures for such transactions shall be established by the legislation of Ukraine. To ensure proper tax control, it is prohibited to open bank accounts for physical persons who don't provide the registration numbers, legal or tax addresses, persons authorized to carry out transactions through such accounts, as well as other kinds of unregistered accounts.

Articles 3034-3040 - reserved

## **Chapter 27. Taxation of Income of Non-Residents And Income Gained From Abroad**

### **Article 3041. Procedure for Taxation of Income of Nonresidents Derived from Sources in Ukraine**

(1) Any income of non-residents (except for passive ones) sourced in Ukraine should be taxed at the rate specified in part (6) of article 3015 of this Code and the tax shall be withheld by the person who pays these income at the sources of payment and at the expense of the payments.

(2) Income of non-residents received from the sources specified in part (7) of Article 3017 of this Code shall be taxed at the rates and in accordance with procedures established for taxation of primary income of residents.

(3) Taxes withheld from income paid to non-residents, are final and are not subject to recalculation depending on the results of the reporting tax year.

(4) Social tax privileges, specified in Article 3018 and privileges specified by Articles 3022-3025 of this Code shall not apply to non-residents.

### **Article 3042. Taxation of Passive Income of Nonresidents**

Passive income of non-residents should be taxed at the rates and according to the procedure envisaged by Article 3019 of this Code.

### **Article 3043. Taxation of Income of Residents Sourced outside Ukraine**

(1) Income of residents from sources outside Ukraine shall be taxed as a part of the aggregate taxable income of such person according to the results of the reporting tax year. The amount of the tax charged on the resident's income paid abroad shall be taken into account when the tax is assessed in Ukraine on all income of the person regardless of the source. The amount of the tax on income sourced abroad shall be taken into account in the amount assessed in accordance with the Code.

(2) If the amount of the tax on income sourced outside Ukraine that was paid abroad during a taxable period exceeds the amount of the tax on income from such sources assessed in accordance with this Code, only the amount within the tax charged on such income in accordance with this Code shall be incorporated into the payment of the taxpayer's tax liability in Ukraine.

(3) The amounts of tax paid abroad shall be taken into account to reduce tax liabilities on condition that there is a written confirmation of the payment of the tax provided by a tax office of the foreign state, and provided there is an effective international agreement on the prevention of double taxation to which Ukraine is a party.

(4) The following taxes paid abroad shall not be reckoned in the reduction of the tax liability:

a) tax on real estate (property);

b) postal taxes;

c) taxes on turnover (sale);

d) indirect taxes, whether these taxes fall under the category of physical person income taxes, or other indirect taxes administered according to the legislation of a foreign country.

Articles 3044-3051 - reserved

## **Chapter 28. Procedure for Tax Payment and Tax Returns**

### **Article 3052. Terms for Remittance of Tax to the Budget**

(1) Tax on primary income received from an employer shall be paid to the budget either before or at the time of the actual payment of the primary income, periods for which are determined according to part (3) of Article 3017 of this Code, but not less than once a calendar month.

(2) The tax on non-primary income, including passive income, shall be paid to the budget either before or at the time of the actual payment of such non-primary income.

(3) The tax on the entrepreneurial income taxed as part of aggregate taxable income of the physical person under part (1) of Article 3033 of this Code, during the year shall be remitted to the budget quarterly before the 15th of the month following the reporting period, by installments in the amount of 25% of the annual amount of tax, assessed by income for the preceding year, while physical persons involved into the tax payment procedure – 25% of the amount computed according to the assessed income for the current year irrespective of whether the income is primary or not.

(4) The tax charged on income from the sale of real estate or other property, shall be remitted to the budget in accordance with terms specified in part (2) of this Article for non-primary income taking into account provisions of Articles 3022 and 3023 of this Code.

(5) The tax charged on income received by the physical person in the form of a gift or inherited property shall be paid to the budget by the deadlines envisaged by part (2) of this Article for non-primary income, in keeping with article 3024 of this Code.

(6) The tax charged on the physical person's aggregate taxable income for the reporting year shall be remitted to the budget before the 15th of April of the year following the reporting one.

### **Article 3053. Remittance of Tax Payments to the Budget**

The amounts of taxes on income of physical persons shall be incorporated to the budgets in compliance with the procedure determined by the budget legislation of Ukraine.

### **Article 3054. Procedure for Compiling and Terms of Filing Income and Property Declarations.**

(1) Income and property declarations are filled out by physical persons - taxpayers or by persons authorized by the taxpayers to fill out income and property declarations for them.

1. If an authorized person prepares the income and property declaration for fee, such authorized person is responsible for correct and proper compiling and filing of the declaration in accordance with procedures and in amounts envisaged by this Code for physical persons - taxpayers.

2. Obligation to file a physical person's income and property declaration may be imposed on persons other than the taxpayer himself:

- a) a guardian or a fiduciary/trustee in case of income received by children under age or by incapacitated children, excluding persons specified in part (2) of this article;
- b) an inheritor (administrator of funds, guardian, trustee, court executives) in case of income and property received during the taxable year by the deceased physical person;
- c) other persons in cases specified by the legislation.

3. Persons specified in this part shall be held responsible for violating provisions of this part in keeping with procedures established in this Code for physical persons - taxpayers.

(2) Obligations of physical persons concerning filing income and property declarations are considered met without meeting the requirements of parts (3) and

(4) of Article 3027 and part (4) of this Article if such persons are not property taxpayers and:

- a) are under age or incapacitated and are fully dependent on other persons and/or the state;
- b) were sentenced to imprisonment by a court ruling, were held prisoners of war or imprisoned on the other countries territory during the entire taxable year;
- c) were recognized as lost, deceased or were searched for during the entire taxable year;
- d) are persons that during the entire taxable year were receiving income only in the form of government pension or scholarship, ear-marked benefits, housing and other subsidies and compensations paid from the budgets in line with the legislation;
- e) are military term active duty servicemen;
- f) are persons that have non-primary income not exceeding 12 minimum wages a year.

(3) The income and property declaration is filed by mailing it to the state tax service office by registered mail or by delivering it to the authorized persons representing tax entities in person, depending on the taxpayer's choice. Income declaration must be mailed in terms specified in parts (3) and (4) of Article 3027 and parts (4) and (5) of this Article.

(4) The term for filing income and property declarations specified in part (3) of Article 3027 of this Code may be extended by the decision of a state tax service office if there is an adequate evidence that from January 1 until March 15 of the year following the reporting one the physical person in question was abroad; was aboard a Ukrainian marine ship abroad as member of the crew; was imprisoned by the decision of the court; was kept as a prisoner in the territory of a foreign country or was otherwise restricted in freedom of movement due to the documented 'Acts of God'; was recognized by the court as lost or was wanted by law enforcement bodies in compliance with the legislation of Ukraine. The aforesaid persons are required to file income and property declarations within a month after the specified above circumstances are terminated.

(5) Residents that emigrate or plan to change their Ukrainian citizenship are required to file income and property declarations with the tax service office not later than 60 calendar days prior to the date of emigration (change of citizenship). On the basis of the submitted declaration the tax entity shall issue the document certifying payment of the tax liabilities, which shall be submitted to the customs, authorities at the time of emigration and shall be the basis for customs clearance. For tax purposes, the property owned by the physical persons leaving Ukraine to become permanent residents elsewhere or change one's citizenship, is considered sold at current market prices at the time the application for emigration was filed.

(6) Tax offices shall examine whether income and property declarations have been filed and estimated in a correct way. In case of sufficient doubts as to the validity of particular amounts being included in gross income or gross expenses the state tax service office may contact the taxpayer and request additional financial or other information. The taxpayer shall be required to provide such information to the tax office within 30 calendar days after the receipt of such a request.

1. If the taxpayer fails to provide requested information within 30 days, the state tax service office may at its own discretion determine the amount of the physical person's tax liabilities and take measures aimed at collecting these liabilities. Such decisions of the tax office may be contested at the court.

2. If the income and property declarations are filed by persons specified in part (5) of this article, the tax office is required to examine the validity and estimates of the declaration within 30 days after receiving such declaration and issue a certificate to the physical person certifying the repayment of the tax liability.

(7) If upon the results of the examination of the income and property declaration or other documentary and other verifications the tax offices surcharges additional tax liabilities, the payment notification on such an additional surcharge shall be mailed to the physical person's permanent residence address or to the address of other persons defined by part (1) of this Article.

1. The person responsible for the payment of the tax is required to remit to the budget the amount of extra tax surcharges within:

a) for a physical person - 30 calendar days following the date of the receipt of the payment notification;

b) for employers (being the place of the receipt of the primary taxpayer's income) - at the time of the closest date of the payment of the taxes on primary income of physical persons that have employment relationships with such employers, but not later than a 30-day period envisaged for physical persons.

2. Additionally charged amounts of tax liabilities for the reason of arithmetic errors or typos directly by the employer at the place of the receipt of primary income by the physical person shall be withheld by the employer at the time of the closest date of the payment of taxes on primary income of employees, but no later than a 30-day period.

3. If during the subsequent ten working days after income and property declaration has been filed, a physical person ( or a person authorized by the taxpayer) detected an error in the income and property declaration or inadequate reckoning of revenues or expenditures, this physical person (person authorized by the taxpayer) may within this period file with a tax office a written application of the need to introduce relevant amendments and changes to the declaration.

(8) Forms of income and property declarations, claims for the refund of taxes paid in excess, other tax forms determined by the central tax service office of Ukraine, must be:

a) simple in form and containing terminology in common use;

b) contain detailed instructions concerning the rules of filling out such forms.

9) Blank forms declarations, defined by part 8 of this article, applications and other tax forms must be distributed free-of-charge among physical persons and made freely accessible to taxpayers.

Articles 3055 - 3060 - reserved

## **Chapter 29 – reserved**

## **Part IV. Value Added Tax**

### **Chapter 30. General Provisions**

#### **Article 4001. Definition of Terms**

Terms in the section are used in the following meaning:

a) Person shall be understood as

a1. any legal or physical person, resident or non-resident of Ukraine, including branch offices, subsidiaries and separate divisions of legal persons located on the territory of Ukraine, have accounts in banks and conducts transactions of the sale of goods, work, services;

a2. Resident representative office of non-resident;

b) Tax, taxation, taxpayers (in all appropriate grammar case forms) shall be understood as value added tax, value added tax imposition (levying), and VAT taxpayers (in all appropriate grammar case forms);

#### **Article 4002-4003 - Reserved**

### **Chapter 31. Taxpayers**

#### **Article 4004. Definition of Taxpayers**

(1) For tax purposes taxpayer shall be understood as:

a) any person, registered or subject to the registration as the tax payer;

b) any person who imports goods on the territory of Ukraine, except for physical person not registered as the tax payer when such a physical person imports (receives sent) goods in the volumes not exceeding the quotas for duty-free import, determined according to the procedure stipulated by the legislation of Ukraine;

(2) Person in charge of withholding tax and remitting it to the budget in the course of the implementation of agreements on joint activity shall be the person keeping record of such an activity according to the legislation of Ukraine;

(3) Person in charge of withholding and remitting tax to the budget when performing work, providing services to non-residents, also by their resident representative offices not registered as tax payers, if the location, where such work was performed, services provided, is on the customs territory of Ukraine, shall be the recipient of the results of work, services;

(4) Persons mentioned in parts (2) and (3) of this Article have the rights and duties and bear accountability envisaged by normative and legal acts on taxation issues for taxpayers.

#### **Article 4005. Requirements to Persons Concerning their Registration as Taxpayers**

Any person specified in Article 4004 of this Code, whose volume of taxable transactions related to sales of goods work, services within any period for the last twelve calendar months reaches UAH 62 thousand shall be obliged to get registered as taxpayers in local state tax service offices at their location (tax address) meeting the requirements stipulated in Article 4007 of this Code.

#### Article 4006. Voluntary Registration of Taxpayers

If person, whose volume of taxable transactions related to sales of goods work, services within any period for the last twelve calendar months is less than UAH 62 thousand, except for non-residents' permanent representations in Ukraine not carrying out independent business activities, resolves it expedient to get registered as a taxpayer, the person may voluntarily submit an application for such a registration..

#### Article 4007. The Procedure for Taxpayer Registration

(1) Any person subject to mandatory registration or took a decision on voluntary registration as taxpayer, submits (sends) registration application to local tax service office.

(2) In the case of mandatory registration as the tax payer registration application is submitted to the state tax service office not later than the 20-th day of the month after the termination of the month in which the volume of taxable transactions, specified in Article 4005 of the Code, was achieved for the first time.

(3) The state tax service authorities within 10 calendar days after the receipt of the registration application shall assign the applicant with the individual tax number used for tax collection, and give the certificate of the registration as the tax payer or written refusal of granting such a certificate justifying the reasons for the refusal.

(4) Any person subject to registration as the tax payer but who failed to submit registration application on time, is considered tax payer starting from the first day of the month following the month in which the volume of taxable transactions determined by Article 4005 of this Code was achieved.

(5) The Registration Certificate original shall be kept in an appropriate manner by the taxpayer, while the copies of the Registration Certificate, validity and authenticity of which are certified by the state tax service authority, shall be displayed in broad view on the taxpayer's premises and in all branch offices (subsidiaries), representative offices.

(6) Central office of the State Tax Service of Ukraine keeps taxpayers registry containing data on persons registered as taxpayers.

(7) Registration application forms, registration certificates and Regulations on Taxpayers registry shall be approved by the central entity of the State Tax Service of Ukraine.

(8) If the taxpayer changes the location or starts being serviced by a different tax service office, taxpayer shall be removed from records in one tax service office and placed on records in the other one according to the procedure envisaged by the central office of the State Tax Service of Ukraine.

#### Article 4008. Cancellation of Taxpayer's Registration

(1) Any person registered as taxpayer during preceding 24 months can present application to be excluded from the taxpayers registry, if overall value of taxable goods, work, services provided by such person during the last 12 calendar months was less than UAH 62 thousand.

(2) Any person registered as taxpayer shall submit application on the exclusion from the taxpayers registry if it discontinues its activity according to the legislation of Ukraine.

(3) The state tax service office shall exclude the taxpayer, who submitted application on the exclusion, from the register, if it is determined that it meets the requirement of parts (1) and (2) of this article, paid full amount of the tax to be remitted to the budget according to Section IV of this

Code and returned to the state tax service office registration certificate and all certified copies of such a certificate

(4) If there are no legal grounds for the exclusion of the taxpayer from the register, the state tax service office shall within 10 calendar days after the receipt of the application provide the taxpayer with well-grounded written explanation of this issue.

Articles 4009, 4010 – Reserved

## **Chapter 32. Object of Taxation**

### **Article 4011. Definition of Object of Taxation**

The following taxpayer transactions shall be considered object of taxation:

- a) Sale of goods, work, services place of sale, execution, provision of which is on Ukraine's customs territory, namely transactions of the payment for services of the provision with the right to use and manage property under operational leasing contracts, transactions related to the transfer of rights of ownership of objects of mortgage to the lessor (creditor) to repay payables of the pledger/lessor.
- b) Import of (bringing in, receiving sent) goods onto Ukraine's customs territory and receiving the results of work, services from non-residents, the place of execution, provision of which is on the customs territory of Ukraine, including transactions of import (sending) of property under rent (leasing) agreements, mortgage;
- c) Export (bringing out, sending) of goods outside Ukraine's customs territory, including execution of work, rendering of services supplementary to export (bringing out, sending) the cost of which is incorporated into the customs value of such goods, as well as the provision of services, results of work by non-residents, the place of execution, provision of which is outside the customs territory of Ukraine.

### **Article 4012. Transactions Not Subject to Taxation**

(1) The following transactions shall not be subject to taxation:

- a) Issuance (emission), placement into any forms of management and sale of securities issued (emitted) by agents of entrepreneurial activity, the National Bank of Ukraine, Ministry of Finance, local self-government authorities, in line with the legislation, including privatization and compensation vouchers (certificates), investment certificates, housing checks, land bonds, and derivatives; securities swaps; settlement and clearing, depository and registration activity on the securities market. This provision is not applicable to the transactions of the sale of forms of traveler's, bank and personal checks, securities, settlement and payment documents or plastic cards.
- b) Transfer of the resident lessor's (mortgagor's) property for use by the lessee (mortgagee) in compliance with the lease contract and its return to the lessor (mortgagor) after the contract's expiry date;
- c) Mortgaging property as the collateral to the lessor (creditor), in compliance with loan agreement, and its return after the agreement's expiry date;
- d) Transfer by the resident creditor of the object of mortgage credit to the borrower as property, or for use;
- e) Payment of the principal and interest in compliance with mortgage contract;



- g) Rendering services of insurance and reinsurance, state social, pension, medical insurance stipulated by the legislation of Ukraine;
- h) Turnover of currency values (including national and foreign currencies), bank metals, banknotes, and coins of the National Bank of Ukraine, except for those sold for numismatic purposes; issuance, circulation or redemption of state lottery tickets, as registered according to the established procedure by the Ministry of Finance of Ukraine; payment of monetary prizes, monetary awards, and monetary benefits from other types of gambling business (except for non-state lotteries), acceptance of stakes also by the exchange of funds for tokens or other substitutes for hryvnya used in gambling machines and other gambling equipment; sale of unused postal stamps of Ukraine at their nominal value, envelopes and postcards with unused postal stamps of Ukraine, except for collector's stamps, postcards, and envelopes used for philatelic purposes;
- i) Providing encashment services, settlement and cash servicing, raising, placing, and repaying bankroll in compliance with loan, deposit, investment, insurance or commission contract; granting, management, and assignment of financial loans, as well as loans and bank guarantees by the person extending these loans and providing guarantees;
- j) Sale, for money or securities, of debt claims, except for cash collection of debt claims and factoring transactions;
- k) Payment of the cost of state fee paying services rendered by executive bodies and local self-government authorities, as well as other entities authorized by such bodies or the legislation of Ukraine, to individuals or legal entities, and which are established as mandatory under current legislation of Ukraine, including registration fees and those for licenses (permits), certificates, stamp duties, etc.;
- l) Payment of wages, pensions, scholarships, subsidies, grants, other payments coming from any sources — in terms of money or property — to individuals, in keeping with procedures established by the law; payment of dividends in terms of money or securities (corporate rights), brokerage and dealer services of trade in securities, including privatization and compensation certificates, investment certificates, housing checks, land bonds and derivatives on securities market of Ukraine, as well as derivatives at stock, currency and commodity exchanges set up according to the procedure stipulated by the related laws;
- m) Distribution (consolidation) of business entities' gross assets according to the distribution (consolidation) balance as a consequence of reorganization of the legal entities, done without payment (settlements).

#### **Article 4013. Transactions Exempt from Taxation**

(1) The following transactions shall be exempt from taxation:

- a) Sale of textbooks, school manuals and notebooks;
- b) Provision, in compliance with the list approved by the Cabinet of Ministers of Ukraine, of services required for getting higher, secondary, vocational, and elementary training by appropriate educational institutions, having licenses for the provision of such services and services of the upbringing and education of children at Palaces of Culture, also at music, arts, and sports schools and clubs for children;

- c) Sale of special-use goods (provision of services) for disabled persons, in compliance with the list adopted by the Cabinet of Ministers of Ukraine;
- d) Delivery of pensions and allowances to the population irrespective of the method of delivery to the population, on all the stages of delivery to the end-consumers;
- e) Sale of medications, medical products registered in Ukraine, in keeping with legally determined procedures;
- f) Health care services rendered by medical institutions possessing licenses for the provision of such services, in compliance with the lists approved by the Cabinet of Ministers of Ukraine;
- g) Sale of vouchers for resort and spa treatment and rest for children up to 16 years of age (those who study – up to 18) at certified institutions of all types located on the territory of Ukraine, as well as vouchers for spa treatment at specialized sanatoria of Ukraine for tubercular patients. ;
- h) Services rendered within quotas and keeping with procedure set up by the Cabinet of Ministers of Ukraine, specifically:
  - h1. Keeping children in preschool establishments, boarding schools;
  - h2. Maintenance of retirement homes and disabled persons hospices;
  - h3. Feeding and accommodation for the night of homeless persons at specially allocated places;
  - h4. Catering for children at schools and vocational schools;
  - h5. Feeding, provision with consumer goods, services of public utilities, and other services provided to the special contingent in establishments of the penitentiary system in keeping with the list approved by the Cabinet of Ministers of Ukraine.
- i) Services rendered by city passenger transportation (except for taxis), tariffs for which are regulated in keeping with legally set procedures;
- j) Religious services and sale of special ritual articles by religious organizations in compliance with the lists adopted by the Cabinet of Ministers of Ukraine;
- k) Funeral services and sale of funeral rite articles in compliance with the lists adopted by the Cabinet of Ministers of Ukraine;
- l) Transfer of confiscated property, findings, treasures or abandoned property, property not reclaimed by the owner after the termination of safe-keeping period, as well as values inherited by the state, to state bodies or state-owned organizations authorized to store or sell them under the legislation of Ukraine, as well as transactions on free-of-charge transfer of the stated in this Item property on the decision of the Cabinet of Ministers of Ukraine to the ownership and use of state bodies and state-funded establishments (organizations);
- m) Transfer of plots of land being part of real estate or of underdeveloped sites by the persons authorized to do so by the Land Code of Ukraine;
- n) Privatization of state-owned and communal assets, as well as free-of-charge privatization of dwelling stock, including general-purpose places in apartment houses,, individual land plots, and land shares in accordance with the legislation of Ukraine, as well as the provision of services (work) the receipt of which, according to the legislation of Ukraine, is mandatory condition for the privatization of housing, individual land plots and land shares;

n) Implementation of work dealing with housing construction which is done at physical persons' expense;

o) Charity aid, namely – free-of-charge transfer of goods, work, services to charity institutions created and registered according to the legislation of Ukraine, as well as the provision of such aid to recipients of charity aid in accordance with the legislation of Ukraine on charity and charity institutions.

o1. Free-of-charge transfer shall be understood as the provision of goods, work, services to charity organizations and recipients of charity aid without any monetary, material or any other kind of compensation. Violation of this rule is equaled to deliberate tax evasion.

o2. Procedures of marking and distribution of goods received as charity aid, as well as the control over ear-marked distribution of charity aid in the form of rendered services or executed work shall be established by the Cabinet of Ministers of Ukraine.

o3. Received goods marked as intended for charity aid and which are sold for money or any other kind of compensation, and /or proceeds from such selling shall be confiscated from the dishonest seller and assigned to the state revenues according to the set up procedure.

o4. The transactions of charity aid in the form of excisable goods, securities, intangible (non-material) assets and goods, work, services specified in Section V of this Code and destined for use in entrepreneurial activities, list of which shall be determined by the Cabinet of Ministers of Ukraine, shall not be tax exempt.

p) Annual sale of Christmas and New Year presents for children by manufacturing and trade enterprises starting from December 1 of the current year until January 15 of the following year; such presents can consist of confectionery and toys manufactured domestically with the overall value of not more than UAH 17 and purchased at the expense of the Social Insurance Fund of Ukraine, trade unions of enterprises and organizations, as well as non-profit organizations. If persons specified in this Item do not receive monies for the sold presents until February 1 of the following year, they shall increase the sum of tax liabilities by the corresponding value added tax sum;

q) Transfer of fixed assets as the contribution to authorized capital of a legal person for the formulation of its integral property package (complex) in exchange for corporate rights emitted (issued) by it, also in the course of the import of such fixed assets on to the customs territory of Ukraine, except for excisable goods, or their export outside the customs territory of Ukraine; sale, for compensation of aggregate gross taxpayer's assets (including the cost of goodwill) to another taxpayer, as well as redemption of fixed assets previously included into the legal person's authorized capital by legal or physical persons, in the case of their retirement from the group of founders or stakeholders of such a legal entity, or in the case of the liquidation of such a legal entity, also in the course of their (except for excisable goods) import on to the customs territory of Ukraine or in the course of their export outside the customs territory of Ukraine; as well as the redemption by the person, authorized by the agreement to keep record of results of the joint activity, of aggregate gross assets to the participants to joint activity as the result of their cessation of such an activity.

q1. Integral property package (complex) shall be understood as assets, the aggregate of which shall provide for the pursuance of entrepreneurial activity on an on-going and regular basis and the life of which exceeds 12 calendar months.

q2. Sale of aggregate gross assets shall be understood as the sale of an enterprise as a separate entrepreneurship item or the incorporation of enterprise's gross assets or its part into the assets of another enterprise. As the result of this enterprise-purchaser acquires the rights and duties (is the successor) of the enterprise selling such assets.

q3. In the case of collaborative (joint) activity the transfer of goods, work, services on to the balance of a taxpayer authorized by the agreement to keep account of the results of such activity shall be understood as the sale of such goods, work, services;

r) free-of-charge transfer into the state or communal ownership of territorial communities of villages, towns, cities or in their common ownership of items of all forms of ownership which are on the balance of one taxpayer and transferred to the balance of another taxpayer, provided such transactions are conducted on the resolution of the Cabinet of Ministers of Ukraine, central and local executive authorities, local self-government authorities approved within the terms of their reference. Provisions of this sub-item shall be applicable for the transactions of free-of-charge transfer of items from the balance of the taxpayer in state or communal ownership, on the balance of another legal entity owned by the state or communally, conducted on the resolution of state power authorities or local self-government authorities, to the sector of management of which such a taxpayer and such a legal person belong;

s) free-of-charge transfer of goods, work, services produced by subsidiary enterprises and medical and labor workshops (guilds, sections) of boarding schools, territorial service centers for single elderly people (pensioners), specialized hospitals, medical and activity therapy centers of a special category and dispensaries, provided the purpose of such transfer is to satisfy the needs of the aforesaid institutions;

t) Material aid by agricultural producers in rural area (within UAH17 per month per capita) in the form of produced by them food products and land cultivation services to multi-children families, war and labor veterans, rehabilitated citizens, disabled workers, disabled in the childhood, single elderly people, people affected by Chernobyl disaster;

(2) Shall be exempt from taxation transactions of sale and import (sending) on to the customs territory of Ukraine of goods, work, services for the needs of diplomatic missions, consular offices of foreign countries and representative offices of international organizations in Ukraine, and for use by diplomatic personnel and families thereof residing together with diplomatic officers. Exemption procedures and lists of exempt transactions shall be adopted by the Cabinet of Ministers of Ukraine proceeding from the principle of reciprocity with regards to each given country.

(3) Shall be exempt from taxation transactions of importing on to Ukraine's customs territory of goods of marine industry (e.g., sea fish, mammals, shellfish, crustaceans, sea plants, etc. which are cooled, salted, frozen, canned, ground in powder or in any other produce) extracted (caught, produced) by vessels registered in the State Register of Vessels, or in the Vessel Ledger of Ukraine. Transactions of further selling of the aforesaid goods by legal entities – owners of the vessels, or to those who freight the vessels shall be taxed according to the general rules established by this Code.

(4) Shall be exempt from taxation services related to the transit of foreign cargoes by pipelines across Ukraine's customs territory.

(5) Tax exemptions envisaged by Items "c", "e", "n" of Part (1) of this Article shall apply to transactions involving import (bringing in, receipt of sent) of goods to Ukraine.

(6) Tax exemptions stipulated by Part (1) of this Article shall not apply for transactions involving excisable goods listed in Section V of this Code, except for transactions of the transfer of property stated in Item 'j' of Part (1) of this Article.

(7) Tax exemptions stipulated by this Article shall not apply to barter transactions on the territory of Ukraine.

#### **Article 4014. Site (Place) of Sale of Products, Execution of Work, Provision of Services**

(1) The site (place) of the sale of goods is:

- a) the site (place) of actual location of goods as of the moment of their sale (except for cases envisaged by sub-items "b" and "c" of part (1) of this article);
- b) site, where the goods are located at the starting moment of their transportation or sending – if the goods are transported or sent by the seller, purchaser or the third party;
- c) site of piling (accumulating), assembly or fixing – if the goods are piled, assembled or fixed (tested or not) by the seller or on his behalf;

(2) The site of the execution of work, provision of services is:

- a) location of real estate, if services, work are immediately related to such a real estate (immovable property);
- b) site of actual transportation taking into account the distance covered on the territory of Ukraine (in the case of transportation services);
- c) site of actual provision of services, execution of work, provided:
  - c1. Services are related to real estate, including its valuation;
  - c2. Services are related to transportation, such as loading, unloading, reloading, convoy, transportation processing (forwarding), weighing, packaging, storage, concealment, guarding, verification, clearance of cargoes and other services provided in the course of transportation;
- d) site of actual provision of services, execution of work, if such services (work) are provided (executed) in the sector of culture, arts, education, science, sports, entertainment or other analogous sectors, including work, services, initiators of activity in the aforesaid sectors and services provided for the organization of fee-paying exhibitions, conferences, training seminars and other similar events;
- e) site, where services are actually provided, if they are related to the sale of food products and drinks for the consumption in the designated place;
- f) site, where the consumer of services organized entrepreneurial activity or has a resident office to which services are provided, or (if such a place is missing) place of residence or resident address of the consumer if the following services are provided:

f1. Sending or assigning patents, copyright, licenses, trade marks and other personal non-property rights, assignment of intangible assets;

f2. Consulting, legal, accounting, auditing, advertising, data processing, information support and other similar services;

f3. Staffing;

f4. Leasing of movable property, except for all kinds of transportation means;

f5. Assuming obligation of fully or partially refraining from work, services or rights, envisaged by this item “f”;

f6. Services of agents acting on behalf and at the expense of consumer, if he provides for the execution of work, provision of services, listed in this item, to the consumer;

In all cases, except for those envisaged by part (2) of this Article, the site of the execution of work, provision of services is the place, where the person, who executes work, provides services, organized business activity or has representative office providing services, or (if such a site is missing) – place of residence or resident address of such a person.

The site of providing tourist services by agents of tourism activity, dealing with consumers of such services on their own behalf and using goods and services of other persons for the support of a tour, is the location of aforesaid agents of tourism activity or location of their resident offices through which tourism services are provided. This provision is not applicable to agents of tourism activity acting as agents or intermediaries as related the tourism product of other agents of tourism activity. In this case the site of the provision of tourism services is the location of such other agents of tourism activity.

Article 4015-4017 – Reserved

### **Chapter 33. Tax Base and Specifics of Taxation of Certain Transactions**

Article 4018. The Procedure for Determination of Tax Base in Case of Selling Goods, Work, Services

(1) The tax base of transactions involving sales of goods, work, services shall be defined as agreement (contract) value determined proceeding from free or regulated prices of goods, work, services, determined by the contracts irrespective of the form of their conclusion, taking into account all taxes included in the cost of goods, work, services, except for the value added tax;

(2) When determining the tax base, any sums and value of tangible and intangible assets transferred to the taxpayer by the purchaser or via a third party as a compensation of the cost of goods, work, services sold, made, provided by this taxpayer to the consumer, shall be taken into account. Tax base shall also include budget subsidy immediately related to the sale of goods, work, and services

Article 4019. Specifics of Determination of Tax Base in Particular Cases of Selling Goods, Work, Services

When selling goods, work, services without payment or with partial payment of their cost in terms of money in the course of barter transactions, carrying out transactions of free-of-charge transfer of goods, work, services, when paying in kind, on account of wages due to individuals working for the taxpayer under employment contract, transferring goods, work, services, in compliance with taxpayer's balance sheet, for non-manufacturing purposes, with the expenses not referred to gross production, turnover costs and not subject to depreciation, and with regards to the seller's affiliated person, to business entity not registered as taxpayer, or to a physical person, the tax base shall be

determined proceeding from the actual cost of the transaction, provided it is not lower than the standard price.

**Article 4020. Procedure for Determination of Tax Base for Goods Imported (Brought in, Received on Having Been Sent) to Ukraine's Customs Territory and Work, Services Executed, Provided by Non-Residents on Ukraine's Customs Territory**

(1) As regards goods and other items imported (brought in, received on having been sent) to Ukraine's customs territory by taxpayers, the tax base is their customs value, with the consideration of duty and other taxes incorporated into the price of goods, except for the value added tax.

1. Customs value of goods is determined according to the regulations set by the customs legislation of Ukraine.
2. The value of goods determined in due order shall be converted into hryvnias at the official currency (exchange) rate of the National bank of Ukraine effective on the date of emergence of tax obligations.

(2) As regards work, services done (rendered) by nonresidents on Ukraine's customs territory, the tax base shall be the contract value of these work, services, including taxes incorporated into the price of work, services, except for value added tax. The contract cost determined in compliance with this part shall be converted into hryvnias at the currency (exchange) rate of the National Bank of Ukraine effective on the date of emergence of tax obligations. If the work was executed, services were provided by non-residents free of charge the tax base is determined proceeding from standard prices of such work, services.

**Article 4021. Specifics of Determination of Tax Base for Finished Products Made with the Use of Give-and-Take Raw Materials of a Foreign Customer if Finished Products Are Sold on Ukraine's Customs Territory**

(1) As regards finished products made by Ukrainian producers on Ukraine's territory using give-and-take raw materials of a foreign customer, when sold on Ukraine's customs territory, the tax base shall be the contract value of these products, taking into account all taxes, except for value added tax, incorporated into the price of these finished products.

1. The agreement (contract) value determined in accordance with Part (1) of this Article shall be converted into hryvnias at the official currency (exchange) rate of the National Bank of Ukraine effective on the date of emergence of tax obligations.
2. In the case stipulated in Part (1) of this Article the tax is paid to the budget by the purchaser in keeping with the procedures stipulated for taxation of imported goods; the responsibility for tax payment by the purchaser of such products is with the Ukrainian manufacturer.

(2) The tax base for give-and-take raw materials received by Ukrainian manufacturer as payment for the work done shall be determined in keeping with the procedures established by Part (1) of Article 4020 of this Code.

**Article 4022. Specifics of Determination of Tax Base in Particular Cases**

(1) If, after selling goods, work, services, changes are made in the sum of compensation for the sale of these goods, work, services, including recalculation should the goods be sold — or their ownership — be returned to the seller or when the purchaser's debt is found to be bad in keeping with procedures established by this Code, the tax accrued on this purchase shall be recalculated in accordance with the changes in the tax base.

1. In cases , when the seller decreases the sum of compensation, he decreases the sum of tax liability by the sum of over-assessed tax, and the purchaser decreases accordingly the sum of tax credit by the same sum in the period, during which the sum of seller's compensation was decreased. In case of the increase of seller's compensation the revision of tax liabilities sums and tax credit is made in reverse order.

2. The procedure stipulated by item 1 of Part (1) of this Article shall not be applied to price revision for transactions, even if one of the Parties of the transaction is not a taxpayer, except for the price revision transaction connected with the fulfillment of warranty liabilities.

(2) The value of the container is defined as retrogressive (mortgage) in compliance with the terms of contract between taxpayers when defining the cost of the compensation, may be:

1. incorporated into such a cost of compensation for goods, that is, to the tax base of the seller's goods. In this case when returning retrogressive container

its cost is compensated to the consumer and tax liabilities and tax credit are adjusted according to the procedure envisaged by Part (1) of this article;

2. not incorporated into the amount of compensation for goods, that is to the tax base of goods. In this case when retrogressive container, within the term envisaged by the contract, is not returned to the sender, the value of such container is included into the tax base of the recipient during the accounting (reporting) period, when the term of its return according to the contract expired.

(3) In the case of a taxpayer conducting business activity of selling second-hand goods (commission trade) purchased from persons not registered as taxpayers, and confiscated or abandoned property, findings, treasures, property whose owner did not claim it back after the termination of safe-keeping term, as well as property inherited by the State, transferred by authorized bodies for selling, according to the procedure envisaged by the legislation of Ukraine, the tax base shall be the commission of this taxpayer. The rules of sale by commission and commission fees shall be determined by the Cabinet of Ministers of Ukraine.

(4) In case when the taxpayer carries out activity dealing with selling goods received under agreements of commission (consignment), guarantee, warranty of authority, trust management, other civil-legal agreements that entrust such a taxpayer (hereinafter referred to as commission agent) to implement sales of goods on behalf and on assignment of other person (hereinafter - consignor (customer) without the right of transfer of the title to such goods, the tax base shall be a purchase value of these goods determined in keeping with the procedures set by Article 4018 of this Code.

1. The date of increase in tax liabilities of the commission agent shall be the date identified according to the rules set up by Article 4036 of this Code; and the date of increase in the amount of tax credit of the commission agent shall be the date of the transfer of the funds to the commission agent or granting the latter with other kinds of reimbursement of the value of said goods.

2. The date of increase in tax liabilities of the consignor (customer) shall be the date when funds or other kinds of reimbursement of the value of goods from the commission agent were received.

3. If the taxpayer (agent, proxy) conducts activity of purchasing goods, work, services on the mandate and at the expense of another person (mandator), the date of the increase in



tax credit of such a mandator shall be the date of the transfer of funds (authorization of securities for management, as well as other documents authenticating debt relationships) to the benefit of the seller of such goods, work, services or extension of other kinds of the compensation of the cost of these goods, work, services, and the date of the increase in tax liabilities shall be the date of the transfer of such goods, work, services to the mandator. In this case mandator does not increase tax credit by the amount of funds (value of securities, other documents authenticating debt relationships) transferred to the mandator, but has the right for the increase of tax credit in the tax period of the receipt of goods, work, services acquired by the mandator on his mandate.

4. The rule stated in Part (4) of this Article shall not be applicable to transactions dealing with exporting (sending) goods outside the customs territory of Ukraine or importing (sending) goods to the customs territory of Ukraine under said agreements, taxation of which is regulated by the respective provisions of this Code.

(3) If the taxpayer carries out transactions of the sale of goods, work, services which are the subject of taxation according to Article 4011 of this Code, securing debt liabilities of the purchase extended to such a purchaser in the form of promissory note or bill of exchange or other debt instruments (hereinafter – bill) issued by such a purchaser or a third party, the tax base shall be the contract value of such goods, work, services without the consideration of discounts or other reductions of the face value of such a bill, and as to interest bills – contract value of such goods, work, services increased by the sum of interest accrued or is to be accrued for the sum of such bill's face value.

1. If the taxpayer executes, on the consent of the billholder, counter-delivery of goods, work, services instead of monetary redemption of the debt specified by the bill, the tax base shall be the contract value of such goods, work, services without the consideration of discount or other reductions of the face value of such a bill, and as to interest bills – contract value of such goods, work, services, increased by the sum of interest accrued or is to be accrued for the sum of such bill's face value.
2. Bills received but not repaid by the taxpayer, or extended but not repaid by the taxpayer, do not change the sums of tax liabilities or tax credit of such a taxpayer, irrespective of the kinds of transactions in which such bills are used.

(6) In case, when fixed productive or non-productive assets are liquidated according to the independent decision of the taxpayer, or gratuitously transferred to the person not registered as taxpayer, as well as in case of inclusion of fixed assets to non-productive funds, such liquidation, gratuitous transfer, or inclusion shall be considered for purposes of taxation as sale of such fixed assets or non-productive assets at standard prices, effective on the day of accomplishment of such transactions, and as for fixed assets of group 1 – at standard prices, but not less than their balance value. This rule shall not be applicable to cases, when fixed assets or non-productive assets are liquidated in connection with their destruction or disruption due to force majeure circumstances, in other cases when such liquidation is accomplished without taxpayer's agreement, also as the result of the theft of fixed assets, or when the taxpayer submits to the tax authorities appropriate document on the destruction, dismantling or transformation of fixed assets by other methods, as the result of which fixed assets cannot be used in future for their primary destination.

If the liquidation of fixed assets causes the appearance of components, parts, accessories or other debris (scrap) that have value, such components, parts, accessories or other debris (scrap) are liquidated according to the rules established for the liquidation of fixed assets.

(7) The tax base of anniversary and memorial coins having two functions simultaneously of turnover instrument and numismatic item, as well as collection stamps, postcards and envelopes for philatelic purposes, shall be defined according to the procedure envisaged by Article 4018 of this Code..

(8) The tax base of transactions of the sale of tourist services consumed and used by the residents outside the customs territory of Ukraine shall be the commission fee received by the agents of tourism activity.

(9) In case of revealing infringements of accounting and tax accounting rules, destruction, loss or non-filing of accounting documents, when documents accounting for the actual production losses are missing, or when the determination of tax base is impossible, the bodies of state tax service shall have the right to establish the tax base and assess the amount of the tax to be remitted to the budget, by the application of indirect methods of determination of the scope of taxable transactions in keeping with the procedures established by the Cabinet of Ministers of Ukraine. In case of determining scope of taxable transactions by indirect methods the taxpayer shall not be allowed to take tax credit.

#### **Article 4023. Taxation Procedure for Goods Temporarily Imported (Sent) to Ukraine's Customs Territory or Transit-Transported across Ukraine's Customs Territory**

(1) The goods, temporarily imported to Ukraine's customs territory, meeting all requirements of the customs regime, are not VAT taxed.

(2) Import to the customs territory of Ukraine of goods (freights) transported on transit across the customs territory of Ukraine, meeting all requirements of the respective customs regime, shall be undertaken without the payment of tax.

(3) In case of the violation of customs regimes of temporary import or transit, goods imported to the customs territory of Ukraine, are taxed according to general rules, as in the case of import.

#### **Article 4024. Taxation Procedure for Give-and-Take Raw Materials Imported to Ukraine's Customs Territory by Foreign Customer and Export of Finished Products Manufactured from these Raw Materials**

(1) Give-and-take raw materials imported to Ukraine's customs territory by a foreign customer in the processing regime shall be taxed by issuing to the customs entity of promissory notes with the deferral of payment for the term of the processing of give-and-take raw materials not exceeding maximum term determined by the customs legislation of Ukraine.

(2) If the finished goods are exported from Ukraine's customs territory in full volume stipulated by the contract between foreign client and Ukrainian producer within the specified period, tax which had to be paid when importing give-and-take raw materials shall not be levied and the promissory note shall be redeemed.

1. The promissory note shall be redeemed also in case of partial export of finished goods stipulated by the contract outside the customs territory of Ukraine, if the Ukrainian producer documentarily confirms the payment of value added tax, which had to be paid at the moment of import to Ukraine of the part of raw materials, from which the finished goods not exported from Ukraine are made.

2. To determine the sum of the tax, the cost of give-and-take raw materials shall be converted into hryvnias at the official currency (exchange) rate effective on the date of emergence of tax obligations.

(3) If give-and-take raw materials or finished goods are lost or completely damaged owing to force-majeure circumstances certified by regional Commercial and Industrial Chamber of Ukraine, the promissory note shall be redeemed and the tax shall not be levied.

1. The wastes or scrap remained after the damage of give-and-take raw materials or finished products shall be subject to taxation by value added tax in case they are sold on Ukraine's customs territory.

2. If this is the case (item 1, part (3) of this Article), the value added tax shall be paid by the purchaser of debris or scrap, who prepares shipping customs declaration (without actual import of the goods in Ukraine).

(4) Finished products manufactured from give-and-take raw materials imported by a non-resident to Ukraine's customs territory following the requirements of the Ukrainian legislation on transactions with give-and-take raw materials in external economic relations, or purchased for foreign currency in Ukraine, and exported outside Ukraine's customs territory, shall not be taxed.

(5) Ukrainian producer shall pay tax for the part of give-and-take raw materials or finished products received as payment for executed work.

#### **Article 4025. Taxation Procedure for Export of Give-and-Take Raw Materials of Ukrainian Customer from Ukraine's Customs Territory and Import of Finished Products Manufactured from these Raw Materials**

(1) Give-and-take raw materials exported from Ukraine's customs territory by Ukrainian consumer, provided all requirements of the customs regime of "processing outside customs territory of Ukraine" are met, shall not be taxed.

(2) Finished products manufactured from the Ukrainian customer's give-and-take raw materials, imported to Ukraine's customs territory, shall be taxed in keeping with the procedure established for the taxation of imported goods. Customs value of such products cannot be less than the customs value of exported give-and-take raw materials of the Ukrainian consumer.

(3) If Ukrainian customer exports give-and-take raw materials outside Ukraine's customs territory with the purpose of further import of finished products manufactured from it, the tax paid for executed work, rendered services, purchased materials, fuel, and intangible assets shall not be refunded to the Ukrainian customer, but rather shall be taken into account when determining tax liability as to the imported finished products.

(4) If currency proceeds from selling finished products outside Ukraine's customs territory are returned back to Ukraine, the tax paid for executed work, rendered services, purchased materials, fuel, and intangible assets, shall be refunded to the Ukrainian customer in keeping with the procedure established for export transactions.

Articles 4026 - 4030 - Reserved

### **Chapter 34. Tax Rates**

#### **Article 4031. Tax Rates**

(1) VAT rates shall be established on the basis of the base of taxation, and shall be as follows:

a) 17%, of which 15% - for budget revenues formulation and 2% - for the formulation of the budget of development;

b) 0% rate.

## Article 4032. Transactions Subject to Taxation at Basic Rate

Transactions stipulated by Article 4011 of this Code, except for transactions exempt from taxation, and zero-rated transactions shall be taxed at the rate envisaged by sub-item “a” of Article 4031 of this Code which is basic.

1. The tax shall be equal to 17% of the tax base , and shall be added to the price of goods, work, services.
2. While conducting barter transactions on the territory of Ukraine the tax is levied at the full rate, including the transactions on swapping goods, work, services when the transactions of their sale are tax exempt or taxed at zero rate.

## Article 4033. Zero-Rated Transactions

(1) The following transactions shall be taxed at zero rate:

a) Sale of goods exported (shipped out, sent out) by taxpayers outside Ukraine's customs territory provided their export (shipment, sending) is confirmed by appropriately registered customs' cargo declaration, including the following transactions:

- a1. Supply of goods for refueling or for provision of marine ships that are:
- a2. Used for navigation, paid passenger or cargo deliveries, trade, fishing or other commercial activities conducted outside Ukraine's territorial waters;
- a3. Used for rescue transactions or provision of assistance in neutral or territorial waters of other countries;
- a4. Are part of the Ukrainian Navy, dispatched outside Ukraine's territorial waters, including anchorage;
- a5. Supply of goods for refueling of or provision of supplies to aircraft that are:
- a6. Used on international routes for navigation purposes, or paid passenger/ cargo deliveries;
- a7. Are part of Ukraine's Air Force, dispatched outside Ukraine's air frontiers, including temporary deployment;
- a8. Supply of goods for fuelling (refueling) of or provision of supplies to spacecraft, space missile carriers or satellites of Earth.
- a9. Supplies of commodities for fuelling (refueling) or for maintenance of land based military vehicles or other special contingent of Armed Forces of Ukraine participating to peace-keeping operations outside Ukraine or in other cases envisaged by the legislation of Ukraine;

b) Performance of work, provision of services on:

- b1. Transportation, loading, unloading, reloading, convoying, transport processing, weighing, packaging, storing (hiding), security, checking, receiving of freight, and other services while transporting goods, insuring civil and other risks related to shipping out (sending out) of goods outside the customs territory of Ukraine, as well paying port fee, pilotage, air-navigational and other similar fees, if the cost of such work, services is included into the customs value of goods;
- b2. Protection of intellectual property rights and other non-property titles related to shipping out (sending out) goods outside the customs territory of Ukraine;

- b3. Performing other work, rendering other services which are auxiliary to shipping out (sending out) goods outside the customs territory of Ukraine in the cases when the value of such works, services is included into customs' value of exported goods;
  - b4. Selling tourist product by taxpayers in their own name to non-residents provided the place of its provision is located on the customs territory of Ukraine. In the cases when taxpayers act as agents or intermediaries for non-residents when purchasing services of tourist business activity, hotels, transportation operators within the territory of Ukraine, the tax is paid under the general terms;
- c) Provision of services aimed at being used and consumed by purchasers outside the customs territory of Ukraine, including transactions of:
- c1. Leasing, chartering, lading of marine ships or aircraft used on international routes or lines, as well as of space ships or satellites, or their parts or separate functions;
  - c2. Provision of services to personnel serving at marine ships, aircraft and space objects mentioned in sub-item "a" of part (1) of this Article;
  - c3. Provision of services on transferring rights to patents, copyright, licenses, rights to use trademarks, consulting, legal, accounting, auditing, promotional, data-processing, information supporting, and other similar services to non-residents;
  - c4. Provision of promotional and public relations services outside Ukraine; providing personnel for non-residents; cultural, sports, educational, scientific, recreational, theatre and concert programs carried outside Ukraine;
- d) Export of goods and work, services related to such goods outside the customs territory of Ukraine on the territory of duty-free shops or customs' licensed storehouses located on Ukraine's territory, as well as transactions of selling goods to duty-free shops in compliance with the procedures established by the Cabinet of Ministers of Ukraine.
- d1. While carrying out transactions of further export (shipment, sending) of goods and work, services related to such goods from the territory of duty-free shops or customs licensed storehouses outside the customs territory of Ukraine, the tax shall not be levied (including at zero rate).
  - d2. Selling goods, work, services by duty-free stores without charging tax shall be performed only to physical persons crossing Ukraine's customs border, or to physical persons who travel using transportation means owned by residents, and located outside Ukraine's customs' border, to other duty-free shops.
  - d3. In the cases when the goods purchased at duty-free shops without paying any tax are then again brought to Ukraine's customs territory, they shall be taxed in compliance with the procedures stipulated for transactions of import (sending) of goods to Ukraine's customs territory;
  - d4. Transactions involving export (sending) of goods from the territory of duty-free shops and customs licensed storehouses to Ukraine's customs territory (except for the territory of other duty-free shops or customs' licensed storehouses) shall be taxed according to the procedures stipulated for the taxation of import of goods.
  - d5. In the case of revealing any shortage of goods in duty-free shop, the appropriate amount of tax shall be charged and paid within a 5-day term to the budget. The

responsibility for the correctness of assessment and timeliness of transfer of the appropriate tax amount to the budget shall be vested with the owner of the duty-free shop;

e) Provision of services of transportation of passengers and freight outside Ukraine's customs border, namely:

e1. From a terminal across the national frontier of Ukraine to a customs clearance terminal at Ukraine's border, as well as from a customs clearance terminal at the state border of Ukraine to a point of full completion of all customs' clearance procedures at Ukraine's customs territory;

e2. From a point of beginning of customs clearance of passengers or freight across the customs border of Ukraine to a point of destination across the national frontier of Ukraine;

e3. Between the points outside Ukraine's customs border.

(2) Zero tax rate shall not be applied with regards to export (shipment, sending) of goods in the cases when these transactions are tax-exempt at Ukraine's customs territory in compliance with Article 4013 of this Code.

(3) Transactions of the provision of transportation services, determined by sub-item "e" of part (1) of this Article, involving transportation of passengers or cargoes by the authorized person of the carrier when this transportation is carried out in the form of brokerage, agency or commission transactions with the transportation tickets, travel documents, or under concluded contracts or transportation bills shall be taxed at basic rate.

(4) Sales of goods for the supply of railway and automobile transport on Ukraine's customs territory regardless of the fact whom it belongs to, and type of deliveries carried out by such transport, shall be taxed at the basic rate.

Article 4034 – Reserved

## **Chapter 35. Tax Accrual and Payment Procedures**

### **Article 4035. Tax Invoice**

(1) The taxpayer shall be obliged to provide the purchaser (recipient) on his request with a tax invoice, signed by the taxpayer's authorized person and stamped, that contains the following information specified by separate lines:

- a) Serial number of the tax invoice;
- b) Date of the issuance of the tax invoice;
- c) Business name of the seller - legal entity, or the first and last names and patronymics of the physical person registered as a VAT payer;
- d) Taxpayer's registration number (of both the seller and the purchaser);
- e) Business location of the legal entity - seller, or tax address of the physical person registered as a VAT payer;
- f) Name in full of the purchaser (recipient);
- g) List (nomenclature) of goods, work, services and their quantity, volume;

- h) Selling price without tax ;
  - i) Tax rate and corresponding amount in digits;
  - j) Total amount payable, tax considered.
- (2) The form of the tax invoice and the procedures of its filling shall be approved by the headquarters of the state tax service of Ukraine.
- (3) When tax exempt in the cases stipulated by Article of 4013 this Code, the entry " Minus VAT" shall be made in the tax invoice, along with the reference to the appropriate part and sub-part of Article 4013.
- (4) Tax invoice shall be done in two copies on the day of the seller's tax liabilities emergence. The original of the tax invoice shall be handed to the purchaser, and its copy shall remain with the seller of goods, work, services.
- (5) Separate tax invoices shall be done with regards to taxable and tax exempt transactions.
- (6) Each tax invoice shall be regarded as a tax accounting document.
- (7) A tax invoice shall be written out for any full or partial delivery of goods, work, services. In the cases when a part of the goods, work, services do not have a separate value , a list (nomenclature) of partially delivered goods shall be provided in an annex to the tax invoice, in compliance with the procedures established by the headquarters of the state tax service of Ukraine, and shall be taken into account when determining general tax liabilities.
- (8) The right to accrue tax and fill in a tax invoice shall be vested only with the persons registered as taxpayers in compliance with the procedures established by Article 4007 of this Code.
- (9) If persons mentioned in part (8) of this Article sell goods, work, services to persons registered as VAT payers, receiving tax invoices is obligatory to them. In any case a seller shall provide a sales check, other payment or settlement document that acknowledges the transfer of goods, performance of work, rendering of services, and (or) the receiving of payment showing the tax amount or that the remittance of funds is conducted without tax.
- (10) The tax invoice shall not be issued if the volume of a single sale of goods, work, services does not exceed the amount of UAH 34, as well as in the cases of the sale of travel tickets and when giving out hotel receipts. The grounds for increasing the amount of tax credit in this case shall be the sales check (other settlement or payment document).
- (11) While importing (shipping, , receiving the sent) goods, the document attesting to the right to receive tax credit shall be a duly filled customs declaration, and a payment document confirming the payment of the value added tax.
- (12) With regards to physical persons not registered as business entities and importing (sending) goods to Ukraine's customs territory in volumes taxable under the laws of Ukraine, filling out of a customs declaration shall be equal to submitting a tax invoice.
- (13) Taxpayers shall be under the obligation to keep separate books on sales and purchase of:
- a) Transactions subject to taxation at the basic rate , and tax-exempt transactions;
  - b) Transactions the cost of which is not incorporated into gross production (turnover) expenditures, or which are not subject to depreciation, as well as import (shipment in) and export (shipment out) transactions.

(14) Accounting mentioned in part (13) of this Article shall be made in special books, the format and recording procedures of which shall be established by the headquarters of the state tax service of Ukraine.

#### Article 4036. Date of Emergence of Tax Liabilities

(1) The date of the accrual (emergence) of tax liabilities when selling goods, work, services shall be considered the date within the taxation period in which any of the following events occurred previously:

- a) Either the date of remittance of funds received from the purchaser (customer) on the taxpayer's bank account as a payment for the goods, work, services to be sold, or when selling goods, work, services in return for cash, it shall be the date when the money is being collected by the taxpayer's cash department — or, in its absence, the date of incashment by the banking establishment which serves the taxpayer;
- b) Or the date of shipment of goods, and with regards to work, services - the date of the registration of a document attesting to the completion of work and rendering of services by the taxpayer.

(2) When selling goods or services using vending machines or other such equipment which does not envisage the availability of cash registers supervised by an authorized person, the date of accrual of tax liabilities shall be the date of withdrawal of cash from these trading machines or other similar cash-operated equipment.

1. The rules of collection of this cash (encashment of proceeds) shall be established by the National Bank of Ukraine.
2. When goods, work, services are sold through vending machines by using tokens, cards or other substitutes of hryvnia, the date of tax liabilities increment shall be the date of the sale of these tokens, cards or other substitutes of the hryvnia.

(3) When selling goods, work, services by using credit or debit cards, traveler's, commercial, personal or other checks, the date of increase of tax liabilities shall be either the date of filling a tax invoice that attests to the transfer of goods, work, services to the purchaser, or the date of issuance of appropriate bill (purchase receipt), whichever of these two events occurs earlier.

(4) The date of the accrual of tax liabilities in the course of barter transactions shall be the date of whichever of the following events occurs earlier:

- a) Either the date of shipment of goods by the taxpayer — or, in the case of work, services, the date of execution of a document proving the completion of work, rendering services by the taxpayer;
- b) Or the date of receipt of goods by the taxpayer — or, in the case of work, services, the date of execution of a document attesting to the receipt by the taxpayer of the results of such work, services.

(5) The date of the emergence of tax liabilities in the course of barter transactions with non-residents shall be the date of whichever event was the first to occur:

- a) Either the date of the registration of the export customs declaration attesting to the export of goods by the taxpayer — or, in the case of work, services, the date of execution (registration) of a document attesting to the fact of transfer of goods, work, services to the nonresident;



b) Or the date of the execution of import customs declaration attesting to the receipt of goods by the taxpayer — or, in the event of work, services, the date of the execution of a document attesting to the receipt of goods, works, services by the taxpayer.

(6) The date of accrual of tax liabilities when selling goods, work, services, with the costs charged to the budget funds, shall be the date of these funds' remittance to the bank account of a taxpayer or the date of the receipt of an appropriate compensation in any other form, including the reduction of the arrears of such a taxpayer as regards such taxpayer's budget liabilities.

(7) The date of accrual (emergence) of tax liabilities when importing (shipping in) goods shall be the date of execution (registration) of customs declaration specifying the amount of the tax payable. The date of the accrual (emergence) of tax liabilities when importing work, services shall be the date of write-off of funds from the taxpayer's clearing account as a payment for these work, services, or the date of the execution of a document attesting to the completion of performance of work, rendering services by a non-resident, whichever event occurs earlier.

1. Persons registered as VAT taxpayers when importing (bringing in, sending) goods on to Ukraine's customs territory except for those items which are subject to excise duty mentioned in Section V of this Code (except for tobacco raw materials), and goods which belong to the products of agriculture, hunting, forestry, fishery, food industry, and tobacco goods in compliance with the State Classifier of Products and Services may at their sole discretion submit to customs authorities along with each freight customs declaration a separate promissory note worth of their tax liabilities (hereinafter referred to as tax note), and which is guaranteed by commercial bank's surety bill.

2. The first copy of the tax note, that is the original bill form bought by the taxpayer in a banking institution, shall be forwarded by the customs authority to the state tax service authority at the taxpayer's place of registration. The second and third copies of the tax note, formalized on the Xerox copy of the original bill form (not registered original copy), and which have the same bill form number with the first copy, shall remain respectively with the customs authority which carries out customs clearance of the goods imported to the customs territory of Ukraine, and with the taxpayer who issued this tax note.

3. Tax notes issued by the taxpayer whose turnover of taxable transactions of selling goods, work, services during the last 12 months exceeded UAH 5 million, and who did not incur arrears on this tax (except for the restructured one), shall not be guaranteed by a collateral. The notice on the importer's status concordance with the mentioned requirements is provided free of charge by the state tax service authority based on the written request from the taxpayer, and is renewed once every three calendar months. Terms of and procedures of provision of such notices are approved by the Cabinet of Ministers of Ukraine.

4. The sum stated in the tax note shall be added to the amount of tax liabilities of the taxpayer in the accounting (tax) period in which this note is redeemed by adding the tax note amount to the respective section of tax return as a separate line, whereupon this tax note is considered redeemed.

5. In the accounting (tax) period subsequent to the accounting (tax) period within which the tax note was redeemed the amount indicated in the redeemed tax note shall be added to the amount of tax credit of the taxpayer who issued this tax note.

6. In the case of the redemption of a bill by remitting funds to the budget or by crediting the amount of export refund according to part (6) of Article 4043 of this Code to the maturity date of the bill, the tax credit shall include the aforesaid amount and (or) credit in that accounting period during which such a remittance and (or) credit took place..

7. The commitments on tax note redemption shall not be assigned to third parties, and no tax notes shall be endorsed; any interest on tax notes or payments for their use shall not be accrued.

8. The procedures for issuance, circulation, and redemption of tax notes for the amount of the tax to be paid when importing (shipping in) goods on Ukraine's customs territory shall be adopted by the Cabinet of Ministers of Ukraine.

(8) The date of accrual of tax liabilities in the case of the executor of a contract which is qualified as a long-term contract, pursuant to this Code, shall be the date of gross revenue increment of the executor of the long-term contract.

(9) Early payment (advancing) for goods subject to export (shipping out, sending out) or import (shipping in, sending in) outside/inside Ukraine's customs territory according to contracts shall not be the ground for the accrual of tax liabilities.

(10) Persons registered as taxpayers and carrying out sales transactions for cash provided the volume of taxable transactions during the last calendar year failed to exceed UAH 122 thousand might choose at their own discretion the method of defining the date of accrual of tax liabilities under such transactions as the date of remittance of funds on the taxpayer's bank account or to the taxpayer's cash department, and when conducting payment settlements by using bank payment cards or payment checks – as the date of the issuance of the appropriate bill (purchase receipt), as well as defining the date of emergence of the right for a tax credit as the date of writing-off funds from taxpayer's bank account or cash department, or provision of other types of compensation for purchased goods, work, services. The methods of defining the date of accrual of tax liabilities and right for a tax credit, both provided for by this Article, can be chosen by the taxpayer not later than 30 calendar days prior to the beginning of the new calendar year, and is applied as of the beginning of the new calendar year, and it can not be changed until the end of the year.

(11) Persons registered as taxpayers for the first time can choose the method of defining the date of accrual of tax liabilities and right for a tax credit, both provided for by part (10) of this Article, apply this right since the day of the registration, and in the case of not exceeding the volumes envisaged by part (10) of this article, can not change it until the end of the first full calendar year subsequent to the year when this registration took place. Parts (10) and (11) of this Article on the right to choose the method of defining the date of the accrual of tax liabilities and right for a tax credit are not applied in the cases when barter transactions are conducted.

#### **Article 4037. Tax Credit**

(1) Tax credit for the accounting period shall consist of the sum of taxes paid (accrued) by the taxpayer over the accounting period when purchasing goods, work, services the cost of which is incorporated into gross production (turnover) costs and fixed or intangible assets subject to depreciation.

1. Tax payments made (accrued) by the taxpayer over the accounting period, when purchasing (raising) fixed assets subject to depreciation, shall be included in the tax credit relating to this period, regardless of the term of launching such fixed assets into

operation, as well as whether the taxpayer had taxable turnover during such an accounting period.

2. If later on the fixed assets, mentioned in item 1 of part (1) of this Article, related to movable property during 5 further years and assets related to immovable property during 10 further years, are liquidated, sold by the taxpayer, or if the taxpayer starts using them within his/ her balance to the full extent for conducting transactions for which it is not allowed to obtain a tax credit, then on the annual basis during the period of filling in tax declarations for December the amount of tax credit received by the taxpayer for such fixed assets shall be readjusted.

3. The procedures for such readjustment are approved by the headquarters of the state tax service of Ukraine.

(2) Should the taxpayer conduct transactions of selling goods, work, services that are tax-exempt or not subject to taxation, in compliance with Articles 4012 and 4013 of this Code, the sums of tax paid (accrued) when purchasing these goods, work, services, and referred to gross production (turnover) expenses, as well as fixed/ intangible assets subject to depreciation, shall be carried out, respectively, as gross production (turnover) costs and as fixed/ intangible asset increment, and shall not be included into the tax credit.

(3) When part of the fixed/ intangible assets subject to depreciation, goods, work, services made and (or) purchased during the current year (for newly established businesses – during a calendar year) is used in taxable transactions, and the other part is used in transactions that are tax-exempt or not subject to taxation, the sum of the tax credit shall include that part of the tax paid (accrued) on their manufacture or purchase which corresponds to the part of such fixed/ intangible assets subject to depreciation, as well as the goods, work, services used in taxable transactions by taking into account their share in the total volume of sales of goods, work, services in the accounting period with the final annual reassessment of such fixed/ intangible assets subject to depreciation.

(4) If the taxpayer purchases goods, work, services the cost of which is not referred to gross production (turnover) expenses and is not subject to depreciation, the taxes paid on this purchase shall be reimbursed using appropriate source of financing, and shall not be included into the tax credit.

(5) Any expenses related to the tax payments not attested to by tax invoices or commodity trade checks, other payment or payment settlement documents – in the cases of selling goods, work, services stipulated by part (10) of Article 4035 of this Code, or by customs declarations, and in the cases of importat of work, services by a certificate of acceptance of work, services or a banking document which attests to a transfer of funds in payment for such works, services (hereinafter in this Section referred to as tax invoice), shall be prohibited from being included into tax credits. In the cases when on the day of an inspection of the taxpayer by a state tax service authority the amounts of tax previously included in the tax credit still remain to be not attested for by a tax invoice, the taxpayer shall bear responsibility in the form of financial sanctions set by this Code accrued on the amount of the tax credit which is not attested for by the documents mentioned in this part.

#### Article 4038. Date of Emergence of Right for Tax Credit

(1) The date of accrual of the taxpayer's right for tax credit shall be considered to be:

a) The date of whichever event occurs earlier:

a1. Either the date of write-off from the taxpayer's bank account of the funds as a payment for the goods, work, services, or — in the cases of settling payments by

using bank payment cards or commercial checks — the date of issue of an appropriate bill (trade check);

a2. Or the date of the receipt of a tax invoice attesting to the taxpayer's purchase of goods, work, services;

(2) When importing (shipping in, receiving the sent) goods, work, services, the date of accrual of the right for tax credit shall be the date of tax payment under tax liabilities, as stipulated by part (7) of Article 4036 of this Code.

(3) In the cases of barter deals, including transactions in the course of foreign trade activities, the date of accrual of the right for tax credit shall be the date of completion of each part of the final (balancing) transaction following the earliest events, as stipulated by parts (4) and (5) of Article 4036 this Code, in the amount proportional to those parts;

(4) The date of accrual of the right for tax credit of the customers under the contracts recognized as long-term contracts in compliance with this Code shall be the date of gross costs increment of the customer of the long-term contract.

(5) With regards to goods (services) purchased (rendered) under the control of accounting devices, the fact of receipt (rendering) of these goods (services) shall be attested for by accounting data.

#### **Article 4039. Procedures of Defining Amount of Tax to Be Paid to Budget or to Be Reimbursed from Budget**

The amount of tax payable to the budget or to be reimbursed from the budget shall be determined as the difference between the total amount of tax liabilities arising from any sale of goods, work, services over the accounting period and the amount of tax credit over the accounting period.

1. If, proceeding from the results of the accounting period, the amount defined in accordance with part (1) of this Article has a positive value, this amount shall be paid to the budget.

2. If the amount of tax liabilities is less than the amount of tax credit, this amount shall be reimbursed to the taxpayer from the budget.

(2) If the amount of tax liabilities is smaller than the amount of tax credit, the negative value is subject to the reimbursement to the taxpayer from the budget

#### **Article 4040. Budget Payments Deadlines**

(1) Tax payments to the budget shall be made not later than the twentieth day of the month following the accounting period.

(2) Within set time limits the taxpayer shall submit a tax return to the local state tax service office at his/ her business location, regardless of whether any tax liabilities were accrued during that accounting period, or not.

#### **Article 4041. Basis for Receiving Refunds and Procedures for Their Administration**

(1) Basis for budget refund shall be tax return data for the accounting period and, if needed, materials of audit examinations of the taxpayer and cross-examinations.

(2) In all cases, budget refund shall be made in the first place through the repayment of taxpayer's arrears that arose in the preceding periods from the VAT payment.

(3) After the repayment of arrears specified in part (2) of this Article, budget refund by the taxpayer's resolution reflected in his tax return, can be fully or partly carried forward on account of appropriate payments to the budget for payments of value added tax and (or) to redeem tax note issued by the taxpayer when importing goods to Ukraine's customs territory.

(4) Carrying forward of budget reimbursement to reduce appropriate payments to the State Budget of Ukraine specified in part (3) of this Article shall be made during three subsequent accounting periods. The said provision shall not be applied to procedures on budget reimbursement for taxation of zero-rated transactions.

(5) If the amount of budget reimbursement is not fully redeemed in the ways specified in parts (2), (3) and (4) of this Article, the difference shall be transferred from the State Budget of Ukraine on the taxpayer's account in his bank within one month, following the established deadline for the submission of tax return for the third month after the accrual of the negative value of the tax. In case of infringement by the taxpayer of the deadline for the submission of tax return, the term of budget reimbursement shall be prolonged for the period of delay in submitting the tax return.

(6) If budget refund is to be made to the taxpayer who is involved in conducting zero-rated transactions involving sale of goods, works, services, then after the tax arrears mentioned in part (2) of this Article are redeemed the refund shall be transferred from the State Budget of Ukraine within one month following the termination of deadline for the submission of tax return. In case of infringement by the taxpayer of the deadline for the submission of tax return, the term of budget reimbursement shall be prolonged for the period of delay in submitting the tax return.

Amounts not refunded to the taxpayer within the time limit set forth in this Article shall be regarded as budget arrears.

1. The budget arrears shall be accrued with 120% interest from the discount rate of the National Bank of Ukraine, effective on the date of the accrual of said liabilities, for the duration of said liabilities, the date of redemption inclusive.

2. The taxpayer shall have the right, any time after the accrual of said liabilities, to turn to court to collect the debt from the budget and call to account officials responsible for delay in reimbursing the tax.

(8) Tax amounts paid by individual taxpayers when purchasing goods, work, services shipped out (exported) by such individuals for non-commercial (tourist) purposes shall not be subject to reimbursement.

#### Article 4042. Tax Periods

(1) With regards to VAT taxpayers, the accounting period shall be equal to a calendar month.

(2) Taxpayers whose volume taxable transactions involving sales of goods, works, services over the previous calendar year fails to exceed UAH 122 thousand shall have the right to opt for the accounting period which equals the calendar quarter. Each such taxpayer shall submit an application on the decision concerning this issue to the state tax service office one month prior to the beginning of the calendar year.

(3) During the calendar year, taxpayers shall be allowed to switch from the quarter accounting period to the monthly accounting period as of the start of any quarter of the current year.

1. Statements to this effect shall be filed to the state tax service office one-month prior to the beginning of the quarter.

2. Reverse changes within the calendar year shall not be allowed.

**Article 4043. Specifics of Transactions of Export (Shipment) of Goods, Work, Services outside Ukraine's Customs Territory**

- (1) Taxpayer conducting transactions of export (sending) of goods, work, services outside Ukraine's customs territory (export) and submitting declaration of export refund of the part of taxes, included into his tax credit, proceeding from the results of the first month of the quarter and two first months of the quarter, has the right to such an export refund during 30 calendar days starting from the day of the submission of such a declaration. The said declaration shall be submitted alongside with the documents:
  - a) customs declaration proving the fact of the customs clearance of goods designated for export outside Ukraine's customs territory, according to the customs legislation of Ukraine, or act (other endorsed document) certifying the transfer of the right of ownership of work, services to non-resident for their consumption outside Ukraine's customs territory;
  - b) duplicate of payment order, authenticated by bank, on the transfer of funds by one taxpayer to another in exchange of purchased goods, work, services, with the consideration of taxes, charged for the price of such purchase, certified by respective tax bills, and in the case of export of goods previously brought in (imported) by such a taxpayer – by import customs declaration which proves the fact of the customs clearance of goods for their free use on the customs territory of Ukraine.
- (2) Sum subject to export refund is incorporated into the sum of tax actually paid by the taxpayer-exporter with the funds within the price of goods, work, services, the cost of which is pertaining to gross production (turnover) expenses or is subject to depreciation, to the suppliers of such goods, work, services any time up till the day of the submission of the declaration, including such day, and in the case of bringing in (importing) such goods work services – the sum of tax paid to the budget in connection with such bringing in (importing).
- (3) If the taxpayer exports goods, work, services received from another taxpayer on the terms of commission, consignment, order or other kinds of agreement not envisaging the transfer of the right of ownership to such goods, work, services, the right to export refund belongs to the other taxpayer. In this case commission received by such a taxpayer-exporter from another taxpayer is included into this tax base at the rate envisaged by item "a" of article 4031 of this Code.
- (4) If the exporter of goods, work, services, envisaged by part (3) of this item, receives the commission from non-resident-purchaser of such goods, work, services, the sum of export refund for such an exporter is estimated proceeding from the sum of such commission.
- (5) Budget refund shall be applicable to the percentage of the budget credit of tax period which should equal the share of the export volume of sales of goods, work, services within the overall volume of taxable transactions with sales of goods, work, services during the tax period.
  1. The sum of budget refund for the taxation of zero-rated transactions of the sale of goods, work, services shall be estimated according to the procedure envisaged for the taxpayers using quarterly tax period
  2. Such budget refund shall be administered during the month after filing declaration for the accounting period in which such transactions were conducted.
- (6) If the taxpayer has incurred non-repaid VAT arrears for the preceding tax periods or non-redeemed tax bill issued according to part (7) of article 36 of this Code, export refund or its part

shall be streamlined to repay these arrears or shall be scored up to redeem such bill. By taxpayer's voluntary decision the amount of export refund can be fully or partially reckoned towards the payment of this tax or other taxes remitted to the State Budget of Ukraine. Such taxpayer's decision is reflected in the declaration.

Articles 4044 - 4050 - Reserved

## **Chapter 36 - Reserved**

## **Part V Excise duty**

### **Chapter 37. General Provisions**

#### **Article 5001. Definitions**

The terms whenever used in this Section shall have the following meaning:

- a) excise duty stamp means a special mark used for the labelling of alcoholic drinks and tobaccos;
- b) excisable commodities mean commodities in respect of which excise duty is established.

#### **Article 5002. Concept of excise duty**

Excise duty shall be a duty on consumption of certain types of commodities, specified by this Code as excisable.

Articles 5003, 5004 are reserved

### **Chapter 38. Payers of excise duty**

#### **Article 5005. Payers of excise duty**

The following persons shall be payers of excise duty:

- a) Producers of excisable commodities including those who perform work linked with the production of excisable commodities making use of customer's raw materials (both residents and non-residents) in the part of the excisable commodities that are kept by these performers on account of payment for the work performed;
- b) Customers on behalf of which the producers (performers) manufacture excisable commodities making use of customer's raw materials;
- c) Importers who import the excisable commodities (obtain the forwarded ones) into the customs territory of Ukraine including those produced from customer's raw materials;



- d) Natural persons who import excisable commodities (obtain the forwarded ones) into customs territory of Ukraine in a scope exceeding duty-free quotas as established in accordance with the Ukrainian legislation.

Articles 5006 – 5010 are reserved

## **Chapter 39. Objects of taxation**

### **Article 5011. Objects of taxation**

The following operations of payers of excise duty shall be the objects of taxation:

- a) Selling (transfer, exchange) of the excisable commodities produced in the customs territory of Ukraine including those produced from customer's raw materials (both resident and non-resident)
- b) Selling (transfer, exchange) of the excisable commodities for their further industrial reprocessing with that to be performed by these payers by themselves;
- c) Selling (transfer, exchange) of the excisable commodities for own consumption, as well as for their employees;
- d) Selling (transfer, exchange) of the excisable commodities obtained by the producer of excisable commodities on account of performed (extended) work (services) related to processing of raw material provided by customer;
- e) Importation (bringing in, obtaining the forwarded ones) of the excisable commodities into the customs territory of Ukraine:
  - e1 under sale, supply, brokerage, consignment, commission, financial leasing, tied credit, instalment sale and barter contracts and in compliance with other contracts of civil law nature
  - e2 under grants or other kinds of free of charge transfer or that with partial payment of such excisable commodities value;
  - e3 as a contribution of a foreign investor into authorised capital of an enterprise with foreign investment;
  - e4 manufactured outside the customs territory of Ukraine with making use of customer's raw materials exported previously;
  - e5 taken from customs-control areas such as customs warehouses and duty-free shops;
  - e6 as re-imported commodities;
  - e7 as being executed by natural persons if amounts of the mentioned commodities exceed duty-free quotas established in accordance with the legislation of Ukraine.

## Article 5012. Operations not being the object of taxation

(1) The following operations shall not be classified as objects of taxation:

- a) operations of selling the excisable commodities to be exported outside the customs territory of Ukraine provided that the earnings enter onto bank account of excise duty payer and documentary evidence for excisable commodities having been actually exported from the customs territory of Ukraine is available
  - a1 shipment of ethyl alcohol and alcoholic drinks by their producers for export provided that they are compulsory escorted by customs authorities or, the producer (pays) a security deposit to customs amounting to all the taxes, calculated according to the procedure established by this Code for taxation of the identical or similar product that is being sold in the customs territory of Ukraine. The customs laws of Ukraine shall establish the procedure of set up of protection and escorting of ethyl alcohol and alcoholic drinks, as well as paying a security deposit.
  - b) operations of selling special purpose passenger cars to the disabled the cost of which is covered by social security authorities;
  - c) operations of selling (transfer) excisable commodities on the customs territory of Ukraine that are to be used as raw materials for manufacture of excisable commodities;
  - d) operations of selling the confiscated other excisable commodities passed into proprietorship of state;
  - e) operations of transit of excisable commodities via the customs territory of Ukraine. The Cabinet of Ministers of Ukraine shall establish the procedure of transit of excisable commodities via the customs territory of Ukraine to ensure their safety;
  - f) importation into the customs territory of Ukraine of excisable commodity samples (obtaining forwarded ones) with the aim of exhibition or demonstration in Ukraine under condition that they remain to be the ownership of non-residents and with commitment to be provided to customs authorities relating to their necessarily taking out the customs territory of Ukraine;
  - g) importation into the customs territory of Ukraine of excisable commodities (including forwarded ones) by natural persons in amounts not exceeding duty-free quotas established in accordance with legislation of Ukraine;
  - h) importation of excisable commodities by manufacturers who use them as raw materials and as customer's raw materials inclusively for manufacture of excisable commodities;
- (2) The Cabinet of Ministers of Ukraine shall establish the procedure of operations as specified under this Article paragraph 1) items c) and h), and their taxation.

Articles 5013, 5014 are reserved

## **Chapter 40. Excisable commodities and excise duty rates**

### **Article 5015. Excisable commodities**

The following commodities shall be excisable ones:

- a) alcoholic drinks
- b) petrol
- c) diesel fuel
- d) beer
- e) ethyl alcohol
- f) vehicles
- g) tobaccos.

### **Article 5016. Excise duty rates**

- (1) Excise duty rates shall be established by this Article and be applicable in the whole territory of Ukraine.
- (2) Excise duty rates may be determined as:
  - a) ad valorem duties (in percentage to tax base);
  - b) fixed ones (in firm sums per unit of weight, volume, quantity or other natural measure);
  - c) mixed duties (in percentage to tax base and in fixed sums at one and the same time)
- (3) The Cabinet of Ministers of Ukraine shall, subject to annual adjustment, as of January 1, for the next taxation year against consumer price index in compliance with the Regulations approve excise duty rates.
- (4) Excise duty shall be calculated on the basis of the following rates except for the case envisaged under paragraph (5) of this Article:

Code of articles according to the Harmonised system of commodity description and coding	Description of commodities according to the Harmonised system of commodity description and coding	Excise duty rates in fixed sum per unit of realised commodities(products)
2204 (except for 2204 10, 2204 30)	Natural grapes wines, including fortified wines	UAH 1/1l
2204 10	Sparkling wines (aerated), champagne:  including champagne wines having the word "Champagne" in its name	UAH 1.9/1l  UAH 1.9/1l
2204 30	Other musts (including those for production of cognacs and champagne wine materials)	0
2205	Vermouths and other grapes natural wines with vegetable or aromatic extracts added	UAH 3/1l
2206	Other fermented beverages (apple cider, perry, honey beverage)	UAH 3/1l
2207	Non-methylated ethyl alcohol with alcohol content of at least 80 volume percent;  Ethyl alcohol and other spirits, methylated, of any proof	UAH 20/1l of 100%-proof alcohol
2208 (except for 2208 10 900 – only cognac spirits)	Ethyl alcohol non-methylated with alcohol content not exceeding 80 volume percent; strong drinks, liqueurs, other alcoholic drinks, semi-manufactured alcoholic ingredients being used for manufacture of beverages	UAH 20/1l of 100%-proof alcohol
2208 10 900	Cognac spirits only	0
2402 10 000	Cigars (including those with cut-off end), cigarillos (small cigars), other	UAH 27/1 000 pieces
2402 20 000	Tobacco cigarettes, cigarettes with a cardboard holder	UAH 13.5/1 000 pieces
2403 10 000	Smoking tobacco (including that, containing substitutes in any proportion or without substitutes)	UAH 13.5/1 kg
2403 99 100	Chewing tobacco, snuff	UAH 13.5/1 kg
2401	Tobacco raw materials  Tobacco waste products	0
2403 (except for	Other industrially manufactured tobacco and	0

2403 99 100, 2403 10 000)	commercial substitutes of tobacco	
2203 00	Malt beer Light distillates:	UAH 0.3/1 l
2710 00 110	For special reprocessing	UAH 80/1 000 kg
2710 00 150	For chemical conversions in processes not mentioned under item 2710 00 110	UAH 80/1 000 kg
	Special types of petrol:	
2710 00 210	White spirit	UAH 80/1 000 kg
2710 00 250	Other	UAH 130/1 000 kg
	Motor types of petrol:	
2710 00 310	Aviation petrol	UAH 130/1 000 kg
2710 00 370	Jet aircraft petrol-based fuel	UAH 130/1 000 kg
2710 00 390	Other light fractions	UAH 130/1 000 kg
	Middle distillates:	
2710 00 410	For special reprocessing	UAH 130/1 000 kg
2710 00 450	For chemical conversions in processes not mentioned under item 2710 00 410 for other purposes:	UAH 80/1 000 kg
	Kerosene:	
2710 00 510	Jet aircraft fuel	UAH 80/1 000 kg
2710 00 550	Other	UAH 130/1 000 kg
2710 00 590		
2710 00 330 2710 00 350	Only motor types of petrol, mixed with at least 5% of high-octane oxygen-containing additives: A-76 Ек, A-80 Ек, A-92 Ек, A-93 Ек, A-95 Ек, A-98 Ек	UAH 200/1 000 kg

2710 00 330 2710 00 350	Motor types of petrol: A-72, A-76, A-80, A-90, A-91, A-92, A-93, A-95, A-96, A-98 and other grades of motor petrol	UAH 400/1 000 kg
2710 00 330 2710 00 350	Motor ethylated petrol: A-72, A-76, A-80, A-90, A-91, A-92, A-93, A-95, A-96, A-98 and other grades of motor petrol	UAH 600/1 000 kg
2710 00 610 2710 00 650 2710 00 690	Heavy distillates (diesel fuel)	UAH 100/1 000 kg
	Vehicles with conventional engine having electric ignition and crank gear:	
87.03 21	with engine cubic capacity not exceeding 1 000 cm <sup>3</sup>	UAH 1.3/cm <sup>3</sup>
87.03 22	with engine cubic capacity exceeding 1 000 cm <sup>3</sup> but not more than 1 500 cm <sup>3</sup>	UAH 1.3/cm <sup>3</sup>
87.03 23	with engine cubic capacity exceeding 1 500 cm <sup>3</sup> but not more than 3 000 cm <sup>3</sup>  with engine cubic capacity exceeding 1 500 cm <sup>3</sup> but not more than 2 200 cm <sup>3</sup>	UAH 2.0/cm <sup>3</sup>
	with engine cubic capacity exceeding 2 200 cm <sup>3</sup> but not more than 3 000 cm <sup>3</sup>	UAH 4.0/cm <sup>3</sup>
87.03 24	with engine cubic capacity exceeding 3 000 cm <sup>3</sup>	UAH 6.7/cm <sup>3</sup>
	Other motor cars with conventional engine (diesel and "semi"-diesel engines functioning with fuel of low cetane ratio):	
87.03 31	with engine cubic capacity not exceeding 1 500 cm <sup>3</sup>	UAH 1.3/cm <sup>3</sup>
87.03 32	with engine cubic capacity exceeding 1 500 cm <sup>3</sup> but not more than 2 500 cm <sup>3</sup>	UAH 2/cm <sup>3</sup>
87.03 33	with engine cubic capacity exceeding 2 500 cm <sup>3</sup>	UAH 5.3/cm <sup>3</sup>
87.03 90	Other (with electric motor, other)	UAH 670/1 piece
87.03 10	Motor cars specially intended for travelling on snow; special motor cars for transportation of golfers and	UAH 4/cm <sup>3</sup>

	other similar vehicles	
87.11 40000 7.11 50000 87.11 90000	Motorcycles (including motorised small bikes) bicycles with installed auxiliary engines, with side-cars or without them having engine cubic capacity exceeding 500 cm <sup>3</sup> but not more than 800 cm <sup>3</sup> ; Other	UAH 1.3/cm <sup>3</sup>
87.16 10990	Habitable trailers and semi-trailers having the mass of more than 3 500 kg	UAH 670/piece

(5) ethyl alcohol shall be taxed at the rate of UAH 1 for 1 litre of 100% proof alcohol in case of its being used by:

- a) establishments and enterprises of health protection to support therapeutics and diagnostics process, conducting laboratory studies, manufacture of medicinal remedies (with blood components and preparations inclusive) and veterinarian medicinal remedies and preparations;
- b) domestic manufacturers-entrepreneurial entities to manufacture of explosives, pectin, vinegar essence and vinegar, perfumery and cosmetics and nitro-cellulose.

(6) The Cabinet of Ministers of Ukraine shall establish the procedure of obtaining and target use of ethyl alcohol by such establishments, enterprises and entities.

Articles 5017 – 5020 are reserved

## Chapter 41. Definition of tax base

Article 5021. Procedure of definition of tax base for calculation of excise duty

(1) Tax base for the case of excise duty calculation using excise rates in percentage terms shall be as follows:

- a) value of excisable commodities being sold in the customs territory of Ukraine at prices set with allowance for expenditure and profit without VAT and excise duty;
- b) customs valuation of excisable commodities imported (brought in, forwarded) into the customs territory of Ukraine with duty on import and customs duties inclusive, but VAT and excise duty exclusive.

1. For the case of customs valuation, the foreign currency shall be converted in Ukrainian currency at the official exchange rate effective on the date of tax liability accrual.

2. Customs value of excisable commodities imported (brought in, forwarded) into the customs territory of Ukraine by natural persons not being entrepreneurial entities shall be determined on the basis of the submitted payment documents related to these commodities, inclusive due and customs duties but exclusive VAT and excise duty.
- (2) The amount of excisable commodities expressed in terms of weight, volume, quantity, vehicle engine cubic capacity or in other natural measures shall be the tax base in case of excise duty calculation using special rates per excisable commodities sold (brought in, forwarded) in the customs territory of Ukraine.
- (3) The tax base under this Article para (1) and (2) shall be supposed as tax base in case of excise duty calculation using mixed rates.

#### Article 5022. Procedure of definition of tax base for calculation of excise duty in case of production extra wastage

The value of excisable commodities that could have been manufactured out of the extra wasted excisable raw materials occurred in fabrication of excisable commodities because of manufacturer fault shall be construed as tax base in case of excise duty calculation subject to extra wastage of excisable raw materials.

1. Subject to extra wastage of excisable raw materials occurred in fabrication of excisable commodities because of manufacturer fault, the payers of excise duty shall pay this duty on the whole scope of finished products with allowance for the wasted excisable raw materials.
2. Tax base in case of excise duty calculation using rates in percentage terms, subject to extra wastage of excisable raw materials occurred in fabrication of excisable commodities because of manufacturer fault shall be calculated at prices of identical or similar commodities as determined on the day of revealing the wastage at the manufacturer with excise duty and VAT set aside.
3. Tax base in case of excise duty calculation using rates expressed in fixed sums, subject to extra wastage of excisable raw materials occurred in fabrication of excisable commodities because of manufacturer fault shall be calculated against the whole scope of finished products that could have been manufactured out of the wasted excisable raw materials on the basis of weight, volume and quantity units or other natural measures.

Articles 5023 – 5028 are reserved

## **Chapter 42. Procedure of excise duty calculation**

Article 5029. Date of accrual of tax liabilities



- (1) Date of entering the excise duty amounts being transferred by Buyer to the supplier's special bank account shall be considered as date of accrual of tax liabilities in case of realisation of excisable commodities in the customs territory of Ukraine.
- (2) Date of excisable commodities clearance in compliance with the Ukrainian customs legislation shall be considered as date of accrual of tax liabilities in case of importation of excisable commodities (bringing in, obtaining the forwarded ones) into the customs territory of Ukraine.

**Article 5030. Procedure of calculation and payment of excise duty on commodities sold (forwarded) on the customs territory of Ukraine**

- (1) Payer of excise duty shall define by itself the amounts due of excise duty on commodities sold (forwarded) in the customs territory of Ukraine on the basis of objects of taxation, tax base and excise rates separately specified under Article 5016 of this Code.
- (2) Amounts of excise duty to be due shall be separately specified in payment documents in a separate line on the face of the document.

**Article 5031. Calculation of excise duty on commodities imported (brought in, those forwarded to be obtained) into the customs territory of Ukraine**

- (1) Payers of excise duty shall define by themselves the amounts due of excise duty on the basis of objects of taxation, tax base and excise rates.
- (2) Excise duty as calculated on commodities imported (brought in, those forwarded to be obtained) into the customs territory of Ukraine shall be paid in Ukrainian currency translated in accordance with the official exchange rate effective on the date of customs declaration.

**Article 5032. Calculation of excise duty on excisable commodities temporary brought in (forwarded) into the customs territory of Ukraine**

- (1) Excisable commodities to be temporary brought in (forwarded and to be obtained) into the customs territory of Ukraine for the purposes of display or demonstration during exhibitions, competitions, meetings, seminars and fairs, provided that they remain to be ownership of non-residents and their use in the territory of Ukraine is of non-commercial nature, shall be passed through the customs border of Ukraine without paying excise duty under commitment given to customs authority on taking these commodities back without any changes except for actual natural wear, for a period of temporary importing and subject to providing a financial security.
- (2) Bringing in the excisable commodities into the customs territory of Ukraine that are carried in transit via the customs territory of Ukraine shall be performed without paying excise duty under application of financial security or protection and escorting these commodities by customs authorities with involvement of Home Affairs Ministry of Ukraine departments as the case may be. The Cabinet of Ministers of Ukraine shall establish the procedure of application of financial security or protection and escorting these commodities by customs authorities with involvement of Home Affairs Ministry of Ukraine departments.

- (3) Clearance of excisable vehicles across the customs border of Ukraine, if they are temporary brought in into the customs territory of Ukraine, shall be performed in compliance with the Ukrainian customs legislation.

**Article 5033. Calculation of excise duty on commodities being brought in, taken out and placed in bonded warehouses**

- (1) Excisable commodities being brought in, or placed in bonded warehouses shall be passed through customs border of Ukraine without paying excise duty after deposition of security or drawing a promissory note on the total of all the taxes as calculated according to the procedure specified by this Code and customs legislation of Ukraine for a period of up to the date of drawing up appropriate documents at bonded warehouses and making a commitment to store these commodities at the mentioned warehouses. The Cabinet of Ministers of Ukraine shall approve the regulations on deposition of security or drawing up a promissory note on the total of all the taxes.
- (2) Excisable commodities to be brought in or returned in the customs territory of Ukraine from specialised bonded warehouses shall be subject to taxation on a universal basis pursuant to the procedure under Article 5031 of this Code.
  1. If excisable commodities are brought in into the customs territory of Ukraine or taken out of bonded warehouses, the maker of promissory note (person) shall be bound to submit the respective documents to customs authority as a payer of excise duty on imported or exported excisable products.
  2. If excisable commodities placed on bonded warehouses are exported from the customs territory of Ukraine, as well as to duty-free shops, the relevant documents shall be drawn up as for export of commodities and excise duty on these commodities shall not be levied accordingly.

**Article 5034. Taxation of excisable commodities being sold in duty-free shops**

- (1) The selling of excisable commodities in duty-free shops without charging excise duty may only be effected to natural persons who leave the customs territory of Ukraine, or aboard of vehicles bound for destinations outside the customs territory of Ukraine.
- (2) When and if excisable commodities bought in duty-free shops without paying excise duty, are brought in in the customs territory of Ukraine they shall be subject to taxation on a universal basis.
- (3) Excisable commodities that are brought in or returned in the customs territory of Ukraine from duty-free shops shall be subject to taxation on a universal basis according to the regulation under Article 5031 of this Code.

Articles 5035 – 5040 are reserved

### **Chapter 43. Time for payment and procedure of entering excise duty to budgets**

Article 5041. Time for payment of excise duty on excisable commodities sold in the customs territory of Ukraine

- (1) The payers of excise duty specified under Article 5005, points a) and b) of this Code shall be bound to open special bank accounts to be used exclusively for settlements with budgets in respect of excise duty. The use of these accounts for any purposes other than the aforementioned shall be prohibited.
- (2) Transfer of respective amounts of excise duty on the payers' special accounts effected by the buyers of excisable commodities shall be the ground for shipment (selling, hand-over, exchange) of excisable commodities.
- (3) The payers shall transfer to budgets the amounts of excise duty to be entered on special accounts, in the following periods of time:
  - a) not later than the 11-th day of the reporting month - out of receipts to special account accumulated from the 1-st day of the reporting month up to the 10-th day inclusive;
  - b) not later than the 21-st day of the reporting month - out of receipts to special account accumulated from the 11-th day of the reporting month up to the 20-th day inclusive;
  - c) not later than the 1-st day of the month following the reporting one - out of receipts to special account accumulated from the 21-st day of the reporting month up to the last day of the reporting month inclusive.

Article 5042. Payment of excise duty in case of importation of excisable commodities (imported or forwarded) into the customs territory of Ukraine

- (1) Excise duty on excisable commodities imported (imported or forwarded) into the customs territory of Ukraine shall be paid to budget by payers before/or on the day of customs clearance of these commodities.
- (2) Excise duty on excisable commodities imported (brought in, forwarded) into the customs territory of Ukraine by natural persons in a scope exceeding duty-free importation quotas established in pursuance of Ukrainian legislation shall be paid during customs clearance process through deposition of excise duty amounts on the bank account or through authorised official of customs office.

#### **Article 5043. Preparation and submittal of calculation of excise duty**

The payers of duty on excisable commodities manufactured in the territory of Ukraine shall, monthly and not later than by the 20-th day of the month following the reporting one, prepare a calculation of the excise duty in compliance with a form approved by the central body of the State Tax Administration of Ukraine and submit it to the State Tax Administration bodies at the place of registration.

#### **Article 5044. Entering excise duty**

The procedure of entering duty on excisable commodities manufactured in the customs territory of Ukraine to respective budgets shall be specified in accordance with the legislative instruments on fiscal system and process.

#### **Article 5045. Control of excise duty payment**

Control of calculation correctness, completeness and timeliness of payment to a budget of the duty on excisable commodities manufactured in the customs territory of Ukraine shall be exercised by the State Tax Administration bodies, and in case of importing excisable commodities (imported or forwarded) – by the State Customs Office of Ukraine in a procedure agreed by the State Tax Administration.

Articles 5046 – 5050 are reserved

### **Chapter 44. Peculiarities of alcoholic drinks and tobacco taxation**

#### **Article 5051. Manufacture, storage, selling of excise duty stamps and labelling of alcoholic drinks and tobaccos**

- (1) When and if alcoholic drinks and tobaccos are manufactured in the customs territory of Ukraine or imported into the customs territory of Ukraine, the payers of excise duty shall be bound to label them with excise duty stamps of the established pattern.
  - (2) Presence of excise duty stamp of the established pattern stuck according to the established procedure onto a bottle (packing) of alcoholic drink and a pack (packing) of tobacco shall be one of the qualifications for their importation (obtaining the forwarded ones) into the customs territory of Ukraine and selling these commodities to consumers, confirming thus the payment of excise duty, legitimacy of importation of such commodities into the customs territory of Ukraine and their selling.
1. Manufacture, storage, selling of the excise duty stamps and labelling with them of alcoholic drinks and tobaccos shall be effected in accordance with the Regulations approved by the Cabinet of Ministers of Ukraine.
  2. Importation (bringing in or forwarded) into the customs territory of Ukraine of alcoholic drinks and tobaccos unlabelled in the established procedure, as well as their storage, transportation and

taking on consignment for the purpose of sale and selling proper of these commodities in the customs territory of Ukraine shall be prohibited.

- (3) Entrepreneurial entities producing ethyl alcohol (cognac spirits, fruit spirits), alcoholic drinks and tobaccos shall be subject to compulsory registration as excise duty payers by the State Tax Administration bodies at these entities' state registration place in five day period since the date of obtaining the licence for production.
- (4) The selling of excise duty stamps to Ukrainian producers of alcoholic drinks and tobaccos shall be carried out on the basis of planned monthly scopes of sale of alcoholic drinks and tobaccos in accordance with a calculation-request for the needed quantity of stamps but not more than the producers' monthly output of these commodities in quantitative terms.
- (5) To receive the needed quantity of these excise duty stamps, an importer must submit three copies of calculation-request to the seller of these stamps according to a form established by the seller of excise duty stamps, and payment documents confirming deposition of payment for excise duty stamps and excise duty proper to the respective budget. One copy of the calculation-request shall be kept by the seller of excise duty stamps, the second one with a note by the seller confirming the payment of excise duty shall be returned to the importer for submittal to the customs office and the third copy bearing a note by the seller of the stamps shall be retained by the Buyer (importer).
- (6) The selling (transfer) of acquired excise duty stamps by the buyer of these stamps to other persons shall be prohibited except for the cases specified under Article 5052, para (2) item c) of this Code.

#### **Article 5052. Bringing in of imported alcoholic drinks and tobaccos into the customs territory of Ukraine**

- (1) Legal and natural persons-entrepreneurial entities who concluded of a contract (agreement) with foreign producers for supply of alcoholic drinks and tobaccos to Ukraine shall be entitled to importation of alcoholic drinks and tobaccos into the customs territory of Ukraine provided that:
  - a) they are imported into the customs territory of Ukraine through Ukrainian customs border crossing points as agreed in advance with the seller of excise duty stamps during their acquisition;
  - b) passing of a registration with the seller of excise duty stamps as importers and obtaining the respective certificate in a procedure established by the Cabinet of Ministers of Ukraine;
  - c) labelling according to the established procedure of alcoholic drinks and tobaccos with excise duty stamps of the established pattern:
    - c1 alcoholic drinks in car cisterns and wagons, as well as in tanks of different volume and other containers of the volume exceeding 5 litre being imported into Ukraine for the purpose of sale or exchange in the customs territory of Ukraine shall not be subject to labelling with excise duty stamps. In such cases the customs authorities according to Article 5031 shall levy excise duty;

- d) these entities submit to customs bodies a cargo customs declaration and a copy of calculation-request for excise duty stamps bearing a note by the seller of these stamps confirming the payment in full of excise duty amounts to the respective budget;
  - e) these entities submit to customs bodies a payment document with a note by a bank confirming the payment in full of excise duty amount to the respective budget.
- (2) When the importer, in accordance with a contract (agreement), brings in batches of alcoholic drinks and tobaccos into the customs territory of Ukraine, a note shall be made in the contract (agreement) on the quantity of excise duty stamps delivered, specifying the date of their delivery and the quantity of labelled commodities in every batch brought in, taking into account that:
- a) Period of time for obtaining excise duty stamps upon every contract shall be specified by buyers of stamps (importers) in co-ordination with the seller of stamps subject to the scope of commodities being imported;
  - b) Selling of excise duty stamps for bringing in the further batches of articles, including every further contract, shall be effected after submittal to the seller of stamps of the copy of cargo inward manifest for bringing in the previous batch of commodities including that of bringing in the products under the previous contract along with a copy of payment instruments confirming the payment of excise duty in full;
  - c) Obtained excise duty stamps shall be transferred by importers to foreign producers for them to label in the process of production of alcoholic drinks and tobaccos to be imported.
- (3) Transit transportation of alcoholic drinks and tobaccos via the customs territory of Ukraine shall be conducted with due regard to the requirements under Article 5032, para (2) of this Code.
- (4) Natural persons who import alcoholic drinks and tobaccos into the customs territory of Ukraine in amounts exceeding duty-free quotas established in compliance with the Ukrainian legislation shall pay excise duty on a universal basis during customs clearance of these commodities.
- (5) In case of breach of procedure of labelling of imported alcoholic drinks and tobaccos and/or partial payment of excise duty, the commodities shall not be admitted to customs clearance and their importation into the customs territory of Ukraine shall be prohibited.
- (6) Excisable alcoholic drinks and tobaccos that are being imported into the customs territory of Ukraine shall not be subject to placing in bonded warehouses.

#### Article 5053. Control over receipts from excise duty on alcoholic drinks and tobaccos

- (1) The State Tax Administration bodies shall execute control over payment of excise duty on alcoholic drinks and tobaccos on the customs territory of Ukraine.
- (2) Control over presence of excise duty stamps on a bottle (packing) of alcoholic drink and on a pack (packing) of tobaccos during their transportation, storage and sale shall be carried out by the State Tax Administration, Control and Auditing Office and Home Affairs Ministry bodies, and during importation of these commodities into the customs territory of Ukraine – by the State Customs Office bodies.

- (3) Should the facts of importation, storage, transportation and sale of alcoholic drinks and tobaccos on the customs territory of Ukraine without excise duty stamps of the established pattern be revealed, then the supervisory bodies specified under para (2) of this Article shall withdraw these commodities from free circulation and submit the respective documents to a court for taking the decision on their confiscation in favour of the state.
1. The execution of a court decision on confiscation of alcoholic drinks and tobaccos shall be effected in compliance with the Ukrainian legislation.
2. The Cabinet of Ministers of Ukraine shall establish a procedure to dispose of confiscated alcoholic drinks and tobaccos.
- (4) Should lack of excise duty stamps be revealed at their buyer (because of their being stolen, destroyed or used for labelling of alcoholic drinks and tobaccos intended for export and because of other reasons), the producers of this products shall bear absolute property responsibility in extent of the cost of excise duty stamps and calculated amount of excise duty that should have been paid to budget in case of sale of excisable commodities for labelling of which the excise duty stamps were bought. The mentioned amounts shall be imposed upon producer in an indisputable manner.
- (5) Producers (customers), importers, sellers of alcoholic drinks and tobaccos and officials thereof shall be responsible in compliance with this Code and other laws of Ukraine for failure to follow the procedure of the labelling and selling of these commodities.

Articles 5054 – 5060 are reserved

**Chapter 54 is reserved**

## **Part VI. Property Tax**

### **Chapter 41. General provisions.**

Article 6001. Definition of terms.

Throughout this Part, the following terms shall be used:

- a. buildings – residential buildings, apartment, garden houses, dachas, garage, as well as other permanently located (situated) buildings that are used for purposes other than entrepreneurial.
- A1. Apartment – a part of a residential building that is intended for use by one individual, one or several families, has the equipped residential and auxiliary rooms and a separate exit to a stairway level, entryway, corridor, yard balcony, street or yard.
- A2. Permanently situated buildings – capital buildings that are technologically or constructively attached (connected) to the ground on which they are located (situated) and that can not be moved to another location without modification on their qualitative or other characteristics.

- b. Money evaluation of a land plot – capitalized rental income from the land plot;
- c. Land plot – a segment of the surface of the earth with its boundaries established, the rights to which are defined by legislation or an agreement, and which can be characterized by a certain place of location, a certain intended (business) use and by other substantive characteristics that it has;
- d. Land users – persons (residents and non-residents) who, in accordance with the legislation, received land plot to use on their own discretion;
- e. Historical (original) balance sheet value of a construction – the amount of the taxpayer's expenditures on purchase or construction of the structure, reflected in the taxpayer's accounts, taking into account the adjustment of the value of the fixed assets carried out in accordance with legislation;
- f. Tax, taxation, taxpayer (in respective grammar cases) – the property tax, property taxation, payer of the property tax (in respective grammar cases);
- g. Permanent residents – physical persons that are registered as such that have permanent place of residence in the territory of a particular city, town, village;
- h. Family – physical persons that exercise family relationships live permanently in one building and run a common household;
- i. Constructions – material objects that belong to Group 1 of fixed assets in accordance with the Article 2077 of this Code, except for buildings.

Articles 6002 – 6004 are reserved.

## **Chapter 43. Payers of the tax, objects of taxation.**

### **Article 6005. Taxpayers.**

1. Taxpayers are:
  - a. owners of land plot, as well as land users, except for lessees;
  - b. owners of buildings and constructions, except for buildings and constructions transferred into a financial lease;
  - c. financial lessees of the immovable property;
2. If immovable property is held in joint and partial ownership by several persons, each of such persons shall be the taxpayer with respect to one's share of the property.
3. If immovable property is held in joint and common ownership by several physical persons, the taxpayer shall be one of these persons appointed by common consent of such persons. All owners of such property shall bear joint and several responsibility for meeting obligations related to payment of the tax.
4. The payers of the tax shall also include physical persons who are owners of the property is an object of taxation under Article 6006 of this Code, regardless of the way in which these persons carry on ownership, user or management of this property. The said persons' not having documents verifying their ownership rights with respect to the said property may not serve as grounds for not recognizing these persons as payers of the tax on this property, provided these persons actually own, use and manage it.



#### Article 6006. Objects of taxation.

1. Objects of taxation are;
  - a. land plots that are being used or owned;
  - b. buildings;
  - c. constructions. The Cabinet of Ministers of Ukraine establishes the list of the communication facilities and transmitting devices that are objects of taxation.
2. If an object of taxation is used at the same time (simultaneously) as a building and a construction, the taxpayer may address a state tax service organ with an application requesting separate ways of use of such object of taxation for the purpose of determining the tax base.
  1. A body (organ) of the tax service shall make a respective decision within a month following the day of taxpayer's filing one's application.
  2. If such separation of ways of use of the property was not performed due to the taxpayer's fault, a respective object shall be treated as a construction.

Articles 6007 and 6008 are reserved.

### **Chapter 43. Taxation of land plots.**

#### Article 6009. Tax base (determining of the tax base).

The tax base is:

- a. money evaluation of land plots:
  - A1. Money evaluation of land plots shall be established in accordance with procedure and methodology specified by the Cabinet of Ministers and shall be made known to owners of land plots and land users.
  - A2. The information base for obtaining money evaluation of land plots includes data contained in State land, forest and water registries, in land improvement and bridge construction documentation, land inventory documents.
- b. Area of land plots (in cases money evaluation has not been established).

#### Article 6010. Rates of the tax on land plots for agricultural use.

1. The rates of the tax on land plots for agricultural use (farmland) per one hectare shall be established as percentage of money evaluation of such plots in the following amounts:
  - a. for grazing land – 0.1;
  - b. for perennial plants – 0.03.
2. The tax on land plots of agricultural farmland, that are provided under established procedures and used in accordance with intended purpose, regardless of what category of land they belong to, shall be administered in accordance with the Part (1) of this Article.
3. The tax on land plots of non-agricultural land that are transferred to agricultural enterprises (marshes, lands subject to land slides, rocky lands, ravines) and artificial water reservoirs used by producers of agricultural products to take water or improve ecological of the natural

environment, shall be administered at the level of 0.03 percent of the money evaluation of the unit of area of such land throughout the oblast (region).

**Article 6011.** Rates of the tax on land plots in populated areas for which there has been established a monetary evaluation.

The rate of the tax on land plots in populated areas for which there has been established a monetary evaluation, shall be set at the level of 1 % of the money evaluation, except for land plots specified in part (2) of Article 6010 and Article 6013 of this Code.

**Article 6012.** Rates of the tax on land plots in populated areas for which there has not been established a monetary evaluation.

(1) Average rates of the tax on land plots in populated areas for which a monetary evaluation has not been established, shall be as in the following amounts:

Groups of populated Areas with population (thousand)	Average rate of the tax (kopecks per 1 square meter)	Ratio used in cities of Kyiv, Simferopol, Sevastopol and cities of oblast subordination (governing)
Less than 0.2	3.6	
0.2 to 1	5.04	
1 to 3	6.48	
3 to 10	7.2	
10 to 20	11.52	
20 to 50	18	1.2
50 to 100	21.6	1.4
100 to 250	25.2	1.6
250 to 500	28.8	2
500 to 1.000	36	2.5
Over 1.000	50.4	3

(2) In populated areas that are regarded by the Cabinet of Ministers as resorts, to the rates of taxes specified in part (1) of this Article there shall be applied the following ratios (coefficients):

- a. in the South coastline of the Autonomous Republic of Crimea – 3;
- b. in the South-East coastline of the Autonomous Republic of Crimea – 2.5;
- c. in the Western coastline of the Autonomous Republic of Crimea – 2.2;
- d. in the Black Sea coastline throughout Mykolaiv, Odessa and Kherson oblast – 2;

- e. in mountainous and hilly regions of Zakarpattia, Lviv, Ivano-Frankivsk and Chernivetsk oblast – 2.3, excluding populated areas that under existing legislation are included in the category of mountainous areas;
  - f. throughout the Azov sea coastline and in the other resort locations – 1.5.
- (3) The rates of the tax on land plots (excluding farmland) shall be different and shall be approved by the respective village, town and city Radas depending on the average rates of the tax, functional use and location of the land plot, but not more than two times higher the average rates of the tax, taking into account the ratios specified in the parts (1) and (2) of this Article.
- (4) Tax rates introduced in the part (1) of this Article with respect to land plots shall be applied taking into account the inflation adjustment ratio (indexation) specified in the Law of Ukraine on the State Budget of Ukraine for the corresponding year.

**Article 6013. Specific features of the administering of the tax on land plots in populated areas.**

- (1) The tax on land plots with houses, garage – construction, dacha-construction cooperatives and dachas of citizens, as well as the tax on land plots provided for purposes of agricultural production, water reservoirs and forestry, and which are occupied with production, cultural and non-business and business buildings and structures, shall be administered in the amount of 3 % of the sum of the tax computed under Article 6011 and part (1) of the Article 6012 of this Code.
- (2) The tax on land plots provided to meet forestry needs, excluding plots occupied by production, cultural and non-business, residential and business buildings and structures, shall be administered as part of the fee for special use of forestry resources under Article 11011 of this Code.
- (3) The tax on land plots in the territories and entities (objects) for environment protection, health rehabilitation and recreational purposes, occupied by production, cultural and non-business and non-residential buildings and constructions, and not related to functional purposes of these objects, shall be administered in the amount five times higher than the sum of the respective tax established under part (1) of Article 6012 of this Code and part (1) of this Article.
- (4) In case of determining the amount of the tax on land plots occupied by production, cultural and non-business and non-residential buildings and constructions, situated in the historical-cultural territories and objects, that are not related to functional purposes of such objects, there shall be used the following ratios for respective tax established under part (1) of Article 6012 of this Code and part (1) of this Article:
  - a) international significance – 7.5;
  - b) national significance – 3.75;
  - c) local significance – 1.5.
- (5) The tax on a part of provided to legal persons areas of land plots, excluding agricultural land, that exceed the areas established under the Land Code of Ukraine, shall be administered in the five-fold amount.
- (6) The tax on land plots provided to the Armed Forces of Ukraine and other military contingents, created under legislation of Ukraine, railroads, mining enterprises, as well as on water reservoirs provided for the purposes of producing fish products, shall be administered in the

amount of 25 % of the sum of the tax computed under Article 6011 and part (1) of the Article 6012 of this Code.

- (7) If rented out are land plots that are occupied by the residential houses, garage and construction cooperatives, individual garages and dachas, the Armed Forces of Ukraine and other military contingents created in accordance with legislation of Ukraine, railroad transpiration, mining enterprises, cultural and non-business and non-residential buildings and structures of water reservoirs and forestry, water reservoirs provided for the purposes of production of fish products, the tax on such land plots shall be computed in accordance with Article 6011 and part (1) of Article 6012 of this Code.

**Article 6014.** The rates of the tax on land plots provided to industrial enterprises, transport and communication and other enterprises outside the boundaries of residential areas.

The rate of the tax on land plots provided to industrial enterprises, transport and communication and other enterprises outside the boundaries of residential areas, excluding land plots specified in part (2) of Article 6010, part (2) of this Article and Article 6015 of this Code, shall be established in the amount of 5 % of the monetary evaluation of one area unit of the agricultural land in the oblast.

**Article 6015.** The rates of the tax on land plots, provided for railroad transport, Armed Forces of Ukraine and other military contingents outside populated areas.

- (1) The rate of the tax on land plots, provided for railroad transport, Armed Forces of Ukraine and other military contingents set up in accordance with the legislation, shall be administered in the amount of 0.02 % of the monetary evaluation of one area unit of agricultural land in the oblast, excluding lands of military agricultural enterprises taxed under Article 6010 of this Code.

In case land plots are used by railroad transport, Armed Forces of Ukraine and other military contingents set up in accordance with the legislation, for purposes other than stated, the tax shall be administered in the amount of 5 % of one area unit of agricultural land in the oblast.

**Article 6016.** The rates of the tax on land plots provided into use in the lands used for environmental protection purposes, which are located outside populated areas.

The rate of the tax on land plots provided into use in the lands used for environmental protection, recreation and historical and cultural purposes, which are located outside populated areas, excluding land plots specified in part (2) of the Article 6010 of this Code, shall be set in the amount of 50 % of monetary evaluation of one area unit of agricultural land in the oblast.

**Article 6017.** The rates of the tax on land plots provided in the lands of the water fund (water reserves) outside populated areas.

The rate of the tax on land plots provided in the lands of the water fund (water reserves), which are located outside populated areas, excluding land plots specified in part (2) of Article 6010 of this Code shall be established in the amount of 0.3 % of monetary evaluation of one area unit of agricultural land in the oblast.

**Article 6018.** Specific features of the administering of the tax on land plots provided in the lands of the forestry fund outside the populated areas.

The tax on land plots provided in the lands of the forestry fund outside the populated areas, excluding lands specified in part (2) of the Article 6010 of this Code and part (2) of this Article,

shall be administered as part of the fee for a special use of forestry resources under Article 11011 of this Code.

- (1) The tax on land plots that belong to the forestry fund lands and are occupied by production, cultural and non-business, residential buildings and business constructions, shall be administered in the amount of 0.3 % of the monetary evaluation of one area unit of agricultural land in the oblast (region).

Article 6019 – 6024 – reserved.

## **Chapter 44. Taxation of buildings and constructions.**

Article 6025. Buildings that are out of scope of taxation.

- (1) Objects of taxation shall not include:

buildings that are owned by the:

- a1. The State or territorial communities (their joint ownership);
- a2. Religious organizations, provided these buildings are used as places where religious activities are carried on;
- a3. Agencies and organizations of foreign states that have diplomatic immunity and privileges in accordance with international agreements of Ukraine.

Buildings that are used for any purposes, provided that such buildings are located in the areas of alienation and mandatory resettlement specified in the legislation;

Buildings that were not put into use during a taxable period.

- c1. A procedure for determining the date of beginning of use of a building shall be established by the Cabinet of Ministers of Ukraine.

- c2. In case a construction of a building is finished, but such building has not been put into use, starting from the next taxable period, such building shall be taxed under the generally applicable provisions;

Apartment building of the multi-apartment housing fund (including hostels), houses (one-apartment housing fund in rural areas), that are on the balance sheet of legal persons and with respect to which it has been decided to transfer them into ownership of territorial communities or into their joint ownership.

- (2) Buildings that are specified in part (1) of this Article are out of scope of taxation only if their owners provide bodies (organs) of the state tax service with the necessary information in accordance with forms and procedures established by the central office of the State Tax Administration of Ukraine. This requirement shall not apply to the buildings specified by the central body of the State Tax Administration of Ukraine, buildings specified in the part (1) of this Article shall be taxed under generally applicable provisions.

If buildings specified in part (1) of this Article, except for sub-item «b», are used for the purposes of obtaining income, they shall be taxed under generally applicable provisions.

Article 6026. Determining of the tax base of the building.

The tax base of a building shall be determined individually for every building and shall be computed in a way of multiplying the area of the building specified in respective units of measurement (square

meters) by the average value of the unit of measurement of the building determined on the January 1 of the current year, or by the average value of the unit of measurement of a new building.

For purposes of evaluation of an average value of the measurement of a building there shall be used the analogy method, under which the average value of the unit of measurement of a building is determined on the basis of the evaluation of the average value of the unit of measurement of area of the building similar to the one being taxed, depending on the material of the walls, location, intended use of the building and other factors of its assessment.

1. The level of the average value of the unit of measurement of the area of the building, depending on the materials of the walls, location, permanent population of the populated area, shall be established by the bodies of local government under the evaluation methodology approved by the Cabinet of Ministers of Ukraine.

2. The average value of the unit of measurement of the area of the building must be revised not less than once in five years, and not more frequently than once in three years.

3. For taxation purposes the amount of the average current value of a building may not be changed during a taxable year.

The average value of the unit of measurement of a new building shall be computed in a way of dividing the total value of the construction by the total area of the building.

(4) The taxpayers shall on their own determine the tax base of buildings.

#### Article 6027. Tax rates on buildings.

Buildings shall be taxed under the rate that shall be established by the body of the local government at the time of approval of respective local budget, in the amount not lower than 1 % and not higher than 2 % of the tax base.

The rate of the tax may not change during one taxable year.

#### Article 6028. Constructions that are not of scope of taxation.

(1) Objects of taxation shall not include:

Constructions that are owned by the:

a1. The state or territorial communities (their joint ownership), except cases when such constructions belong to enterprises that have the right of complete business management of such constructions, transferred to other persons into use on conditions of a lease of on any other conditions (excluding property that is being transferred into operational management by budget financed agencies and organizations);

a2. Non-profit organizations, provided these constructions are not used to obtain income (profit);

a3. Agencies and organizations of foreign states that have diplomatic immunity and privileges in accordance with international agreements of Ukraine.

Constructions that are used:

b1. For any purposes, provided that such constructions are located in the areas of alienation and mandatory resettlement specified in the legislation;

b2. As environmental protection objects, including objects used for purposes of utilization of production waste of legal and physical persons;

b3. Penitentiary establishments and enterprises in accordance with the objectives established in the legislation;

b4. For needs of kindergartens (pre-school establishments for children), secondary schools, professional colleges and advanced education establishments, free-of-charge medical check-up points, free-of-charge gyms, recreation and psychological rehabilitation facilities for employees (excluding resorts, tourist centers and other similar establishments), culture clubs in rural areas, provided such are used exclusively for intended purposes, as well as objects, of communal and residential facilities that are accounted on the balance sheet and maintained at the expense of the taxpayer;

unfinished constructions or constructions that were not put into use, as well as constructions put on conservation (preservations) under Article 6033 of this Code. A procedure for determining the date of the beginning of use of such construction shall be established by the Cabinet of Ministers of Ukraine.

(2) Constructions that are specified in part (1) of this Article are out of scope of taxation only if their owners provide bodies (organs) of the state tax service with the necessary information in accordance with the forms and procedure established by the central office of the state tax service of Ukraine. This requirement does not apply to the constructions, specified in the paragraph «B1» of sub-item «b)» of part (1) of this Article. If such information is not provided within the period specified by the central office of the state tax service of Ukraine, constructions specified in part (1) of this Article shall be taxed under the generally applicable norms.

#### **Article 6029. Determining the tax base of the construction.**

The tax base of a construction is the balance sheet value (aggregate balance sheet value of constructions) that are owned (used – in case of financial lease) by the taxpayer, who is a legal person.

The tax base of the construction shall be determined individually for each construction.

The balance sheet value of a construction shall be determined under the Article 2078 of this Code.

For purposes of taxation of a construction, the amount of depreciation payments assessed during the term of use of the construction may not exceed 50 % of its initial (historical) balance sheet value.

The tax base of a construction that is owned by physical persons, including entrepreneur, shall be determined in accordance with the following:

in case a physical person keeps records of expenses related to acquisition, construction and improvement of such structure, - in accordance with the procedure provided in part (1) of this Article;

if such records are not available – by way of using prices of similar constructions (their balance sheet value), that are owned by legal persons, or by way of computing a balance sheet value in accordance with the procedure specified in part (2) of Article 6026 of this Code for purposes of computation of the average current value of the unit of measurement of a building.

(3) When determining the tax base, except in cases specified in sub-item «c» of part (1) of the Article 6028 of this Code, any constructions must be taken into account, whether they are being used or not.

#### Article 6030. Tax rates of the constructions.

Constructions shall be taxed under the rate that shall be established by the body of local government at the time of approval of respective local budget, in the amount not lower than 1 % and not higher than 2 % of the tax base.

The rate of the tax may not be changed during one taxable year.

#### Article 6031. Adjusting the tax base of building and constructions that are owned by the physical persons.

(1) An official of the body of the state tax service may adjust the tax base of a building or a structure that are owned by a physical person, including an entrepreneur compliance with the requirements provided in this Article.

(2) If a taxpayer – physical person has provided the body of the state tax service with the inaccurate or incomplete information concerning an object of taxation or, if such information has not been provided, the body of the state tax service may determine the tax base in agreement with the taxpayer.

In this case the body of the state tax service shall submit to the taxpayer a properly prepared notice requesting the taxpayer to specify the time of the meeting.

If the time of the meeting is not specified by the taxpayer within 20 calendar days following the day from submitting of the notice, the body of the state tax service may specify the date of the meeting, of which the taxpayer must be properly notified.

If a notice can not be properly serviced handed to the taxpayer due to the taxpayer's not being available at his tax address, an official of the body of the state tax service is required to hang out (by the entrance to the object of taxation) the notice indicating the date of the meeting set up to agree with the taxpayer the matters related to determining the tax base.

If this interview does not take place within the terms specified in part (2) of this Article, the body of the state tax service shall itself determine the tax base of the building or structure, based on examination of its appearance, as well as information available to the respective body.

The taxpayer – physical person has the right to review the tax base established by the body of the state tax service in accordance with part (2), if:

a physical person disagrees with the determined tax base;

documents were provided to the body of the state tax service that confirm that the physical person was not available due to a long-term business trip, illness, imprisonment, being held captive, or due to Force Majeure, provided that such acts, are supported by necessary documents.

Guardians of the property of a physical person recognized as missing, or heirs in the event the person is pronounced deceased, or heirs of a decedent, as well as guardians of a physical person recognized legally incapable, or legally authorized representatives of other persons may also revise the tax base (in accordance with part (3) of this Article).

A taxpayer – physical person is required to notify the body of the state tax service of the following substantial changes in a building or construction:

liquidation (destruction, demolition) of a building, construction or parts thereof;

increasing the value of building and structures by way of changing physical parameters.



Such notice shall be sent by a taxpayer as a registered mail to the body of the state tax service within 30 days of calendar days after the said changes took place.

If a taxpayer hasn't sent such notice within the specified period the reduction of the object of taxation of buildings and constructions shall not be taken into account, while the increase in the value of buildings and constructions shall be considered as taken effect starting on the next day after the day of the last examination (appraisal) of the building and construction.

#### **Article 6032. Revising a tax base of buildings and constructions owned by legal persons.**

An official of the body of the state tax service may enter the territory where the building or construction (subject to taxation) is located, to revise the computation of the tax base in compliance with the procedure established in the legislation of Ukraine.

#### **Article 6033. Conservation (preservation) of the Constructions.**

Conservation of construction that are owned by the state or territorial communities (their joint ownership) shall be carried out by the decision of the Cabinet of Ministers of Ukraine or the body of local government, respectively.

Conservation of construction, except those specified in the part (1) of this Article, shall be carried out by decision of the owner (owners) on condition of meeting requirements established by the Cabinet of Ministers of Ukraine.

#### **Article 6034. Indexing (inflation adjustment) of the tax base of buildings and constructions.**

(1) During any taxable year, in which there is no revision of the level of average value of the unit of measurement of building area, as provided under item 2 of part (2) of Article 6026 of this Code, for purposes of computing the tax base of buildings there shall be used the indexing (inflation adjustment) of the tax base by the inflation level.

Indexing the tax base of buildings by the inflation level shall be carried out if the level of inflation, computed on the basis of the year preceding the taxable one, equals or exceeds 110 %.

To simplify tax computations there shall be used the rounding of indicators of inflation level towards the nearest number of the natural series if numbers dividable by five.

The indexing shall be carried out by the bodies of the state tax service and shall be reported to taxpayers in accordance with the procedure specified in the Article 6058 of this Code.

(2) The indexing of the tax base of the constructions shall be carried out in accordance with the Article 2078 of this Code.

Article 6035 – 6050 – reserved.

### **Chapter 46. Tax privileges.**

#### **Article 6051. Tax privileges for physical persons.**

The following persons shall be exempt from the payment of the tax on land plots, in accordance with the part (2) of this Article:

Disabled persons belonging to groups 1 and 2;

Physical persons that bring up three and more children below 16 years of age, and in case of pupils, below 18 years of age;

Pensioners;

War veterans and persons to whom applies the law on the status of war veterans and guarantees of their social protection (insurance);

Physical persons who have been issued (in accordance with the established procedure and in compliance with the law), a certificate verifying that these persons have suffered (personal injuries) as a result of Chernobyl disaster.

Exemption from payment of the tax on land plots, as provided under part (1) of this Article, shall be extended to land plots within the limits (restrictions) of maximum areas as specified in the Land Code of Ukraine.

Owners of buildings shall be given the following tax privileges:

the tax base of the building located in the territory of a populated area with the number of permanent residents of 50 000 and more, that is used by a family in a taxable year as primary residence, shall be reduced for this year by the amount computed on the basis of 21 square meters of the area of such building for every family member plus 10.5 square meters per family, but no less than 80 square meters of general area of the building in case the residents are either one single person or two persons of retirement age;

the tax base of a building located in the territory of a populated area with a number of permanent residents less than 50 000, that is used by a family in the taxable year as a primary place of residence, shall be reduced for this year by the sum computed on the basis of 40 square meters of the total area of the building for every member of the family plus 10.5 square meters per family, but no less than 120 square meters of the total area of the building in case the residents are two persons of retirement age or one single person;

the tax base of a building that is used by a family as a garden house, shall be reduced by the sum computed on the basis of 60 square meters of the total area;

privileges specified in sub-items «a» – «c» of the part (3) of this Article, shall be applied to one building and one garden house regardless of the number of buildings (garden houses) owned by the family.

d1. If a building is owned jointly by several families, the said privileges shall be provided once a year with respect to one building only;

there shall be not included in the tax base non-residential buildings located in the territory of a garden plot in which an individual building is built and is used as a place of permanent residence of a physical person (situated under one roof with the individual building or built adjacent to it or built separately), provided that such non-residential buildings are used for keeping domestic animals and poultry, garden or other business tools, as a storage space, or for other household purposes not related to entrepreneurial activities.

e1. Sub-item «e» applies to buildings located in the territory of populated areas with permanent population less than 50 000;

non-residential buildings of any use, built in the territory of the adjacent to the building land plot that is adjacent to an individual house situated in the territory of a populated area with the number of permanent residents greater than 50 000, shall be taxed as a part of the total area of such individual building under sub-item «a» of the part (3) of this Article;

privileges specified in sub-item «a» – «c» and «f» of Part (3) of this Article, shall be also applied to buildings that are leased by physical persons for the purpose of using these buildings as places of

primary residence, as well as buildings situated in the plots adjacent to the buildings, provided that the lease agreement provides that these persons are required to pay the tax on the buildings;

If the owner of a property receives the right to a privilege during a year, then the taxpayer is exempt from payment of the tax starting the month following the month in which the right to the tax privilege arose. If the taxpayer loses one's right to a tax privilege or exemption during a year, then the taxpayer resumes paying the tax in the month following the month during which the right was lost.

Physical persons that enjoy tax privileges provided under this Article are required, before February 1 of the current taxable year, to submit to a body of the state tax service the information, presented in the form specified by the central body of the state tax service of Ukraine, on the composition of the property and physical persons who have the right to receive such privileges, as well as on changes in the rights to receive the said privileges. In case such information is not submitted timely, and if it is the physical person who is responsible for this delay, the privileges shall be granted starting on the day when this information is received by an organ of the State Tax Administration.

#### **Article 6052. Tax privileges for legal persons.**

The following shall be exempt from the payment of the tax on land plots:

preservation areas (National Parks), including historical and cultural, national natural parks, reserves (excluding hunting ones), regional landscape parks, botanical gardens, dendrology and zoology reserves, natural monuments, memorial decorative gardens and parks;

research outlets of research and development (scientific) establishments and education organizations, specialized in agriculture and technical colleges, that are residents;

bodies of the government and bodies of local government, bodies of Attorney General (Prosecutor), agencies and organizations (including cultural, scientific, educational, health, social protection, fitness and sports agencies and organizations) that are fully financed from the budgets that belong to the budgetary system of Ukraine (excluding Armed Forces of Ukraine and other military contingents created in accordance with legislation of Ukraine, special purpose health spa of Ukraine for rehabilitation of the ill persons, that are fully financed at the expense of the budget in accordance with the list approved in accordance with the procedure established by the Cabinet of Ministers, health spa, resorts and rehabilitative establishments of Ukraine for children, enterprises, associations and organizations of unions of the blind and deaf, public organizations of disabled (invalids) of Ukraine and associations thereof;

religious and charitable organizations, registered in accordance with legislation, that do not engage in entrepreneurial activities.

Agencies and organizations (establishments) that are in part financed from the budget that are included in the budgetary system of Ukraine (except for those that carry out works, render service under agreements), shall be exempt from the payment of the tax proportionately to the funds received from the budgets.

The following shall not be subject to administration of the tax:

on agricultural lands in the zones of radioactive contamination within the territories that are recognized under the law as such that have been radioactively contaminated as a result of the Chernobyl disaster (the zones of alienation, unconditional (mandatory) resettlement, guaranteed voluntary resettlement and stringent radio-ecological control), and chemically contaminated agricultural lands on which restrictions concerning agricultural activities were introduced;

on land plots that are kept on temporary conservation or are in the stage of agricultural exploration;  
on land plots of the state plant variety testing stations;  
on land occupied by the highways (automobile roads) of general use;  
on land plots of state, collective agricultural enterprises and farming enterprises, occupies by young orchards, berry lots, grape lots before the fruit bearing time, as well as hybrid plants, genetic funds and perennial fruit plant incubators;  
on land plots in cemeteries and crematories.

If legal persons that enjoy privileges concerning the tax on land plots have in their subordination the self-financing enterprises (branches, division) or give into a temporary use (lease) land plots, individual buildings or their parts, the tax on land plots, occupied by these self-financing enterprises (branches, divisions) or buildings (parts thereof), provided into temporary use, shall be paid in amounts established under generally applicable provisions.

If the right to a privilege is received by the owner of the property during a taxable year, the privilege begins in the month following the month in which the right to this privilege arose. If the right to the privilege is lost during a taxable period, the payment of the tax resumes in the month that follows the month in which this right was lost.

Article 6053 – reserved.

## **Chapter 51. Procedure for computing of the tax.**

Article 6054. Taxable period.

The taxable period for taxpayers is a taxable year.

The taxable year begins on the January 1 and ends on December 31 of the same year.

Article 6055. Procedure for computing of the tax.

Legal persons themselves shall compute the amount of the tax for the current taxable year, using the form established by the central body of the state tax service of Ukraine, depending on the tax rates and tax base, computed at the beginning of the said year, and before the January 20 of this year shall submit the computation to the body of the state tax service.

Physical person shall submit, within terms specified in Part III of this Code, to the body of the state tax service depending on the tax address a declaration on incomes and property, in which there shall be specified the information on objects of taxation owned (used) by them on the day of submission of the declaration. Assessment of the tax physical persons is carried out by bodies of the state tax service on the basis of data provided in the said declarations.

Instructions concerning the procedure for assessment and payment of the tax shall be approved by the central body of the state tax service of Ukraine.

Article 6056. Procedure for computing of the amount of the tax in case of change of the owner (user) of the property.

(1) Legal persons whose right of ownership to a property (or whose right to use it) is related to the obligation to pay the tax, arose after the January 1 of the current taxable year;

shall file the computation of tax to the bodies of the state tax service no later than 30 days after this right arose;

shall assess the tax on the specified objects of taxation starting on the month following the month during which the right of ownership or use arose. The tax base in this case is the value of the property on the date of the transfer of the right of ownership or use.

(2) Physical persons whose right to own or use a property, provided that this right is related to the obligation to pay the tax, arose after the end of the period established for filing a declaration, are required to submit to a body of the state tax service a notice, prepared in accordance with the form, established by the central body of the state tax service of Ukraine for assessment of the tax. In this case the tax shall be assessed starting the month following the month in which the ownership or use right arose.

If legal or physical persons' right to own or use a property, provided that this right is related to the obligation to pay the tax, is terminated, the tax shall be paid until the last day of the month in which the said right was terminated.

(4) If a property is leased to another person, the property tax shall be paid by its owner, or on behalf of its owner by the person to which it was transferred. In such cases the tax shall be paid at the location of the immovable property.

#### **Article 6057. Requirements concerning provision of information on objects of taxation.**

Any persons that own a property that is an object of taxation under the Article 6006 of this Code, or who use such property on the basis provided for under legislation, manage it, as well as any legal persons that carry on entrepreneurial or other activity related to using the information on the specified property (including notary offices, banks, technical inventorying bureaus, companies and commodity exchanges, other registers of property or rights to the property), shall provide information to appropriate body of the state tax service, upon the request of these organs, in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

#### **Article 6058. A tax notices to a physical person concerning the annual tax liability.**

No later than the April 1 of the current year the bodies of the state tax service shall send to the physical persons the tax notices on the annual tax liabilities computed with proper adjustments to the tax base and on the basis of the information on the privileges concerning the tax, timely received from the tax payers.

The form of the tax notice shall be approved by the central body of the state tax service of Ukraine.

Article 6059 and 6060 – reserved.

### **Chapter 52. Time periods of payment of the tax and procedure for allocating of the tax to the budgets.**

#### **Article 6061. Time periods of payment of the tax.**

Payment of the tax for the current year is carried out by equal parts by physical persons – before July 1 and before November 1, and by legal persons – every month before the 20.

#### **Article 6062. Allocation of the tax.**

The tax shall be allocated to the budgets of cities, town, villages, at the place of location of the immovable property.

Articles 6063 – 6070 – reserved.

**Chapter 53 – reserved.**

## Part VII. On state duties

### Chapter 54. Payers and objects of state duties

#### Article 7001. Payers of State Duties

State duties shall be paid by:

- a) individuals and entities, both residents and non-residents, in return for actions performed for their benefit and legally important documents issued by duly authorized organs (organizations);
- b) branches (departments), representations, including non-residents' permanent representations, provided that they address duly authorized organs (organizations) with the request to perform actions in the interest of the persons on whose behalf they are acting and to issue legally important documents to such persons.

#### Article 7002 Objects of State Duties

State duties shall be levied on:

- a) applications, complaints filed with courts and for the issuance by courts of copies of certain documents;
- b) applications filed with courts of arbitration;
- c) notary actions performed by government notaries and executive committees of village, settlement, and town Councils of People's Deputies;
- d) services rendered by the civil registry office, issuance of duplicates of marriage certificates and certificates attesting to changes/corrections in and amendments to civil registry files;
- e) performance of actions for the benefit of individuals and legal entities and for the issuance of documents by the Ministry of Interior of Ukraine and the Foreign Ministry of Ukraine;
- f) transactions with moveable and immovable property performed at commodities exchanges;
- g) actions involved in the receipt of patents on plant varieties and maintaining their validity;
- h) performing other actions provided by this Part.

Articles 7003-7004 - reserved

### Chapter 55. Rates and specifics of levying state duties on applications and complaints filed with courts and for the issuance by courts of copies of documents

Article 7005. State duty rates levied on applications and complaints filed with courts and for the issuance by courts of copies of documents

Objects of taxation	Duty rate
(1) Petitions and complaints filed with courts of law (except for the cases stipulated in Para (2) - (11) of	1% of the cost of legal proceedings but no less than UAH 50 and no

the present Article	higher than UAH 1700
(2) Divorce proceedings	UAH 10
(3) Repeated divorce proceedings	UAH 20
(4) When dividing property in divorce cases	
a) the first divorce proceedings	UAH 10 + state duties determined by Part (1 ) of the present Article
b) each new (repeated) divorce proceedings	UAH 20 + state duties determined by Part (1) of the present Article
(5) Divorce proceedings involving individuals found to be missing persons as per set procedures or proclaimed legally incompetent due to mental disorders also convicts serving terms of at least three years	UAH 5
(6) Proceedings in changing or severing tenancy contracts, prolongation of inheritance proceedings, lawsuits to invalidate contracts, cancellation of property arrest proceedings and other non-property proceedings (or the ones that are not subject to assessment)	UAH 10
(7) Petitions in cases of damaged honor and dignity	UAH 20
(8) Petitions in cases involving pre-contract disputes	UAH 10
(9) Petitions in cases involving protection of individuals' right for land share (plot)	0,1% of the cost of proceedings
(10) Petitions (complaints) in cases arising from administrative and regulatory relationships, except for the cases stipulated by Para (11) of the present Article	UAH 20
(11) Complaints against unlawful acts of public administration entities and its officials who violate individuals' rights	UAH 10
(12) Petitions (complaints) in cases subject to special proceedings	UAH 40
(13) Appeals against court judgements and	50% of state duties payable upon



complaints against decisions that entered into effect	lodging a petition (complaint)
(14) Repeated issuance of a court's ruling, verdict etc.	UAH 2

**Article 7006. Specifics of levying state duties on applications and complaints filed with courts and for the issuance by courts of copies of certain documents**

(1) State duties on petitions and complaints filed with courts and for the issuance by courts of copies of certain documents shall be paid before such petitions and complaints have been filed with courts (unless otherwise stipulated by the civil procedure legislation of Ukraine) and such documents issuance in the amounts determined depending on the taxation objects and based on the rates specified by Article 7005 of the present Code.

(2) The cost of legal proceedings shall be determined in accordance with the civil procedure legislation of Ukraine.

(3) State duties on lawsuits containing both property and non-property claims shall be paid at the rates set for property lawsuits and at the rates set for non-property lawsuits simultaneously.

(4) State duties on lawsuits that are being considered by courts shall be paid, taking into account the following peculiarities:

a) state duties on counter claims and petitions lodged by third parties, having independent claims, with the view to joining the litigation shall be paid in accordance with the general procedure;

b) if an original plaintiff in a case should be replaced by his successor, state duties shall be paid by such successor if it had not been paid by the original plaintiff;

c) if a court (a judge) should split a jointer and decide to institute separate proceedings with regard to one or several claims, state duties paid for filing a lawsuit shall not be refunded.

c1. No state duties shall be paid for the second time on separate lawsuits which arose from one of the joined claims;

d) state duties on repeated lawsuits that were left without consideration before shall be paid in accordance with the general procedure. In the case, when a court decided to leave a lawsuit without consideration and the state duties were subject to refund but were not refunded before another lawsuit was filed, an original document attesting the payment of state duties may be submitted during one year from the day of remittance of such duties to

the budget.

e) when the plaintiff decides to increase his claims, state duties shall be additionally paid in proportion to the increase in the cost of legal proceedings, and when the plaintiff decided to lower the amount of his claim the state duties paid shall not be refunded. The amount of state

duties shall be determined in a similar way, if a court, in the circumstances of a given case, should exceed the claimed amount.

Articles 7007, 7008 - reserved

## **Chapter 56. Rates and specifics of levying state duties on disputes submitted to**

## **courts of arbitration**

Article 7009. Rates of state duties levied on disputes submitted to courts of arbitration

Objects of taxation	Duty rate
(1) Petitions in property lawsuits	1% of the cost of arbitration proceedings but no less than UAH 50 and no higher than UAH 1700
(2) Petitions in non-property, including pleadings to invalidate legal acts	UAH 85
(3) Bankruptcy proceedings (4) Creditor lawsuits against debtor after bankruptcy proceedings were announced	UAH 50 3% of the property claim amount
(5) Lawsuits arising from the disputes related to the conclusion, changing or severing business agreements or lawsuits to invalidate such agreements	UAH 85
(6) Pleadings requesting the verification of decisions, judgements and rulings to stop legal proceedings, to lease a case without consideration and decisions on the distribution of arbitration costs	50% of the rate payable on the filing of the lawsuit to the court of first instance and in property disputes - of the rate based on the disputed amount
(7) Pleadings requesting the verification of the rest of arbitration court's decisions	UAH 20

Article 7010. Specifics of levying state duties on disputes submitted to arbitration courts

(1) State duties on disputes that are being considered by arbitration courts shall be paid before applications have been lodged with arbitration courts (unless otherwise stipulated by the arbitration procedure legislation) in the amounts determined depending on the taxation objects, and based on the rates specified by Article 7009 of the present Code.

(2) The cost of the arbitration proceedings shall be determined in accordance with the arbitration procedure legislation of Ukraine.

(3) If the claimed amount should be increased, state duties shall be paid additionally in proportion to the increase. If the claimed amount should be decreased, state duties shall not be refunded.

Article 7011 - reserved

**Chapter 57. Rates and specifics of levying state duties on notary actions performed by government notary offices and executive committees of village,**

## **settlement, and city Councils of People's Deputies**

Article 7012. Rates of state duties for notary actions performed by government notary offices and executive committees of village, settlement, and city Councils of People's Deputies

Objects of taxation	Duty rate
(1) In return for the certification of agreements on the alienation of residential buildings, apartments, non-residential premises and other immovable property (except for the ones mentioned in Part (2) of the present Article:	
a) to children, including foster children, grandchildren, parents and one of the married couple	UAH 20
b) other persons	1% of the agreement amount , but no less than UAH 20
(2) For certifying agreements on the alienation of land plots owned by physical entities who undertake such an alienation	
a) to children, including foster children, grandchildren, parents and one of the married couple	UAH 20
b) to other persons	1% of the agreement amount, but no less than UAH 20
(3) For certifying agreements on the alienation of vehicles	
a) to children, including foster children, grandchildren, parents, one of the married couple	UAH 50
b) to other persons	5% of the agreement amount, not lower than the actual value of vehicle
(4) For certifying agreements that are subject to assessment	
a) to children, including foster children, grandchildren, parents, one of the married	UAH 10

couple	
b) to other persons	1% of the agreement amount, but no less than UAH 20
(5) For certifying agreements on the alienation of corporate rights of enterprises from public or communal property, as well as uncompleted construction facilities	0,1% of agreement value of corporate rights (value of uncompleted construction facilities)
(6) For certifying collateral agreements:	
a) for persons providing collateral, except for those specified in subparagraph (b) of the present Part	0,1% of the value of the collateralized object
b) for physical entities that provide collateral within the framework of the agreement on the mortgage credit (mortgage housing construction)	UAH 20
(7) For certifying agreements on the lease (sub-lease) of land plots	0,01% of the cash assessment of land plot established under the methodology approved by the Cabinet of Ministers of Ukraine. In the event cash assessment is unavailable - 1% of the agreement amount, but no less than UAH 20
(8) For certifying agreements on sharing of property, bail agreements and other agreements that are not subject to assessment, as well as nuptial contracts	UAH 50
(9) For testifying last wills (testaments)	UAH 10
(10) For the issuance of the certificate attesting the right to the inheritance, and attesting the right to inherit land plot:	
a) to children, including foster children, grandchildren, parents, grandparents, one of a married couple, brothers and sisters (except for the property specified by subparagraphs (b), (c), (d), (e) of the present Part	1% of the inheritance value
b) on the property of persons who were killed while defending Ukraine and FSU; in connection with discharging military of civil duties to protect people's lives, public order and fight against crime, while protecting private, public and municipal property as	0,1% of the inherited value

well as the property of Chernobyl victims, or the persons rehabilitated under the established procedures provided that these persons had lived together with bequeather	
c) on a residential building, apartment, room that were owned by an bequeather who used them as permanent residence; for one vehicle, garage, cottage or summer house, provided that heirs had lived together with bequeather	0,1% of the inherited value
d) on the deposits in the Savings bank of Ukraine and in other banks, on insurance amounts under personal and property agreements, on state bonds and other securities, salaries, copyright, royalties and bonuses for discoveries, inventions, technological proposals and industrial samples	0,05% of the inherited value
e) on farmer's property provided that heirs are the members to such a farmstead	0,05 of the inherited value
f) to other heirs	0,5 of the inherited value
(11) For issuing an ownership certificate for a share in married couple's common property	UAH 30
(12) Attesting powers of attorney to use and dispose of property (except for vehicles)	
a) to children, including foster children, grandchildren, parents, one of married couple	UAH 10
b) to other persons	UAH 50
(13) For attesting powers of attorney to use and dispose of vehicles:	
a) to children, including foster children, grandchildren, parents, one of married couple	UAH 10
b) to other persons	UAH 170

(14) For attesting other powers of attorney	UAH 10
(15) For taking measures to safeguard inherited property	UAH 30
(16) For accepting cash amounts and securities on deposit	0,5% of the deposited amount or the market value of securities
(17) Filing a sea (captain's) protest	UAH 170
(18) Challenging bills of exchange, presenting checks for payment, certification of outstanding checks	
a) issued (emitted), against aval or endorsed by the central government of local self-government bodies	UAH 5 per each bill of exchange or check irrespective of the claimed amount
b) issued (emitted) by other persons	0,1% of the claimed amount but no more than UAH 1700 for 100 bills of exchange submitted for protest, checks to pay or for certifying non-payment by each individual debtor
(19) For the execution of writs	1% of the drawn down amount, or 1% of the value of the claimed property, but no higher than UAH 1700 for each writ
(20) For the certification of document translation from one language into another	UAH 20 per each complete or incomplete A-4 typed page with 1,5 line spacing
(21) Certification of copies of documents and excerpts therefrom	UAH 2 per each complete or incomplete A-4 typed page with 1,5 line spacing
(22) Certification of the authenticity of signature on documents	UAH 10 for each signature on each of the documents
(23) Transfer of statements made by physical and legal entities to other physical or legal entities	UAH 20 for each statement
(24) Issuance of duplicates of documents that are stored at notary's office	UAH 5 for each complete or incomplete A-4 typed page with 1,5 line spacing
(25) Performance of notary actions, except for the ones specified in Parts (1)-(26) of the present Article	UAH 20
(26) For the notary and other acts performed outside public notary offices, local self-government bodies	The rate determined for the relevant actions increased by 50%

**Article 7013. Specifics of levying state duties on notary acts performed by notaries public and officials at executive committees of village, settlement, and town Councils of People's Deputies**

State duties for the performance of notary acts shall be paid before such acts have been performed (at the time of issuance of documents) in the amount to be determined depending on the taxation objects and based on the rates specified in Article 7012 of the present Code, having regard to the following particularities:

a) state duties for notary acts performed at state notary offices and state notary archives shall be paid by means of a bank transfer or in cash handed over to the bank cashier; for notary acts performed by officials at executive committees of village, settlement, and town Councils of People's Deputies - via banks or in cash, at the payer's discretion.

a1. In the event state duties for notary acts performed by officials at executive committees of village, settlement, and town Councils of People's Deputies are paid in cash, such state duties shall be levied by the said officials and in accordance with the established procedure; after that, state duties shall be remitted to the respective local budget within 10 working days from the day of cash payment;

b) for the repeated issuance of certificates attesting to the right to inherit property which have to be issued pursuant to a court ruling invalidating the previous certificates, state duties shall be paid in accordance with the general procedure.

b1. The amount of state duties paid for the original certificate shall be subject to a refund or, based on a payer's application, is taken into account when paying for the issuance of a new certificate, if one year have not yet passed from the day when this amount had been remitted to the budget.

b2. State duties for the repeated attesting of agreements invalidated by a court, shall be paid in accordance with the procedure specified by subparagraph b;

c) if on the day of inheritance there are heirs that didn't come of legal age (including those who are not bequeather's children), state duties shall be levied only on adult heirs in the amounts depending on their shares in inheritance, irrespective of whether the minors attained their legal age at the moment of issuance of the certificate attesting to the right to inheritance, or not;

d) in calculating the amount of state duties for certifying agreements on alienation of residential buildings, apartments, cottages, summer houses, garages and other real property (except for land plots) owned by individuals and legal entities, the value of such agreements is based on the amount of the agreement but not lower than its balance-sheet value, with the depreciation coefficient and value coefficient of such objects taken into account on the date of alienation, which is specified in the characteristics sheets issued by the Bureau of Technical Inventory.

e) for attesting agreements under which payments are paid periodically, in particular, lease agreements, the amount on which state duties are levied shall be determined based on the total amount of payments made under such agreements for the whole period of their operation. If an agreement has been concluded for an indefinite period of time, state duties

shall be calculated and paid based on the total amount of payments made under the agreement, but no more than for three years;

f) for attesting agreements on ceding a claim and transferring a debt, on prolonging the term of a previously concluded agreement or on increasing the original amount of the agreement, state duties

shall be calculated and exacted based on the assessment of rights not exercised and obligations not performed or of the amount for which the amount of previously concluded agreements is increased;

g) in the case of attesting agreements concluded in a foreign currency and also in cases when a foreign currency is inherited, state duties are calculated based on the price (value) of the agreement or the inherited amount translated into the Ukrainian currency at the official exchange rate effective on the day of attesting the agreement;

h) for attesting exchange agreements, state duties shall be calculated based on the exchanged property which, including any money paid additionally, has a higher value;

i) state duties payable for the execution of writs, shall be drawn down from the debtor together with the debt in the event the claimant is exempted from the payment of such duties,.

Articles 7014 - 7016 - reserved

## **Chapter 58. Rates and particularities of levying state duties for civil registry services as well as for the issuance of duplicate civil registrar's certificates to citizens in connection with changing, amending, correcting or restoring civil registry records**

Article 7017. State duty rates payable for civil registry services as well as for the issuance of duplicate civil registrar's certificates to citizens in connection with changing, amending, correcting or restoring civil registry records

Objects of taxation	Duty rate
(1) Registration of marriage (including issuance of marriage certificate)	UAH 20
(2) Registration of divorce in an extra-judicial manner	UAH 70 from one side or UAH 35 per each side
(3) Divorce proceedings provided that both spouses divorce for the first time	UAH 50
(4) Divorce proceedings provided that both spouses or one of them were divorced before	UAH 85
(5) Issuance of the repeated civil registration acts:	
a) issuance of the first repeated certificate	UAH 5
b) issuance of the second and further repeated certificates	UAH 20
(6) Registration of the change of the last, first name, and middle name if such a change is not related to the registration of marriage:	



a1 for the children under 16 years of age	UAH 10
a2 for other individuals	UAH 50
(7) Registration of each new (repeated) change of the first, last and middle names if such a change is not related to the registration of marriage	UAH 170
(8) Issuance of repeated certificates in connection with changing, amending or correcting civil registry records	UAH 5

Article 7018. Particularities of levying state duties for civil registry services as well as for the issuance to citizens of duplicate civil registrar's certificates in connection with changing, amending, correcting or correcting civil registry records

State duties for civil registry services shall be paid before citizens come to civil registry offices in amounts specified by Article 7017 of the present Code, having regard to the following particularities:

a) for the registration of the change of the, first, middle or last names (except for the change due to the registration of marriage), state duties in the specified amount shall be exacted from the person who lodged an application to that effect.

a1. If a person, after the registration of marriage, wishes to assume the last name of another spouse or changes his/her last name assumed on registration for his/her pre-marriage last name, state duties for the registration of such change shall be levied in the same amount.

b) for the registration of the change of the last, first or middle names of members of one family, state duties shall be paid in accordance with the general procedure by each family member for whom an entry on changing last, first or middle name is made;

c) if a citizen registers the change in his/her last, first and middle names at the same time, state duties shall be levied as per one entry;

d) state duties shall not be levied for the repeated issuance of certificates to citizens in connection with entering corrections in civil registry records related to their changing last, first or middle names;

d1 state duties shall be levied in accordance with the general procedures for amending minors' civil registry records in connection with their parents' changing their last, first or middle name.

Article 7019 - reserved

## **Chapter 59. Rates and particularities of levying state duties for performing acts in the interest of individuals and legal entities and for the issuance of documents**

**by the Ministry of Internal Affairs of Ukraine and the Ministry of Foreign Affairs of Ukraine.**

Article 7020. Rates of state duties payable for performing acts in the interest of individuals and legal entities and for the issuance of documents by the Ministry of Internal Affairs of Ukraine and the Ministry of Foreign Affairs of Ukraine.

Objects of taxation	Duty rate
(1) Issuance of Ukrainian national passport:	
a) when exchanging old passport for a new one	UAH 5
b) when new passport is issued in connection with the change of the last name, due to the registration of marriage, or divorce	UAH 5
b) in other cases	UAH 35
(2) Issuance of travelling passports	UAH 120
(3) Prolongation of travelling passports:	
a) on the territory of Ukraine	UAH 85
b) outside the territory of Ukraine	Hard currency amount equivalent to UAH 85
(4) issuance of identity certificates for stateless persons to travel abroad or their prolongation	UAH 85
(5) Entering any changes in the previously issued documents specified by Part (2) and (4) of the present Article (except for the prolongation of these documents)	UAH 10
(6) Issuance of documents inviting foreigners and stateless persons:	
a) for legal entities	UAH 50
b) for physical entities	UAH 10
(7) Entrance and exit visas for foreign subjects visiting Ukraine or on transit:	

a) outside Ukraine	in the amount established in accordance with the mutual arrangements with the respective states; and if no amount has been agreed upon - an amount in foreign currency equivalent to UAH 50
b) on the border check points	an amount in foreign currency equivalent to UAH 50
(8) Issuance or prolongation of residence permits to foreign subjects or stateless persons:	
a) for permanent residence:	
a1 to persons who were granted or applied for the refugee status or repatriate status and to their families	UAH 5
a2 to CIS citizens	UAH 10
a3 to other persons	UAH 340
b) for temporary residence:	
b1 with the right to work	
b2 for professions that do not require high qualification standards, as well as for professions that are highly demanded by the unemployed of Ukraine in line with the listing established by the Cabinet of Ministers of Ukraine	UAH 5 for each working day of the period for which the permit is granted, but no less than UAH 1020 for a permit
b3 for other professions	UAH 2 for each working day of the period for which the permit is granted, but no less than UAH 340
b4 without the right to work	UAH 200
(9) Issuance of duplicates of lost residence permits to foreigners and stateless persons	In the amount specified by Paragraph (8) of the present Article for original documents
(10) For the premature (up to 10 working days ahead of time) issuance of documents stipulated by paragraphs (2), (6), (9) of the present Article	State duty rates increased by 100%

(11) Registration of the valid foreigners' national passports, documents in their stead	UAH 10
(12) Issuance of documents allowing Ukrainian residents who live in state border areas to cross Ukraine's frontier in line with the simplified procedures	UAH 10
(13) Applications for Ukrainian citizenship	UAH 50
(14) Applications for withdrawal from Ukrainian citizenship	UAH 510
(15) Issuance of travelling passports or invitation documents in their stead	In the amounts envisaged for the issuance of original documents
(16) Issuance of travelling passports, as well as prolongation of such documents to citizens of Ukraine, WW II participants, other military actions participants, servicemen of the military units, headquarters and military agencies that made a part of the operating army, as well as former partisans and interned persons	State duty rate on the respective actions reduced by 50%
(17) Registration of citizens and their residence	UAH 1
(18) Consular service on the territory of Ukraine and outside it	As per consular service tariffs set by the Cabinet of Ministers of Ukraine in line with the mutual arrangements with the respective countries

Article 7021. Particularities of levying state duties for performing acts in the interest of individuals and legal entities and for the issuance of documents by the Ministry of Internal Affairs of Ukraine and the Ministry of Foreign Affairs of Ukraine.

State duties for performing acts in the interest of individuals and legal entities and for the issuance of documents by the Ministry of Internal Affairs of Ukraine and the Ministry of Foreign Affairs of Ukraine shall be levied in the amounts to be determined depending on the taxation objects and based on the rates specified by Article 7020 of the present Code,

before the respective applications have been submitted to the said bodies, and shall be exacted having regard to the following particularities:

a) state duties for registering one's residence shall be paid during the registration of one's residence with the Interior Ministry entities, and, in the respective cases, with the executive authorities of village, settlement, and town Councils of People's Deputies, in the amounts determined in accordance with Article 7020 of the present Code per each registered residence, except for the cases stipulated in clause 'b' of the present Article;

b) when a citizen of Ukraine, due to the expiry of his old passport ,exchanges it for a new one or obtains documents in connection with a change in the name of a street or a building number, or in connection with checking in at hotels, motels, camps, tourist camps and sanatoriums he shall not pay state duties, provided that the period of his stay does not exceed the terms established by the Ministry of Internal Affairs of Ukraine.

Articles 7022, 7023 - reserved

## **Chapter 60. The amount and particularities of levying state duties for transactions with moveable and immovable property performed at commodities exchanges**

Article 7024. State duty rates for transactions with moveable and immovable property performed at commodities exchanges

Objects of taxation	Duty rate
(1) For the registration of the following transactions performed at commodities exchanges: sale of residential buildings, apartments, rooms, summer houses, garages, as well as other objects of moveable and immovable property owned by a natural person who performs such an alienation, except for transactions with the enforced alienation of the said property in the cases stipulated by the Ukrainian law, and also except for the transactions specified in Paragraph (2) of the present Article	1% of the actual amount of the concluded agreement, but no less than UAH 20 for each concluded agreement
(2) For the registration of agreements on the purchase/sale of brokers' places with exchanges	0,5% of the actual amount of the concluded agreement

### **Article 7025. Particularities of levying state duties for transactions with moveable and immovable property performed at commodity exchanges**

State duties for transactions with moveable and immovable property performed at commodity exchanges shall be paid before any agreements have been registered, depending on the taxation objects and based on the rates stipulated by Article 7024 of the present Code. They shall be levied, having regard to the following particularities:

a) state duties shall be paid by buyer upon conclusion of agreements at commodity exchange before the said agreements have been registered by means by a bank transfer or in cash via banking institutions.

a1. A money transfer order or a receipt confirming payment of state duties in cases mentioned in subparagraph a of the present Article shall be kept in files of commodity exchange;

b) commodity exchange shall register agreements on purchase/sale of brokers' places only if buyers have submitted documents confirming payment of state duties (a copy of the payment order or receipt) and shall notify the state tax authorities about the change of broker's place owner to at the location of the exchange before the 15th of the month following the execution of the agreement.

Articles 7026 - 7028 - reserved

**Chapter 61. The amount and particularities of levying state duties for performing procedures related to receiving plant variety patents and maintaining their validity**

Article 7029. Rates of state duties levied for performing procedures related to receiving plant variety patents and maintaining their validity

Objects of taxation	Duty rate
Actions related to receiving plant variety patents and maintaining their validity:	
a) application for a Ukrainian plant variety patent	UAH 10
b) issuance or re-registration of a plant variety patent	UAH 20
c) application for the prolongation of patent	UAH 20
d) for the maintenance of patent validity on an annual basis starting from the date when the application for issuance was received:	In the following amounts:
d1 over 1st year	UAH 2
d2 over the second year	UAH 3
d3 over the third year	UAH 4
d4 over the fourth year	UAH 5
d5 over the fifth year	UAH 6
d6 over the sixth year	UAH 7
d7 over the seventh year	UAH 9
d8 over the eighth year	UAH 10

d9 over the ninth year	UAH 15
d10 over the tenth - twentieth years	UAH 20
d11 over each year of the prolongation (twenty first - thirtieth years)	UAH 20
d12 for the payment of the annual duty during 6 months after the payment deadline expiry	The duty is increased by 50%
d13 for the maintenance of patent validity following which patent holders publish announcements on granting open licenses	Annual duty is decreased by 50%

Articles 7030 - 7032 - reserved

## **Chapter 62. The amount and particularities of levying state duties for performing other acts**

Article 7033. Rates of state duties levied for performing other acts

Objects of taxation	Duty rate
(1) State registration of business subjects:	
a) entrepreneurs without creating legal entity	UAH 20
b) open joint stock companies, full and additional liability companies	UAH 85
c) business subjects of other legal forms	UAH 50
(4) State registration of the following organizations:	
a) associations of citizens:	
a1 political parties	UAH 850

a2 all-Ukrainian and international associations of citizens	UAH 170
a3 local associations, and local branches of the registered all-Ukrainian and international associations of citizens	UAH 50
a4 affiliated branches, representations, other structural divisions of public organizations of foreign states on the territory of Ukraine	UAH 50
a5 all-Ukrainian and international charity organizations, their affiliated branches, as well as local charity organizations	UAH 50
b) symbolics of citizens' associations:	
b1 political parties	UAH 85
b2 structural divisions of public organizations of foreign state in Ukraine	UAH 510
b3 children's organizations and invalids' public organizations	UAH 20
b4 other citizens' associations	UAH 50
c) Information agencies:	
c1 Ukrainian information agencies	UAH 170
c2 representations of foreign national information agencies	in the amount that is established under mutual arrangements with respective states, and in the event such arrangements are unavailable - UAH 170
d) periodicals:	
d1 with national or regional circulation (two or more oblasts)	UAH 260
d2 with local area of circulation:	
d3 the Autonomous Republic of Crimea, oblasts, oblast centers	UAH 170



d4 other	UAH 50
d5 with foreign circulation	UAH 260
d6 children's and invalids' publications	at the rates specified in subparagraphs d1 - d5 decreased by 50%
d7 erotic publications	UAH 8500
(3) Issuance of the certificate to pursue notary activities	UAH 85
(4) Issuance of a certificate to pursue attorney's activities and register associations of lawyers	UAH 85
(5) Issuance of the state certificate of title to a land plot or the certificate authorizing the permanent use of land	UAH 10
(6) Operations with securities:	
a) Certificate of the registration of the issue of securities	0,1% of the nominal value of the issued securities
b) Issuance of privatization papers	0,2% of the nominal value of privatization papers
(7) Repeated issuance of certificates and other papers (duplicates) in lieu of the lost or damaged documents issued as a result of the acts stipulated by the present Article, or for the issuance of which the present Article mandates levying state duties	50% of the rates specified by the relevant paragraphs of the present Article
(8) Re-registration of business subjects in cases stipulated by law	At the rates established by Paragraph (1) of the Present Article
(9) The right to participate in auctions to purchase quotas on the import of agricultural produce in line with the law	1% of the value of goods with regard to which quotas are purchased, the latter being determined at minimum purchase prices, should the latter be unavailable at indicative prices
(10) Holding open (public) sales (auctions, tenders) of immovable property, except for the transactions with the enforced alienation of such property in the cases provided the Ukrainian law	1% of the actual value of the sold out immovable property, but no less than UAH 20 for each sold out object

(11) Submitting to the Cabinet of Ministers of Ukraine, a draft project on setting up a finance and industrial group	UAH 17000
(12) Issuance of hunting and fishing licenses and annual prolongation thereof	UAH 10
(13) Purchasing bills of exchange forms	UAH 20 for each form

#### Article 7034. Particularities of levying state duties for performing other acts

For the performance of acts mentioned in Article 7033 of the present Code, state duties shall be paid before applying to the competent authorities or their performing respective acts, in the amounts to be determined depending on the taxation objects and based on the rates specified in Article 7033 of the present Code, having regard to the following particularities:

- a) state registration of business subjects, citizens' associations, information agencies, periodic printed matter shall be effected only if the state registration authority is provided with the document confirming payment of the state duty;
- b) remitting state duties to the budget for holding open (public) sales (auctions, tenders) of immovable property shall be made by the auction organizers within 15 days from the day of its holding;
- c) for submitting to the Cabinet of Ministers of Ukraine, a draft project on setting up a finance and industrial group, the project initiators shall remit state duties to the budget during the period of consideration of the project to set up a finance and industrial group;
- d) state duties for the purchase of bills of exchange forms shall be levied by banks and other financial institutions; they shall remit the amounts of state duties to the respective budgets within 3 working days of the day of its payment.

Article 7035, 7036 - reserved

### Chapter 63. State duty exemptions

#### Article 7037. State Duty Exemptions

(1) The following persons shall be exempted from state duties:

a) plaintiffs

a1 workers and office employees in lawsuits involving back wages and other claims arising from legal relations under employment contracts; members of collective agricultural enterprises, workers of farming businesses suing collective agricultural enterprises and farming businesses on wage and other labor claims;

a2 plaintiffs with copyright claims, including discoveries, inventions, innovations, and industrial designs;

a3 individuals with appeals, including appeals against rulings effected in divorce cases;

a4 plaintiffs with damage claims resulting from [production] accidents, other damage to health, and loss of the breadwinner;

a5 plaintiffs with alimony claims;

a6 parties to disputes arising from damage incurred on citizens by unlawful conviction, criminal prosecution, incarceration or administrative liability in the form of arrest or corrective labor, also with claims for pecuniary compensations, return of property or redemption of its value, to citizens rehabilitated in accordance with law.

a7 social insurance and social protection authorities with regressive claims for reimbursement of damage to individuals by guilty parties, including allowances and pensions to be paid to victims or their families; social protection authorities with additional claims concerning erroneously paid state benefits and pensions;

a8 plaintiffs with claims for moral or material damage incurred by criminal offenses;

a9 government authorities, enterprises, institutions, organizations, and [private] citizens filing petitions with courts of law, in cases provided by law, concerning protection of the rights and interests of other individuals, and consumers with claims arising from infringements of their rights;

a10 local self-government authorities bringing court or arbitration action for cancellation of acts by other organs of local or regional self-administration, local State administrations, enterprises, associations, organizations, and institutions infringing their authority and in actions for cancellation of the state registration of business subjects;

a11 local executive authorities bringing arbitration proceedings to annul acts of organs of local and regional self-administration contradicting any of the laws of Ukraine currently in effect or those whose passing was beyond the competence of such authorities;

a12 the Ministry of Environment and nature resources, Ministry of Forestry of Ukraine, along with their local offices, enterprises of the Ukrzaliznytsia [Ukr. Dpt. Of Railroads] responsible for the protection of greenbelts, and fishing authorities acting as complainants with claims for reimbursement of damage inflicted on the State by polluting the environment, breaching the forestry laws, and by thriftless use of natural resources and fish stock;

a13 government customers and executors of state contracts bringing court action for reimbursement of damage caused by making or changing state contracts, as well as by non-fulfillment or improper fulfillment of obligations under government contracts to supply national needs;

a14 the Procurator General's Office of Ukraine and its organs bringing court and arbitration actions in the interests of citizens and state-owned entities;

a15 the Central Elections Commission and committees for elections of People's Deputies with claims for nullification of registration of certain candidate Deputies;

a16 state privatization authorities when bringing court or arbitration action in all cases involving protection of the property interests of the State, open (public) sales (auctions, tenders), and operations with securities;

a17 Antimonopoly Committee of Ukraine and its local offices, plaintiffs and defendants when bringing court or arbitration action against breaches of the antimonopoly laws;

a18 individuals with claims for reimbursement of damage inflicted by unredeemed pecuniary or property contributions under contracts or documents of associations of joint stock companies, banks, credit institutions, trust partnerships, and other entities handling citizens' funds and property;

a19 (private) citizens when bringing court action in the cases involving protection of rights and lawful interests in rendering psychiatric assistance;

b) citizens of Ukraine:

b1 citizens receiving documents or having their copies certified for the appointment and receipt of allowances and pensions, also in cases of guardianship and adoption;

b2 citizens applying for registration of birth, death, adoption, establishment of paternity, also for issuance of certificates attesting to changes in or amendments to civilian registry records of birth in the event of establishment of paternity, adoption, and due to previous erroneous entries therein;

b3 citizens applying for certification of their wills and testaments, and deeds of gift for the benefit of the State and government-run enterprises, institutions, and organizations;

b4 citizens certified as Category 1 and 2 victims of the Chernobyl disaster;

b5 citizens certified as Category 3 victims of the Chernobyl disaster as permanent residents prior to evacuation from or voluntary desertion of [danger zones], or who permanently work in restricted zones and those of mandatory or guaranteed evacuation, provided that on January 1, 1993, they had resided or worked for at least two years in mandatory evacuation zones and at least three years in guaranteed resettlement zones;

b6 citizens certified as Category 4 victims of the Chernobyl disaster who permanently live and work in areas under enhanced radiation control, provided that on January 1, 1993, they had lived or worked there for at least 4 years;

b7 invalids of the Great Patriotic War [WW III] and families of servicemen (partisans) killed or missing in action, as well as individuals having similar legally established status;

b8 group 1 and 2 invalids;

b9 persons registered with the unemployment service on the day of submitting documents for their state registration as business subjects, persons of the retirement age and group 1 and 2 invalids, for the registration of a business activity without creating a legal entity;

b10 citizens of Ukraine receiving diplomatic and service passports and seaman's ID papers;

b11 citizens of Ukraine receiving permits to travel abroad to attend funerals of close relatives or pay homage to their graves, and when receiving documents allowing invitations to Ukraine to attend funerals or visit gravely ill close relatives and entering amendments in the said documents;

b12 minors and military servicemen receiving their first national passports, also minors receiving certificates asserting their rights to inheritance;

b13 individuals aged under 16 receiving documents allowing trips abroad; persons accompanying them; for the issuance of a permit to travel abroad for medical treatment due to a sickness caused by the Chernobyl disaster; to children who suffered from the Chernobyl disaster to improve their health;

c) Finance bodies and State Tax Inspections:

c1. finance bodies and State Tax Inspections applying for certificates and duplicates thereof attesting to the right of the State to inherit, and supplying documents required to receive these certificates; writs on collection of taxes, payments, duties, and redemption of arrears executed by government notaries;

c2 plaintiffs and defendants participating in litigation (arbitration court disputes);

- d) government price-control authorities involved in court or arbitration proceedings as both plaintiffs and defendants;
- e) local bodies of executive power, local self-government bodies, legal entities who purchase residential buildings with outer parts (except for the ones located in Kyiv and resort areas), apartments for citizens wishing to leave the areas that were affected by the Chernobyl disaster; as well as citizens wishing to leave territories affected by the Chernobyl disaster and owners of such buildings and apartments;
- f) foreign subjects who were granted asylum in Ukraine and individuals having similar status, members of their families, and children, when receiving documents allowing trips abroad;
- g) citizens of Ukraine and foreign subjects receiving documents allowing entrance to and exit from Ukraine, when covered by international treaties providing for mutual exemptions from state duties, and citizens of other countries acting as honorary consuls of Ukraine;
- h) foreign tourists getting their passports registered;
- i) all-Ukrainian and international Chernobyl victim citizens' associations with offices in most regions of Ukraine, the Ukrainian Afghan Veterans' Association, volunteer organizations of invalids, their enterprises and institutions, and the Republican Volunteer Public Association "Organization of Soldiers' Mothers of Ukraine" bringing court and arbitration actions and performing all types of notary operations;
- j) the Inventions Fund of Ukraine with claims stipulated in Article 7029 and when bringing court or arbitration proceedings;
- k) the Pension Fund of Ukraine and its enterprises, institutions, and organization; the Invalids Social Protection Fund of Ukraine and its offices;
- l) bodies authorized to perform registration - for the repeated issuance of certificates (papers, other documents) on registration in lieu of those stolen (if there is a report of competent authorities);
- m) business subjects - for re-registration of business subjects on the initiative by the state registration authorities;
- n) Ministry of Justice of Ukraine and its bodies on instructions from the President of Ukraine, the Cabinet of Ministers of Ukraine - in litigation in the interest of the President of Ukraine or Cabinet of Ministers of Ukraine during the consideration of cases by courts (courts of arbitration) of Ukraine and courts of foreign states or international judicial bodies and institutions;
- o) National Bank of Ukraine and its offices, except the self-accounting establishments;
- p) Oranta National Joint Stock Insurance Company and its institutions - in lawsuits it files with courts (courts of arbitration) in all cases related to the obligatory insurance transactions;

Articles 7038 - 7040 - reserved

## **Chapter 64. The procedure on state duty payment and refund**

### **Article 7041. The procedure on state duty payment**

(1) State duties shall be remitted to budgets via banks in cash or by means of wire transfer from payers' bank accounts except for the cases when executive committees of village, settlement, and town Councils of People's Deputies levy state duties. A state duty remittance shall be valid, and

shall entitle the payer to be provided with the services for which state duties have been paid, for the period of one year from the day the amount arrived at the respective budget.

(2) State duties for foreign currency-denominated lawsuits filed with courts (courts of arbitration) and for foreign currency transactions shall be paid in hryvnias having regard to the official exchange rate on the day of state duty payment.

(3) The procedure on payment of state duties shall be established by the Central Authority of State Revenue Service of Ukraine having regard to the particularities mentioned in Part VII of the present Code.

#### **Article 7042. The procedure on remitting state duties to the budget**

(1) State duties shall be remitted to the respective local budgets at the location of performing the act or issuing the documents (unless otherwise stipulated by this Chapter), except for the state duties remitted to the State Budget of Ukraine and exacted from:

- a) petitions and complaints filed with court and for the issuance of document copies;
- b) applications filed with courts of arbitration;
- c) for acts related to the issuance of plant varieties patent and maintaining their validity;
- d) for the submission to the Cabinet of Ministers of Ukraine of a draft project to create a finance and industrial group.

(2) State duties for the certificate of the registration of the issued securities shall be remitted to a local self-government budget at the place of issuance of the said certificate, and when the issuer is a non-resident legal entity.

(3) State duties for holding public sales (auctions, tenders) of immovable property shall be remitted to local self-government budgets at the place of holding public sales (auctions, tenders).

#### **Article 7043. Return of State Duties from the budgets**

(1) State duties paid shall be refunded partially or in full when an application for a refund of state duties have been transmitted to the financial authority via an authority responsible for exacting state duties no later than one year from the day of the arrival of the state duty amount to the respective budget, in the event when:

- a) state duties have been paid in excess of the amount provided by Ukrainian legislation;
- b) a statement (complaint) is returned or refused, and when a state notary or the executive committee of a city, settlement or village Council of People's Deputies refuses to perform a notary operation;
- c) legal proceedings are terminated or a claim is not granted if the given case is not to be heard in court, and if the claimant fails to observe pre-trial settlement procedures established for this category of arbitration cases or when the claimant is proven legally incompetent;
- d) a court ruling is canceled in accordance with set procedures and legal proceedings terminated if the case is not to be heard in court or if the claimant fails to observe pre-trial settlement procedures, so that these procedures no longer apply, provided the state duty at issue has already been remitted to the budget;
- e) Cabinet of Ministers of Ukraine did not resolve in due time to set up (register) the given finance and industrial group or when a finance and industrial group project is withdrawn by the initiators' authorized person;

f) in other cases stipulated by the present Code and other the laws of Ukraine.

g) a refusal to issue documents including a refusal to the application for withdrawal from Ukrainian citizenship, as well as in the event that, after state duties have been remitted, the citizen did not show up to collect his documents.

(2) If a citizen of Ukraine refuses to travel abroad after he has been issued a permit to leave, state duties paid shall not be refunded.

Articles 7044, 7045 - reserved

## **Chapter 65 - reserved**

## **Part VIII. Vehicle tax**

### **Chapter 66. General Provisions**

#### **Article 8001. Term definitions**

The terms used in this Part shall be understood as follows:

- a) truck - an automobile who is designed and equipped for carrying cargoes;
- b) special automobile - an automobile who is designed and equipped to perform special working functions;
- c) wheel tractors - vehicles that are designed for carrying or tugging other transport devices, trailers or cargoes irrespective of their having trailers for carrying tools, seeds, fertilizers and other cargoes;
- d) tax, tax payer, taxation - vehicle tax, vehicle tax payer, taxation of vehicles.

Article 8002 - reserved

### **Chapter 67. Payers of vehicle tax, objects of taxation**

#### **Article 8003. Payers of vehicle tax**

The payers of this tax shall be legal and natural persons, owners of vehicles, specified in Article 8008 of this Part, and who under the Ukrainian law are subject to registration, re-registration and inspection, and well as the users (residents) who got vehicles under the terms of the lease.

#### **Article 8004. Objects of taxation**

Objects of taxation shall be vehicles specified in Article 8008 of this Part who are subject to registration, re-registration and inspection in accordance with the Ukrainian law.

#### **Article 8005. Transport devices and other vehicles that shall not fall under the objects of taxation**

Transport devices that shall not fall under the objects of taxation:

- a) tractors and other caterpillar transport devices;
- b) motorcycles (including mopeds and bikes) with engine cylinders capacity of 50 cubic cm;
- c) ambulances and fire vehicles;
- d) vehicles that are equipped and that are not equipped with cranes and loading devices, and that are used on the territory of plants, ware-houses, ports and airports for carrying cargoes at short distances;
- e) tow-bars used on railway platforms;
- f) wheel chairs equipped with engine or with other moving mechanisms;
- g) agricultural machinery;
- h) barges;



- i) transport devices under conservation in accordance with procedures established by the Cabinet of Ministers of Ukraine, as well as transport devices of the Ministry of Defense of Ukraine, except for the cars that belong to the transport maintenance group.

Article 8006-8007 - reserved

## **Chapter 68. Vehicle tax rates**

Article 8008 Vehicle tax rates

Objects of taxation	Tax rate per year (per engine cylinders capacity of 100 cubic cm, 1kwt engine capacity, 100 cm of length or 1 kilo weight)
1. Wheel tractors (except for caterpillar tractors)	UAH 2 per 100 cubic cm of engine capacity
2. Automobiles for carrying of no less than 10 persons including driver	UAH 5 per 100 cubic cm of engine capacity
3. Cars (except for automobiles with electric engine)	Per 100 cubic cm of engine capacity
a) up to 1 000 cubic cm	UAH 2
b) from 1001 to 1500 cubic cm	UAH 3
c) from 1501 to 2000 cubic cm	UAH 5
d) from 2001 to 2500 cubic cm	UAH 10
e) from 2501 to 3500 cubic cm	UAH 25
f) over 3501 cubic cm	UAH 30
4. Automobiles with electric engine	UAH 1 per 1kwt of engine capacity
5. Trucks with engine capacity of:	Per 100 cubic cm of engine cylinders capacity
a) up to 8200 cubic cm	UAH 10

b) from 8201 to 15000 cubic cm	UAH 12
c) over 15001 cubic cm	UAH 15
d) tow-bars	UAH 10
6. Automobiles for special purposes (except for fire automobiles and ambulances)	UAH 5 per 100 cubic cm of engine cylinders capacity
7. Automobiles that used in open pits and mines	UAH 7 per 100 cubic cm of engine cylinders capacity
8. Motorcycles (mopeds), bikes with engines (except for those whose engine cylinders capacity is up to 50 cubic cm)	Per 100 cubic cm of engine cylinders capacity
a) up to 500 cubic cm	UAH 2
b) from 501 cubic cm to 800 cubic cm	UAH 5
c) over 801 cubic cm	UAH 10
9) Yachts and boats with sails with engine or without engine, motor boats and cutters, except for boats with suspended engine (except for sport boats)	
a) sea boats	UAH 10 per 100 cm of length
b) other boats with the weight of up to 100 kilos	UAH 5 per 100 cm of length
c) other boats with 7,5 m of length	UAH 5 per 100 cm of length
d) other boats of over 7,5 m length	UAH 10 per 100 cm of length
e) hydrocycles	UAH 10 per 100 cubic cm of engine cylinders capacity
10. Yachts, motor boats and cutters with 7,5 m of length (except for boats with suspended engine) with engine cylinders capacity being over 500 cubic cm	UAH 5 per 100 cubic cm
11. Boats with suspended engine (except for sport boats):	

a) with the weight of up to 100 kilos; other boats with 7,5 m of length	UAH 5 per 100 cm of length
b) other boats with 7,5 m of length	UAH 10 per 100 cm of length
12. Helicopters without equipment	Per 1 kilo of fused mass
a) up to 2000,0 kilos	UAH 0,2 per 1 kilo of fused mass
b) over 2000,0	UAH 0,3 per 1 kilo of fused mass
13. Aircrafts and other flying devices without equipment	Per 1 of fused mass
a) up to 2000 kilos	UAH 0,2 per 1 kilo of fused mass
b) from 2000 to 15000	UAH 0,3 per 1 kilo of fused mass
c) over 15000	UAH 0,5 per 1 kilo of fused mass

Articles 8009-8011 - reserved

## **Chapter 69. Vehicle tax exemptions**

(1) Exempt from this tax shall be:

- a) group 1 and 2 invalids;
- b) veterans of the Great Patriotic War [WW III] and persons specified in Articles 10, 11, the Law "On the status of war veterans and guarantees of their social protection";
- c) natural persons certified as Category 1 and 2 victims of the Chernobyl disaster;
- d) natural persons specified in Paragraphs 3, and 4, Article 14, the Law "On the status and social protection of Chernobyl victims";
- e) natural persons specified in Articles 6 and 8, the Law "On the basics of the social protection of labor veterans and other elderly individuals in Ukraine".

(2) exemptions for individuals specified in subparagraphs "b", "c", "d", "e" (Part 1 of the present Article) shall comprise one car with engine cylinders capacity of up to 2500 cubic cm, or one motorcycle with engine cylinders capacity of up to 650 cubic cm, or one motor boat, or cutter (except for sport cutter) with length of 7,5 m.

(3) Exemptions for individuals specified in subparagraph (d) (Part 1 of the present Article) shall be valid within the period prior to their evacuation from guaranteed resettlement zones or from zones of enhanced radiation control, and in the course of three years following their evacuation.

(4) The amount of the additionally accrued tax shall be reduced by 50% for cars that had been produced in CIS countries before 1990, and whose owners are natural persons.

### **Article 8013. Vehicle tax exemptions for legal entities**

- (1) Vehicle tax shall not be implemented to enterprises that serve as a base for automobile military columns (special units) in accordance with the listing and order approved by the Cabinet of

Ministers of Ukraine in regard to the transport devices that belong to the said columns, and do not operate.

- (2) The accrued tax shall be reduced by 50% for wheel tractors, buses and special automobiles for carrying people with passenger seats of no less than 10 that belong to agricultural enterprises of various forms or ownership, agricultural producers.

Article 8014 - reserved

## **Chapter 70. The procedure on levying vehicle tax**

Article 8015. The tax period

The tax period for vehicle tax payers shall be calendar year.

Article 8016. The procedure on calculating the vehicle tax

- (1) Legal entities shall independently calculate the amount of tax over the current period on the basis of the reporting data on the number of transport vehicles at the rates determined by Article 8008 of the present Part, and on the basis of engine cylinders capacity, length, or kilos of fused mass of each category and model of transport devices as of January 1 of the tax period.
- (2) Legal entities shall submit the calculation of the tax amount in the form established by the State Tax Service headquarters to the State Tax Service local offices by the time identified by the State Tax service but no later than by March 15 of the current tax year at the places where transport vehicles are permanently based. Legal entities shall pay the vehicle tax at the places where transport vehicles are permanently based.
- (3) Vehicle tax for natural persons shall be calculated at the rates determined in Article 8008 of the present Part. If transport vehicles were purchased in the second half of the tax period, the tax amount over this tax period shall be reduced by 50%. Natural persons shall pay the vehicle tax at the place of their registration.
- (4) In the event when the right to use transport vehicle was delegated by anyone to other person in accordance with the rent agreement (concluded in writing) or authorization, the tax shall be paid by the owner of vehicle, or on his behalf by the person to who the right to use transport vehicle was delegated. In this case the owner pays the tax or on his behalf the person to whom the right to use vehicle was delegated should this be stipulated by the rent agreement at the place where this transport vehicle is based. If transport vehicles owned by non-residents are provided to residents under the rent (leasing) terms, the tax is paid by this resident at the place of transport vehicle registration.
- (5) In the event when transport vehicle is stolen the tax shall not be paid if this fact is confirmed by a relevant document issued by the agency that officially investigates the case.

Article 8017 The procedure on paying the tax and its deadlines

- (1) The vehicle tax shall be paid by:
  - a) natural persons - prior to the registration, re-registration of transport vehicles, as well as prior to inspection of transport vehicles following tax payer's choice of transport vehicles, annually, or once in two years, but no later than in the first half of the year when vehicle inspection takes place;
  - b) legal entities - quarterly, by equal portions, by the 15<sup>th</sup> day of the month that follows the reporting quarter of the tax period.

b1 Legal entities shall pay the tax on the transport vehicles that were purchased during the tax period in the terms (quarters) that have not arrived yet, starting from the quarter when transport vehicle has been registered. Calculation of the tax amount shall be submitted to the respective State Tax Service office within 10 days after registration at the place where these transport vehicles are based. Tax accruals on vehicles that have been struck off the register during the year shall not be reduced.

(2) Natural persons, taxpayers, shall submit receipts or payment documents attesting their actual tax payment for the previous and current tax period to the agencies that register, re-register or inspect transport vehicles, while vehicle tax exempt payers shall submit the document that entitles them to the exemption.

(3) Transport vehicles shall not be registered, re-registered, or undergo inspection unless documents attesting to the fulfillment of tax obligation or the right for exemption are provided.

#### **Article 8018. Control over the vehicle tax accruing and its timely remitting to the budget**

The State Tax Service of Ukraine offices and agencies that register, re-register and inspect transport vehicles control the correct and full accruing of the vehicle tax, as well as its timely payment.

Articles 8019-8020 - reserved

#### **Chapter 71 - reserved**

## **Part IX. Vine-growing, gardening and hop-growing tax**

### **Chapter 72. The payers of the tax and the object of taxation**

#### **Article 9001. The payers of the tax**

The payers of the duty shall be business subjects who sell alcohol beverages and beer (including imports) in wholesale and retail trade and in public catering.

#### **Article 9001. The object of taxation**

The object of taxation shall be alcohol beverages and beer sold in the wholesale and retail trade and in public catering.

#### **Article 9003. Taxation base**

The taxation base of the tax shall be sale receipts at each phase of sale in wholesale and retail trade, in public catering of alcohol beverages and beer.

#### **Article 9004 - 9010 - reserves**

### **Chapter 73. The tax rate**

The tax rate shall constitute 1% of the taxation base.

#### **Articles 9012 - 9014 - reserved**

### **Chapter 74. The procedure on levying the tax**

#### **Article 9015. The procedure on levying the tax**

- (1) The payers independently on the basis of the taxation base and tax rate shall determine tax amounts.
- (2) The payers shall monthly transfer the accrued tax amounts to the special account of the State Treasury no later than on the 15<sup>th</sup> day of the month that follows the reporting one in which revenues were received.
- (3) The payers shall monthly submit no later than on the 20<sup>th</sup> day of month that follows the reporting one the statement on the accrued tax amount in the form established by the State Tax Service headquarters to the place of their registration.
- (4) The procedures on levying the tax and the usage of this tax revenue shall be established by the Cabinet of Ministers of Ukraine.
- (5) The procedure on this tax revenue remitting to the budget shall be established by the regulatory and legal acts on the issues related to the budget process and budget composition.

#### **Article 9016 Control over tax accruing and its timely remitting to the budget**

The State Tax Service Authority shall control the correct and full accruing of the tax as well as its timely remitting to the budget.

Articles 9017 - 9020 - reserved

**Chapters 75, 76 - reserved**

## **Part X. Uniform duty collected on the check points of the state border of Ukraine**

### **Chapter 77. General provisions**

Article 1001. Uniform duty definition

- (1) Uniform duty shall be understood as the duty collected on the check points of the state border of Ukraine. Under the Ukrainian law it shall comprise the fees for the execution of sanitation, veterinarian, phyto sanitation, radiation and environment control, as well as the payment for the passage of transport vehicles via automobile roads of Ukraine.
- (2) Uniform fee shall be collected once during transit, import or export of cargoes through a single payment document.

Articles 10002 - 1005 - reserved

### **Chapter 78. The payers of the uniform duty**

Article 10006. The payers of the uniform duty

The payers of the uniform duty shall be:

- a) subjects of foreign economic activity, both residents and non-residents, performing transit, import and export of cargoes, and entrance and exit of transport vehicles when crossing the state border of Ukraine;

- b) natural persons who do not belong to the subjects of foreign economic activity, in case of their declaring about transit, import and export of cargoes when crossing the state border of Ukraine.

Articles 10007 - 10010 - reserved

## **Chapter 79. Objects of taxation and uniform duty rates**

Article 10011. Objects of taxation and uniform duty rates

- (1) Uniform duty for the execution in line with the legislation of Ukraine of the customs, sanitation, veterinarian, phyto sanitation, radiation and environment control shall not exceed the costs related to the implementation of this control.
- (2) The uniform duty rates shall be determined in EURO and can not be changed during budget year.
- (3) Objects of taxation and uniform duty rates shall be determined by the cabinet of Ministers of Ukraine.

Articles 10012 - 10015 - reserved

## **Chapter 80. The procedure on levying the uniform duty**

Article 10016. The procedure on levying the uniform duty

- (1) The uniform duty shall be levied on payers irrespective of the quantity and name of cargoes that cross the state border of Ukraine.
- (2) The payers shall pay the uniform duty in the national currency of Ukraine at the official exchange rate of the National Bank of Ukraine on the day of the duty payment.
- (3) The uniform duty for the performed under the Ukrainian law customs, sanitation, veterinarian, phyto sanitation, radiation and environmental control shall fully be transferred to the State budget of Ukraine, while the payment for the passage of transport vehicles via automobile roads of Ukraine shall be transferred to the State road fund of Ukraine.

Article 10017. Coordination of the public agencies activity on levying the uniform duty

The State Tax Service Authority shall coordinate public agencies' activity on levying the uniform duty when performing customs, sanitation, veterinarian, phyto sanitation, radiation and environmental control.

Article 10018 Control over the uniform duty payment

The control over timely and full payment of the uniform duty shall be implemented by the State Tax Service of Ukraine.



Articles 10019 - 10025 - reserved

## **Chapter 81 - reserved**

# **Part XI. Other taxes**

## **Chapter 82. The royalties**

### **Article 11001. Resource royalties**

- (1) The payers of the resource royalties shall be legal entities, their affiliated branches, representations and other separated divisions who extract oil and natural gas, other mineral resources on the territory of Ukraine, its continental shelf and exclusive (sea) economic zone, who also sell and transfer mineral resources and their processed products.
- (2) The object of taxation shall be actually paid off (compensated for in any other way) to the payers of the resource royalties, and (or) transferred by them for the procession or under the give-and-take raw materials terms, or transferred without compensation (under the listing established by the Cabinet of Ministers) oil, natural gas, other mineral resources of Ukraine, extracted on the territory of Ukraine, its continental shelf and exclusive (sea) economic zone.
- (3) The taxation base, rates and the procedure on levying resource royalties shall be established by the Cabinet of Ministers of Ukraine.

### **Article 11002. The transit royalties**

- (1) The payers of the transit royalties shall be legal entities, their affiliated branches, representations and other separated divisions who ship mineral raw materials and (or) their processed products through pipe-lines across the territory of Ukraine.
- (2) The object of taxation shall be mineral raw materials and (or) their processed products that are shipped through pipelines across the territory of Ukraine, including their shipment in ports. The listing of taxable mineral raw materials and (or) their processed products shall be established by the Cabinet of Ministers of Ukraine.
- (3) The taxation base, rates and the procedure on levying the transit royalties shall be established by the Cabinet of Ministers of Ukraine.

### **Article 11003. Responsibility for the remitting royalty payments to the budget**

Legal entities shall be responsible for the timely and full remitting of the resource and transit royalty payments to the budget by their affiliated branches, representations and other separated divisions.

Articles 11004 - 11006 - reserved

## **Chapter 83. The tax on the special usage of nature resources**

### **Article 11007. General provisions**

The tax on the special usage of nature resources shall include the payments for:

- a) the use of mineral resources;
- b) the use of radio wave resource of Ukraine;
- c) special use of water resources;
- d) special use of forestry.

### **Article 11008. The payment for the use of mineral resources**

- (1) The payers of the mineral resources tax shall be natural persons and legal entities, - business subjects of all forms of ownership, their associations, affiliated branches, representations and other separated divisions, legal entities that are not involved in business activity; non-residents and their resident representations who extract mineral resources, and (or) use them for the purposes that are not related to the extraction of mineral resources on the territory of Ukraine, its continental shelf and the exclusive (sea) economic zone.
- (2) Exempt from this tax shall be:
  - a) the land owners and land users who extract, in accordance with the established procedure, local mineral resources for their own needs (i.e. without selling, transferring extracted mineral resources and their processed products) or use mineral resources for economic and every-day needs on the land plots they own or use;
  - b) the users of mineral resources - for the regional geological-and-geophysical works, geological photography, other geological works, including drilling, with samples being picked up, for the purposes of the general study of mineral resources, mineral resources prospecting, and the works related to the earthquake forecast and volcanic activity investigation, engineering-and-geological, ecological and palaeontological investigation, control over underground waters, as well as for the other works that do not violate the integrity of mineral resources if they are funded by the State budget of Ukraine, the budget of the Autonomous Republic of Crimea and local budgets;
  - c) the users of mineral resources - when arranging geological facilities of the nature preserves;
  - d) the users of mineral resources - for geological prospecting within the mining allotment areas that have been given to them for extracting mineral resources.
- (3) The objects of taxation shall be:
  - a) balance- and extra-balance-sheet stocks of mineral resources that have actually extracted (repaid);
  - b) the size of the land plot with mineral resources provided for usage or used for the purposes that are not related to the extraction of mineral resources.
- (4) The tax rate shall be established with the State budget expenditures on geological prospecting taken into account.
- (5) The tax on the use of mineral resources shall be split up between the budgets in the amounts established by the Ukrainian law.

#### Article 11009. The tax on the use of radio waves resource of Ukraine

- (1) The payers of the radio wave resources of Ukraine tax shall be physical and legal entities, their affiliated branches, representations and other separated divisions who use radio wave resources of Ukraine.
- (2) The object of taxation shall be wave band range of the radio wave resources of Ukraine
- (3) Exempt from this tax shall be:
  - a) special users of the radio wave resources of Ukraine who are funded from the State budget of Ukraine in accordance with the listing approved by the Cabinet of Ministers of Ukraine.

#### Article 11010. The tax on the special use of water resources

- (1) The payers of the tax on the special use of water resources shall be natural persons and legal entities - business subjects of all forms of property, their associations, affiliated branches, representations and other separated divisions, legal entities who are not involved in business activity; non-residents and their resident representations who use water resources (except for those who only use water for their own drinking and sanitation hygienic needs) and (or) use water for hydro energy and water transport purposes.
- (2) The object of taxation shall be water consumed from water objects (surface or underground springs), water supply systems, as well as water received from other water users, with losses of water in their water supply systems taken into account; water let through turbines for the needs of hydro energy sector, 24-hour place and tonnage - 24 hours for water transport.
- (3) The tax on the special of water resources shall not be levied for:
  - a) the water used for drinking and everyday needs of households;
  - b) underground water that serves as raw materials for the technological process in the extraction of mineral resources;
  - c) underground water extracted together with mineral resources;
  - d) underground water used for removing the detrimental waters consequences (pollution, flooding, salinization, swamping, etc.);
  - e) water let through turbines at the hydro accumulating stations that operate together with hydro electricity stations;
  - f) water accumulated by legal entities for cultivating valuable species of the industrial fish and other water live resources in natural and man-made reservoirs;
  - g) water used for anti-fire purposes;
  - h) water used for the improvement of cities and populated points;
  - i) water transferred to the droughty areas via canals due to the intra-basin and inter-basin redistribution of water resources;
  - j) sea water, except for the water from coastal salt lake;
  - k) from sea water transport that only uses river water roads for entering sea port from sea, located in the lower part of river, without special measures ensuring navigation (let water through reservoirs and locking through);
  - l) water used in the mining process in order to suppress dust;

m) in the event when water roads are used by mooring fleet, tugboats etc., and water transport maintenance on the Danube.

(4) The payment for the special usage of water resources shall be split up between the budgets in the amounts stipulated by the Ukrainian law.

#### **Article 11011. The tax on the special use of forestry resources**

(1) The payers of the tax shall be natural persons and legal entities, their associations, affiliated branches, representations and other separated divisions, legal entities who are not involved in business activity; non-residents and their resident representations who permanently or temporarily use forestry resources in Ukraine.

(2) The object of taxation shall be timber, soft resin and other forestry materials, side products and land plots in the forestry areas.

(3) The payment for the special usage of forestry resources shall be split up between the budgets in the amounts stipulated by the Ukrainian law.

#### **Article 11012. The taxation base, rates (norms) and the procedure on levying taxes on the special use of nature resources**

The Cabinet of Ministers of Ukraine shall establish the taxation base, rates (norms, coefficients) and the procedure on levying tax on the special use of nature resources.

#### **Article 11013. Implementing control over the calculation, timely and complete payments for the special use of nature resources to budgets.**

(1) The control over the correct calculation of tax amounts shall be exercised by the special authorized agencies of public administration (sector of environment protection and use of forestry resources) and the State Tax Service offices.

(2) The control over the timely and complete remitting special use of nature resources payment to budgets shall be exercised by the State Tax Service offices.

(3) Legal entities shall be responsible for the timely and complete remitting of payment for the special use of the nature resources to the budget from their affiliated branches, representations and other separated divisions that belong to them.

Articles 11014 - 11015 - reserved

### **Chapter 84. Environment fee**

#### **Article 11016. The payers of the environment fee**

(1) The payers of the environment fee shall be natural persons and legal entities - business subjects of all forms of property, their associations, affiliated branches, representations and other separated divisions, foreign legal entities and their resident representations on the territory of Ukraine, its continental shelf and exclusive (sea) zone whose moveable and immovable sources emit substances that pollute the atmosphere and water objects; as well as placement of waste.

- (2) The listing of the environment fee payers, specified in Paragraph (1) of the present Article shall be developed by the special authorized agencies of public administration (sector of nature resources and environment protection).

#### Article 11017. The object of taxation

The objects of taxation shall be emission of polluting substances in the atmosphere by moveable and immovable sources, emission of polluting substances in water objects, and placement of waste.

#### Article 11018. The taxation base, norms, their coefficients and the procedure on levying environment fee.

The Cabinet of Ministers of Ukraine shall establish the taxation base, norms, their coefficients and the procedure on levying environment fee.

#### Article 11019. The procedure on remitting the environment fee

- (1) The environment fee shall be split up between the budgets in the amounts established by the Ukrainian law.

#### Article 11020. Control over the correct calculation of the environment fee amount, its timely and complete payment to the budget

- (3) (1) Control over the correct calculation of the environment fee amount and the control over the emission limits in the atmosphere, emission limits in the water objects, actual emission of the moveable sources of pollution and placement of waste shall be exercised by the special authorized agencies of public administration (sector of nature resources and environment protection).

Articles 11021 - 11025 - reserved

## **Parts XII, XIII - reserved**

**Chapters 85 - 94 - reserved**

## **Part XIV. Local taxes and duties**

### **Chapter 95. General provisions**

#### **Article 14001. Term definitions**

The terms used in this part shall be understood as follows:

a) local taxes and duties shall be understood as taxes and duties implemented by local self-governance authorities in accordance with the rules of the present Code; these taxes and duties shall be obligatory within the respective administrative-and-territorial units and shall be remitted to the budgets of such administrative-and-territorial units.

a1. Advertising tax, communal tax, hotel duty, vehicle parking duty, market duty, performers' touring duty, fee for the issuance of a permit to locate vending and service facilities shall be implemented on an obligatory basis by local self-governance authorities, if the relevant objects of taxation exist;

b) market duty shall be understood as payment for carrying out the sale of agricultural and industrial products and other goods at markets of all forms of ownership, at roofed markets, pavilions, sheltered or not sheltered tables, grounds, from vehicles, trailers, motor cycles, pushcarts, etc.

b1. Seller's space shall be understood as the area behind seller's tables (counters) reserved for the seller to locate the goods being sold and the tools necessary to carry out the sale (scales, pallets, etc.).

b2. The number of the seller's spaces shall be determined in the documents (based on an approved design, technical manual and other documents) and should these be missing the number of the seller's spaces shall be calculated proceeding from the fact that one linear meter of table or counter is one seller's space.

b3. Market seller's spaces shall not include: stationary sale outlets, including seasonal outlets (those pertaining to trade and public catering enterprises), tents, kiosks, as well as things-for-hire offices and veterinarian's labs that carry out sales and provide services both to buyers and sellers;

c) hotel facilities shall be understood as hotel, camp, motel, hostel accommodations for guests as well as other kinds of lodging used to accommodate guests;

d) vehicle parking shall be understood as a temporary stationing of vehicles in places determined by local self-government authorities;

e) specially equipped vehicle parking shall be understood as a place designated by the local self-government authority for vehicle stationing and marked by road signs in accordance with the Traffic Rules of Ukraine; such vehicle parking shall have a hard surface, each parking space in it shall be marked with white paint and it may have a fence, including a temporary one;

f) advertising shall be understood as special information about entities (both legal and natural) or products (goods, works, services, securities) that is disseminated in any form and in any manner for the purpose of making profits, directly or indirectly;

g) outside advertising shall be understood as any advertising that is placed on detached special structures, bill-boards and screens located outdoors, on building facades, etc.;

h) inside advertising shall be understood as any advertising places inside buildings, rooms, constructions, etc.;

I) advertising carriers shall be understood as means used to disseminate special advertising information and bring it to consumers' notice in any form and in any manner (special structures, bill-boards, screens, building and structure facades, video and audio cassettes, promotional booklets, books, brochures, information in the electronic form, souvenirs, postal stamps, etc.);

j) mass media shall be understood as media used to publicizing printed, audio or visual information:

j1. printed mass media shall be understood as periodic printed publications (newspapers, magazines, bulletins, one-time publications with the specified circulation, etc.);

j2. audio and visual mass media shall be understood as radio broadcasting, television, motion pictures, audio recordings, video tapes, etc.;

k) information dissemination shall be understood as dissemination in any form and in any manner of special information about entities or products that is made for the purpose of making profits, directly or indirectly;

l) advertising disseminator shall be understood as a person who disseminates advertising by any advertising means;

m) advertiser shall be understood as a person who orders the advertising to be produced and/or disseminated;

n) advertising manufacturer shall be understood as a person who manufactures advertising completely or part of it;

o) public relations measures shall be understood as a complex of actions (presentations, press conferences, symposia, financing of social events, sponsorship, publication in the mass media of editorials raising someone's prestige, etc.) directed at forming a favorable public opinion about the advertiser and confidence in his products;

p) direct mail advertising shall be understood as mailing the advertising matter (specifically prepared advertising leaflets, printed advertising, etc.), including those personified, to a certain group of consumers or probable business partners;

q) advertising exhibition (international, national, specialized, stationary and movable displays) shall be understood as a public demonstration of achievements in certain material or spiritual fields of social life organized for the purpose of sharing ideas, theories, knowledge combined with conducting some commercial work;

r) trading activity shall be understood as an independent activity pursued by legal entities and citizens and related to buying and selling consumer goods for the purpose of generating profits;

s) performers' touring events shall be understood as shows festivals, concerts, circus performances, lecture tours, etc.) presented by domestic and foreign troupes and individual performers outside the stationary platforms on which they usually perform as well as by the troupes, including temporary troupes, and performers having no stationary stages of their own.

#### **Article 14002. Powers of local self-governance authorities with regard to instituting local taxes and duties**

(1) Local taxes and duties shall be instituted by village, settlement and town Councils of People's Deputies in accordance with the determined listing and within the marginal limits of rates provided by the present Code.

(2) Local self-governance authorities shall adopt decisions to institute local taxes and duties and adopt provisions on the procedure to exact each of the said taxes and duties, subject to the approval by the State Tax Service authorities. A provision should specify:

- a) the payers of a local tax or duty;
- b) the objects of taxation;
- c) the local tax or duty rates;
- d) the procedure on remitting the local tax or duty to the local budget;
- e) the term to calculate and remit the local tax or duty as well as the procedure to submit reports concerning payment of the local tax or duty;
- f) exemptions from the local tax or duty;
- g) the persons authorized to levy the local tax or duty;
- h) the persons authorized by the local self-government bodies to levy vehicle parking duty shall be entitled (apart from the collected duty) to offset their expenses in the amount that shall not exceed the exacted fee. The amount in top of the duty in the reporting period shall be remitted to local budget revenues.

(3) Village, settlement and town Councils of People's Deputies shall be entitled, within their competence, to introduce privileged tax rates, to altogether abolish the local taxes and duties that are not obligatory to be implemented or to exempt certain categories of taxpayers from local taxes and duties and grant deferments of payment of such local taxes and duties.

1. If the tax stipulated in Article 14009 of the present Code should be introduced, village, settlement and town Councils of People's Deputies shall be entitled, within their competence, to set privileged rates for the additional space at markets used by sellers to accommodate their goods.

2. If the tax stipulated in Article 11017 of the present Code should be introduced, village, settlement and town Councils of People's Deputies shall be entitled, within their competence, to grant privileges for certain kinds of products.

Articles 14003 - 14004 - reserved

## **Chapter 96. The procedure on calculating and levying local taxes and duties**

### **Article 14005. The advertising tax**

(1) The payers of this tax shall be legal and natural persons - business subjects - advertisers or advertising manufacturers and disseminators, if they are advertisers themselves:

- a) resident or non-resident legal entities irrespective of their legal and ownership forms, budget and public organizations, branches (departments) and representations of legal entities registered under the laws of Ukraine;
- b) representations of non-residents (legal and natural persons - business subjects having no legal entity status) in Ukraine, except for the institutions and organizations that have a diplomatic status or immunities under international treaties of Ukraine or in accordance with the present Code;
- c) business subjects - individuals who are residents of Ukraine or non-residents.

(2) The object of taxation shall be:



- a) the value of services to manufacture and disseminate (place) advertising provided:
  - a1. on television and radio;
  - a2. in printed mass media;
  - a3. at movie theaters, video salons and other institutions where motion pictures, videos or slides are demonstrated to the public;
  - a4. computer-manufactured advertising;
  - a5. public relation actions;
  - a6. advertising in the form of: souvenirs, firm or serial promotional articles, firm packaging materials;
  - a7. holding promotional exhibitions;
- b) total space occupied by carriers of any advertising and the number of such carriers located outdoors: advertising on street bill-boards, on vehicles, along public roads, in subway, placed under agreements with the owners of such carriers:
  - b1 on detached special structures, bill-boards, screens, buildings, constructions and other outside advertising carriers;
  - b2 on railroads and public roads (including strips of land along such railroads and public roads);
- c) total space occupied by carriers of any advertising located inside buildings, rooms, constructions and total space of advertising placed on other inside carriers;
- d) total space and number of carriers of direct mail advertising;
- e) the number of carriers of the advertising placed on countable packaging materials, sportsmen's uniform, articles of clothing, hats, magnetic cards, tokens, tickets and other countable advertising carriers.
  - e1 manufacturing and disseminating advertising shall be considered any demonstration of advertising at movie theaters, video salons and other institutions where motion pictures, videos or slides are demonstrated to the public; publicizing the advertised information via mass media (newspapers, magazines, radio and television broadcasts), by means of direct mail advertising, computer carriers, catalogs, price-lists, bill-boards, posters, directories, booklets, leaflets, calendars, neon moving or fixed text lines, promotional souvenirs and other advertising carriers; carrying out public relations actions, promotional displays; placing outside and inside advertising on public transport and in other public places, on packaging materials, sportsmen's uniform, articles of clothing, hats, magnetic cards, tokens, tickets and other countable advertising carriers;
  - f) if advertising work is performed only through the efforts by the advertiser himself, the object of taxation shall be the actual costs incurred in the course of manufacturing and placing the advertising.
- (3) The taxable amount shall be determined based on the advertiser's actual expenses on the provision of services to place and disseminate advertising; it shall also be determined based on the actual expenses incurred by the advertiser in connection with his placing and disseminating the advertising, if the advertising work is carried out by the advertiser himself or based on the total space and number of outside and inside advertising carriers.
- (4) The tax shall be levied on all kinds of special information about entities or products disseminated in any form and in any manner for the purpose of making profits, directly or indirectly.

(5) The following products shall not be considered as advertising products and the cost of their dissemination shall not be subject to taxation:

- a) informative signs over doorways to buildings owned by legal or natural persons;
- b) announcements or notices given when enterprises, institutions and organizations change their location, telephone or fax numbers;
- c) plaques or signs informing the public that traffic in a certain place is restricted, or repair, construction and similar work is conducted;
- d) the information about social events, political parties, religious and public organizations publicized for the purpose to support such events, parties and organizations;
- e) informative notices placed in shop assistants' and staff rooms having no advertising purposes;
- f) the information about cultural and artistic events held at culture institutions that are supported, in full or in part, by State and local budgets;
- g) announcing the products of television and radio companies (radio and TV programs, movies, etc.);
- h) broadcasting schedules of television and radio organizations.

(6) Ceiling rates of the tax should not exceed:

a) 5 per cent of the value of the provided advertising services specified in paragraph a of section two of the present Article, based on:

a1 the established ceiling prices for 1 minute (second) of showing the advertising on TV or broadcasting in on radio;

a2 the price for placing 1 square centimeter of advertising in printed mass media and in mail advertising;

a3 the total time of demonstration (announcement) of the advertising at movie theaters, video salons and other institutions where motion pictures, videos or slides are demonstrated to the public;

a4 the total amount of printed advertising information in a publication;

a5 the total value of promotional firm or serial souvenirs, gift articles and firm packaging materials;

a6 the total value of computer-produced advertising products;

a7 total expenses on holding promotional exhibitions and public relations events;

b) UAH 8 per each square meter of each advertising carrier specified in paragraph b of section two of the present Article:

b1 when calculating the amount of tax, a territorial coefficient shall be applied to its rate, depending on the location of an outside advertising carrier;

b2 the value of a territorial coefficient shall be set by the local self-governance authority on whose territory outside advertising carriers are registered and the decision to introduce the tax operates;

b3 the tax on outside advertising carriers registered in accordance with the established procedure shall be calculated and remitted to the budget irrespective of whether or not there is any advertising information on those;

b4 if on certain special constructions, bill-boards, screens, buildings and structures as well as on other outside advertising carriers there are any additional devices, such as electric, mechanical and electronic gadgets, the increasing coefficient 2 shall be applied to the tax rate;

c) UAH 5 per each square meter of each inside advertising carrier specified in paragraph b of section two of the present Article.

c1 the tax on inside advertising carriers registered in accordance with the established procedure shall be calculated and remitted to the budget irrespective of whether or not there is any advertising information on those.

c2 if on inside advertising carriers there are any additional devices, such as electric, mechanical and electronic gadgets, the increasing coefficient 2 shall be applied to the tax rate;

d) UAH 5 each square meter of each carrier of direct mail advertising;

e) UAH 5 per each 100 produced units of the carriers of any advertising specified in paragraph e of section two of the present Article.

7) In the case of advertising alcohol beverages and tobacco products, the increasing coefficient 5 shall be applied to the tax rates specified in paragraphs a to e of section six of the present Article.

(8) In the case of domestic producers' advertising their own products or products manufactured in Ukraine (except for alcoholic beverages and tobacco products), the decreasing coefficient 0.5 shall be applied to the rates specified in paragraphs a to e of section six of the present Article when calculating the amount of the advertising tax.

(9) The tax shall be paid by advertisers at the rates specified in paragraphs a to e of section six of the present Article through advertising disseminators at the place of their registration, and if advertisers disseminate their advertising themselves - they shall pay the tax themselves.

1. Business subjects - advertising disseminators providing services related to installing and placing advertising, shall present to the advertiser, the calculation sheet indicating the amount of tax payable by the latter together with the payment for the value of the advertising services provided (including the value added tax).

2. If there are no orders to place advertising on stationary advertising carriers, the tax shall be paid by owners of these advertising carriers at the rates specified in paragraphs a to e of section six of the present Article.

3. If the advertising has been manufactured, placed and disseminated by the advertiser himself, he shall pay to the budget, the amount of tax at the place of his registration with the State Revenue Service authorities at the rates specified in paragraphs a to e of section six of the present Article.

**Article 14006. The procedure on calculating and levying the duty for the issuance of a permit to locate vending and service facilities**

(1) The duty for the issuance of a permit to locate vending and service facilities is a payment for legalizing and issuing permits to carry out vending activities and provide services in places specifically designated for this purpose.

(2) Payers of the duty shall be legal and natural persons that are issued a permit to locate vending and service facilities.

(3) The object of taxation shall be the permit to locate vending and service facilities.

(4) The rates of this duty shall be:

- a) UAH 85-300 for business subjects who carry out vending activities and provide services on a permanent basis;
  - b) UAH 8-50 for a one-time (effective during one day) permit to locate petty retail and service outlets;
  - c) UAH 1-20 for one-time permit to carry out vending activities in places specifically designated for this purpose (trading grounds, etc.);
  - d) the amount of the rate shall depend on the area of the seller's space, its territorial location and the kind of the product (the good) or services.
- (5) The duty shall be collected by respective local self-government authorities that have the powers to issue permits to locate vending and service facilities.

#### Article 14007. School tax

- (1) The taxpayers shall be located in Ukraine legal entities of all forms of ownership, affiliated branches, representations of legal entities, including representations of foreign legal entities, and natural persons - business subjects who are involved in the trading activity within an administrative-territorial unit, on which this tax is instituted.
- (2) The object of taxation shall be goods and services sold by business subjects through organized trading network (shops, kiosks, gas stations, cafeteria, cafes, restaurants, tents, trays etc.), as well as by other legal entities that sell goods and services of their own production directly to natural persons, goods purchased from other legal entities and natural persons.
- (3) The taxation base shall be:
  - a) volume of sales of goods and services carried out by business subjects through organized trading network (shops, kiosks, gas stations, cafeteria, cafes, restaurants, tents, trays etc.), as well as by other legal entities who sell goods and services of their own production directly to natural persons, goods purchased from other legal entities and natural persons.
  - b) The tax rate shall be instituted by the local self-government bodies in the amount of 1 - 2 % of the taxation base specified by Paragraph (2) of the present Article.

#### Article 14008. The local symbols use tax

- (1) Payers of the tax shall be legal and natural persons - business subjects that use these symbols for the purpose of generating profits.
- (2) The object of taxation shall be the value of manufactured products, performed works and services provided with the use of regional and local symbols.
- (3) The taxation base shall be the cost of manufactured goods, performed works, and rendered services with the use of local symbols.
- (4) A permit to use regional symbols shall be issued by the village, settlements and city councils of Peoples' Deputies.
- (5) The ceiling amount of the tax should not exceed:
  - a) for legal entities - 0.1 per cent of the value of manufactured goods, performed works and services provided with the use of regional and local symbols;
  - b) for individuals - business subjects - UAH 85.

#### Article 14009. The procedure on calculating and levying the market duty

(1) Payers of the duty shall be legal entities of all forms of ownership, their branches (departments), representations of legal entities, institutions and organizations that are not legal entities, (resident and non-resident) individuals selling agricultural and industrial products as well as other goods at markets of all forms of ownership, pavilions, sheltered or not sheltered tables, grounds, from vehicles, motorcycles, trailers, carts, etc.

(2) The market duty shall not be exacted from stationary sale outlets (including the seasonal ones) of trading and public catering enterprises, kiosks and things-for-hire offices that were granted a permission to locate trade and service outlets and carry out the sale and provide services to buyers and sellers at markets.

(3) The persons responsible for levying the duty shall be market administrations and persons charged with the responsibility to levy the market duty. The said persons shall independently calculate the amount of the duty payable to the budget.

(4) The duty rate shall depend upon the kind of an agricultural or industrial product (a good) that is sold at markets of all forms of ownership, pavilions, sheltered or not sheltered tables, grounds, from vehicles, trailers, motor cycles, pushcarts, etc. The duty rate shall also depend upon the kind of a market and upon whether a seller's space is equipped or not. The duty rate shall range from UAH 1 to UAH 4, and shall be UAH 50 for legal entities.

(5) The duty shall be collected by representatives of the market administration before any sale is commenced by means of issuing an electronic cash register slip (ticket) for each day of selling per each seller's space (including those rented), as well as for selling at grounds, from vehicles, motor cycles, trailers, pushcarts, etc.

(6) Based on the issued slip (ticket) confirming payment of the market duty, the market administration shall give a permission to carry out the sale at this market.

(7) Should electronic cash registers be unavailable, market administrations shall receive market duty tickets at local self-governance authorities in whose territory the market duty has been implemented. Before selling such tickets, market administrations shall register them with State Tax Service authorities at the place of their registration. The local self-governance authority in whose territory the market duty has been implemented shall approve the form of such market duty ticket, which is to be uniform throughout the territory of this local self-governance authority, and shall ensure the printing of such tickets in accordance with the rules to print securities forms and pre-numbered and controlled documents.

#### Article 14010. The hotel duty

(1) Payers of the duty shall be:

a) both resident and non-resident natural persons living at hotels, motels, camps, hostels as well as at other lodgings of all forms of ownership used to accommodate guests;

b) both resident and non-resident legal entities irrespective of their legal and ownership forms, branches (departments), representations of legal entities renting hotel-type accommodations of all forms of ownership.

(2) The persons specified in paragraphs 'a' and 'b' , section one of the present Article shall be considered payers of the duty on the territory of a local self-governance authority if they live at a hotel, a motel, a camp, a hostel or rent other hotel-type accommodations of all forms of ownership situated in the territory of this local self-governance authority.

(3) The taxation base shall be:

- a) the cost of living at hotel-type accommodations (without any additional services and value added tax) per day;
- b) the cost of renting hotel-type accommodations (without any additional services and value added tax) per day.

(4) The hotel duty rate shall be between 10 and 20 per cent of the cost of living, or the cost of renting, hotel-type accommodations per each day, including any partial day (without any additional services and value added tax).

(5) The taxation base shall be determined based on the daily cost of living at, or renting, hotel-type accommodations per day (without any additional services and value added tax).

(6) The duty shall be levied by administrations of hotels, camps, motels, hostels used to accommodate guests and by administrations of the organizations owning such hotel-type accommodations.

1. Exacting the duty from payers shall be made when the latter pay for their living at the said lodgings or when they pay the rent.

2. The payment documents (receipts, money transfer orders, etc.) should indicate the rate and the amount of the duty paid by the taxpayer.

#### Article 14011. The vehicle parking duty

1) The payers of the duty shall be both resident and non-resident natural persons (drivers) who park vehicles in specifically equipped or designated places determined by local self-governance authorities:

a) drivers of vehicles owned by legal entities irrespective of their legal and ownership forms, by budget and public organizations, branches (departments) and representations of legal entities;

b) individuals - owners (drivers) of vehicles.

(2) The object of taxation shall be the time during which vehicles are parked in specifically equipped or designated places.

(3) The rate of the vehicle parking duty shall be set up for up to one hour and over of vehicle parking at specially equipped places or places designated for these purposes.

1. The ceiling rate of the vehicle parking duty levied for parking vehicles at specifically equipped places shall be set at no higher than UAH 0,5 for the period of time up to one hour and UAH 1 for the period of time exceeding one hour.

2. The ceiling rate of the vehicle parking duty levied for parking vehicles during the period of time up to one hour at the places designated for this purpose shall be set at no higher than UAH 1, and UAH 2 for the period of time longer than one hour.

(4) The persons authorized to levy the duty shall be business subjects having places specifically equipped or designated for parking vehicles.

(5) Vehicle drivers shall pay the duty for parking vehicles at places specifically equipped or designated for parking immediately at such places by means of purchasing special tickets.

1. A ticket shall entitle its purchaser to park his vehicle at the place, specifically equipped or designated for this purpose, for the period of time indicated in such ticket.

2. The person authorized to levy the duty at the moment when the vehicle is parked shall fill out the blank ticket.

3. Tickets should contain the date and time of parking the vehicle, the time when the vehicle entered the parking area and the time when it left, the license plate number of the vehicle, the signature and the name of the person who collected the duty.

(6) Village, settlement and town Councils of People's Deputies, in whose territory the vehicle parking duty is implemented, shall approve the form of a parking ticket which shall be uniform throughout the territory of the local self-governance authority. The latter shall ensure the printing of such tickets in accordance with the rules to print securities forms and pre-numbered and controlled documents. The tickets shall be printed for one hour and for over one hour. Such tickets shall differ in color depending on the time of parking to which they entitle its owner.

(7) Persons authorized to collect the duty shall receive parking tickets on account from local self-governance authorities and register those with State Tax Service authorities before they are sold.

(8) Immediately after the respective amount of the vehicle parking duty has been paid, the person who collects the duty directly in the parking area should stick the parking ticket to the inner side of the vehicle windshield. This ticket should remain stuck to the windshield until the vehicle leaves the parking area.

(9) The person who collects the duty directly at the parking area should maintain, in the places specifically equipped or designated for this purpose, accounting for the vehicles than enter the parking area based on ticket slips. The ticket slips should indicate the date of parking, the model of the vehicle, its license plate number, the time of entering and leaving the parking area. Accounting for the sold tickets shall be maintained in a cash register of each parking area. The respective totals should be struck on a daily basis.

(10) If the areas specifically designated for parking vehicles should be equipped with automatic duty-collection devices, the duty shall be paid by taxpayers by means of parking magnetic cards (chip cards or other hryvnia replacements).

1. Magnetic cards entitling their owners to park vehicles in the areas specifically equipped or designated for parking vehicles shall be distributed via retail sellers' outlets.

2. The price of a magnetic card shall be set based on the duty rate, approved in the territory of a local self-governance authority, and the total time of parking for which it entitles its owner.

(11) Persons authorized to collect the vehicle parking duty for parking vehicles in the areas specifically designated for this purpose and equipped with automatic duty-collection devices, shall strike parking time totals for each device on a daily basis in accordance with the established procedure.

(12) Based on the totals indicated in sections (9) and (11) of the present Article, the persons authorized to collect the duty shall calculate the total amount of the duty payable to the budget.

#### **Article 14012. The resort duty**

(1) The resort duty shall be implemented by decisions of local self-governance authorities whose territory have been classified as a resort area in accordance with the listing determined by the Cabinet of Ministers of Ukraine.

(2) The payers of the duty shall be individuals - citizens of Ukraine and foreign citizens who arrive in the territory of a local self-governance authority in which a decision to institute this duty operates.

(3) Exempt from this duty shall be:

- a) children under 16 years of age;
- b) invalids and persons accompanying them (no more than 2 persons per one invalid);
- c) military servicemen who served abroad;
- d) persons who assisted in eliminating the consequences of the Chernobyl disaster;
- e) participants of the Great Patriotic War;
- f) persons who arrived in the resort area being on a business trip, for the purpose of studying, for permanent residentship and to visit parents and close relatives;
- g) persons of the retirement age.

(4) Ceiling rates of the resort duty shall be:

- a) for the citizens of Ukraine - 0.5 to 1 minimum non-taxable income;
- b) for foreign citizens - 1 to 2 minimum non-taxable incomes.

(5) The duty shall be collected from the persons who stay in the territory of a local self-governance authority in which a decision to institute the duty has been adopted. The duty shall be collected within three days from the day of their arrival in the resort area. If the taxpayer should change the place of his stay within one administrative-and-territorial unit and if he possesses a respective receipt confirming payment of the duty, the duty shall not be exacted for the second time.

(6) The duty shall be collected when citizens arriving in the resort area are being registered:

- a) administrations of sanatoriums, boarding houses, hotels, camps, motels, hostels and other hotel-type institutions shall collect the duty when guests are checking in;
- b) apartment lease brokers shall collect the duty when providing guests with accommodations at houses (apartments) owned by other citizens;
- c) persons appointed by a local self-governance authority, in whose territory the resort duty has been instituted, shall collect the duty from the guests who stay at houses (apartments) in the locations where there are no apartment lease brokers as well as from the persons living in tents, cars, etc.

(7) The persons authorized to collect the duty, specified in section 6 of the present Article, shall issue to the payers, receipts confirming payment of the duty.

1. The receipts should be printed in accordance with the rules to print securities forms and pre-numbered and controlled documents. The form of such receipts should be uniform throughout the territory of a local self-governance authority where a decision to implement the resort duty has been adopted.

2. A respective entry on payment of the duty, specifying the number of the receipt and the date when the duty was paid, shall be made in the temporary residence registration card. If the payer is exempt from this duty, a respective entry specifying the number, etc., of the document confirming the payer's entitlement to the exemption shall be made in the temporary residence registration card.

#### Article 14013. The performers' touring duty

(1) Payers of the performers' touring duty shall be resident and non-resident business subjects that pursue their activities in the territory of Ukraine through representations registered under the laws of Ukraine and organize and hold foreign performers' tours in the territory of Ukraine.



(2) The object of the performers' touring duty shall be the proceeds from the sale of tickets to performances.

a) The proceeds from the sale of tickets to performances in which domestic performers participate shall not be the object of the performers' touring duty.

(3) The rate of the performers' touring duty shall be 3 per cent of the object of taxation specified in section (2) of the present Article.

(4) Taxpayers themselves shall determine the amount of the duty.

(5) No less than 10 days in advance of the performance the tour organizers shall be obligated to register tickets, that are to be sold to the public according to the plan of seats in the hall where the performance is scheduled, with a State Revenue Service authority at the location of holding the performance. Only tickets conforming to the approved form shall be allowed to be used for holding such performances. The tickets should be printed by Ukrainian print shops whose listing is to be determined by the Cabinet of Ministers of Ukraine.

a) if the terms of holding a performance should change, the performance organizers shall be obligated to re-register the tickets.

(6) On the day following the performance, the performance organizers shall be obligated to show the tickets that were not sold to the State Tax Service Authority which registered these tickets.

**Article 14014. The issuance of permits to build production and non-production facilities, individual houses, cottages and garages in the territory of settlements**

(1) Payers of the duties shall be legal entities of all forms of ownership, branches (departments), representations of legal entities, including the representations of foreign legal entities, located in the territory of Ukraine as well as individuals who are granted the right to use a plot of land for the purpose of building production and non-production facilities, individual houses, cottages and garages.

(2) The object of taxation shall be the total area of a land plot obtained by the payer of the duties for the purpose of building production and non-production facilities, individual houses, cottages and garages in the territory of settlements.

(3) The duty rates shall be set for each 100 square meters of the land plot obtained for the purpose of building:

a) production and non-production facilities:

a1. UAH 300 - UAH 700 in the territory of the cities of Kyiv, Sevastopil, Simferopil and provincial centers;

a2. UAH 150 to UAH 350 - in the territory of other settlements;

a3. if the land plots are situated in a resort area, the increasing coefficient 3 may be applied to the duty rates;

b) individual houses and cottages:

b1 UAH 85 - UAH 300 in cities;

b2 UAH 35 - UAH 150 in settlements and villages;

c) garages, summer houses and other objects of individual construction:

c1 capital garages and summer houses:

c2 UAH 50 - UAH 85 in cities;

c3 UAH 20 - UAH 50 in settlements and villages;

c4 temporary garages and other objects of individual construction:

c5 UAH 20 - UAH 50 in cities, settlements and villages.

(4) The amount of the duty shall be calculated based on the duty rates and the area of the land plot used for construction.

(5) The duty shall be collected by persons authorized by a local self-governance authority in whose territory a decision to implement the duty for issuing permits to build within the settled territory, production and non-production facilities, individual houses, cottages and garages has been adopted.

Articles 14015 - 14025 - reserved

## **Chapter 97. The procedure on remitting the amounts of local taxes and duties to budgets and refunding the amounts of local taxes and duties paid in excess**

Article 14026 . The procedure on remitting the amounts of local taxes and duties to budgets

The amounts of local taxes and duties shall be remitted to budgets in accordance with the following procedure:

a) the local taxes and duties specified in Articles 14005, 14007, 14009, 14010, 14011 shall be remitted to local budgets each ten days before the 15th and the 25th of the current month for the first and second ten days respectively, and before the 5th of the next month for the remaining days of the reporting month;

b) the local taxes and duties specified in Articles 14006, 14008 to 14012, 14013, 14014 shall be remitted to local budgets on a monthly basis - before the 15th of the month following the reporting one.

b1 Local taxes and duties specified in Articles 14005, 14009-14011 of the present Code shall be remitted to local budgets by persons authorized to collect these taxes and duties;

b2 Local taxes and duties specified in Articles 14007-14008 of the present Code shall be remitted to local budgets by payers of these taxes;

c) local duties specified in Articles 14006, 14013-14014 of this Code shall be remitted by taxpayers themselves to budgets of local self-governance authorities in whose territory these duties have been implemented within the following terms:

c1 the duty specified in Article 14006 of the present Code shall be remitted to the budget at the time of the issuance of a permit to locate vending and service facilities;

c2 the duties specified in Article 14014 of the present Code shall be remitted to the budget at the time of issuing permits to build production and non-production facilities, individual houses, cottages and garages in the territory of settlements;

c3 the duty specified in Article 14013 of the present Code shall be remitted to the budget no later than the third day after receiving the proceeds and no later than the day following the day of performance;

d) the duty specified in Article 14012 shall be remitted to local budgets by persons authorized to collect this duty on a monthly basis - before the 15th of the month following the reporting month.

#### Article 14027. The procedure on remitting local taxes and duties to budgets

Local taxes and duties specified in Articles 14005 to 14017 of the present Code shall be remitted to budgets of local self-governance authorities in whose territory these taxes and duties have been implemented, having regard to the following particularities:

- a) the local tax specified in Article 14005 of the present Code shall be remitted to the budget of a local self-governance authority at the place of registration with State Tax Service authorities of the persons authorized to collect this tax;
- b) the local duties specified in Articles 14010 and 14011 of the present Code shall be remitted to the budget of a local self-governance authority at the location of hotel-type accommodations (Article 14010) and at the location of areas specifically equipped and designated for parking vehicles (article 14011);
- c) the local duties specified in Articles 14009 and 14012 of the present Code shall be remitted to the budget of a local self-governance authority at the place of registration of the persons authorized to collect these duties;
- d) the amount of the duty specified in Article 14013 of the present Code shall be remitted to the budget of a local self-governance authority at the location of holding a performance;
- e) the taxes and duties specified in Articles 14006-14008, 14012, 14014 of the present Code shall be remitted to the budget of a local self-governance authority at the place of payer's registration.

#### Article 14028. The procedure on refunding the amounts of local taxes and duties paid in excess

The amounts of local taxes and duties paid in excess shall be offset against future payments or refunded to taxpayers within 5 days from the moment when an application to get a refund of the said amount was received.

#### Article 14029. Filing reports on local taxes and duties

Local taxes and duties calculation sheets, prepared in accordance with the form established by the local self-governance bodies shall be filed with State Tax Service of Ukraine authorities on a quarterly basis before the 20th of the month following the reporting quarter.

#### Article 14030. The procedure on taxing foreign legal entities and citizens

Foreign legal entities, their branches (departments) and representations in Ukraine as well as foreign citizens shall pay local taxes and duties on the same basis as legal entities and citizens of Ukraine, unless otherwise stipulated by the laws of Ukraine and international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine that came into effect.

#### Article 14031 - 14032 – reserved

## **Part XV. Special Tax Regimes**

### **Chapter 98. Special System of Taxation, Accounting and Reporting for Small Businesses**

#### **Article 15001. General Provisions**

(1) Special system of taxation, accounting and reporting shall be applied for the purpose of implementation of state policy of development and support of small business.

Special system of taxation, accounting and reporting for small businesses shall not be applicable to trusts, insurance companies, banks, other finance and credit and non-bank financial institutions, enterprises conducting gambling activity, foreign exchange activity or joint activity according to Article 2049 of this Code, as well as to physical persons - subjects of entrepreneurship trading in excisable goods.

(2) Small enterprises subject to special system of taxation, accounting and reporting shall not be payers of the following taxes:

- a) enterprise profit tax (except for paying taxes on income in the form of dividends, interest, as well as income received by non-residents from the sources in Ukraine);
- b) tax on physical persons income (for physical persons – subjects of entrepreneurship);
- c) tax on property (for legal persons, only concerning property used for entrepreneurial activity);
- d) school tax;
- e) market fee.

(3) Small enterprises shall have the right to choose special system of taxation, accounting and reporting for small businesses.

1. Small businesses – legal and physical persons have the right to use only one taxation procedure at one time: special system of taxation or general system.

2. Decision to switch on to the special system of taxation, accounting and reporting shall be made by a small enterprise not more than once every calendar year.

3. Newly created small businesses registered according to the established procedure, which submitted to the state tax service authorities at the place of their registration the application for the right to use special system of taxation, accounting and reporting, have the right to switch on to the special system of taxation, accounting and reporting starting from the quarter during which their state registration occurred.

#### **Article 15002. Small Business Entities**

(1) Small business entities having the right to use special system of taxation, accounting and reporting shall be:

a) legal persons – enterprises of any organizational-legal form and form of ownership with average recorded number of employees for the accounting period (calendar year) does not exceed 50 persons and the amount of revenue from the sale of goods (work, services) for the aforesaid period does not exceed UAH 1 000 000. Average recorded number of employees working for small businesses shall be determined according to the methodology approved by statistic authorities considering all employees including those working on contracts and by dual job holding, as well as employees of representative offices, subsidiaries, branches and other separated divisions;

b) physical persons – enterprises (agents of entrepreneurial activity) for whom the number of persons in labor relationships with such physical person, including members of his/her family participating to entrepreneurial activity, for the previous year does not exceed 5 persons. Amount of revenues from the sale of goods, work, services for the year with the aforesaid bodies shall not exceed UAH 200 000.

#### Article 15003. Procedure for Taxation Small Businesses, their Accounting and Reporting

Special system of taxation in the form of unified tax, as well as simplified procedure for accounting and reporting, shall be applicable to small businesses – legal and physical persons, specified by Article 15002 of this Code.

if small enterprises exceed the ceiling number of employees, ceiling amount of revenues for a year, or violation of requirement envisaged by this Chapter of the Code, they are divested of the right to pay taxes according to special taxation system starting from the following accounting period (quarter);

a) method of taxation shall be chosen once a year and shall be left unchanged for a reporting year for legal persons and for a quarter – for physical persons.

(1) Small businesses – legal and physical persons using special system of taxation, accounting and reporting shall keep record of income and expenses according to the simplified system in line with the procedure determined by central state tax service authorities of Ukraine.

#### Article 15004. Objects of Taxation under Simplified System of Taxation

Object of taxation for small businesses specified by item “a” of part one of Article 15002 is the amount of revenues from the sale of goods, work, services received for the reporting period.

1. Revenues from the sale of products (work, services) shall be the amount received by the agent of entrepreneurial activity for the transactions of sale of products (work, services) with the settlements in cash, non-cash or other forms of settlements, revenues other than from sales and funds received from other sales.

2. In the case of transactions of sale of fixed assets the revenues from sale shall be the difference between the amount received from the sale of these funds and their residual value as of the moment of sale.

Object of taxation for small businesses specified in item “b” of part one of Article 15002 is the normative net income, the amount of which shall be determined by local council, depending on type of business activity.

Normative net income shall not be established at the level less than UAH 200 and more than UAH 2000 per month.

#### **Article 15005. Rates and Procedure of Taxation of Small Businesses – Legal Persons**

For the subjects of small business specified by item "a" of the part one of Article 15002, unified tax rate shall be established at the rate of 5% of the amount of revenues from sales of products (goods, works, services) without excise tax and value added tax.

Subjects of small business - legal persons whose revenues from sales of own-produced agricultural goods and products of their processing exceeds 50% of the total sales shall have the right to pay fixed agricultural tax according to the provisions of the Chapter 99 of this Code.

#### **Article 15006. Rates and Procedure of Taxation of Small Businesses – Physical Persons**

(1) For physical persons – small businesses specified in items “b” and “c” of part one of article 15002, unified tax rate is implemented of 10% of normative net income.

(2) Volume of normative net income for every type of business activity shall be approved by rayon (except for rayon in cities) and city councils (Radas) annually by the beginning of new budget year.

1. When defining the amount of normative net income local councils shall use information on physical persons income from business activity received from state tax service authorities and statistical data.

2. State tax service authorities within the deadlines determined by local councils shall submit to them consolidated by types of business activity information on income of physical persons received in the course of tax verifications and on the basis of reports on the use of electronic cash registers.

3. When physical person – unified tax payer conducts activity using paid labor or with the participation of the members of his/her family, normative net income of agent of entrepreneurial activity shall be increased additionally by 50% of the volume of income determined by local council for every employee.

Small businesses – physical persons have the right to choose the method of taxation either according to the procedure specified by Articles 3032-3033 of this Code, or by paying unified tax.

(3) Income of unified tax payer received by him from business activity shall not be included into aggregate taxable income if they are taxed by unified tax, and the sum of unified tax paid is final and is not included into the recalculation of general tax liabilities of taxpayer.

(4) Subject of entrepreneurial activity – physical person paying unified tax shall not be exempt of duty of accrual, deduction and remittance to the budget and state ear-marked funds of income tax

and duties related to the payment of wages to employees in the state of labor relationships with them.

#### Article 15007. Definition of Unified Tax When Conducting Several Kinds of Activity by Small Business

When small business – physical person is conducting several kinds of activity, unified tax shall be computed for the type of activity for which normative net income is the highest.

#### Article 15008. Terms and Procedure for Paying Unified Tax under Special System of Taxation

(1) Small businesses – legal persons pay unified tax every month not later than 20-th day of the following month on a separate State Treasury of Ukraine account, and quarterly not later than 20-th day of the month following the accounting quarter, submit to the state tax service calculation of unified tax amount according to the form approved by the central state tax service authorities of Ukraine.

State Treasury of Ukraine branches on the day following the receipt of funds remits them to the budget according to the procedure envisaged by Article 15010 of this Code.

(2) Small businesses – physical persons pay unified tax to a single State Treasury of Ukraine account by installment payment a month prior to the moment of receiving patent or certificate.

1. Taxpayer may do a one-time payment of unified tax for all tax period but not more than for a calendar year.

#### Article 15009. Procedure of Issuance of Certificate and its Use

(1) To switch on to the special system of taxation, accounting and reporting small businesses not later than 15 days prior to the beginning of the following accounting (tax) period, namely: legal persons – prior to the beginning of the year, physical persons – prior to the quarter, shall submit to the state tax service authorities at the place of the state registration written application according to the form determined by the central tax service authorities of Ukraine.

1. Application of small business for switch over to a special system of taxation accounting and reporting may be submitted if all required taxes and mandatory payments are paid, the term of payment of which is due on the day of the application and complete calculation of wages with hired employees.

(2) State tax service authorities are obliged within 10 working days after the receipt of the application to issue:

a) to legal person – certificate of the right of payment of unified tax;

b) to physical person – certificate of payment of unified tax, and for every person which is in the state of labor relationships, including his family members, - reference on labor relationships of the

physical person with the payer of the unified tax, if the payment document proving the payment of unified tax is available; or grounded refuse shall be provided in the written form.

(3) The form of certificate for the right to pay unified tax, certificate on payment of the unified tax, reference on labor relationships of the physical person with the taxpayer and procedure of their issuance shall be established by the central authority of the state tax service of Ukraine and shall be the same for all the territory of Ukraine.

(4) Certificate for the right to pay unified tax shall be provided to the legal person within the calendar year.

(5) Certificate on payment of unified tax shall be provided to the physical persons for the tax (reporting) period (quarter), but for the period not longer than one calendar year, under the condition of payment of the unified tax. If during the term of effect of the patent the respective local Rada changes the amount of normative net income, recalculation shall not be made.

(6) Subjects of small business shall have the right to refuse to apply the special system of taxation, accounting, and reporting and to come back to the previously applied general system starting next reporting (tax) period; specifically: legal persons - from the beginning of the year, physical persons - from the beginning of the quarter, under the condition that the respective application is submitted to the bodies of the state tax service not later than 15 days before the end of the previous reporting (tax) period (year, quarter).

(7) Physical persons which are not registered as subjects of entrepreneurial activity but want to carry out certain types of activities for a small period of time, shall submit the application (the form is not specified) to the body of the state tax service to receive the certificate on payment of the unified tax; the application shall include information on type and location of activities, identification number, and the document proving the payment of unified tax. Certificate on payment of fixed tax for the physical persons not registered as subjects of entrepreneurship can be issued for one month, but not more than two times per calendar year.

(8) Subjects of small business shall be obliged to show the certificate on payment of the unified tax on request of the specialists of the bodies of state tax service.

#### Article 15010. Procedure of remittance of the amounts of tax when the special system of taxation, accounting, and reporting is applied

(1) For the subjects of small business - legal persons who are applying the special system of taxation, accounting, and reporting, the amounts of unified tax shall be distributed in the following way:

- a) 80% to the State Budget of Ukraine
- b) 20% to the local budget.

(2) Amounts of unified tax paid by the subjects of small business - physical persons applying the special system of taxation, accounting, and reporting, shall be directed to local budgets.



Articles 15011 - 15025 reserved.

## **Chapter 99. Taxation of agricultural producers with application of when fixed agricultural tax.**

### **Article 15026. General provisions.**

(1) Fixed tax for agricultural producers was introduced with the aim to simplify the taxation system in the agricultural sector and the mechanism of tax payments by agricultural producers.

(2) Terms used in the this chapter shall have the following meaning:

- a) fixed agricultural tax is the tax collected from the unit of land area;
- b) agricultural goods are the agricultural produce aimed for sale;

(3) Fixed agricultural tax shall substitute the following taxes:

- a) enterprise profit tax (except for tax payment from income in the form of dividends, interest, as well as income received by non-residents from the sources originating from Ukraine);
- a) property tax;
- b) school tax;
- c) market fee;
- d) payments for the special use of natural resources ( related to the use of water for needs of agriculture).

(4) Other payments defined by this Code shall be paid by the agricultural producers according to the procedure and amounts determined by this Code.

### **Article 15027. Payers of fixed agricultural tax.**

(1) Payers of fixed agricultural tax shall be agricultural producers of various organizational and legal forms envisaged by the legislation of Ukraine, farms and other units producing (growing), processing, and selling of agricultural products whose amount of revenues from sales of self-

produced agricultural goods and products of their processing for the previous reporting (tax) year exceeds 50% of total gross income of the enterprise.

1. If gross revenues of agricultural producer from transactions on sales of self-produced agricultural goods and products of their processing are less than 50% of the total revenues from sales in the reporting period, the taxpayer shall pay taxes on the general basis in the next reporting period.

(2) Payers of fixed agricultural tax shall not include the enterprises whose main activity is production and / or sales of produce of flower-decorative gardening, decorative plants, wild animals and birds, fish, fur products, liqueur and vodka products, beer, wine and wine materials (except for wine materials sold for the further processing).

(3) The payers of fixed agricultural tax (hereafter referred to as “taxpayers” ) shall pay the tax exclusively in the monetary form.

(4) The procedure of tax payment shall not be changed within the accounting (reporting) year.

#### Article 15028. Object of taxation and fixed agricultural tax rates

(1) Object of taxation shall be the area of agricultural land owned by the agricultural producer and utilized by the owner as well as the area of land provided to him for utilization, including that on leasing terms.

(2) Rates of fixed agricultural tax from one hectare of agricultural land shall be established as the percentage of their monetary value, evaluation being performed according to the procedure approved by the Cabinet of Ministers, in the following amounts:

a) 0.25 percent for tillage, meadow land and pastures;

b) 0.15 percent for perennials.

(3) For the taxpayers carrying out their activities in the mountain areas and in wooded localities, rates of the fixed agricultural tax for one hectare of agricultural area shall be established as the percentage of their monetary value, evaluation being performed according to the procedure approved by the Cabinet of Ministers, in the following amounts:

a) 0.15 percent for tillage, meadow land and pastures; and,

b) 0.05 percent for perennials.

1. Oblast Radas (Councils) on submission of rayon state administrations shall approve the list of taxpayers covered by rates provided by this part, proceeding from criteria established by Ukrainian

laws on the status of mountain residential localities in Ukraine and wooded localities determined by the Cabinet of Ministers of Ukraine.

Industrialized agricultural enterprises specialized in production and processing of the produce of animal growing, if they own and utilize less than 1000 hectares of agricultural land, shall pay the taxes as provided by this Code on the general basis.

(5) Monetary valuation of agricultural lands can be reviewed according to the legislation of Ukraine.

#### Article 15029. Procedure for Calculation and Terms of Payment of the Fixed Agricultural Tax

(1) Taxpayers shall determine amount of the fixed agricultural tax for the current year according to the procedure and amounts provided by this Law, and shall submit general calculation of the fixed agricultural tax to the body of the state tax service at the location of taxpayer prior to February 1 of the current year. Within the same time period the taxpayer shall submit the calculations for each land plot to the body of the of the state tax service at the location of the land plot.

1. If the areas of agricultural land are subject to change during the reporting period related to land ownership or land utilization rights acquired, the land owner or user respectively shall be obliged to adjust the amount of tax payments and to submit the calculations within one month to the body of the of the state tax service at the location of the land plot and at the location of the taxpayer.

(2) Payment of tax shall be performed monthly prior to the 20th of the month following the reporting one in the amount of one third of the tax determined for each quarter of the annual amount. In particular:

- a) ten (10) percent in Quarter I;
- b) ten (10) percent in Quarter II;
- c) fifty (50) percent in Quarter III; and,
- a) thirty (30) percent in Quarter IV;

#### Article 15030. Procedure of fixed agricultural tax remittance.

The taxpayers shall remit the fixed agricultural tax to the local budget at the location of the land plot.

#### Article 15031. Procedure of accounting for accrual and payments of fixed agricultural tax.

(1) Bodies of the state tax service shall keep record of accrual and payments of fixed agricultural tax according to the form and procedure established by the central authority of the state tax service of Ukraine.

(2) Bodies of the state tax service shall perform control over the timely and complete collection of fixed agricultural tax.

Articles 15032-15045 reserved.

## Chapter 100. Peculiarities of taxation of taxpayers under the Agreement on division of produce.

Article 15046. Procedure of taxation on investors during the fulfillment of the agreement on division of produce.

(1) During the validity term of the Agreement on division of produce and within the framework of activities related to fulfillment of this Agreement, national and local taxes and fees (obligatory payments) provided by this Code, except for those provided by part two of this Article, shall be replaced for the investor by the distribution of the produced goods between the State and the investor on the terms of such Agreement.

(2) During fulfillment of the Agreement on division of produce, investor shall pay the following taxes:

- a) value added tax;
- b) enterprise profit tax;
- c) payments for use of mineral resources established in the Agreement on division of produce.

(3) This Chapter, except for the requirements of parts (3) and (4) of the Article 15048, shall not apply to contractors and sub-contractors, carriers and other persons, including foreign ones, participating in fulfillment of works and services [on the basis of agreements (contracts with investor)] provided by the Agreement on division of produce. The said persons shall pay taxes pursuant to the procedure provided by this Code.

(4) Tax accounting related to fulfillment of works and services provided by the Agreement on division of produce shall be carried out separately from accounting for other types of activity. The

Agreement on division of produce shall establish the procedure for such accounting pursuant to the requirements of the legislation of Ukraine, in particular with the purpose to reimburse the investor's expenses and to determine enterprise profit tax liabilities. If under the Agreement on division of produce works are carried out at several plots, the consolidated accounting of economic activity is carried out by the investor.

#### Article 15047. Peculiarities of enterprise profit tax payment.

(1) Investor shall pay enterprise profit tax in amounts established by this Code, taking into account the following peculiarities:

1. Tax on the profit received from fulfillment of the Agreement on division of produce can be paid in cash or, if provided by the Agreement, in-kind, that is, as a part of profitable produce transferred to the enterprise's ownership as a result of division of manufactured produce.

2. The basis of taxation of profit received from fulfillment of the Agreement on division of produce shall be the investor's profit incurred on the basis of profitable produce that is transferred to investor's ownership pursuant to the Agreement on division of produce.

3. When determining the basis of taxation, profitable produce or its value (depending on the form of tax payment ) shall be decreased accordingly by a part of produce, value of which is equal to the amount of taxes specified in part two of Article 15046 (except enterprise profit tax), or by the amount of those taxes as well as by other expenses related to production and turnover that are included into gross expenses but are not refunded to investor by compensation produce (in-kind or in cash). Contents and procedure for including such expenses (considered as gross expenses of production and turnover) shall be regulated by the provisions of this Code effective as of the date of signing of the Agreement.

4. On the basis of the peculiarities of the Agreement on division of produce and assets involved during the fulfillment of the Agreement (equipment, structures, etc.), Agreement on division of produce may establish the depreciation rates (including depreciation of expenses related to extraction of mineral resources) different from those established by Chapter 14 of this Code. In this case, depreciation rates established by the Agreement shall be used for taxation purposes.

5. Tax on income from other types of activities not related to fulfillment of the Agreement on division of produce, as well as the tax on the amounts of dividends, interest, and royalty, shall be paid by the investor according to the provisions of Part II of this Code in force at the moment when such income is received, separately from the tax on income received in the form of profitable production.

6. Privileges as to enterprise profit tax provided by Part II of this Code shall not apply for taxation of profit obtained by investor during fulfillment of the Agreement on division of produce, unless otherwise provided by the Agreement.

7. Tax on repatriation shall not apply to income of the foreign investor received from activities carried out according to the Agreement on division of produce.

(2) The Cabinet of Ministers of Ukraine shall establish the mechanism, terms, and accounting for profit tax payment from fulfillment of the Agreement on division of produce.

Peculiarities of the mechanism, terms, and accounting for payment of taxes shall be established by the Cabinet of Ministers, taking into account the requirements of this Chapter, for the multilateral agreements on division of produce and for the cases when investor is an association of legal persons.

#### **Article 15048. Peculiarities of Value Added Tax Payment**

(1) During sale at the customs territory of Ukraine of the manufactured produce that is transferred into ownership to investor as a result of produce division under the Agreement on division of produce, value added tax shall be included into the price in the amount provided by this Code. Amount of value added tax received from the buyer as a part of price of the goods sold shall be remitted to the budget. Value added tax shall be calculated and paid by the investor according to the procedure and terms established by Part IV of this Code.

(2) Value added tax to be remitted to the budget by the investor on sales of goods at the customs territory of Ukraine, if provided by the Agreement on division of produce, can be paid in kind at the expense of the goods transferred into ownership of the investor, in the amounts equivalent to the amounts of tax. Mechanism of payment and procedure of remittance of the value added tax to the budget in this case shall be determined by the Cabinet of Ministers of Ukraine.

(3) Investor's import of goods (works, services) and other assets into the customs territory of Ukraine during fulfillment of the Agreement on division of produce aimed to fulfil the Agreement shall be carried out without the payment of value added tax.

(4) In case of export of the manufactured produce transferred into investor's ownership as a result of division thereof under the Agreement on division of produce, such produce shall be taxed with value added tax at zero rate.

(5) The terms stated in parts (3) and (4) within the framework of the activities related to fulfillment of the Agreement on division of produce shall cover also the legal persons (contractors, subcontractors,

suppliers, carriers, and other contractors ) taking part in works provided by the Agreement on division of produce, on the basis of contracts (agreements) with the investor.

(6) In case the above mentioned goods (works, services) and other assets are used not as intended, investor (contractors, subcontractors, suppliers, carriers, and other contractors) shall pay the amounts of tax not paid because of privileges, if such non-fulfillment of obligations took place at the fault of the investor (contractors, subcontractors, suppliers, carriers, and other contractors).

Articles 15050 – 15055 reserved

## Chapter 101. Special regime of taxation of the subjects of entrepreneurial activities of the free economic zones

### Article 15056. Procedure of taxation of the subjects of special (free) economic zones

(1) Subjects of special (free) economic zones shall be the subjects of entrepreneurial activity registered by the body of economic development and management of a special (free) economic zone, and implementing investment projects approved pursuant to the established procedure on the territory of such zone.

(2) Special tax regime for the subjects of special (free) economic zones shall be established by the Law of Ukraine on creation of the appropriate special (free) economic zone and special economic regime, for the zones on which investment agreements have been made on the day of enactment of this Code.

Articles 15057 – 15060 reserved.

## Chapter 102. Special regime of taxation of technological parks and their participants, subsidiaries, and joint ventures.

### Article 15061. Peculiarities of taxation of technological parks and their participants, subsidiaries, and joint ventures.

(1) For technological parks, their participants, subsidiaries, and joint ventures and their transactions on sales of goods (works performed, services rendered) related to fulfillment of investment and innovation projects in the priority directions of their activities, taxation regime shall be established by the Law of Ukraine on special regime of investment and innovation activities of the following technological parks: “Semiconductor technologies and materials, optical electronics and sensor equipment”, “Institute of electric welding named after E.Paton”, “Institute of monocrystals” .

## **Part XVI. General administrative provisions.**

### **Chapter 103. General provisions.**

#### **Article 16001. Definition of terms.**

Terms used in this Part shall have the following meaning:

- a) forcible collection – collecting the taxpayer’s assets to pay his tax debt without a prior agreement with the taxpayer on the amount of such debt;
- b) tax notice – a written notice by an organ of the state tax service that demands that the taxpayer pay his tax debt;
- c) controlling organ – a government organ that controls, acting within the limits of its competence as established by the legislation of Ukraine, the timeliness, accuracy and completeness of assessment of taxes and payment of tax liabilities or a tax debt;
- d) collection organ - a government organ that is authorized to take measures to ensure tax debt payments within the competence established by this Code and other laws;
- e) tax pledge – a way of securing a tax liability of the taxpayer that wasn’t paid when due. The tax pledge arises by law. If the case of failure to pay the tax liability secured by a tax pledge, the collection organ has the right to receive satisfaction regarding the value of the pledged property before other creditors in accordance with the order established in this Code.

#### **Article 16002. The scope of application of this Part.**

This Part regulates general issues that relate to administration of all taxes, except as otherwise provided in this Code.

#### **Article 16003. Controlling organs.**

(1) Controlling organs are:

- a) organs of the state tax service – in the case of taxes that are paid to the budgets and government target funds , except specified in sub-items “b” - ”e” of this Part;
- b) customs organs – in the case of import and export custom duties, excise tax, value added tax, other taxes that under this Code and other regulatory – legal acts are administered in connection with transportation (shipping) of goods and items to the customs territory of Ukraine or transportation (shipping) of goods and items from the customs territory of Ukraine;
- c) agencies of the State Pension Fund of Ukraine – in the case of contributions to the Pension Fund of Ukraine;
- d) agencies of the Social Insurance Fund of Ukraine – in the case of contributions to the Social Insurance Fund of Ukraine;
- e) special authorized government organs in the area of environment protection and use of natural resources – in the case of the ecology tax and payments for special use of natural resources.

(2) Division of authorities and functions of the controlling organs shall be carried out in accordance with this Code and other regulatory – legal acts.



#### Article 16004. Correspondence with taxpayers.

- (1) Tax notices, tax subpoenas or other documents addressed by a controlling organ to a taxpayer, must be prepared in written, signed by head or an authorized person of this organ (indicating last name and initials), stamped and handed over to the taxpayer as required.
- (2) Documents are to be considered delivered as required if these documents have been delivered to the address (location, tax address) of a taxpayer as a registered letter or handed in person to the taxpayer or to the taxpayer's legal or authorized representative.
- (3) If a taxpayer has not notified, or has not notified on time, organs of the state tax service about a change of one's location (tax address), the documents shall be considered properly delivered even if the documents are returned to sender because the addressee wasn't found.
- (4) For failure to meet requirements specified in the state tax service documents that were not received by a taxpayer in cases specified in part (3) of this Article, the taxpayers shall bear responsibility in accordance with this Code and other laws.

#### Article 16005. Tax information.

- (1) Tax information - information in the sphere of taxation that is administered by officials of the state tax service or has become available to them in connection with their performing their official duties.
- (2) By the permitted access level, tax information is divided into open-access tax information and restricted-access tax information.
- (3) Open -access tax information includes official tax information that may be distributed through mass media or other channels and that is owned by taxpayers or organs of the state tax service. Only information which was obtained in accordance with procedures established by legislation of Ukraine and which is not restricted-access tax information, as well as information on taxpayers disclosure of which was authorized by the taxpayers themselves, may be open – access information.
- (4) Permission to disclose open – access tax information shall be granted by the state tax service expert committees that shall be established in accordance with procedures established by the Cabinet of Ministers of Ukraine.
- (5) Restricted-access tax information includes tax information which constitutes a state secret, and confidential tax information.
- (6) Tax information shall be given the status of a state secret in accordance with the law on state secret.
- (7) Confidential tax information is the restricted-access information that is owned, used or administered by organs of the state tax service, excluding information which constitutes a state secret.
- (8) Confidential tax information includes the following information:
  - a) information that relates to tax payers who are physical and legal persons, which was obtained by the organs of the state tax service in connection with these organs' performing their functions, excluding information on taxpayers' failing to pay their tax liabilities or committing other violations in the sphere of taxation;
  - b) information that concerns foreign trade activities, financing currency exchange and export-import transactions and that was received by the organs of the state tax service in accordance with laws of Ukraine;

c) information that concerns preparation and signing of international agreements of Ukraine on tax issues;

(d) information that concerns activities of the state tax service organs, including activities relating to tax collection;

(e) other tax information in the ownership by the state and included in the list of categories of confidential information of the state tax service of Ukraine, subject to approval by the central organ of the state tax service of Ukraine.

(9) Protection of restricted access tax information shall be ensured in accordance with requirements specified in laws and other regulatory - legal acts concerning issues of protection of information and information security.

(10) Organs of the state tax service may provide information on tax payers in accordance with procedures and in cases specified in law, as well as upon the consent of taxpayers.

(11) Disclosure of taxpayer information in the form of a data base or unified data bank on taxpayers who are legal persons or a unified data bank on taxpayers who are physical persons, shall not be allowed.

(12) Provision of generalized tax information to organs of executive power and local self-government may be carried out only by the central organ of the state tax service of Ukraine. The generalized tax information is the information on taxpayers or organs of the state tax service that is structured according to certain attributes.

(13) In case of disclosure of tax information by organs of the state tax service, the central organ of the state tax service of Ukraine shall control, within the limits of one's authority, the compliance with the established regime for accessing and protecting integrity of tax information.

(14) Loss of documents that contain tax information or disclosure of restricted-access information, which were received by officials in connection with their performing their official duties, shall entail accountability as provided under Ukrainian legislation.

(15) The state tax service organs shall not be held responsible for disclosure of taxpayer information provided the disclosure was carried out by taxpayers themselves or upon their consent.

#### **Article 16006. Conflict of interests and tax rulings.**

(1) Officials of an organ of the state tax service shall not be allowed to perform their official duties with respect to taxpayers who are their relatives or in cases of these officials' being, directly or indirectly, financially dependent on such taxpayers or their relatives.

(2) If a provision of this Code, a law or other regulatory – legal act, or provisions of different laws or different regulatory – legal acts allow multiple interpretation of rights and duties of taxpayers or controlling organs, which may result in a decision either in favor of the taxpayer or in favor of the controlling organ, the decision shall be made in favor of the taxpayer.

(3) Rulings regarding particular provisions of tax legislation of Ukraine are to be provided in accordance with procedure established by the Cabinet of Ministers of Ukraine, following part (2) of this Article, the principles of taxation formulated in this Code, and the economic meaning of the tax in question.

(4) If under this Code or other law on tax matters, the duty to provide explanations regarding its provisions is assigned to the government organs other than those specified in part (3) of this Article, such explanations are to be provided in accordance with the rules specified in part (3) of this Article.

(5) If tax rulings provided under part (3) of this Article do not conform to the tax rulings provided under part (4) of this Article, the rulings provided under part (3) shall be of higher priority.

(6) A tax ruling is a publicly available official interpretation of particular provisions of tax legislation of Ukraine, made by the authorized to make such interpretation government organs, and is used by controlling organs to justify their decisions during appeal procedures. A tax ruling does not have the status of a regulatory – legal act.

(7) It is not allowed to make accountable a taxpayer who acted in accordance with the tax ruling, only because in the future this ruling was cancelled or changed. In such cases, tax rulings have no priority over other evidence or expert assessments for purposes of courts (arbitration courts)' review of the evidence provided by a controlling organ.

(8) All tax rulings that are of general nature or concern the interests of many taxpayers, are required to be published with rules regarding commercial or bank confidentiality being observed. Procedure for application of this rule shall be established by the Cabinet of Ministers of Ukraine.

#### Article 16007. Requirements concerning accounting of transactions that lead to tax liabilities.

(1) Every legal or physical person, as well as branches (departments), representative offices of legal persons, permanent establishments of non-residents, that pay taxes in accordance with this Code, are required to keep accounting records of transactions that may lead to tax liabilities, except as otherwise provided in this Code.

(2) Taxpayers themselves shall, acting in compliance with requirements and rules established in this Code and other regulatory - legal acts on tax matters, keep accounting records of transactions that relate to a rise of tax liabilities, for the purpose of maintaining complete and accurate information that is needed to properly assess and pay taxes and perform tax audit.

(3) Accounting of transactions that relate to a rise of tax liabilities, shall be carried out by way of performing tax accounting, preparation and submission of tax declarations (computations) and other tax reporting documents.

(4) Taxpayers are required to ensure:

(a) that an elected tax accounting methodology is used consistently throughout a calendar year, unless otherwise is provided by this Code;

(b) proper reflection in accounting documents for a reporting period of all financial and business transactions that were carried out in this period, as well as of the results of inventorying of property and liabilities;

(c) proper identification of reporting periods during which particular incomes and expenses were received (incurred).

(5) Transactions relating to a rise of tax liabilities must be reflected in original documents at the time when these transactions are carried out, and if it is impossible to do - immediately after completion of such transactions.

#### Article 16008. Submitting information on amounts paid out to physical persons.

(1) Every legal person or a physical person - entrepreneur, which pays for goods, works performed and services provided, makes any other settlements in the monetary or other form with physical persons, who are residents or non-residents, is required to quarterly report, within 15 days following the end of the quarter, and after the end of the reporting year - before the 1-st February of the

following year, to the organ of the state tax service at the place of the tax address of the physical person, and in the case of persons that don't have permanent place of residence in Ukraine – at the place of receipt of incomes, on the amounts paid and taxes withheld, exemptions provided and other information that concerns assessment and payment of taxes in accordance with forms and procedures established by the central organ of the state tax service of Ukraine.

#### **Article 16009. Tax declaration (computation).**

(1) A tax declaration (computation) is a written statement by a taxpayer or person who is required, under this Code or other regulatory - legal acts on taxation matters, to withhold and pay taxes over to the budget (budgets), which is prepared on the established standard form and which includes information on incomes received and expenses incurred, other objects of taxation, sources of income, tax exemptions and assessed amounts of taxes, other data relating to assessment and payment of taxes.

(2) Tax declarations (computations) are to be accepted by a controlling organ without a prior verification of the data specified therein.

(3) If under the tax accounting rules specified in this Code, the tax reporting documents regarding a particular tax are to be prepared by “adding-up the balances” from the beginning of the taxable year, then the tax declaration (computation) for the last tax period of the year shall be treated as annual tax declaration and there will be no separate annual tax declaration filed.

(4) It shall not be allowed to establish the forms or methods for preparing obligatory tax reporting documents that involve submission of aggregate information regarding particular incomes, expenses, exemptions, other elements of taxation bases, which were earlier reflected in tax declarations (computations) related to particular taxes, unless otherwise is provided in this Code or other laws on matters of taxation.

(5) Forms of tax declarations (computations) for taxes established by this Code are to be approved by:

(a) for national taxes - by the central organ of the state tax service of Ukraine;

(b) for local taxes and fees - by organs of local self-government with obligatory reflection of recommendations of the central organ of the state tax service of Ukraine.

(c) Articles 16009 - 16013 shall not apply to declarations of goods (products) shipped to the customs territory of Ukraine or shipped from it in accordance with the customs legislation of Ukraine, nor shall it apply to declarations of contributions to the social funds or to other information declarations that contain economic data on taxable persons that is not related to assessment of taxes.

#### **Article 16010. Persons responsible for preparing tax reporting documents.**

The following persons shall be held responsible for improper preparation of tax reporting documents, or for failure to submit such documents timely or for providing inaccurate information in such documents:

(a) legal persons and their branches (divisions), representative offices of legal persons, permanent establishments of nonresidents that qualify as taxpayers under this Code, as well as officers and officials of such persons;

(b) physical persons who are taxpayers, or their authorized or legal representatives, in cases specified in this Code;

(c) tax agents.

#### Article 16011. Preparation of tax reporting documents.

- (1) Declarations (computations) and other tax reporting documents shall be filled out by taxpayers in accordance with instructions concerning the procedure for preparation of such documents.
- (2) Instructions concerning procedure for preparation of tax declarations (computations) and other tax reporting documents in case of national taxes shall be issued by the central organ of the state tax service of Ukraine, and by local self-government organs for local taxes and fees.
- (3) The submitted tax reporting documents must show taxpayer's identification code or the registration number of taxpayer's file.
- (4) Tax reporting documents must be signed:
  - (a) by director of a taxpayer who is a legal person, or a branch (division) of a legal person, as well as by a person responsible for maintaining tax accounting records and for submission of tax reporting documents;
  - (b) a physical person taxpayer (or a legal representative of such a person) or other person obligated under this Code or other regulatory - legal acts dealing with taxation matters to submit tax reporting documents.
- (5) If tax reporting documents are submitted by tax agents who are legal persons, these documents must be signed by head of such agent and by the person who is responsible for maintaining tax accounting records and for submission of tax reporting documents of such tax agent, and if a tax agent is a physical person - by this physical person.
- (6) A person that prepares tax reporting documents for a compensation, or that participates in preparation of tax reporting documents of a taxpayer, unless this person is an employee of the taxpayer, is required to sign the tax declaration (computation) jointly with persons specified in parts (4) and (5) of this Article.
- (7) If more than one specialist participate in preparation of tax reporting documents, these documents must be signed only by the senior specialist jointly with specialists specified in parts (4) and (5) of this Article.
- (8) Information provided in a tax declaration (computation), in cases provided in this Code and other regulatory - legal acts dealing with taxation issues, must be supported by original documents, bookkeeping data and meet the requirements concerning maintenance of tax accounting (reporting) records and documents.
- (9) Information that is contained in accepted for accounting purposes original documents and is needed for purposes of reflecting it in tax accounting documents, shall be accumulated and systematized in accounting registries in accordance with procedures established by the Cabinet of Ministers of Ukraine.
- (10) Information concerning transactions that relate to tax liabilities and that were carried on by the taxpayer in the reporting period, shall be transferred in the aggregated form from accounting registries to tax reporting documents.

#### Article 16012. Submission of tax reporting documents to organs of the state tax service.

- (1) Tax reporting documents shall be submitted by a taxpayer or other person, obligated under this Code or other regulatory legal acts to submit to the state tax service organs tax reporting documents for a reporting period in specified terms and at places specified by the central organ of the state tax service of Ukraine (unless this place is specified in this Code).

1. Tax reporting documents must be submitted for every reporting period.
  2. A taxpayer who is an entrepreneur, whether this taxpayer engaged in entrepreneurial activities during a reporting period or not, is required to file tax reporting documents for this period .
- (2) Tax reporting documents shall be registered by organs of the state tax service on condition of meeting the following requirements:
- (a) organs of the state tax service are required to register tax reporting documents submitted by a taxpayer or other person obligated under this Code or other regulatory-legal acts to submit to the state tax service organs tax reporting documents, on the date of actual submission of such documents.
  - (b) a taxpayer may, no later than 10 days before the end of the period set for submission of tax reporting documents, send these documents to an organ of the state tax service by registered mail. Procedures for registration of such mail, as well as rules for its circulation, shall be established by the Cabinet of Ministers of Ukraine.
- (3) Tax reporting documents are to be submitted in written or (if so agreed with an organ of the state tax service) on magnetic disks or in other form that allows computer processing of the information.
- (4) Taxpayers are required, upon the demand of the state tax service organ, to provide information that is needed to examine the submitted tax reporting documents.
- (5) Tax reporting documents concerning local taxes and fees shall be submitted to organs of state tax service in accordance with procedures specified by organs of local self-government, unless otherwise is provided by this Code and other regulatory-legal acts dealing with taxation issues.

#### Article 16013. Changing tax reporting documents.

- (1) If a taxpayer himself discovers in his earlier and properly submitted tax declaration (computation) incomplete data, arithmetic or other errors or omissions that result in an understatement of the tax liability for the specified reporting period, before this fact is established by organs of the state tax service, the taxpayer is required to notify an organ of the state tax service at the locality where the tax reporting documents were submitted, file the new tax declaration that contains corrected data, and pay to the budget the required amounts of the tax plus interest assessed for days of delay.
- (2) Correction of errors and typos in tax reporting documents must be verified by signatures of persons who signed these documents at the time of submission, and dates of corrections must be indicated.

#### Article 16014. Determining the dates.

If a final date set under this Code or other regulatory - legal act on taxation matters, for payment of taxes or submission of tax reporting or other documents to organs of the state tax service, or for performing other actions specified in this Code, falls on a weekend, holiday, or a non-work day, then the final date for the payment of taxes (submission of the documents, performance of other actions specified in this Code) shall be the first working day following the weekend, holiday or non-work day.

Articles 16015 - 16025 are reserved

## **Chapter 104. Registration of Taxpayers**

### **Article 16026. General Provisions**

(1) Registration of taxpayers is carried out to create conditions for the organs of the state tax service to control correctness of assessment, completeness and timeliness of payment of taxes and applied financial sanctions.

(2) Organs of the state tax service shall perform registration of taxpayers in accordance with procedures established by the central organ of the state tax service of Ukraine.

(3) Taxpayers shall be registered with organs of the state tax service free of charge.

### **Article 16027. Registration of Taxpayers**

(1) Organs of the state tax service shall perform registration of taxpayers in accordance with procedures established by the central organ of the state tax service of Ukraine.

(2) To become registered:

a) legal persons that are entrepreneurial entities shall, within a 5-day period following the date of their government registration, apply to the organ of the state tax service in their locality;

b) non-profit organizations shall be required to apply to the organ of the state tax service in their locality before they commence their business activities;

c) other legal persons, regardless of their ownership and organizational legal form, shall apply within a 5-day period following their creation or government registration (if such registration is required by law) to the organ of the state tax service in their locality;

d) branches (divisions), representative offices of legal persons shall apply, within a 5-day period following their entry into the Unified government registry of enterprises and organizations of Ukraine, to the organ of the state tax service in their locality.

d1. Legal persons shall be required to notify an organ of the state tax service in their locality of their creating branches (divisions), representative offices, within the period specified in this item.

e) permanent representative offices of nonresidents are required to apply to an organ of the state tax service within 5 days after their registration in accordance with established procedure, but no later than the beginning of their business activities.

e1. If a permanent representative office is a legal person or a physical person that is a resident of Ukraine that acts on the basis of a relevant agreement with a non-resident, this person shall be required to register with an organ of the state tax service as a permanent representative office;

f) physical person - entrepreneurial entities, lawyers and private notaries are required to apply to an organ of the state tax service depending on their tax address within 5 days after their receiving their government registration certificate, certificate attesting their right to work as a lawyer or a private notary.

g) lessees of land plots that have signed such lease agreements with village, township, city Radas, are required to submit to an organ of the state tax service at the locality of the leased land plots within 5 days after registration of the lease agreements the copies of these agreements.

3) If a taxpayer specified in part (2) of this Article changes one's locality (tax address), he will be required to register at his new locality (tax address) within the period and in accordance with procedures established by the central organ of the state tax service of Ukraine.

#### **Article 16028. Documents Submitted for Taxpayer Registration and Persons Who Submit Them.**

(1) The list of documents that taxpayers are required to submit to get registered with organs of the state tax service, as well as persons that submit such documents, are to be established by the central organ of the state tax service of Ukraine.

(2) Documents that are submitted by taxpayers for the purpose of registration with the state tax service organs shall be examined in accordance with procedures established by the central organ of the state tax service of Ukraine, and in the case of errors or incorrect data shall be returned for correction.

#### **Article 16029. Changing Taxpayer Registration Data**

(1) The following are grounds for changing the taxpayer registration data:

a) an application of the taxpayer ( filed with documents that would confirm the introduction of the changes);

b) information from government registration organs;

c) information from banks on opening (closing) bank accounts.

(2) Changes are to be introduced to taxpayer registration data in accordance with procedures established by the central organ of the state tax service.

#### **Article 16030. Grounds and Procedure for Cancellation of Taxpayer Registration**

(1) Grounds for cancellation of registration of a taxpayer who is a legal entity with organs of the state tax service include:

a) decision of the owner (owners) or of the authorized by the owner (owners) organs to liquidate the legal person;

b) the legal person is recognized bankrupt in accordance with established procedures;

c) a court (arbitration court) makes a decision that serves as a basis for cancellation of government registration of the legal person - entrepreneurial entity;

d) change of taxpayer's location.

(2) If a taxpayer that is a legal person is being liquidated, registration of its branches (divisions) or representative offices with organs of the state tax service must be cancelled.

(3) Taxpayer registration of a physical person who is an entrepreneur shall be cancelled if the person submits to an organ of the state tax service an appropriate application in connection with the decision to discontinue entrepreneurial activities and in the case of circumstances specified in part (1) of this Article, or in the event of the person's death.

(4) The procedure for cancellation of taxpayer registration with organs of the state tax service organs shall be established by the central organ of the state tax service of Ukraine.



#### Article 16031. Taxpayer registration in the case of particular taxes

Particular procedures for taxpayer registration applicable to particular taxes shall be established by the central organ of the state tax service of Ukraine.

#### Article 16032. Information submitted for purpose of registration of taxpayers by organs of government registration of entrepreneurial persons and by other organs.

(1) An organ of government registration shall be required to:

a) submit within a 5-day period following the date of government registration of an entrepreneurial person to a respective state tax service body a copy of the registration card with the state registration mark.

b) notify a relevant state tax service organ of the termination of the government registration of the entrepreneurial entity within 10 days;

2) Organs that register property that is an object of taxation, are required to report to the state tax service organs at their locality about immovable property located at their territory, or about transport vehicles registered with these organs, and about their owners monthly, but not later than on the 10-th of the following month.

3) Organs that are authorized to issue special permits (licenses, patents) to carry out particular kinds of entrepreneurial activities, are required to notify organs of the state tax service about issuance or termination of such permits within 5 days after the event in question.

4) Government organs are required to submit to organs of the state tax service other information in cases specified in this Code and in other legislative acts.

#### Article 16033. Requirement Concerning Opening Bank Accounts

(1) Banks and other financial - credit institutions have the right to open current and other accounts for legal persons (residents or not) regardless of the ownership and organizational – legal form, for branches (divisions) and representative offices of legal persons, for physical persons who are entrepreneurs, only if there is a document that verifies their registration with organs of the state tax service, and in the case of physical persons who are entrepreneurs - only if they provide information on the registration number of the taxpayer's registration file.

(2) Banks and other financial - credit institutions are required to inform about opening or closing accounts for legal persons (residents or not) regardless of the ownership and organizational – legal form, for branches (divisions) and representative offices of legal persons, the state tax service organs at the location where such legal persons are registered, and in the case of physical persons - entrepreneurs - to notify the state tax service organ at the locality of the bank (financial - credit institution) in a 3-day period following the day of opening or closing such accounts. Such information is to be provided in written and electronic form in accordance with procedures established by the central organ of the state tax service of Ukraine and approved by the National Bank of Ukraine.

Articles 16034 - 16038 Are Reserved

### **Chapter 105. The taxpayer database.**

#### Article 16039. Data bases on taxpayers.

(1) To ensure the uniform government automated registration and accounting of taxpayers and to ensure control of compliance with tax legislation of Ukraine, the organs of the state tax service shall

set up and maintain the taxpayer database that will consist of the unified taxpayer data bank of legal persons and the unified taxpayer data bank of physical persons.

(2) The taxpayer database shall contain information that is submitted to the state tax service organs of all levels from sources specified in this Code and other regulatory - legal acts, in particular, from organs of executive power, organs of local self-government, taxpayers, other legal and physical persons.

(3) Activities related to setting up and maintaining the taxpayer database shall be financed from the state budget.

(4) Regulatory - legal acts that concern structure, procedure for creation and maintaining of unified taxpayer data banks shall be established by the central organ of the state tax service of Ukraine.

#### Article 16040. The state registry of physical persons - taxpayers

(1) The central organ of the state tax service of Ukraine shall create set up and administer the registry of physical persons - taxpayers (hereinafter referred to as the State registry), which is an integral part of the unified data bank of physical persons - taxpayers.

(2) Every physical person of any age (either resident or non-resident), for whom a taxpayer registration file (that has the registration number) hasn't been formed before, in person or through a legal or authorized representative, within a month following the date of the tax liability or of the use of the right to use privileges, subsidies and other social benefits, shall be required to submit to the appropriate organ of the state tax service a registration card of the physical person - taxpayer, which at the same time serves as an application for registration in the State registry, and provide a personal identification document.

(3) A physical person shall submit the registration card of a physical person - taxpayer to the organ of the state tax service at the locality of one's permanent residence, and a physical person who does not have a permanent residence in Ukraine - to the organ of the state tax service at the locality where such physical person receives incomes or where another object of taxation is located.

(4) The taxpayer registration card of the physical person shall include the following information:

a) full name;

b) date of birth;

c) place of birth (country, oblast, rayon, residential area);

d) place of residence, for non-residents - citizenship;

e) serial number of passport (similar data for other personal identification documents), date and body of issuance, and for non-residents - also identification number used for purposes of taxation;

f) place of receipt of primary income.

(5) To enter data specified in items a) through e) of part (4) of this Article into a taxpayer registration card of a physical person, the data shown in the personal identification document (passport) must be used.

(6) The form of a taxpayer registration card of a physical person and procedure for submission of such cards shall be established by the central organ of the state tax service of Ukraine.

(7) If data specified in items a) through e) of part (4) of this Article changes, a physical person is required to notify an appropriate organ of the state tax service within a month following the date of

such changes in the personal identification document in accordance with procedure established by the central organ of the state tax service of Ukraine.

(8) A physical person shall be responsible, under legislation of Ukraine, for the accuracy of information shown on the taxpayer registration card of a physical person.

(9) On the basis of the data from the registration card, entered into the State registry, the central organ of the state tax service of Ukraine is to form for each physical person – taxpayer the taxpayer registration file. Every taxpayer registration file is to be assigned the registration number by the central organ of the state tax service of Ukraine, of which the central organ is to inform the state tax service organ at the place of residence of the physical person or at the place of receipt of primary income, or at the place of location of other object of taxation.

(10) An organ of the state tax service is to issue to the person that has registered a document that verifies registration of the physical person as a taxpayer and that contains the registration number of the physical person's taxpayer registration file.

1. The form of the documents and procedure for their issuance, as well as the procedure for assigning the registration number of the taxpayer's registration file shall be established by the central organ of the state tax service.

2. By decision of the Cabinet of Ministers there may be issued a document that verifies the issuance to a physical person of the registration number of the taxpayer registration file, in the form of a fraud-proof card with a photograph.

3. For issuance of the cards and copies of the cards specified in item 2 of this part, there shall be applied a charge, the amount and procedure for payment of which shall be established by the Cabinet of Ministers of Ukraine, with the costs of producing such cards taken into account.

(11) In case of detection of inaccurate data or errors in the submitted registration card, the physical person may be denied registration, or the person's registration period may be extended.

(12) The registration number of the taxpayer registration file from the State registry must be used by central organs of the government and by organs of local self-governments, by legal persons of any ownership and organizational-legal forms, including branches of the National Bank of Ukraine, commercial banks and other financial-credit institutions, stock exchanges, notaries, as well as by physical persons, in all documents that contain information on objects of taxation of physical persons or on payment of taxes, in particular in the following cases:

a) payment of incomes from which taxes must be withheld under the legislation of Ukraine. Physical persons are required provide legal and physical persons that pay them their incomes, with the their registration number of taxpayer registration files;

b) signing civil-legal agreements dealing with objects of taxation and with respect of which tax liabilities arise;

c) opening bank accounts in commercial banks, as well as in payment documents where physical persons make non-cash payments;

d) physical persons' filling out cargo customs declarations when crossing the customs border of Ukraine;

e) payment of taxes by physical persons;

f) government registration of physical persons as entrepreneurs, or issuance to such persons of special permits (licenses, patents) for engaging in particular kinds of entrepreneurial activities;

g) registration of physical persons' property which is an object of taxation, or registration of one's right to such property;

h) submission of income and property declarations to organs of the state tax service;

j) registration of transport vehicles that are transferred into the ownership by physical persons;

i) provision to physical persons of privileges, subsidies and other social payments from the state target funds.

(13) Documents that are related to transactions specified in part (12) of this Article and that show no identification numbers shall be considered documents prepared in violation of requirements of the legislation of Ukraine.

(14) Information from the State registry is:

a) to be used by organs of the state tax service exclusively for carrying out control over compliance with the tax legislation of Ukraine;

b) the information with restricted access and shall be given to other government organs in accordance with requirements of this Code and other acts of legislation of Ukraine concerning protection of information on citizens.

(15) Government organs of organs of local self-government, legal persons and physical persons - entrepreneurs shall provide free-of-charge to organs of the state tax service at their localities the information on physical persons that concerns assessment and payment of taxes and control over compliance with the tax legislation of Ukraine, with registration numbers of taxpayer registration files specified, in particular:

a) government organs of organs of local self-government, legal persons and physical persons - entrepreneurs - shall quarterly provide information on the dates when physical persons were hired or dismissed, but no later than on the 15-th day of the first month of the following quarter, as well as information specified in Article 16008 of this Code;

b) internal affairs organs - shall provide information on physical persons that came to reside in a particular residential area or left it, on transport vehicles that are transferred into the ownership by physical persons, monthly, but no later than on the 10-th of the next month, as well as information concerning lost or stolen passports, within 5 days after appropriate notifications were received from physical persons, or concerning passport of deceased citizens monthly, but no later than on the 10-th of the next month.

c) organs of government registration of sea and river vessels and aircraft - shall provide information on vessels that are transferred into the ownership by physical persons, monthly, but no later than on the 10-th of the next month.

d) organs of registration of social and marital status shall provide information on deceased physical persons, on physical persons' changing their full names and on changes in information on dates and place of birth of particular persons monthly, but no later than on the 10-th of the next month.

e) customs organs shall submit information concerning shipment by physical persons into the customs territory of Ukraine of goods and other items, on quantities and value of such goods and items based on the customs declaration data, and on taxes paid, monthly, but no later than on the 15-th of the next month.

f) banks and other financial-credit institutions shall provide information on opening and closing of accounts by physical persons - entrepreneurs, in terms specified in legislation of Ukraine, as well as

information on movement of funds through these accounts - in accordance with Article 16041 of this Code;

g) organs that are authorized to administer government registration of entrepreneurs and for issuance of special permits (licenses, patents) for particular entrepreneurial activities - shall provide information concerning government registration of entrepreneurial entities - physical persons and termination of such, and issuance or cancellation of special permits - under Article 16032 of this Code;

h) organs that carry out registration of private notary activities and issue certificates authorizing private lawyer activities shall provide information concerning issuance or cancellation of the registration certificate of a private notary or a private lawyer - within 5 days following the respective event;

j) organs that carry out registration of property or rights to it - shall provide information on changes in ownership of the taxable immovable property of physical persons monthly but no later than on the 10-th of the next month;

i) law enforcement bodies and courts shall provide information that concerns incomes of physical persons that became available in the course of investigation and review of criminal cases in situations provided by law.

**Article 16041. Information exchange between organs of the state tax service and other organs of executive power, organs of local self-government and financial - credit institutions.**

(1) The National Bank of Ukraine and its branches, commercial banks, other financial - credit institutions, shall provide, free-of-charge, to organs of the state tax service, in response to their written request, the information on physical persons - entrepreneurial entities and legal persons, that are their clients, specifically the information concerning:

a) availability and movement of funds in accounts;

b) other information that concerns calculation of taxes.

(2) Banks and other financial - credit institutions shall provide to organs of the state tax service, at their request, the information on any accounts of physical persons in cases that are being investigated by tax militia.

(3) Banks and other financial - credit institutions shall report to organs of the state tax service on every event of withdrawal of money by legal persons from accounts in this institutions for purposes of making cash payments (except wages) in the amount that exceeds 50,000 hryvnas.

(4) The forms and procedures for organs of the state tax service's requesting information, and for banks and other financial - credit institutions' providing the information specified in parts (1) - (2) of this Article, as well as amount of information specified in part (1) of this Article, shall be established by the central organ of the state tax service of Ukraine jointly with the National Bank of Ukraine.

(5) Organs of the state tax service may enter any information system, including computer networks, for purposes of determining the object of taxation.

(6) Information exchange between organs of the state tax service and other organs of executive power, organs of local self-government shall be carried out in accordance with procedure established by the Cabinet of Ministers of Ukraine or in agreements between these organs.

(7) In the course of exchange of information between organs of the state tax service and other organs of executive power, organs of local self-government, banks and other financial - credit institutions, registration numbers of taxpayer registration files must be used.

(8) Exchange of information between organs of the state tax service of Ukraine and tax services of other countries shall be carried out in accordance with procedures specified in international agreements of Ukraine.

Article 16042 - 16045 - reserved

## **Chapter 106. Tax liabilities**

### **Article 16046. The concept of tax liability**

(1) Tax liability - taxpayer's obligation to pay to the budgets or government target funds the respective amounts of money in accordance with procedures and on dates established in this Code or other regulatory – legislative acts on taxation matters.

(2) Grounds for the arising, changing or terminating a tax liability, as well as the terms and procedure for paying the tax liability, shall be determined under this Code and other regulatory – legislative acts on taxation matters.

(3) Taxpayer's tax liability shall arise on the date when the circumstances, which are specified in this Code and other regulatory – legislative acts on taxation and with which the obligation to pay taxes is connected, arise, and it shall end when the taxes are paid to the budgets except in cases specified by this Code and other laws.

(4) If the taxpayer does not pay his tax liability, he shall bear responsibility in accordance with this Code and other laws.

### **Article 16047. Procedure for determination of tax liabilities**

(1) Except for the cases explicitly provided by this Code, the taxpayer shall calculate the tax amounts due himself and shall submit the information on such amounts to the controlling organ within the terms set by this Code and other regulatory – legislative acts on taxation matters. He shall pay the taxes himself without prior agreeing their amounts with controlling organs.

(2) The amount of taxes specified by the taxpayer in his tax return (tax computation) shall be deemed an amount agreed on the date such tax return (computation) was filed.

(3) The State Revenue Service authority shall determine the amount of taxpayer's tax liability itself if:

- a) the taxpayer has not filed his tax return (tax computation) within the specified terms;
- b) inspections of results of the taxpayer's activities reveal an understatement or overstatement of the amount of his tax liabilities shown in his tax declaration (computation);
- c) the controlling organ has identified arithmetical or other errors in the tax return (tax computation) submitted by the taxpayer, which resulted in understatement or overstatement of tax liabilities;
- d) under laws on tax matters a person responsible for assessing a particular tax or fee (obligatory payment) is a controlling organ.

(4) In cases specified in paragraph 3 of this Article the taxpayer shall be required to prove himself that a tax assessment made by a controlling organ is incorrect, except in situations specified in Article 16048.

(5) If under provisions of this Article the amount of the tax liability is to be computed by the controlling organ, the taxpayer shall not be responsible for timeliness, accuracy and completeness of assessment of such an amount, although the taxpayer shall be responsible for making a timely and complete payment of the tax liability, being able to appeal the assessed amount in accordance with procedures established in this Code.

#### **Article 16048. Determining tax liabilities using the method of analogy or indirect methods**

(1) The amount of tax liabilities of a taxpayer that hasn't filed a tax declaration (computation) on time, shall be determined by a controlling organ on the basis of the results of an unscheduled inspection. If conducting such inspection is not possible because an actual location of a legal person, or its branches, can not be established, or because a physical person can not be located, or taxpayer's or his officials' failing to provide information as required by law, as well as in the case where it is impossible to establish the amount of tax liabilities because the taxpayer doesn't maintain tax accounting records, the amount of tax liabilities may be established using an indirect or analogy method. These methods may also be applied if a tax declaration (computation) was filed, but during a documentary examination conducted by a controlling organ the taxpayer failed to prove the computations provided in the tax declaration by necessary accounting documents as provided by legislation of Ukraine.

(2) Under an indirect method, a tax liability is to be determined on the basis of the estimates of the taxpayer's spending, gain in assets, number of his employees, as well as on the basis of the estimates of other elements of bases of taxation used for purposes of computing a tax liability regarding a specific tax, fee, obligatory payment in accordance with legislation of Ukraine.

(3) Under an analogy method, a tax liability is to be determined at the level of the tax liability of the taxpayer regarding particular tax, fee (obligatory payment) for the previous tax period or the respective tax period of the last tax year, taking into account the inflation and other factors on which the amount of such tax liability depends, provided that this tax liability was a positive quantity.

(4) Methods of evaluation of tax liabilities on the basis of an indirect method or analogy method shall be developed by the central organ of the state tax service of Ukraine, and also by the government organ authorized to administer the government's regulatory policy, and by the appropriate committee of the Verkhovna Rada of Ukraine, and shall be applicable to all taxpayers. The procedure for application of indirect methods of assessment of incomes of a physical person shall be formulated with provisions of part III of this Code taken into account.

(5) It is not allowed to apply an indirect or analogy method for purposes of determining taxpayers' tax liabilities in cases not provided for in this Article.

(6) Only state tax service organs may assess tax liabilities using indirect or analogy methods. The amounts of the assessed tax liabilities may be appealed by the taxpayers as provided by this Code.

(7) A tax liability determined by a state tax service organ on the basis of the indirect or analogy method may not serve as the ground for charging a person with tax evasion unless a court (arbitration court) makes a final decision on the case.

#### **Article 16049. Verifying a tax liability assessed by a controlling organ.**

(1) A tax liability of a taxpayer that is assessed by a controlling organ under Articles 16047 – 16048 of this Code, shall be considered verified on the day the taxpayer receives a tax notice, except for cases specified in paragraph (2) of this Article.

(2) If a taxpayer maintains that the controlling organ has mistakenly determined the amount of the tax liability or has passed any other decision that is inconsistent with this Code or other legislative act of Ukraine on tax matters or is outside the area of its competence established by this Code or other legislative act of Ukraine, the taxpayer may address the controlling organ

#### Article 16050. Terms of payment of a tax liability

(1) A taxpayer is required to pay the amount of the tax liability specified in the tax declaration filed by the taxpayer, within the terms specified in this Code or by other regulatory – legal acts on taxation matters.

(2) If under this Code or other legislative acts of Ukraine a controlling organ is itself to determine the taxpayer's tax liability due to reasons not related to violations of tax laws, such taxpayer is required to pay the assessed amount of the tax liability within the terms specified in this Code or in other legislation dealing with the relevant tax, and in the event of absence of such terms – within 10 calendar days following the date of receipt of the tax notice on such assessment.

(3) In the case the amount of a tax liability is verified through an appeal procedure, the taxpayer is required to pay himself the verified amount plus interest and penalties, if there are any, within the 10 calendar days that follow the date of such verification.

(4) The verified (including the verified by a court) amount of a tax liability that was not paid by a taxpayer in the terms specified in this Article, is to be considered the amount of a tax debt of such taxpayer. \*\*

#### Article 16051. Tax notice and tax orders.

(1) If the amount of a tax liability is being determined by a controlling organ under Articles 16047 – 16048 of this Law, such controlling organ is to send to a taxpayer a tax notice, in which there must be specified the grounds for such assessment, provision of the tax law on the basis of which this assessment or reassessment of tax liabilities was made, amount of the tax or fee (obligatory payment) payable, as well as penalty sanctions, if there are any, deadlines for payment thereof, as well as the warning of the consequences of failing to pay within the established terms.

(2) If a taxpayer does not pay the verified (including verified by a court) amount of a tax liability within the established terms, a tax organ sends to such taxpayer tax orders.

(3) If a controlling organ that verified the amount of the tax with the taxpayer, is not a state tax service organ, such other controlling organ is to send to the respective organ of the state tax service an application requesting to take measures to pay the taxpayer's debt, and the computation of the amount of the debt, on the basis of which the organ of the state tax service sends tax orders. The form of such applications is to be established by the Cabinet of Ministers of Ukraine.

(4) Tax orders must contain, in addition to information specified in part (6) of this Article, references to the grounds for their issuance, amount of the tax debt payable, interest and penalty sanctions, and the list of proposed measures to ensure payment of the tax debt.

(5) Tax orders are also to be sent to the taxpayers that have themselves filed tax declarations, but haven't paid their tax liabilities in terms specified in this Code, without sending (delivering) a tax notice first.

(6) Tax orders are to be sent:

a) first tax order – not earlier than on the first working day after the end of the period established for payment of a verified tax liability. The first tax order must contain information regarding the fact



of verification of the tax liability, the arising tax pledge right to the assets of the taxpayer, the obligation to pay the amount of the tax debt and possible consequences of failure to pay the tax debt in time;

b) second tax order - not earlier than on the 30th calendar day following the day of sending (handing) the first tax order, provided that the taxpayer hasn't paid the amount of the tax debt within the established period. The second tax order, in addition to the data specified in the first tax order, may contain information regarding date and time of inventorying of the taxpayer's assets held as tax pledge.

A tax order is considered serviced (delivered) to an enterprise if this order is handed to any official of this enterprise or is sent by mail with receipt verification.

(7) A tax order is considered serviced (delivered) to a legal person if this order is handed directly to this legal person's official, who verifies it with his signature, or is sent as a registered letter with delivery confirmation. A tax order is considered serviced (delivered) to a physical person if this order is handed directly to the physical person or his legal representative or is sent to the address of the physical person's registration as a taxpayer, with receipt verification.

1. If a respective controlling organ or a post office may not service a tax notice or tax orders to a taxpayer because of failure to locate taxpayer's officials or because of their refusal to accept a tax notice or tax order, or because of failure to actually locate the taxpayer, the controlling organ shall put such tax orders or notices on a tax bill board, which must be made easily accessible for public by the entrance to the tax organ premises. The date of putting such orders on the billboard shall be considered the date of their delivery.

2. Procedure for putting out tax bill boards shall be established by the central organ of the state tax service of Ukraine.

3. Tax notices or tax orders that are put out in violation of the rules established by this part shall be considered as such that were not delivered (sent) to the taxpayer.

(8) If the amount of the tax debt specified in first tax order is paid by the taxpayer himself before the issuance of the second tax order, the second tax order shall not be sent.

(9) Tax notices are issued for each particular tax. A controlling organ is to maintain a registry of issued tax notices for every individual taxpayer.

(10) A tax order is to provide the total amount of the tax debt and the amount of the tax debt concerning each particular tax. Organs of the state tax service are to maintain the registries of issued tax orders by each individual taxpayer.

(11) If a taxpayer, to whom the first tax notice was sent, incurs a new tax debt, the second tax order is to specify the amount of the consolidated debt. There will not be a separate tax order issued for this new tax debt. Consolidated debt is the debt specified in the first tax order, increased by the amount of the new tax debt that was incurred before the issuance of the second tax order.

(12) A tax notice or tax orders are considered canceled if:

if a taxpayer pays himself the amount of a tax liability or debt, plus interest and penalty functions, if any.

a controlling organ cancels or modifies an earlier decision concerning assessment of the amount of the tax liability (interest and penalty sanctions) or tax debt as a result of an administrative appeal;

a decision of the controlling organ regarding assessment of the amount of a tax liability or collection of a tax debt is canceled or changed by a court (arbitration court);

a tax compromise had been reached before the tax debt was incurred;  
the tax debt was recognized as bad debt.

(13) In cases specified in item “a” of part (12) of this Article, a tax notice or tax order is considered canceled on the date during which the amount of the tax liability (interest and penalty sanctions) or the tax debt was paid.

(14) In cases specified in item “b” of part (12) of this Article, a tax notice is considered canceled on the date when the controlling organ made a decision to cancel or change the earlier assessed amount of the tax liability (interest and penalty sanctions) or a tax debt.

(15) In cases specified in item “c” of part (12) of this Article, a tax notice or tax orders are considered canceled on the date when the taxpayer received the relevant decision of the court (arbitration court).

(16) In cases specified in item “d” of part (12) of this Article, tax orders are considered canceled on the date when the state tax service organ passed a decision to defer payment of the tax debt, enter an installment or compromise arrangement.

(17) In cases specified in item “e” of part (12) of this Article, tax orders are considered canceled on the date when the state tax service organ passed a decision to recognize the tax debt as bad.

(18) If the assessed amount of the tax liability (interest and penalty sanctions) or the tax debt is decreased as a result of an administrative appeal, the earlier tax notices or tax orders are considered canceled from the date of the taxpayer’s receipt of the new tax notice or respective tax order, which specifies the new amount of the tax liability (tax debt). The reduced amount of the tax liability (tax debt) must be paid, or may be appealed, within the terms specified in this Code.

(19) If the assessed amount of the tax liability (interest and penalty sanctions) or a tax debt is increased as a result of an administrative appeal, the earlier tax notices or tax orders are not to be considered, and a separate tax notice shall be issued with regard to the amount of such increase. The additionally assessed amount of the tax liability and specified in such separate tax notice must be paid or may be appealed in accordance with the procedure specified in Article 16049 of this Code, within the terms established for payment or appealing of the new tax liability.

(20) A controlling organ that sent to the respective organ of the state tax service an application described in part (3) of this Article, is required to provide this organ of the state tax service with information regarding cancellation or change in the amount of the assessed tax liability on the basis of the decision of a court (arbitration court). The said information shall be provided in accordance with a procedure established by the Cabinet of Ministers of Ukraine.

#### **Article 16052. Sources of payment of a tax liability or tax debt**

(1) Sources from which taxpayers themselves pay their tax liabilities or tax debts include any own money, including those received from sale of goods (works, services), property and non-property assets, issuance of valuable papers, including corporate rights, as well as money received as loans (credits) and money from other sources in keeping with conditions specified in this Article

(2) If a taxpayer decides so, the payment of the amount of his tax liabilities or his tax debt may be carried out by way of offsetting the liabilities of the respective budget to such taxpayer that were not paid on time. Procedure for such offsetting is to be established by the Ministry of Finance of Ukraine.

(3) In the case of taxes that under the Code are imposed on objects of immovable property, the source of their payment by the taxpayer himself may be the assets of the owner of such objects of immovable property or any other person who is obligated to make such payment. If a person responsible for making this payment has not been located, the specified in this Code tax procedures are to be applied directly to the objects of such property.

(4) The sources of payment of the tax debt of the taxpayer on the basis of the decision of the collection organ are any assets of such taxpayer, with limitations specified in this Code and other legislative acts taken into account.

(5) The following assets may not be used as sources of payment of tax debts either by the taxpayer himself or under a decision of a collection organ:

(a) property of taxpayer that was given by the taxpayer as pledge to other persons, provided that such pledge was properly registered at government registries of pledges of movable or immovable property in accordance with law, before the right to a tax pledge arose;

(b) assets that belong to other persons on the basis of ownership rights and are temporary used or managed by the taxpayer, including (but not limited to):

property transferred to a taxpayer under a leasing (rent) agreement, for safekeeping or authorized maintenance, including property held in pawn shops, given under consignment (commission) agreements; give-and-take raw materials provided to an enterprise for processing, except for the part of such raw materials that is given to the taxpayer as compensation for such processing, as well as assets of other persons that have been taken by the taxpayer as security or collateral, or for purposes of authorized or other kinds of agent management;

c) property rights of other persons given to a taxpayer for use or management, as well as non-property rights of other persons, including intellectual property rights (rights to industrial designs) given to the taxpayer for purposes of use without alienation of such rights;

d) money of other persons given to the taxpayer as a deposit or for purposes of authorized management, as well as enterprise's own money that is used for purposes of payment of wage arrears for actual work hours to physical persons that have an employment relationship with such an enterprise, in the amounts and under procedures established by the Cabinet of Ministers of Ukraine;

e) money of loans or credits provided to the taxpayer by a credit – financial institution that are placed in the credit accounts opened in the interest of such taxpayer, as well as amounts of letters of credits issued in the name of the taxpayer, but not opened, before the time of such opening.

(f) assets of a state - owned enterprise which is not subject to privatization, that are included in the enterprise's whole business complex, including assets of kazenny enterprises. Procedure for including assets into the assets that are part of a whole business complex of a state-owned enterprise is to be established by the State Property Fund of Ukraine;

(g) Assets the free circulation of which is either limited or not allowed under legislation of Ukraine. If an entrepreneurial activity involving the sale of assets is subject to licensing under legislation of Ukraine, only licensed persons may purchase such assets.

(6) Officials, including government executive officers, who have made a decision to use the assets specified in part (5) of this Article as sources of payment of tax indebtedness or a debt of a taxpayer, shall be held responsible in accordance with legislation.

(7) If measures involving sale of taxpayer assets have not resulted in complete coverage of the amount of the tax debt, as an additional source of payment of such debt there may be used the

selling of those taxpayer assets that have been previously transferred by the taxpayer to other persons for temporary use or management in accordance with provisions of civil-legal agreements, including money which was deposited by the taxpayer. In such a case placing a lien on such assets (money) does not terminate such civil - legal agreements, and the buyer of such assets (money) acquires rights and obligations of such a taxpayer in accordance with such civil - legal agreement, including the right to receive an income under this agreement, which shall be used to reduce the amount of the tax debt of such taxpayer. If provisions of the said civil-legal agreement provide for the right of the creditor to terminate it or to increase the amount of income received on the basis of this agreement, or to make different decisions that result in a faster payment of the principal amount of the tax debt and / or income under this agreement, the collection organ is required to make a decision on such steps.

(8) A decision sell the assets in cases specified in part (7) of this Article may be made in the event of insufficiency of funds obtained through a sale of taxpayer assets as specified in parts (1) – (3) of this Article, or in the case it is impossible to sell them.

(9) There shall be not allowed any transfer of a tax liability or tax debt of a taxpayer to other persons, as well as a transfer by a controlling organ of the right to claim a tax debt to other persons. Provisions of this item shall not apply to situations where other persons act as guarantors of full and timely payment of the taxpayer's tax liabilities, provided that such a right is provided under this Law or other laws of Ukraine on taxation matters.

(10) In addition to parts (1) – (3) of this Article, a source of payment of a tax debt of a bank or non-bank financial institution, including insurance organizations, may be the money, regardless of its source and limitations specified in sub-Item "d" of part (5) of this Article, in the amount that does not exceed the amount of their own capital (without taking into account insurance and recognized as insurance obligatory reserves formed in accordance with law). Determination of the amount of the own capital shall be carried on in accordance with legislation of Ukraine.

(11) If a taxpayer has a tax debt to various budgets or government target funds, payment of such debt shall be carried out in the order it was incurred, and in the event of simultaneous tax debt - in equal proportions.

(12) If provisions of this Code dealing with tax debt contradict provisions of the law of Ukraine on bankruptcy, the provisions of the said law shall be of higher priority. The procedure for collecting tax debts of bankrupts shall be established by the government agency of Ukraine that deals with bankruptcy issues.

(13) Laws of Ukraine may provide for additional limitations regarding determination by the collection organ of the sources for payment of tax debts of taxpayers who are physical persons.

#### **Article 16053. Grounds for forcible collection of assets and definition of the budget fund.**

(1) Taxpayer's assets may be forcibly collected as a payment of his tax liabilities only on the basis of the order of the court (arbitration court). In other cases taxpayers themselves determine the order and the form in which they satisfy creditors' claims at the expense of assets that are free from pledge obligations regarding the debt, except in situations where such a taxpayer is pronounced bankrupt – in this case the order in which creditor's claims are to be satisfied is to be determined under bankruptcy laws.

(2) Collection of the tax debt on the basis of an executive notary writ is not allowed.

(3) In any case where a taxpayer is authorized by laws on tax matters to withhold taxes by which other persons are taxed, including taxes on incomes of physical persons, dividends,

repatriation, value added, excise tax, as well as other taxes that are withheld at the source of payment and at the expense of it, the amount of the said taxes is to be considered a budget fund that belongs to the state or a territorial community and is created on their behalf.

#### Article 16054. Meaning of tax pledge.

(1) To protect interests of budget consumers, assets of a taxpayer that has a tax debt, are considered a tax pledge.

(2) The right to a tax pledge arises on the basis of law and need not be documented.

#### Article 16055. The date the tax pledge arises.

(1) The tax pledge right arises in the case of:

a) failure to submit, or submit timely, a tax declaration (computation) - on the first working day following the last day of the period established by legislation for filing such tax declaration (computation);

b) failure to pay in terms specified in this Code the amount of a tax liability that was determined by the taxpayer himself in the tax declaration (computation), - on the date that comes next after the last day of the said period;

c) failure to pay in terms specified in this Code the amount of a tax liability that was determined by the controlling organ - on the date that comes next after the last day of the payment term specified in the tax notice.

(2) Taking into account provisions of this Article, the tax pledge right applies to any kinds of assets of the taxpayer, which were in the taxpayer's ownership (in his full business management) on the day this right arose, as well as to any other assets to which the taxpayer will acquire the ownership right in the future, until the moment of payment of his tax liabilities or tax debt.

(3) A taxpayer has the right to register free-of-charge a tax pledge with government registries of pledges of movable or immovable property.

#### Article 16056. Tax priority.

(1) The tax pledge right is of higher priority than:

a) any other pledge rights that arose after the time this right to the tax pledge did, whether or not such right of other pledges were registered with government registries of movable or immovable property;

b) any rights of other pledges that were not registered with government registries of movable or immovable property before the right to such tax pledge arose.

(2) If the right of tax pledge arises on the same date on which other pledge arose or was registered with respect to the taxpayer's property with government registries of movable or immovable property pledges, the tax pledge shall be of the higher priority.

(3) Before the registration of property with government registries of movable or immovable property pledges is introduced by law, the notary's certification of the pledge agreement shall be interpreted as such registration.

(4) A taxpayer whose assets are held as a tax pledge is required to notify in writing his next creditors of such pledge, as well as of the nature and size of liabilities secured by this pledge, and compensate for creditors' losses that may be incurred if the said notice is not provided.

#### Article 16057. Transactions with pledged assets.

(1) A taxpayer whose assets are held as a tax pledge, shall freely manage these assets, except for the following transactions which must be approved by a state tax service organ in written:

a) transactions involving sale or other alienation of movable or immovable property, property or non-property rights, except for property, property and non-property rights that are used in taxpayer's entrepreneurial activities (other kinds of activities that for purposes of taxation are considered entrepreneurial), specifically – finished products, goods and inventories, works and services for money at their regular prices;

b) transactions involving use of objects of immovable or movable property, property or non-property rights, as well as money for carrying on direct or portfolio investments, as well as valuable papers that verify a debt relationship;

c) transactions involving liquidation of immovable or movable property, except for cases where liquidation occurs as a result of Acts of God or under decisions of a government organ.

(2) A taxpayer whose assets are held as a tax pledge may carry on transactions with money without getting an approval of a state tax service organ, except for transactions specified in sub-item "b" of part (1) of this Article.

(3) Providing a property that is held as a tax pledge into a subsequent pledge, or using it to satisfy an existing or future claim of third persons is not allowed.

(4) In case the transactions specified in parts (1) – (3) are carried out without receiving the tax organ's approval first, an official of such a taxpayer or a physical person, who made this decision, shall be held responsible in accordance with legislation of Ukraine for a knowing tax evasion.

(5) To have transactions with taxpayer assets approved timely, head of a tax organ appoints one of this tax organ's employees as a tax manager.

1. To approve a particular civil - legal transaction, the taxpayer is to submit to a tax manager an application in which he is to explain the intended transaction and its financial and economic effects.

2. The tax manager may issue an order prohibiting such a transaction if in his opinion prices and forms of payments involved in this transaction may diminish the taxpayer's capacity to pay his tax debt in full and in time.

3. This order must be approved by head of the respective tax organ. If such an order is not issued within 10 days following the receipt of the said application, the transaction in question is considered approved.

(4) The decision of a state tax service may be appealed in accordance with the procedure established in this Code for appealing decisions of controlling organs.

(5) The central organ of the state tax service of Ukraine is to specify the rules for appointing, dismissing, as well as the scope of competence of a tax manager.

#### Article 16058. Termination of a tax pledge.

(1) Tax pledge on taxpayer's assets shall be discontinued from the date of:

a) receipt by a tax organ of a copy of a payment document verified by the servicing bank, which verifies the fact of transferring to the budget of the full amount of the tax liability;

b) recognizing the tax debt as a bad debt, including as a result of a liquidation of a taxpayer as a legal person, or cancellation of the physical person's registration as an entrepreneur, or due to the scarcity of the property of the person that was pronounced bankrupt;

c) receipt by a tax service organ of a document confirming death of the physical person, or recognizing this person legally dead or missing in accordance with legislation of Ukraine, except when assets of such physical person are transferred as inheritance into ownership of other persons;

d) expiration of a period of limitation applicable to the tax debt in question;

e) receipt by a state tax service organ a guarantee agreement in the full amount of the taxpayer debt or specifying other means of securing the debt in accordance with tax legislation;

f) the decision to arrest the taxpayer's assets, during the period of such arrest;

g) receipt by the taxpayer of the decision of the respective organ on revoking previous decisions concerning assessment of the amount of the tax liability or its part (interest and penalty sanctions) as a result of the procedure for administrative or judicial appeal;

h) receipt by the taxpayer of the decision of the respective organ on deferring, paying in installments, or reaching a tax compromise regarding the tax debt, provided that conditions of these deferral, installment or compromise arrangements provide for termination of the tax pledge right.

(2) A respective document that verifies the completion of any of the events specified in part (1) of this Article may serve as the ground for releasing enterprise assets from the tax pledge and for removing such tax pledge from the government registries of pledges of movable or immovable property.

#### Article 16059. Tax guarantee.

(1) A tax organ is required to abandon the right of a tax pledge to taxpayer's assets if a resident bank provides its guarantees.

(2) On the basis of a tax guarantee agreement, the guarantor bank assumes the responsibility for the taxpayer's properly fulfilling his obligations regarding payment of his tax debt or tax liability in the terms and under the procedure established in this Code.

(3) If the taxpayer fails to fulfill his obligations related to payment of the tax liability or tax debt, the guarantor bank is to assume the responsibility for such payment in the same amount as the taxpayer.

(4) The guarantor bank that has fulfilled the obligations related to the payment of the tax liability or tax debt of the taxpayer, has the right of claim to the taxpayer in the amount of the debt paid.

(5) The tax guarantee agreement becomes effective after it is registered with the organ of the state tax service in the location (place of tax registration) of the taxpayer, which is to be done on the basis of the submission to the state tax service organ of the tax guarantee agreement verified by a notary.

1. The tax organ must issue to a taxpayer within one work day following the day of receipt of the guarantee agreement, a notice of registration of such agreement, on the basis of which the assets of such taxpayer are considered released from the tax pledge.

2. A guarantee agreement may not be called off before the tax debt is paid in full.

3. A guarantor may not obligate a third person to fulfill the obligations under such an agreement may not be transferred to.

(6) A guarantor bank assumes all rights and obligations of the taxpayer regarding the terms of payment of the verified tax liability of such taxpayer or his tax debt, as well as regarding an appeal against a decision of a state tax service organ in accordance with the procedure specified in this Code.

#### Article 16060. Limitations concerning application of a tax pledge.

(1) On the basis of a request of a taxpayer who has a tax debt, a state tax service organ may issue a written notice of release from the tax pledge of some types of assets of such taxpayer, provided that such organ of the state tax service determines that the regular value of other assets, which remain in the tax pledge, is greater than the amount of the tax debt secured by such tax pledge, in two or more times, taking into account the amounts of any other valid claims against the assets of such taxpayer that are of higher priority than this tax pledge right.

(2) If a taxpayer has several kinds of tax debts, for purposes of part (1) of this Article the total amount of these debts is to be taken account.

#### Article 16061. Administrative arrest of assets.

(1) Administrative arrest of taxpayer's assets (hereinafter referred to as arrest of assets) is a special way of covering the taxpayer's tax debt.

(2) Arrest of assets is used if as a result of investigative activities one of the following circumstances is established:

- a) a taxpayer violated the rules for alienation of assets specified in Article 16057 of this Code;
- b) a physical person that has a tax debt is planning to leave, or is leaving the country;
- c) a taxpayer who received a tax notice or has the tax debt, is announced insolvent with regard to liabilities other tax ones;
- d) there were found or located the assets that were produced, kept, moved or sold in violation of the rules established by the customs or currency legislation of Ukraine or by the legislation on issues of taxation by excise tax, while persons who are the owners of such assets were not located.

(3) Arrest of taxpayer assets means that the taxpayer is not allowed to take actions concerning his assets which were arrested, except for safekeeping, preserving and maintaining the assets in proper functional and qualitative conditions.

(4) The arrest may be imposed on any assets of a legal person, and in case of a physical person - on any assets except for those that may not be arrested under the legislation of Ukraine.

Arrest of assets may be imposed only by decision of a court (arbitration court).

(5) Arrest of assets can be either full or conventional.

1. Full arrest of assets is understood as an exclusive prohibition to a taxpayer to manage, possess and use his assets, whether these assets are seized or not. If such assets are seized, the risks related to keeping such assets, or to losing their functional or consumer qualities, shall be placed on the organ which issued the decision to seize the assets.

2. Conventional arrest of assets is a limitation of the right of the taxpayer to manage, possess and use his assets, under which the taxpayer is required to obtain a permission of the tax organ to carry out any transaction involving such assets. This permission may be granted by the head of the state tax service organ if the tax manager determines that carrying on such transaction would not increase the taxpayer's tax debt or reduce the likelihood of the payment of the debt.



(6) Head of the tax organ may make a decision to arrest the assets of the taxpayer, which will be sent to:

a) the banks which service the taxpayer, with a requirement to temporarily suspend active transactions through the taxpayer's accounts, except for transactions involving:

a1. payment of tax liabilities or tax debts;

a2. payment of debts under executive documents or under claims satisfied in the course of pre-arbitration settlement, provided that such executive documents or claims became legally effective before the time the tax pledge right arose;

b) the taxpayer, to provide for temporary prohibition of alienation of his assets;

c) other persons who temporarily own, manage or use assets of the taxpayer in question, to provide for temporary prohibition of alienation of such assets.

(7) The arrest of assets may also be applied to the goods that are manufactured, transported or sold in violation of the rules established by customs legislation of Ukraine or by legislation on excise tax, or to other goods, including currency assets, that are sold in violation of the established by legislation procedure, without establishing their owner first.

1. In this case employees of organs of tax militia or other law enforcing organs may temporarily, within the limits of their competence, detain such assets and issue a protocol, which must contain information on the reasons of such detention and refer to specific legislative provisions that were violated, provide a description of assets, their characteristics and quantity, information on a person (persons) from which the assets were detained (if there are such persons), state rights and duties of such persons that arise in connection with such detention. The form of such protocol shall be established by the Cabinet of Ministers of Ukraine.

2. Head of the unit of the law enforcing organ to whom the officer who prepared a protocol on temporary detention of goods is subordinated, is required to notify immediately the head of the state tax service organ in the territory of which the detention of assets took place.

3. On the basis of information specified in the protocol, head of the state tax service organ may decide to arrest such assets or refuse to arrest them by way of not making such a decision.

4. A decision to arrest the assets must be made before 12 p.m. of the work day that follows the date the protocol on temporary detention of assets was prepared, but if under laws of Ukraine an organ of the state tax service ends its work earlier, then this period ends at the time of such end of work.

5. If during the said period a decision to arrest the assets was not made, the assets shall be deemed released from the regime of temporary detention, and officials or officers that obstruct such release shall be held responsible as provided by law.

(8) In the case of arresting assets as specified in part (7) of this Article, the decision of head of the state tax service organ must be immediately handed to the person (persons) specified in the protocol on temporary detention of assets, without the requirements to comply with provisions of part (6) of this Article.

(9) If persons specified in the protocol on temporary detention of assets can not be located, or if the assets were detained without contacting the persons to which these assets belong on the basis of the ownership or other right, the decision to arrest the assets must be put on the tax bill board. In this case the date of putting the decision on the bill board shall be considered the date of servicing this decision.

(10) The arrest may be imposed on assets for a period up to 120 hours following the hour of signing the respective decision by the head of the state tax service organ. This period may not be extended administratively, including under decisions of other government organs.

(11) A decision of the head of the state tax service organ to arrest assets may be appealed by the taxpayer either through an administrative or judicial procedure.

(12) The arrest may not be imposed on the correspondent bank account with regard to payments that are made at the expense of the money of its customers.

(13) This article does not regulate a procedure for detention or arrest of assets in cases provided for by the criminal – procedural legislation of Ukraine.

(14) The functions of the executor of the decision to arrest taxpayer's assets shall be given to the tax manager or other employee of the state tax service organ, appointed by its head. The executor of the decision to arrest the assets shall also:

a) send the decision to arrest the assets under part (6) of this Article;

b) organize inventorying of taxpayer assets;

c) organize collection of originals of financial – business and accounting documents, prepare their lists that must be signed by a state tax service organ officer and the taxpayer, with leaving the taxpayer with the copies of such documents. Confiscating originals of financial – business and accounting documents by the state tax service organs in other cases is not allowed, except for confiscation that is carried on under criminal – procedural legislation of Ukraine;

d) perform other measures provided for by a law on executive procedures.

(15) Taxpayer assets must be inventoried in the presence of his officials or their representatives, as well as witnesses.

1. In case of absence of officials of the taxpayer or their representatives, inventorying of the taxpayer's assets is conducted in presence of witnesses.

2. If necessary, an appraiser may be asked to participate in the inventorying of taxpayer assets.

3. Representatives of the taxpayer whose assets are subject to the administrative arrest, shall have their rights and duties explained in written.

4. Employees of organs of the state tax service or law-enforcement bodies, as well as other persons whose acting as witnesses is limited by a law on executive procedures, may not serve as witnesses.

(16) When inventorying taxpayer assets, persons who carry out such an inventorying are required to demonstrate to the employees (officials) of such a taxpayer, or their representatives, the court order and documents authorizing them to carry out such inventorying. Based on the results of the inventorying of the taxpayer's assets, there shall be drawn a protocol, in which there will be specified the assets that are being arrested, quantities, weight and individual characteristics of the assets, and in case of presence of the evaluator - regular prices of such assets. All the assets that are subject to inventorying shall be shown to officials of the taxpayer or their representatives and witnesses, and in case of the absence of the officials of their representatives - to the witnesses, for purposes of visual control.

(17) An official of the organ of the state tax service who executes a decision on the administrative arrest the taxpayer's assets shall himself determine the procedure for safe-keeping and protection of these assets.

(18) Arresting taxpayer assets during the period from 8 p.m. to 9 a.m. shall not be allowed, except for situation where such an arrest is urgent because of circumstances related to a criminal case.

(19) Arrest of taxpayer assets may be terminated in connection with:

- a) cancellation of the decision of head of the state tax service organ concerning the arrest;
- b) payment of the tax debt of the taxpayer;
- c) liquidation of the taxpayer, including liquidation through a bankruptcy procedure;
- d) the third person's having properly demonstrated that the arrested assets belong to such third person;
- e) expiration of the period of administrative arrest.

(20) In situations described in sub-item 'd' of part (19) of this Article, a decision to terminate the arrest of the assets owned by a third person must be made by the person executing the decision of the state tax service organ.

(21) Decision of head of the state tax service organ to impose an administrative arrest on taxpayer assets may be appealed in accordance with procedure specified in this Code for appealing or revising the amounts of tax liabilities or tax debts assessed by the organ of the state tax service.

(22) If taxpayer's assets are freed from the arrest due to expiration of the arrest period, a repeat imposition of the arrest shall not be allowed.

(23) Provisions of this Article shall not apply to arresting or confiscating goods or items under the Customs Code of Ukraine, that are not related to violations of tax laws.

#### Article 16062. Sale of assets held as tax pledge.

(1) If other measures specified in this Code and aimed at ensuring coverage of tax debts proved unproductive, a tax organ takes, for the taxpayer and in the interest of the state, measures concerning obtaining additional sources of payment of the agreed amount of the tax debt by way of collecting his money, and, if that is not enough – by way of sales of assets of such a taxpayer.

(2) Levying on the taxpayer's money is carried out no earlier than on the 30-th calendar day from the moment of sending to this taxpayer the first tax notice, and levying on other assets of the taxpayer – no earlier than on the 30-th calendar day from the moment of sending to this taxpayer the second tax notice.

(3) The decision to levy taxpayer's money held as a tax pledge is to be made by head of the respective state tax service organ at the place of registration of the taxpayer and together with payment orders shall be sent to the banks that provide services to the taxpayer, to withdraw money from the taxpayer's account and transfer it to respective budgets and (or) state target funds.

(4) The payment orders to transfer the tax debt to a respective budget and (or) state target funds, must be fulfilled unconditionally as first priority by the servicing banks within the limits of money available in the accounts .

(5) The payment orders of tax organs are to be executed by banks no later than one operating day after the receipt of such payment order provided there is money in the account of the taxpayer.

(6) Withdrawal of the tax debt may be executed from the accounts of the taxpayer or his debtors in national and (or) foreign currency, except for credit or budget, unless otherwise is provided by the legislation of Ukraine.

1. Writing off the tax debt from foreign currency accounts shall be executed in the amount, equivalent to the amount of the payment in national currency. The amount of the payment in foreign currency shall be determined on the basis of the established official currency exchange rate at the date of execution of the payment order.

2. If there is not enough foreign currency, the decision of the state tax service organ to collect the tax debt at the expense of the taxpayer's money shall be fulfilled in the amount of money available in the taxpayer's foreign currency account.

(7) A tax debt shall not be collected from the deposit account if the deposit agreement period has not expired yet. If there is a deposit agreement signed by the taxpayer and the credit organization (bank), the organ of the state tax service may give to this credit organization a payment order to transfer after the expiration of the deposit agreement period the money from the deposit account to the current account of the taxpayer.

(8) If there is no sufficient amount of money, or there is no money at all in the taxpayer's accounts in banks that service him, the organ of the state tax service may collect the tax debt at the expense of the cash kept directly in the taxpayer's cash safes, as well as cash entered into accounting (cash) documents of the taxpayer. Collection of the tax debt at the expense of cash is also used if other measures specified in this Code failed to ensure that the tax debt is paid in full, or if the collection would take too long (more than one month), or if the organ of the state tax service has grounds to initiate a tax law violation case.

(9) The tax debt may be collected only in the amount specified in a tax order.

(10) The collected under this Article cash is to be transferred to a bank on the date of collection for further transfer to a respective budget or government target fund. If it is impossible to transfer the said money on the same day, the money must be put in a bank on the next work day. The respective organ of the state tax service shall be responsible for safekeeping of the said money.

(11) In the case of collection of a tax debt by an organ of the state tax service, transactions through the taxpayer's and his debtors' accounts in banks that provide services to this taxpayer may be suspended in accordance with the procedure established by the Cabinet of Ministers of Ukraine and National Bank of Ukraine.

(12) Collection of a tax debt at the expense of the taxpayer's property is carried on if the taxpayer does not fulfill the tax order to pay the tax debt in established by this Code terms, and taking into account application (or in the case there are no reasons for their application) by the state tax service organ of other measures to pay tax liabilities, as provided by this Code, or if such execution will take a long time (more than one month), or in the case of the state tax service organ's having reasons to initiate a tax violation case.

(13) Collection of the taxpayer's tax debt at the expense of a certain property shall not be carried on if a person other than the taxpayer shall provide proof of this person's (and not the taxpayer's) being the owner of this property.

(14) Only the state tax service organs may file claims regarding tax debts, and including initiation of bankruptcy proceedings against a taxpayer, with arbitration courts. Other controlling organs may participate in the arbitration process.

(15) A taxpayer (in case of state - owned and communal enterprises - an organ authorized to manage its property) shall himself determine what assets and in what order shall be sold, based on the principles of maintaining a complete business complex, which is vital for enabling the taxpayer's primary business activity, and for full payment of the amount of the tax debt.

(16) Separation of the property intended for payment of the tax debt shall be carried on by a tax manager appointed by the head of the organ of the state tax service at the place of taxpayer's registration in the presence of officials of the taxpayer. If the taxpayer's property is owned by the state or a territorial community, the tax organ invites a representative of the respective state or local organ authorized to manage property of such taxpayer.

(17) If money raised through a sale of assets that are not part of the complete business complex of the taxpayer, is not sufficient, the taxpayer is required to make a decision to sell one's complete business complex or its part.

(18) Expenses related to organization and administration of public sales of taxpayer assets shall be covered by the money raised from the sale of the assets.

(19) If the amount raised by selling taxpayer assets is greater than the amount of taxpayer's tax debt, the excess shall be transferred to the accounts of the taxpayer or his legal successors and used as they choose.

(20) If the amount raised by selling taxpayer assets is less than the amount of taxpayer's tax debt, the difference shall be covered by way of organizing additional sale of taxpayer's assets.

(21) Selling of taxpayer's assets at public sales shall be carried out in the following order:

a) goods that can be grouped, categorized, standardized, are subject to sale only for money and through commodity exchanges established under Law of Ukraine "On commodity exchange", as well as through organizations authorized by the Cabinet of Ministers of Ukraine;

b) other goods, movable or immovable property items, as well as complete business complexes of enterprises, are subject to sales for money through special target auctions set up on the basis of the request made by a respective tax organ at the said commodity exchanges.

(22) Goods that are used in the sphere of non-business consumption for satisfying personal, family or household needs of end users, products with limited shelf life, as well as other goods that can not be sold at exchanges, auctions, through public sales, shall be sold through trading organizations determined by the tax organ on the competitive basis.

(23) If a whole business complex of an enterprise whose assets are held in the state or communal ownership is to be sold, or if under the law on privatization issues to alienate the enterprise's assets a preliminary approval of the privatization or other government organ is needed, the sale of the assets of such enterprise shall be organized on the basis of the request made by the respective tax organ to the regional privatization organ with provisions of the privatization law being complied with. In this case only privatization for money is allowed.

(24) The start-up price of the asset that is to be sold can be estimated by an expert if the taxpayer requires so. The said estimate is derived in accordance with the procedure established in the legislation on the issues of professional appraisal activities, and before this legislation takes effect – by organizations that have entered agreements with the State property fund of Ukraine on performing services involving expert evaluation of the property, the list of which is to be submitted to the organ of the state tax service.

(25) Evaluator is to be chosen by the organ of the state tax service that signs an agreement on evaluation of an asset.

(26) Shall not be subject to evaluation the assets that may be grouped or standardized or that have a current exchange value and / or held in the listings of commodity exchanges. Procedure for determination of the current exchange value or a listing of a commodity shall be established by an

exchange association that has the status of self-governing organization in accordance with legislation of Ukraine.

(27) In the case of a sale of assets at commodity exchanges, the organ of the state tax service is to sign an appropriate agreement with a broker (brokerage office), which undertakes actions related to the sale of such asset upon the authorization of the organ of the state tax service on condition of the best price bid.

(28) If assets are sold at the auction outside a commodity exchange – then the seller, and in the case the assets are sold through retail organizations – then the ‘commitent’, shall be the organ of the state tax service, in which case participation of any intermediaries or agents for purposes of organizing such sales shall not be allowed.

(29) Procedure for increasing or reducing the start-up price of taxpayer’s assets shall be established on the basis of the methodology established by the Cabinet of Ministers of Ukraine, except in situations specified in part (23) of this Article, which are regulated by provisions of legislation on privatization.

(30) Information on public auctions held for sale of taxpayer assets shall be published by the organ of the state tax service at the place of the taxpayer’s registration, or by the respective executive organ. Expenses related to such publications shall be covered by the money raised from the sale of the taxpayer’s assets in accordance with procedure that is to be established by the Cabinet of Ministers of Ukraine.

(31) Information on time and terms of public sales of taxpayer assets shall be published:

- a) if assets are sold in the commodity market – by the respective commodity exchange;
- b) if assets are sold by retail organizations and outside commodity exchanges – by the respective organ of the state tax service.

(32) Content of information specified in part (30) of this Article and procedure for publication of this information shall be established by the Cabinet of Ministers of Ukraine.

(33) A taxpayer is required to provide the committee with information on the assets held as tax pledge, as well as to provide, on the first demand of the committee, unlimited access to its representatives and participants of public auctions for purposes of review and evaluation of the assets offered for sale.

(34) Any other person who manages assets of the taxpayer and controls the use of these assets, is required to provide, on the first demand of the committee, unlimited access to its representatives and participants of public auctions for purposes of review and evaluation of the assets, and ensure acquisition of ownership rights to such assets by a person who bought the assets at the public auction. Such other person who manages or controls taxpayer assets shall be free from any responsibility or liabilities to such a taxpayer or third persons, which may arise as a result of the transfer of such assets to the buyer.

(35) Officials of the taxpayer, as well as officials of other persons that manage or control one’s assets and their use, if fail to provide information, or if provide incomplete or false information concerning assets held as tax pledge, or if do not provide unlimited access to such assets to representatives of the committee or public auctions, or if interfere with the buyer’s acquisition of ownership rights to the asset bought at the auction, shall be responsible as provided by legislation dealing with willful tax evasion.

(36) If a taxpayer fully pays his tax debt at any moment before the day of the auction, a tax organ makes a decision to release the taxpayer's assets from the tax pledge and cancels the decision to sell these assets.

(37) In the case of transactions involving selling the assets specified in this Article through the commodity exchange, the state duty and local taxes (fees) shall not apply.

(38) If the amount of the tax debt was not paid after the completion of the procedure of selling the taxpayer's assets, the organ of the state tax service may determine that a third person, who during the last year purchased the assets from the taxpayer at prices lower than regular, is responsible for the payment of the tax debt.

1. The amount of the said responsibility for payment of the tax debt of the taxpayer may not exceed the amount that equals the regular price of the assets purchased by such third person and reduced by the actual purchase price of such assets by such third person.

2. The decision of the tax organ to hold a third person responsible for payment of the taxpayer's tax debt may be appealed in accordance with procedure specified in this Code for appealing decisions of an organ of the state tax service with respect to assessment of the amount of a tax liability.

3. Procedure for implementation of this part shall be established by the Cabinet of Ministers of Ukraine.

#### **Article 16063. Payment of a tax debt of state-owned or communal enterprises.**

(1) If a taxpayer who is held either in the state or communal ownership, does not pay the amount of the tax debt within the terms specified in this Law, the tax organ shall take measures involving sales of the assets of such taxpayer that are not part of the complete business complex that enables primary activity of such a taxpayer.

(2) If the amount of money raised through the sale of taxpayer assets is not sufficient to cover the amount of tax debt and expenses related to organization of public auctions, the tax organ is required to address the organ of executive power which controls this taxpayer, with proposals concerning making a decision to sell a part of stock of the corporate enterprise for money or for obligation to pay its tax debt during the current budget year. Information of the said organ of control on approving or declining the proposed decision must be submitted to the tax organ within thirty calendar days following the day of submission of the proposal. Organization of such sale shall be carried on in accordance with the rules and terms established by legislation on privatization.

1. If the said organ does not make a decision to sell a part of the stock to pay the tax debt within the specified in this item terms, the tax organ is required, within one month following the day of receipt of the denial, to address the arbitration court with an application requesting to announce such taxpayer bankrupt.

(3) If a tax debtor is the taxpayer that may not be privatized, then a tax organ takes measures involving selling the taxpayer's assets that are not part of the taxpayer's complete business complex that enables taxpayer's primary activity.

(4) If the amount of money raised through the sale of taxpayer assets is not sufficient to cover the amount of tax debt and expenses related to organization of public auctions, the tax organ is required to address the organ of executive power which controls this taxpayer, with a proposal to make a decision concerning:

a) ensuring necessary compensation for the budget, to which the amount of the tax debt of such a taxpayer must be transferred at the expense of money set as funding for this organ of executive power, within the sphere of control of which the taxpayer is;

b) reorganizing such a taxpayer under rules established in this Code;

c) liquidation of the taxpayer and writing the tax debt off;

d) pronouncing such taxpayer bankrupt in accordance with procedure established by relevant legislation of Ukraine.

(5) Information on having made one of the above decisions must be sent to a tax organ within thirty calendar days following the day of receipt of the proposal.

1. If the tax organ does not receive the said information within the specified in this item period or has received insufficient information, the tax organ is required to address the arbitration court with an application requesting announcing such a taxpayer bankrupt.

(6) Announcing a state-owned or communal enterprise a tax debtor entails cancellation of the contract (employment agreement) with director of the enterprise. A decision to cancel a contract (employment agreement) with director of the state - owned or communal enterprise may be postponed for a period of consideration of an appeal.

(7) Employment agreements (contracts) entered with director of a state-owned or communal enterprise are required to specify the said responsibility, which is their essential condition.

(8) Provisions of this Item do not apply to the situations where the tax debt arises as a result of Acts of God or due to a failure of government organs to meet, or to meet properly the obligations regarding payments for goods (works, services), purchased from such taxpayer at the expense of budget money, regarding provision to the taxpayer of subsidies, provided by law, or regarding returning to the taxpayer the overpaid taxes, fees (obligatory payments) or their refunding from the budget in accordance with provisions of this Code and other legislation of Ukraine.

(9) Any agreements on transfer of stock (other corporate rights) that are owned by the state or held in communal ownership, to the third persons for management purposes, must contain statements of obligations of such third persons not to incur a tax debt after such a transfer, as well as of the right of the state of a territorial community to unilaterally cancel such agreements in case such a tax debt arises.

1. A similar rule shall apply to any agreements on privatization of the state or communal property, signed on condition of investment obligations.

#### **Article 16064. Payment of tax liabilities or tax debts in case of liquidation of the taxpayer.**

(1) If an owner or authorized by such owner organ make a decision to completely liquidate the taxpayer, which is not related to the taxpayer's bankruptcy, assets of such a taxpayer shall be used as follows:

a) for purposes of paying the liabilities, which are secured by a property pledge, which arose earlier than the tax pledge and was registered with the government registries of movable or immovable property;

b) for complete payment of tax liabilities or tax debt, including the unpaid part of the tax debt deferred under Article 16067 of this Code;

c) for payment of other kinds of liabilities in accordance with procedure established under legislation of Ukraine.



(2) The rules of part (1) of this Article shall also apply to liquidation of subsidiaries, branches or other separate divisions of the taxpayer.

(3) Complete liquidation of a taxpayer or his subsidiary, branch or other separate division, is understood as liquidation of the taxpayer as legal person or termination of registration of the physical person as entrepreneur, as well as liquidation of taxpayer's subsidiary, branch or other separate division, which results in closing of their accounts and /or loss of their status of individual payers of taxes in accordance with legislation of Ukraine.

(4) If after the liquidation of a taxpayer part of his tax liabilities remain unpaid due to insufficiency of the taxpayer's assets, this part shall be covered at the expense of assets of founders or participants of such an enterprise, provided that they bear full or additional responsibility under the liabilities of the taxpayer in accordance with legislation of Ukraine, within the limits of such full or additional responsibility.

1. In other cases tax liabilities or tax debt that remain unpaid after the liquidation of an enterprise, shall be recognized as bad debt and written off in accordance with procedure established by the Finance Ministry of Ukraine.

2. The same rule regarding the writing off of a bad debt shall apply to tax debts or liabilities of a physical person who has died or is recognized by a court as dead or legally incapable, except for situations where there are heirs, regardless of the time inheritance rights were obtained.

(5) Persons responsible for payment of tax liabilities or tax debt of the taxpayer are:

in case of a liquidated taxpayer - liquidation committee or other organ that carries out the liquidation in accordance with legislation;

a) in the case of the taxpayer who is being liquidated – a liquidation committee or other organ that carries on liquidation in accordance with legislation of Ukraine;

b) in the case of branches, subsidiaries, separate divisions of the taxpayer that are being liquidated - the taxpayer himself;

c) in the case of an entrepreneur - the physical person - entrepreneur himself;

d) in the case of cooperatives, credit unions, condominiums or other collective businesses, - members (shareholders) collectively;

e) in the case of investment funds, - an investment company that controls such an investment fund.

(6) If collective agricultural enterprises that were created before the enactment of this Code are liquidated, the unpaid part of the tax debt shall be written off in accordance with procedure established by legislation of Ukraine.

(7) Payment of tax liabilities or tax debt of the taxpayer that is being liquidated shall be made within the periods established for writing off a bad debt.

(8) If a taxpayer that is being liquidated has paid excessive amounts of taxes or has some taxes, fees (obligatory payments) unrefunded from a relevant budget, such amounts shall be recognized as payments of his tax liabilities or tax debt to such a budget.

1. Procedure for carrying on offsetting specified in this part shall be established by the Ministry of Finance of Ukraine

Article 16065. Procedure for payment of tax liabilities or tax debts in the event of

## reorganization of the taxpayer.

(1) Reorganization of a taxpayer is the change of his legal status which involves any of the following actions or combinations thereof:

a) change of name of the taxpayer, and in case of stock companies - change of the organizational - legal status of the enterprise, which entails change of their identification and / or tax number;

b) merger of an enterprise, which is a transfer of its assets to authorized capitals of other enterprises, which results in liquidation of legal status of the enterprise that is being merged;

c) dividing an enterprise into several enterprises, specifically - distributing its assets among authorized capitals of newly created enterprises, which results in liquidation of legal status of the enterprise that is being divided;

d) separating from an enterprise several other enterprises, specifically - transfer of a part of assets of the enterprise which is being reorganized to authorized capitals of other enterprises in exchange for its corporate rights, which results in liquidation of the enterprise which is being reorganized;

e) registration of a physical person as an entrepreneur without cancellation of this person's previous registration as another entrepreneur, or with such cancellation.

(2) If an owner of the taxpayer or an authorized by him organ makes a decision on the reorganization of such a taxpayer, his tax indebtedness or tax debt shall be regulated as follows:

a) if reorganization is carried out by way of changing the name, organizational-legal status or place of registration of the enterprise, such an enterprise after the reorganization acquires all rights and obligations relating to payment of tax liabilities or tax debt that arose before its reorganization;

b) if reorganization is carried out by way of merging two or more enterprises into one, with original enterprises being liquidated, such a new enterprise after the reorganization acquires all rights and obligations relating to payment of tax liabilities or tax debt of all the enterprises that merged into this one;

c) if reorganization is carried out by way of branching an enterprise into two or more enterprises, with the original enterprise being liquidated, such new enterprises after the reorganization acquire all rights and obligations concerning payment of tax liabilities or tax debt that arose before the reorganization.

c1. The said liabilities or debt shall be divided among newly created enterprises proportionately to their shares of balance sheet value of their assets received in the process of reorganization in accordance with the distribution balance sheet.

c2. If one or more of the newly created enterprises are not payers of taxes with respect to which tax liabilities and tax debts of the reorganized enterprises were incurred, the said tax liabilities or debts shall be distributed among the enterprises that are payers of such taxes proportionately to their shares of received assets, excluding assets given to the persons who are not payers of such taxes.

(3) Reorganization of a taxpayer by way of branching out from this taxpayer another taxpayer, or moving part of the assets of one taxpayer to the authorized capital of another taxpayer without liquidation of the taxpayer which is being reorganized, does not entail redistribution of tax liabilities or tax debt between such a taxpayer and newly created taxpayers and does not entail joint tax liability, except in cases where an organ of the state tax service establishes that such reorganization may lead to improper payment of tax liabilities by the taxpayer who is being reorganized. A decision

on joint or collective tax liability may be made by an organ of the state tax service in the case the assets of the taxpayer who is being reorganized were held as a tax pledge at the time the decision on such reorganization was made.

(4) A taxpayer whose assets are held as a tax pledge, or taxpayer who has used his right to restructure his tax debt, is required to notify a tax organ of a decision to carry out reorganization and must submit a reorganization plan. If a tax organ finds that implementation of the submitted reorganization plan may result in improper payment of tax liabilities or tax debts, the tax organ may order to:

a) divide amounts of tax liabilities or tax debts among enterprises that emerges as a result of reorganization, based on the expected profitability (liquidity) of each such enterprise, without applying the principle of proportionate distribution established in parts (2)-(3) of this Article;

b) pay tax liabilities or tax debts, covered by a tax pledge, prior to the reorganization;

c) establish joint liability concerning payment of tax liabilities or tax debts, covered by a tax pledge, of all enterprises created in the process of reorganization;

d) extend the tax pledge to all assets of the enterprise which is created by way of merging other enterprises, if one or more of such enterprises had tax liabilities or tax debts covered by the tax pledge.

(5) Decisions of the state tax service organ made under part (4) of this Article may be appealed in accordance with procedures and terms specified in this Code for appealing tax liabilities or tax debts assessed by a controlling organ.

(6) Carrying the reorganization in violation of rules established in part (4) of this Article shall entail responsibility established by legislation of Ukraine.

(7) Reorganization of an enterprise does not change the terms of payment of tax liabilities or tax debts by enterprises created as a result of such reorganization.

(8) If a taxpayer that is being reorganized has the amounts of overpaid or un-refunded taxes (fees, non-tax payments), such amounts shall be recognized as payments for his unpaid tax liabilities or tax debts with regard to other taxes (fees, non-tax payments). The said amount shall be divided among budgets and government target funds proportionately to total amounts of tax liabilities or tax debts of such taxpayer.

(9) If the amount of overpaid or unrefunded taxes (fees, non-tax payments) of the taxpayer exceeds the amount of tax liabilities or tax debt with regard to other taxes (fees, non-tax payments), the excess amount shall be transferred to legal successors of such taxpayer proportionately to their shares of assets that are distributed in accordance with a distribution balance sheet or a transfer act.

**Article 16066. Procedure for payment of tax liabilities of physical persons who are deceased, missing or legally incapacitated, or of persons under legal age.**

(1) The tax liabilities of a physical person in the event of one's death of pronouncement by a court as dead, are to be paid by the heirs who received the inheritance (except for the state), within the value of the property that is being inherited, and proportionately to the shares of inheritance on the date this inheritance was received.

1. The state tax service organs shall advance claims to the heirs in accordance with the civil law of Ukraine regulating the advancement of claims by the creditors of the decedent.

2. Upon termination of the period prescribed for the legalization of the inheritance, the decedent's tax liabilities (decedent's tax debt) shall become the tax liabilities (the tax debt) of his heirs.

3. No interest shall be accrued on the heirs' tax liabilities (the tax debt) during the period prescribed for the legalization of the inheritance.

4. If the inheritance should pass to the state, the tax liabilities of the deceased individual shall terminate.

(2) Tax liabilities of minors shall be discharged by their parents (foster parents), guardians (custodians) before such minors grow to be fully capable.

(3) Tax liabilities of an individual who was recognized by court as legally incapable shall be discharged by his guardian.

(4) Tax liabilities of an individual who was recognized by court as missing shall

be discharged by the person who was appointed, in accordance with the established procedure, to administer the estate of the missing person.

(5) Tax liabilities in the cases specified by paragraphs (2) to (4) of this Article shall be discharged at the expense of the estate (income) of minors, legally incapable and missing persons respectively, except for the case provided by paragraph (6) of this Article.

(6) Parents (foster parents) of minors, as well as minors themselves, in case tax liabilities of the minors are not satisfied, shall bear joint responsibility for paying the outstanding tax liability.

(7) Parents (foster parents) and guardians (caretakers) of minors, caretakers of disabled persons, disabled persons, persons responsible for supervising property of missing persons (legal representatives of taxpayers – physical persons) are required, on behalf of respective physical persons:

a) to file, provided there are grounds to, with an organ of the state tax service an application for registration of those physical persons in the State registry of physical persons – taxpayers, and provide in cases specified in this Code other information required to maintain the said registry;

b) to submit timely properly prepared declarations on incomes and property;

c) to keep records of incomes and expenses in cases provided for in this Code;

d) to perform other duties expressly imposed on them by this Code.

(8) Legal representatives of taxpayers – physical persons shall bear responsibility, provided for by this Code and other laws for taxpayers, for failure to meet requirements specified in section (7) of this article.

(9) If the property of a minor (except for the case stipulated in paragraph (6) of this Article), a legally incapable or missing person should be insufficient to discharge such individual's tax liabilities as well as to pay penalties accrued, the tax debt amounts shall be written off in accordance with the procedure to be specified by the Central Authority of the State Revenue Service of Ukraine.

(10) If a court should reverse the decision recognizing an individual as missing or if it should decide to restore the legal capacity of a person who had been recognized as legally incapable, the portion of such individual's tax liabilities written-off in accordance with paragraph (9) of this Article shall be reinstated. In such case, penalties shall not be paid for the period from the day when the court ruling to recognize an individual as missing or legally incapable came into effect up to the day when the decision to quash the ruling recognizing the individual as missing or the decision to restore such individual's legal capacity became effective.

**Article 16067. Installments and deferrals of tax liabilities of a taxpayer, tax compromises.**

(1) Installment of tax liabilities is a provision to a taxpayer of a budget credit in the form of spreading the amounts of his tax liabilities or a tax debt over several periods.

(2) Deferral of tax liabilities is a provision to a taxpayer of a budget credit in the form of the right to defer the payment of his tax liabilities or a tax until a later period.

(3) Tax compromise is an agreement between the taxpayer and tax organ on the amounts and terms of payment of his tax debt or its part, either with an interest or without such.

(4) A taxpayer who addresses an organ of the state tax service with a request for installment, deferral of tax liabilities or reaching a tax compromise, shall be considered such that has verified the amount of such tax liability.

(5) Grounds for installment of tax liabilities of a taxpayer is the taxpayer's providing sufficient evidence of existing threat of a tax debt, as well as possibility of payment of tax liabilities and / or increasing tax revenues to a respective budget due to the change in production or marketing policy of such a taxpayer.

(6) Grounds for deferral of tax liabilities of a taxpayer is the taxpayer's providing sufficient evidence concerning Acts of God that resulted in a threat of a tax debt and/or bankruptcy of such a taxpayer as a result of such circumstances, as well as economic analysis that demonstrates the possibility of payment of tax liabilities and / or increase in tax revenues to the respective budget as a result of the application of the regime of deferral, during which changes in taxpayer's manufacturing or marketing policies will occur.

(7) Grounds for approving terms of a tax compromise is the taxpayer's providing sufficient evidence demonstrating that using regimes of installment or deferral of tax liabilities will not be sufficient to ensure payment of these liabilities in full and / or will result in either tax debt or bankruptcy of such a taxpayer.

(8) Organs that make decisions on granting a tax compromise, must take into consideration issues that concern the degree of social protection of persons that have employment relationships with such taxpayers.

(9) Installment of payment of tax liabilities shall be granted on terms of a tax credit under which the principal amount of the credit and accrued interest shall be paid in parts, beginning in the tax period, specified in the decision, and in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

(10) Deferral of payment of tax liabilities shall be granted on terms of a tax credit under which the principal amount of tax liabilities and accrued on it interest shall be paid on the date specified in the decision of the tax organ, but not later than after 12 calendar months from the date this tax liability arose, and in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

(11) Decision on installment of payment of tax liabilities within one budget year shall be made in the following order:

a) in the case of national taxes and fees (obligatory payments), the decision shall be made by head of a relevant organ of the state tax service and must be approved by head of the tax organ of higher level;

b) in the case of local taxes and fees the decision shall be made by an head of the organ of the state tax service and must be approved by the financial organ of local self-government, to the budget of which such taxes or fees are paid.

(12) The central organ of the state tax service of Ukraine may establish a different procedure for approval of decisions concerning tax deferrals or installments with respect to national taxes within one budget year, depending on their amounts or kinds of taxes.

(13) Decision on installment of payment of tax liabilities during a period which is longer than one budget year, in case of national taxes and fees (obligatory payments), shall be made by head of the central organ of the state tax service, and in case of local taxes and fees - by a relevant organ of local self-government, to the budget of which such taxes and fees are paid.

(14) A report on execution of respective budget must also contain a computation of its revenue losses due to installments of payments of tax liabilities of taxpayers.

(15) If a deferral of payment of tax liabilities is carried out during a period that is longer than one budget year, a law on the State budget of Ukraine, or a local budget for the next budget year must reflect revenues related to the payment of deferred tax liabilities.

(16) Decisions on deferrals, installments or tax compromises are to be made on the basis of the total amount of indebtedness with specific amounts established for every particular tax, fee (obligatory payment).

(17) In exceptional cases where a taxpayer demonstrates to the local tax organ at the place of his location (residence) the fact of existing threat of emergence of a tax debt and /or, if such a debt already exists - the threat of bankruptcy of such a taxpayer, head of the central organ of the state tax service, on the basis of the proposal of head of the local tax organ, may make a decision on reaching a tax compromise, under which the taxpayer will have to pay a lower amount of the tax liability or tax debt, whether using regimes of installment or deferral of the rest of payments, or not applying such regimes.

(18) Decisions on tax compromises are to be approved in accordance with the procedure established in this Article for approving the decisions concerning deferrals or installments of tax liabilities.

(19) Any decisions concerning installments or deferrals of tax debts of particular taxpayers, or conditions or results of tax compromises reached with such taxpayers, must be published in mass circulation publications at the expense of the organs that have passed such decisions.

(20) Copies of decisions concerning deferrals, installments or tax compromises must be sent by the respective tax organ to the Ministry of Finance of Ukraine during 15 days following the date the decisions were made.

The Cabinet of Ministers of Ukraine shall submit a report on application of tax deferrals, installments for a period that is longer than one budget year, or tax compromises with the amounts carried forward to the next year and amounts of budget losses, tax exemptions recipients and grounds for making positive decisions on each of them, as an annex to the report on the execution of the consolidated budget of Ukraine.

(21) Deferral, installment and compromise arrangements may not be applied to liabilities that relate to import duties, excise tax, VAT on imports, Pension fund fee or other fees under government or obligatory social insurance, provided that otherwise wasn't established by this Code or other laws.

(22) Agreements on deferrals, installments or tax compromises may be terminated:

a) by the initiative of the taxpayer – in the event of an early payment of the amount of the tax debt regarding which an agreement on deferral, installment or compromise was reached,

b) by the initiative of an organ of the state tax service, if:

b1. It was discovered that the said agreements were reached on the basis of the incomplete, inaccurate or distorted information provided by the taxpayer;

b2. the taxpayer is running tax debts on liabilities that arose after the said agreements were reached;

b3. the taxpayer violates terms of payment of the deferred or installed tax debt.

(23) A decision to terminate the said agreements by initiative of the state tax service organ may be appealed in accordance with the procedure established by this Code for appealing decisions of the state tax service organ regarding determination of amounts of tax liabilities.

#### **Article 16068. Periods of limitations and their application.**

(1) Except for cases specified in part (2) of this Article, a tax organ may itself determine the amount of tax liabilities of the taxpayer in situations specified in this Code no later than on the end of the 1,095-th day following the last day of the period established for filing a tax declaration (computation), and in the event such a tax declaration (computation) was filed later - on the day of its actual filing. If during the specified period the tax organ did not determine the amount of tax liabilities, a dispute over such a declaration may not be considered under administrative or judicial procedures.

(2) A tax liability may be assessed, and proceedings dealing with collection of such a tax may be initiated regardless of the period of limitation established in part (1) of this Article if:

a) a tax declaration for the period during which a tax liability arose, was not filed;

b) a court proved that the taxpayer's officials (or a taxpayer – physical person) committed a crime involving knowing evasion of payment of the said tax liability.

(3) Period of limitation shall be suspended for the period during which a taxpayer was not present in Ukraine, provided that such a period was a continuous one and was equal or longer than 180 days.

(4) If a tax liability was assessed by a tax organ before the end of the period of limitation specified in part (1) of this Article, the tax debt that arose due to the refusal to pay such a tax liability, may be collected during the next 365 calendar days following the approval of this tax liability. If a payment is collected under a court (arbitration court) order, the period of collection shall be extended until the debt is paid in full or recognized as bad.

(5) Claims for recovering overpaid or unrefunded taxes, fees (obligatory payments), or for their refunding in cases specified in tax laws, may be filed no later than on the 1,095-th day following the day such an excessive payment occurred or the right to a refund arose.

(6) The final terms for submission of a tax declaration, complaints about decisions of controlling organs, claims to overpaid taxes, which are specified in this Code, may be extended by the head of tax organ upon the written request of a taxpayer, provided that the taxpayer during the said periods:

a) was outside Ukraine;

b) was seafaring outside Ukraine as a vessel crew member;

- c) was imprisoned by a court decision;
- d) was imprisoned in the territory of other countries or his freedom of travel was restricted due to Acts of God that can be supported by documents;
- e) was pronounced by court as missing or was sought by police in cases specified in the legislation of Ukraine.

(7) provisions of part (b) of this Article shall apply to:

- a) physical persons who are taxpayers;
- b) officials of a legal person, in the case where during the said final terms such legal person did not have other officials authorized by legislation of Ukraine to assess, collect and pay over to the budget taxes, fees (obligatory payments), as well as maintain tax reporting and accounting.

(8) Procedure for application of the provisions of parts (6) – (7) of this Article shall be established by the central organ of the state tax service of Ukraine.

#### Article 16069. Writing off bad tax debt.

(1) Subject to writing off shall be a bad tax debt including interest assessed on such tax debt and penalty sanctions.

(2) The term “bad” is understood as:

- a) a tax debt of a taxpayer who is recognized as bankrupt under an established procedure, whose assets were insufficient to satisfy claims filed against him;
- b) a tax debt of a physical person who:
  - b1. is recognized by a court as missing or deceased, if there is not enough property which may be levied in accordance with legislation;
  - b2. is a decedent , if there is not enough property which may be levied in accordance with legislation;
  - b3. has been wanted by law-enforcement bodies for more than 720 days;
- c) a tax debt of legal or physical persons with respect to which the period of limitations established in this Code has expired;
- d) a tax debt of legal or physical persons that occurred due to Acts of God.

(3) If a physical person recognized by a court as missing or deceased, appears, or if a physical person who has been wanted by law-enforcement bodies for more than 720 days, is located, the written-off indebtedness of such persons must be restored and collected under generally applicable rules, without periods of limitations established in this Code being complied with.

(4) Organs of collection shall call off payment documents that provide for collection of interest, penalty sanctions and bad tax debt that were written off under this Code.

(5) Organs of the state tax service shall carry on quarterly writing-off of bad tax debts. Procedure for such writing-off shall be established by the central organ of the state tax service of Ukraine and must be agreed with the Finance Ministry of Ukraine.

#### Article 16070. Interest for failure to pay a tax liability.

(1) After the end of the established period for payment of the approved tax liability expires, the unpaid amount is to be collected together with the interest accrued on this amount.



(2) Accruing of an interest begins:

a) in the case where a taxpayer himself assesses the amounts of taxes, fees (obligatory payments) - on the first work day that follows the last day of the final period established for payment of such tax liability by this Code ;

b) in the case where the amount of the tax liability is assessed by controlling organs - on the first work day after the last day of the final term for payment of such tax liability specified in the tax notice in accordance with provisions of this Code.

(3) If a taxpayer himself finds the fact of understatement of the tax liability and pays the deficiency before the audit carried out by a controlling organ, the interest shall not apply.

1. This rule shall not apply if

a) a taxpayer didn't not file a tax declaration for a period during which this understatement occurred;

b) a court established the fact of tax evasion regarding the said tax liability committed by the taxpayer's officials or by a taxpayer who is physical person.

(4) If head of the organ of the state tax service decides to extend the period for consideration of a complaint of the taxpayer beyond the terms specified in part (2) of Article 16049 of this Code, the interest shall not be accrued during such additional period, regardless of the results of such an administrative appeal.

(5) Assessment of the interest ends on the date when a taxpayer's bank accepts a payment order to pay the tax debt, and in the case of cash payment of this debt – on the date when the cash entered a cash register.

1. In the case of partial payment of the tax debt, the assessment of the interest on the paid part of the debt shall be terminated.

(6) In the case the tax debt is paid by way of collection of money or alienation of other assets of the debtor in accordance with procedure provided in this Code, the assessment of the interest shall be terminated on the day of such collection or alienation of the assets of the debtor regardless of the time of payment for the value of such assets by the buyer.

(7) In the case of partial payment of the tax debt the amount of such part shall be determined with taking into account the amount of the interest assessed on such part. Payment documents that don't meet this requirement shall not be accepted for execution.

(8) The interest assessed on the amounts of deficiencies for late payments to the budgets (including those discovered during tax inspections) regarding each tax shall be determined in the amount established by Article 17029 of this Code, depending on the amount of the deficiency for every day of the delayed payment.

(9) The amount of the assessed interest for any kinds of payments shall be limited by the maximum amount and may not exceed the assessed amount of the respective payment.

(10) For a delayed transfer of taxes, fees (obligatory payments) to the budgets or government target funds because of a bank which carries out such a transfer, the bank shall pay the interest for every day of delay, including the day of payment, in the amounts established for respective taxes, fees (obligatory payments), and shall bear other responsibility for delayed payment of taxes, fees (obligatory payments) as established by legislation. In such cases the payer of taxes, fees (obligatory payments) shall be freed from responsibility for delayed or incomplete transfers of such payments to the budgets and government target funds, including accrued interest or penalties.

(11) The day of submission to banking agencies of a payment order regarding any kind of tax payment shall be the day of registration of such an order with such agencies.

(12) If shortage of money in a correspondent bank account resulted from the National Bank of Ukraine's regulating economic parameters, the resultant failure to pay a tax shall not be considered a violation of requirements regarding payment of taxes.

1. If in the future the bank or his successors restore their solvency, the period for payment of taxes shall be counted from the day of such recovery of solvency.

(13) When collecting money and assets of taxpayers who are clients of banks, insurance organizations or members of other non-bank financial agencies, established under law, organs of the state tax service or state executors may not levy on the remaining money in the correspondent accounts in banks, as well as on insurance or other similar bank reserves, reserves of insurance organizations or non-bank financial organizations, established in accordance with legislation of Ukraine.

**Article 16071. Procedure for payment of the interest assessed for failure to pay a tax liability.**

(1) The amounts of interest assessed by an organ of the state tax service are to be paid by taxpayers themselves.

(2) The amounts of the interest not paid by the taxpayer by 1 July of the reporting year and 1 January of the year that follows the reporting one, shall be subject to collection procedures established in this Code.

(3) The amounts of the interest assessed on the amounts of deficiencies shall be paid over to the budgets to which under the legislation of Ukraine respective taxes are to be paid.

Articles 16072 – 16085 are reserved.

## **Chapter 107. Tax control.**

### **Article 16086. General Provisions**

(1) Tax control is a unified system of taxpayers' registration, as well as of control over correctness of assessment, completeness and timeliness of payment of taxes, assessed financial sanctions.

(2) Tax control is performed by organs of the state tax service and other state executive power bodies within the scope of authority of these bodies and their officials, in accordance with provisions of this Code and other laws.

(3) Control over correctness of assessment, completeness and timeliness of tax payment for export-import and transit operations is carried out by customs bodies in compliance with the Customs Code of Ukraine.

### **Article 16087. Methods of Conducting Tax Control**

Tax control is conducted by the state tax service bodies by way of registering taxpayers in compliance with Chapter 79 of this Code, carrying out data examinations of tax declarations (computations), audit of accounting and reporting records, interviewing taxpayers and other persons, inspection of premises used for business activities, and premises used for obtaining income or for maintaining other objects of taxation, as well as in other forms stipulated by this Code and other laws.

## Article 16088. Procedure for conducting tax audits

(1) Tax audits can be conducted by state tax service bodies in the form of on-site tax audits or off-site tax audits.

(2) During tax audits state tax service bodies must find out all the necessary for making the right decision circumstances including circumstances favorable to taxpayer.

(3) Off-site tax audit is conducted by state tax service bodies at the place of their location on the basis of available accounting statements, balance sheets, tax declarations (computations) submitted by taxpayers (other persons), as well as other documents and records available for state tax service bodies.

1. Presence of a taxpayer during an off-site tax audit is not required.

2. Item 1 of this part does not deprive state tax service bodies of their right in case of off-site audits to invite individuals including entrepreneurs and authorized representatives of legal entities for examination of correctness of tax assessment, completeness and timeliness of tax payments. Such invitation can be sent by a regular letter or delivered personally to the taxpayer.

3. Off-site tax audit must be documented in the form of an act signed by the official who conducted the audit and the state tax service office head or his deputy.

4. In case of finding during off-site audits some violations of tax legislation of Ukraine or arithmetic errors, one copy of the act must be given to the taxpayer.

(4) On-site tax audits of financial and economic activities can be planned (documentary and operative) or ad hoc (documentary, repeat documentary, operative and reciprocate).

1. On-site tax audits are conducted at the taxpayer's location (place of management), place of conducting an entrepreneurial activity or place of location of property that is under audit.

2. On-site tax audits are conducted during a work week and work hours of a taxpayer, except for cases specified in part (9) of this Article.

(5) A planned field tax audit shall be understood as the audit of financial and business activities of a subject of entrepreneurial activity which is specified in the state tax service organ's audit plan prepared in accordance with regulations set by the Cabinet of Ministers of Ukraine.

1. A planned on-site audit is conducted by all controlling organs simultaneously on the day specified by an organ of the state tax service. Procedure for coordination of such audits shall be established by the Cabinet of Ministers of Ukraine.

2. The right to conduct a planned on-site audit is granted only if the entrepreneurial entity was notified of the plans to conduct the audit no later than 10 calendar days prior to the audit. Such written notification of an audit must state reasons for conducting the audit, date of beginning and planned period of the audit, as well as rights and obligations of a taxpayer.

3. The right of officials of the organs of the state tax organs to carry out a planned documentary on-site tax audit must be supported by an appropriate certificate signed by head of an organ of the state tax service or by one's deputy.

4. Planned documentary on-site tax audits shall not be conducted for separate types of liabilities to the budgets, except for liabilities for budget loans (credits) and credits guaranteed by budget funds.

(7) Operating audits shall be understood as audits of entrepreneurial entities that engage in retail, public catering and services, regarding compliance with rules for making computations, accounting of goods and money, as well as procedures for selling or buying foreign currency

1. Operating audits of taxpayers who are entrepreneurial entities shall be carried out in accordance with plans signed by head of a respective organ of the state tax service or by deputy head of this organ, without prior notification of the taxpayer.

2. The right of officials of the organs of the state tax organs to carry out an operating tax audit must be supported by an appropriate certificate signed by head of an organ of the state tax service or by one's deputy, provided at least one of the following conditions is met:

- a) a receipt from a customer of a report on violation of the established order of cash payments, other established by law of Ukraine conditions regarding retail activities, public catering and services;
- b) discovery by the state tax service officials of violations of existing legislation dealing with payment issues;
- c) based on the results of the analysis of financial – business activities of entrepreneurial entities;
- d) other circumstances provided for carrying out documentary unplanned on-site inspections.

(8) A documentary ad hoc on-site audit shall be carried out in accordance with the decision of the organ of the state tax service or deputy head of this organ without a prior notification of the taxpayer.

1. Documentary ad hoc on-site audits of financial and economic activities of entrepreneurial entities may be conducted by organs of the state tax service if at least one of the following circumstances is present:

- a) facts discovered in the course of the audits provide evidence of a violation by taxpayer of provisions of the tax legislation of Ukraine;
- b) a taxpayer failed to file timely obligatory reporting documents;
- c) it was discovered that data in submitted obligatory reporting documents were incorrect;
- d) a taxpayer submitted in an appropriate fashion a complaint on violations of legislation by state tax service officials during the course of conducting a planned or ad hoc on-site audit and such an audit is necessary to establish the fact of the violation;
- e) in case it is necessary to verify the information that was received from a person who had legal relations with a taxpayer, if the taxpayer fails to provide explanations and documentary evidence in response to the state tax service body's obligatory written inquiry during three working days following the day when the request was served on him;
- f) if a legal person is being reorganized (liquidated);
- g) there is a Cabinet of Ministers of Ukraine's resolution;
- h) if there is the order issued by the Security Service of Ukraine, Prosecutor General or Ministry of Internal Affairs of Ukraine;
- i) in other cases provided for in this Code.

2. Repeat documentary ad hoc on-site audits shall be conducted:

- a) in case there is an in-office investigation of or a criminal case is initiated against officials of an organ of the state tax service who carried out a planned or ad hoc audit of financial and economic activities of an entrepreneurial entity, on the basis of the decision of the higher organ of the state tax service;
- b) on the grounds of the order of the central organ of the state tax service of Ukraine.

3. The right of officials of the organs of the state tax organs to carry out documentary ad hoc on-site tax audits must be supported by an appropriate certificate signed by head of the organ of the state tax service or by his deputy.

(9) Operating ad hoc on-site audits of financial and economic activities of a taxpayer who is an entrepreneurial entity shall be conducted on the basis of the decision of head of an organ of the state tax service or of his deputy (without prior notification of the taxpayer). The right of officials of the organs of the state tax organs to carry out an operative ad hoc on-site tax audit (operative ad hoc on-site tax audits) must be supported by an appropriate certificate signed by head of the organ of the state tax service or by his deputy.

(10) A taxpayer is required to sign the protocol of the on-site tax audit, and in the case of the taxpayer's disagreeing with it, may provide his arguments in written.

(11) Materials of tax audits may be used during further tax audits.

#### **Article 16089. Periodicity and Terms for Conducting On-Site Tax Audits**

(1) State tax service organs conduct planned on-site tax audits of any subject of entrepreneurial activity not more than once a year based on audit plans prepared in accordance with regulations approved by the Cabinet of Ministers of Ukraine.

(2) Terms of conducting planned on-site tax audits shall be determined in accordance with procedures established by the Cabinet of Ministers of Ukraine.

(3) If a criminal case was initiated, a period for conducting audit of taxpayer's business activity shall be determined in accordance with the criminal procedural legislation of Ukraine.

#### **Article 16090. Interviewing Physical Persons**

(1) Officials of state tax service organs have the right to interview physical persons, including subjects of entrepreneurial activity and officials, when carrying out control over correctness, completeness and timeliness of tax assessment and payment of taxes and financial sanctions which are used by the state tax service organs in case of tax violations.

(2) Physical persons may be invited for an interview or to provide documents needed for tax control purposes to the offices of the state tax service organs.

1. The form of summons to visit officials of the state tax service organs and procedures for summoning physical persons for an interview by the state tax service organs shall be established by the central organ of the state tax service in compliance with requirements of the law on protection of personal information.

#### **Article 16091. Examination of Premises Used for Conducting Business Activities and Premises That are Objects of Taxation or are Used for Receiving Income (Profit) or Related to Other Objects to Taxation**

(1) State tax service officials, for purpose of examining the correctness of determining of tax bases and of assessment of taxes, may examine premises used for conducting business activities, production, storage, trade and any other facilities (buildings, premises) of entrepreneurial entities, that are objects of taxation or used for receiving income (profit) or related to other objects of taxation.

(2) In case of a refusal of owners, managers or other officials of entrepreneurial entities, to let state tax service officials inspect territories and premises stated in part (1) of this Article, and in case of

existence of circumstances stated in part (3) of Article 16047, the state tax service organs have the right to determine amounts of tax liabilities by indirect methods.

(3) Buildings (residential buildings) that are owned by physical persons and that are objects of taxation or are used for receiving income (profit) or related to other objects of taxation, shall be inspected only in cases and under procedures provided by law.

Articles 16092-16093 - reserved

## **Chapter 108. Procedure for allocating and refunding overpaid taxes.**

### **Article 16094. Allocating and Refunding Overpaid Taxes.**

(1) Amounts of taxes and financial sanctions (hereafter in this Chapter -amounts of taxes) paid in excess to the budgets because of incorrect computation or excessive payment, shall be carried over for future taxable periods, or shall be refunded to taxpayers in accordance with this Chapter of this Code, except for cases where the taxpayer has an overdue tax liability. In case of existence of such a liability the refunding is made after the overdue liability is fully satisfied.

(2) Organs of the state tax service are to inform the taxpayers about the discovered in the course of tax audits amounts of overpaid taxes and about the amounts of tax debts (if there are any) in accordance with procedure and in terms established by the central organ of the state tax service of Ukraine.

(3) Carrying forward to future tax periods or refunding to the taxpayers the amounts of taxes that were excessively paid to the budgets, shall be carried on the basis of taxpayers' applications.

(4) Grounds for carrying over or refunding to a taxpayer of excess tax payments made to the budget include:

a) a written application of a taxpayer;

b) a ruling of the state tax service organ where taxpayer is registered on existence verifying the excess amount of this type of payment.

(5) A decision of the state tax service body on existence of excess amount of tax payments is sent to an organ which registers or refunds the overpaid sum, within a 5-day period after the date of receiving request from taxpayer.

(6) Organs that conduct registration and refund of overpaid taxes include:

a) the State Treasury organs, - concerning excess payments that were made to the State Budget of Ukraine;

b) Ministry of Finance of the Autonomous Republic of Crimea, - concerning excess tax payments made to the republican budget of the Autonomous Republic of Crimea;

c) local financial organs, - concerning excess tax payments made to local budgets.

(7) The amounts of excess taxes paid to the budgets, as well as interest on these sums, shall be returned to taxpayers from the budgets which received the said amounts; carrying over these sums to future tax periods is also allowed only to the same budgets.

(8) Refunding of overpaid taxes collected at the Ukrainian customs border shall be made in accordance with procedures specified in the Customs Code of Ukraine.

### **Article 16095. Carrying Over and Refunding Amounts of Taxes Overpaid to Budgets Due to**

### **Taxpayer's Fault**

(1) Carrying forward the excess amount of paid tax to future tax periods or refunding amounts overpaid to budgets because of taxpayer's fault shall be conducted within a 30-day period following the day of submission of the request by the taxpayer without accruing interest on the excess amount.

(2) If the specified in part (1) of this Article period of refunding the excess tax amount is violated (except for cases when the violation is made by taxpayer), interest shall be accrued for every day of delay on the basis of the National Bank of Ukraine's interest rate at the day when the excess tax amount was refunded to the taxpayer or carried over.

### **Article 16096. Carrying Forward or Refunding Amounts of Taxes Overpaid to Budgets Due to State Tax Service Organ's Fault**

(1) Amount of taxes overpaid to budgets because of incorrect assessment (computation, application) by the state tax service organs is to be refunded to taxpayer or carried over to reduce tax liabilities in future periods, regardless of the date when a taxpayer submitted a written request for refunding the amount of overpayment.

(2) On the amount of taxes overpaid to budgets because of its incorrect assessment (computation, use) by a state tax service body the interest shall be assessed in the amount of 120 percent of the National Bank of Ukraine's official interest rate on the date when this amount was refunded to a taxpayer, for each day of excess payment, starting with the day of transferring the mentioned amount to budget and until the day of the refund.

(3) The grounds for refunding to taxpayer the amounts of taxes overpaid to budgets because of incorrect assessment (computation, use) by the state tax service organs, as well as accruing interest on these amounts may be provided by repealing, under regulations set by legislation of Ukraine, the state tax service organs' decisions, or recognizing as illegal the actions taken by the state tax service organs with respect to the tax assessment (computation, application).

Articles 16097 – 16100 – reserved.

### **Chapter 109 - Reserved**

## **Part XVII. Liability (responsibility) for the offences in the sphere of taxation.**

### **Chapter 110. General provisions.**

Article 17001. Offences in the sphere of taxation.

- (1) Offences in the sphere of taxation are such illegal acts (activity or absence of such activity) of the taxable entities (subject of taxation, body responsible for tax control, other body or its officials), which resulted in non-compliance or not proper compliance with the established legal and regulation acts in the sphere of taxation.
- (2) The offense committed by the taxable entity (resident and non-resident) in the sphere of taxation shall be subject to punishment in accordance with this Code and other laws of Ukraine.

Article 17002. Types of liability (responsibility) for the offences in the sphere of taxation.

- (1) Such type of liability (responsibility) shall be applied for the offences in the sphere of taxation (in accordance with the danger for the society):
  - a) financial;
  - b) criminal;
  - c) Administrative.
- (2) Financial liability (responsibility) for the offences in the sphere of taxation shall be established and applied in accordance with this Code.
- (3) Criminal liability (responsibility) for the offences in the sphere of taxation shall be established and applied in accordance with the Criminal Code of Ukraine.
- (4) Administrative liability (responsibility) for the offences in the sphere of taxation shall be established and applied in accordance with this Code and Administrative Code of Ukraine.

Article 17003. Financial sanctions.

- (1) Financial sanctions are measures of financial responsibility of the taxable entities (subjects of taxation) and of the banks and shall be applied in a form of interest and (or) fines for the offenses in the sphere of taxation.
- (2) Interest is a form of supporting of execution of the tax liabilities and as well execution by banks and other credit and financial establishments of the orders (payment slips) for transferring taxes and other payments to the budget. Interest is applied in a form of percents accrued with respect to tax arrears for each overdue day of tax payments in cases and in amounts established by this Code.
- (3) Fines are fixed amounts of money collections, which are applied to the taxable entities (subject of taxation) and banks in cases established by this part of the Code.

Article 17004. Time periods for application of sanctions and payments of additionally assessed taxes.

- (1) Financial sanctions may be applied to the taxable entities (subjects of taxation) and banks who committed offences in the sphere of taxation:



- a) Towards the physical persons – not later than 180 days after disclosing of the offence;
  - b) Towards the legal persons – not later than 180 days after disclosing of the offence.
- (2) In case the criminal case has not been initiated or criminal case has been closed but the offence in the sphere of taxation did took place – time period for applying of financial sanctions shall be identified from the day the State Tax Service body receives an order on refusal to initiate the case or on closing of the case.
- (3) The amounts of additionally assessed by the State Tax Service body taxes and financial sanctions (as a result of the audits) shall be paid to the budget (budgets) by the taxable entities (subject of taxation) and banks within 10 days from the day of receiving of the official notice from the State Tax Service.

**Article 17005.** Application of financial sanctions in case of the repeat offences in the sphere of taxation.

In case the taxable entities (subjects of taxation) or banks commit two or more offences in the sphere of taxation – financial sanctions shall be applied separately for each such offence.

**Article 17006.** Statute of limitations with respect to application of financial liability (responsibility) procedures for the committed offences in the sphere of taxation.

Taxable entities (subjects of taxation) and banks should not be subject to financial liability (responsibility) for the committed offences in the sphere of taxation in case 3 years past after commitment of such offences or after the end of the corresponding tax periods (when such offences were committed).

**Article 17007.** Decision with respect to application of the financial liability (responsibility) procedures.

- (1) The State Tax Service bodies adopt decisions with respect to application of the financial liability (responsibility) procedures for the offences in the sphere of taxation.
- (2) This Code and other laws of Ukraine introduces authorities of the State Tax Service bodies (and its officials) with respect to application of the financial sanctions for the committed offences in the sphere of taxation.

**Article 17008 – 17015 – reserved.**

## **Chapter 111. Financial liability (responsibility) for offenses in the sphere of taxation.**

**Article 17016.** Offenses in the sphere of taxation that lead to financial liability (responsibility).

Financial liability (responsibility) shall be applied in case of the following violations (non compliance):

- a) violation (non compliance) of the established procedure for registration with the state tax service organs;
- b) violation (non compliance) by banks of procedures set for disclosure of information concerning opening or closing bank accounts;

- c) violation (non compliance) by the entrepreneurs (subject of the entrepreneurial activity) of time periods (terms) set for provision of information on opening or closure of bank accounts;
- d) violation (non compliance) of the established procedures for keeping accounting books and records;
- e) violation (non compliance) of the established procedures for keeping tax documents and records;
- f) violation (non compliance) by banks of the established procedures for opening accounts;
- g) violation (non compliance) of the established terms for executing orders (directives) to transfer to the budgets taxes and other payments specified in this Code;
- h) violation (non compliance) by entrepreneurial entities of the established procedures for licensing (patenting) of particular types of entrepreneurial activities;
- i) banks' failure to execute orders of organs of the state tax service to suspend transactions of a taxpayer;
- j) understating (concealing) objects of taxation and (or) understating the amounts of taxes;
- k) actions aimed at making fraudulent offsets (payments) of taxes or fraudulently receiving tax refunds;
- l) failure to submit or submit timely, or failure to submit prepared in accordance with established forms tax reporting and other tax documents;
- m) failure to pay or pay timely one's tax liability;
- n) banks' violating procedures established for provision of information to the tax service bodies;
- o) failure to perform one's duties by tax agents;
- p) failure to pay (or to pay on time) the advance payments of EPT;
- q) failure of the small businesses to pay on time the unified taxes;
- r) failure of the small businesses to pay on time the unified taxes in case such businesses hire some employees;
- s) submitting by the small businesses (subject to unified taxes) of the fraudulent (understated) data in connection with the tax matters.

**Article 17017. Violation (non-compliance with) of the established procedures for registration with the bodies (organs) of the state tax service.**

- (1) A taxable person's violating the procedure set for registration with state tax service organs in accordance with this Code, provided that the taxable person carries out entrepreneurial activities,
  - shall lead to imposition of a fine by the bodies of the state tax service in the amount of ten percent of the income earned during the specified period of time from the entrepreneurial activities without registration, but no less than 170 UAH.
- (2) Taxpayers that have failed to meet registration requirements to payers of an excise tax on alcoholic beverages and tobacco products -
  - shall be fined in the amount of 1700 UAH.
- (3) Taxpayers that have failed to register as payers of the VAT , provided that no taxable transactions were performed after the end of the period specified for registration of payers of VAT

- shall be fined in the amount of 340 UAH.

(4) Taxpayers that have failed to register as payers of the VAT , provided that taxable transactions involving sales of goods (works, services) were performed after the end of the period specified for registration of payers of VAT without assessment of the VAT,

- shall be fined in the amount of the VAT assessed for the total amount of the sale, but no less than 340 UAH, with no right to include in the tax credit the amount of the VAT paid on purchased goods (works, services), costs of which are included in the taxpayer's gross expenses or are subject to depreciation, and if such goods (works, services) are sold for cash or paid for using credit or debit cards - there shall be additionally applied financial sanctions established in the legislation of Ukraine for violation (non compliance) of the rules for such sales and accounting of the results of such sales for cash.

(5) If after the end of the period established for registration of payers of the value added tax, such a person performs taxable transactions involving sales of goods (works, services), properly assessing the VAT but issuing a fraudulent tax invoice, receipt or other accompanying document showing the amount of the VAT, or without such issuance, and not paying the amount of the tax to the budget

- the person shall be fined in the amount twice the received value added tax, but no less than 17 000 UAH, without the right to include in the tax credit the VAT paid on purchased goods (works, services), costs of which are to be included in the taxpayer's gross expenses or are subject to depreciation.

**Article 17018. Violation (non-compliance) by banks of the established terms and procedures for reporting of information concerning opening or closing of bank accounts.**

(1) Violation (non compliance) by banks of the term set for submission of the information to organs of the state tax service concerning opening of bank accounts for taxpayers - legal persons at the place of their registration, and for physical persons - entrepreneurs at the place of location of the banks, within 30 days after the day following the last day of the period specified in Article 16033 of this Code, provided that taxpayers did not carry out transactions using such accounts, as well as submission of information on closure of such accounts and violation (non compliance) of the term and procedure set for submission of the information in Article 16033 of this Code,

- shall result in imposition of a fine in the amount of 510 UAH.

(2) Violation (non compliance) by banks of the term set for submission of the information to organs of the state tax service concerning opening of bank accounts for taxpayers - legal persons at the place of their registration, and for physical persons - entrepreneurs at the place of location of the banks, for more than 30 days after the day following the last day of the period specified in Article 16033 of this Code,

- shall result in imposition of a fine in the amount of 850 UAH.

(3) Banks' failure to submit, or submit in accordance with terms specified in Article 16033 of this Code, information on the opening of bank accounts to taxpayers - legal persons at the place of their registration, and for physical persons - entrepreneurs at the place of location of the banks, provided that taxpayers carried out transactions using these accounts,

- shall result in imposition of a fine on a bank at the expense of the bank's profits in the amount of 10 percent of the sums of all transactions carried out through such accounts (excluding transactions of transfers of money to the budgets or state target funds), but no less than 850UAH.

Article 17019. Violation (non compliance) of the terms for submission of information on opening or closing of bank accounts by entrepreneurial entities.

Violation (non compliance) of the terms for submission to the state tax service organs of information on opening or closure of bank accounts by entrepreneurial entities at the location of their registration  
- shall result in imposition of a fine in the amount of 170 UAH.

Article 17020. Violation (non compliance) of the established procedures for tax accounting.

Violation of the tax accounting procedures established for purposes of taxation, specifically: absence (at the time of the audit of a taxable person, carried out by a state tax service organ) of the tax (or other specified by legislation of Ukraine, accounting records and documents that are required for purposes of taxation and reporting), or performing such accounting in violation (non compliance) of requirements established by Ukrainian legislation

- shall result in imposition of a fine in the amount of additionally assessed taxes, but no less than 170 UAH.

Article 17021. Violation (non-compliance) of procedures for keeping tax documents.

Violation (non compliance), by legal or physical persons who are entrepreneurial entities, of the established terms for keeping documents concerning taxation, their not taking action necessary to preserve such documents, or taking actions that resulted in destroying or damaging of such documents, except in situations involving Force-Majeure,

- shall result in imposition of a fine in the amount of 1020 UAH.

Article 17022. Violation (non-compliance) of the procedure for opening of the bank account by bank branches or other financial-lending institutions.

If a bank opens an account for an entrepreneurial entity without the latter's providing a copy of one's taxpayer registration document that certifies the taxpayer's registration with the body of the state tax service, or for a physical person who is not an entrepreneur without such person's providing one's identification number,

- it shall result in imposition of a fine in the amount of 1020 UAH.

Article 17023. Violation of the time period established for executing orders (directives) to pay over to the budget taxes and other payments provided under this Code.

The violation (non compliance) by a bank of the established time period for execution of the orders of taxable persons to pay over to the budget (budgets) taxes and other payments as provided in this Code, as well as the state tax service bodies' orders with respect to indisputable collection of tax arrears,

- shall result in collection of the interest assessed for every day of delay (including the day of payment) in the amount of 120% of the National Bank of Ukraine interest rate for the corresponding period.

Article 17024. Violation (non-compliance) by entrepreneurial entities of requirements concerning patenting of some types of entrepreneurial activities.

(1) Entrepreneurial entities that carry out trade activities, activities involving currency exchange, provision of gambling services and household and personal services, in case of violation (non

compliance) of requirements of Chapter 17 of this Code, shall be held financially responsible as established in this Article.

(2) Violation (non-compliance) of the time periods set for regular payments or incomplete transfer of current payments

- shall result in collection of the interest assessed for each day of delay of the payment, including the day of payment, on the basis of 120% of the National Bank of Ukraine's official interest rate effective on the date of payment, on the amount of tax arrears.

(3) Performing transactions specified in the part 17 of the Article 2121 of this Code without obtaining required trade patents or obtaining such with violation (non compliance) of established procedures for use of trade patents, as provided in part (3) of Article 2125 of this Code,

- shall result in a fine in the amount equal to the double cost of the trade patent for the entire period of activity of entrepreneurial entities during which the said violation (non compliance) was taking place.

(4) Performing transactions involving sales of goods specified in parts (10), (11), (14) - (16) of Article 2121 of this Code, without obtaining a privileged trade patent or in violation (non compliance) of the procedure for obtaining and using such privileged patents, specified in part

(3) of Article 2125 of this Code

- shall result in imposition of a fine in the amount five times the price of the privileged trade patent.

(5) Performing trade activities without obtaining a short-term patent

- shall entail a fine in the amount twice the price of the short-term patent computed for the entire period of the trade activity performed with the said violation (non compliance).

**Article 17025. Banks' failure to comply with the state tax service bodies' orders to suspend taxpayer's banking transactions.**

If a bank, despite one's having received an instruction of the state tax service organ to suspend transactions through an account of a taxpayer, executes the taxpayer's payment order issued to transfer money from this person's account to the account of some other person, provided that the payment order in question was not issued to comply with a demand of the state tax service organ to pay certain taxes due,

- it shall entail imposition of a fine in the amount of the carried out expense transactions.

**Article 17026. Concealing (understating) of objects of taxation and (or) understating of the amounts of taxes.**

(1) Concealing or understating objects of taxation and (or) understating amounts of taxes,

- shall result in imposition of the penalty in the amount of the additionally assessed (based on the results of the audit) amounts of taxes plus interest computed as 120 percent of the National Bank of Ukraine's official interest rate applied to the amount of the tax arrears for every day of the delay.

(2) Repeated violation (non compliance)s specified in part (1) of this Article, if committed within a year after the date of the last violation (non compliance) discovered in the course of a preliminary examination,

- shall result in imposition of a fine in the amount twice the sum of the additionally assessed tax plus the amount of the interest computed as 120 percent of the National Bank of Ukraine's official interest rate applied to the amount of the tax arrears for every day of the delay.

(3) Overstating of the losses for purposes of payment of the EPT for the reporting year with the aim of reducing of the tax due for the next year

- shall result in imposition of fine in the amount of 30 percent applied to the amount of such overstated losses.

**Article 17027. Actions aimed at making fraudulent offset of the tax due or fraudulently refund of taxes.**

Submission by taxable persons to the bodies of the state tax service of fraudulent information (documents), which serve as a basis for offsetting of the tax due as an advance tax payment for the future tax payment or for obtaining the refund for previously paid (withheld) tax, as well as accepting payments directly prohibited by laws of Ukraine,

- shall result in the imposition of the fine in the amount of 60 percent of the amount of the offsetting of taxes or a refund claimed.

**Article 17028. Failure to submit, submit timely, or submit in accordance with the established reporting forms for tax documents.**

(1) Taxable persons - legal persons that fail to submit, submit timely or in accordance with established reporting forms, tax returns, computations and other documents that connected with the assessment and payment of taxes, or that fail to submit or submit timely to banks the payment orders to transfer to the budgets the amounts of taxes and other fees provided under this Code,

- shall be subject to a fine in the amount of 10 percent of due taxes and other payments provided under this Code, but no less than 170 UAH.

(2) Taxable persons - legal persons that fail to submit, submit timely or in accordance with established reporting forms, declarations of currency assets (valuables), reports on use of electronic cash registers, audit reports,

- shall be subject to a fine in the amount of 170 UAH.

**Article 17029. Failure to pay a tax liability or failure to pay it timely.**

Failure to pay a tax liability or failure to pay it timely, specifically:

failure of taxable persons to pay, or payment of taxes after the periods provided in this Code and other regulatory and legal acts on tax matters for payment of such

- shall result in charging the interest that shall be assessed for every day of the delay of payment on the basis of 120 percent of the National Bank of Ukraine interest rate effective on the date of payment, plus the amount of tax arrears.

**Article 17030. Violation (non-compliance) of the procedure for submitting of information to the state tax service bodies by banks.**

(1) Failure of commercial banks or their branches to provide the bodies of the state tax administration with information specified in the regulation and legal acts,

- shall result in imposition of a fine in the amount of 1700 UAH.

(2) Violation (non-compliance) specified in part (1) of this Article, if committed repeatedly during a year,

- shall result in imposition of a fine in the amount of 3400 UAH.

**Article 17031. Failure of tax agents to perform one's duties.**

(1) Violation (non compliance) by persons authorized to collect a market fee of requirements specified in Article 14009 of this Code,

- shall result in imposition of a fine in the amount of 170 UAH.

(2) Carrying out a concert or show tour activities in violation (non compliance) of requirements specified in parts (5) and (6) of Article 14013 of this Code,

- shall result in imposition on organizers of these activities of a fine in the amount received as a result of the show performed.

(3) If tax agents conceal the sums of car parking fees collected from payers of this fee, or if they don't apply this fee to particular payers, or collect this fee in violation (non compliance) of requirements specified in Article 14011 of this Code,

- it will result in imposition of a fine in the amount of 170 UAH.

**Article 17032. Failure to pay or to pay full amount of the advance payments of EPT**

Failure to pay or to pay full amount of the advance payments of EPT for more than 30 percents of the tax due,

-shall result in imposition of a fine in the amount of 30 percents from such understatement and in charging the interest that shall be assessed for every day of the delay of payment on the basis of 120 percent of the National Bank of Ukraine interest rate effective on the date of payment.

**Article 17033. Failure of the small businesses to pay unified tax due**

Failure of the small businesses to pay unified tax,

- shall result in charging the interest that shall be assessed for every day of the delay of payment on the basis of 120 percent of the National Bank of Ukraine interest rate effective on the date of payment.

**Article 17034. Failure of the small businesses to pay additional unified tax in case of hiring additional employees**

Failure of the small businesses to pay additional unified tax in case of hiring additional employees,

- shall result in imposition of a fine in the double amount of additional unified tax due.

**Article 17035. Submitting by the small businesses (subject to unified taxes) of the fraudulent (understated) data in connection with the tax matters.**

submitting by the small businesses (subject to unified taxes) of the fraudulent (understated) data in connection with the tax matters.

- shall result in imposition of a fine in the amount of 50 percents of the tax due (established in accordance with the Chapter 98 of this Code).

**Article 17036. Offenses in the sphere of taxation that entail administrative liability (responsibility).**

Administrative liability (responsibility) of directors and other officials of enterprises, agencies, organizations and physical persons - payers of taxes, shall be administered in case of the following offenses in the sphere of taxation:

- a) understatement of the amount of a tax, other payment, violation (non compliance) of the tax and other accounting procedures required to assess taxes and prepare tax reporting documents;
- b) failure to provide or provide timely or provide properly prepared accounting reports and balance sheets, tax returns, audit reports, reports on the use of electronic cash registers, currency declarations, payment orders and other documents relating to assessment and payment of taxes, other fees;
- c) failure of physical persons to file or to file timely one's income declarations or such persons' showing in their declarations fraudulent information;
- d) If officials who are required to withhold and pay over to the budgets taxes, fees, obligatory payments, fail to withhold, pay over or pay timely the withheld taxes to the budgets;
- e) if the state tax service officials that conduct a tax or other examination under this Code are not allowed to examine production, storage, trade and other premises and facilities of enterprises, agencies and organizations, regardless of the form of ownership of the latter, as well as private residences of citizens used to earn income or as a legal address of an entrepreneurial entity;
- f) performing entrepreneurial activities without state registration or without a special permit (license), if such a permit or license is required by law.
- g) violating requirements specified in part (5) of Article 4007 of this Code;
- h) If physical persons violate requirements specified in Article 12028 of this Code;
- j) in case of failure to submit, submit timely or submit accurate information to the organs of the state tax service for purposes of creation of the information fund of the State registry, or failure to indicate or indicate accurately a physical person's taxpayer identification number in documents, in which it is required to be provided by law.
- i) If a physical person - taxpayer violates the procedure for registration at the State registry of physical persons;
- k) violation (non compliance) of the procedure established under this Code for putting stamps on alcoholic beverages and tobacco products;
- l) Violation (non compliance) of the established under this Code procedure for registration of facilities used for storage of alcoholic beverages and tobacco products;
- m) selling, taking for further realization, or storing alcoholic beverages and tobacco products without excise stamps of the established type.



## Part XVIII. Transitional provisions

1. To mandate, that tax arrears (with respect to taxes and payments), at the date of introducing into force of the Tax Code of Ukraine, shall be paid by the taxpayers to the corresponding budgets, in accordance with the legislation of Ukraine, until total satisfying of such tax arrears.
2. To mandate, that advance payments of EPT for January – March for the first year after this Code is introduced into force shall be calculated as 1/9 of the tax due assessed in accordance with the Law of Ukraine “On EPT” for the January – September of the previous year. Advance payments for April – December shall be calculated in accordance with the formula:

$$AP \text{ (probably means Advance Payment)} = (Om - B) : 12 * 0,25 * K$$

In compliance with the procedures established in part (4), Article 2135 of this Code.

3. To mandate, that for purposes of the Article 2036, Part II of this Code - the net losses of the taxpayer for the previous year specified in the Profit and Loss Statement shall be accounted as reduction of tax liabilities for the first year of introducing of the Tax Code into force.
4. To mandate, that before 1 January 2002 the profit tax in the amount of 1.5% of the profit tax accrued shall be remitted to a special account of the territorial communities budgets to finance the construction of housing for military personnel, participants in Afghanistan military operations and armed conflicts in foreign countries, families of military personnel who perished while performing their military duties and as well retired (in connection with health, age or reduction of the Army) military servicemen, which standing in line for the free apartment in the respective place of residence.
5. Temporarily, until 1 January 2008 the companies producing cars (vehicles) and automotive parts and having an investment (including a foreign one), in the monetary form only, that is equivalent to no less than USD 150 millions at the official exchange rate as of the day of contributing such an investment to their statutory capital (authorized fund) and that is registered in accordance with the procedure established by the legislation of Ukraine, shall be subject to the following specific conditions of taxing their profits:
  - a) Gross income and gross expenses of a company received (paid) during a reporting tax year shall be subject to indexation (inflation adjustment) based on the official rate of inflation for the period beginning in the month following the month of paying the expenses (receiving income) and until the end of the reporting tax year.
  - b) The taxation object determined based on the results of the reporting tax year, shall be decreased for the amounts spent on repaying loans that were issued to implement (realize) the investment program approved by the Cabinet of Ministers of Ukraine and reinvested by the company into the development of its own production of materials and components for the car (automotive) industry, as well as for the amount of dividends accrued and paid to the founders that were reinvested by the latter for these exact (very) purposes. A decision to make such reinvestment should be made before the deadline for filing the annual tax return with the respective tax authority. If during the next tax year the company's founders should cancel (annul) the decision to make the said reinvestment

or if they should reduce the amount of such reinvestment, the company shall be obligated to determine the profit equal to the announced reinvestment or to the amount for which it was reduced and add the amount of such profit to the taxable profit of the current tax period; the company shall also be obligated to pay the fine in the amount and for the period specified by the legislation of Ukraine.

- c) Dividends tax stipulated by the present Code shall not apply in the event of reinvesting such dividends into the development of production of automotive parts and components. The effect of paragraph 2 of Article 2033 of the present Code shall not cover the companies producing vehicles and automotive parts and having an investment (including a foreign one), in the monetary form only, that is equivalent to no less than USD 150 millions at the official exchange rate as of the day of contributing such an investment to their authorized fund and that is registered in accordance with the procedure established by the legislation of Ukraine for the period until 1 January 2008.

6. To mandate, that until January 2002 the gross income of the tax payer shall not include amounts of money accrued (received) as a part of selling price of the electric energy and heat in a form of target margin to the effective tariff for the electric energy and heat, which is allocated for purposes of financing expenses in accordance with the list established by the Cabinet of Ministers of Ukraine. The above mentioned money shall be accounted on the special account and shall be used exclusively for purposes of financing expenses in connection with the finalizing of construction of the generators of the electric and heat station of Ukraine (in accordance with the list established by the Cabinet of Ministers of Ukraine). In case the above mentioned money are not used in accordance with the target allocation – such money shall be transferred into the gross income of the tax payer and shall be subject to taxation in accordance with the general procedure.

7. To mandate, that until 1 January 2008, transactions to bring in (send) into the customs territory of Ukraine, goods (including automotive add-ons) that are used in the construction and production carried out by the companies producing vehicles and automotive parts and having an investment (including a foreign one), in the monetary form only, that is equivalent to no less than USD 150 millions at the official exchange rate as of the day of contributing such an investment to their authorized fund and that is registered in accordance with the procedure established by the legislation of Ukraine, shall be exempt from the value added tax. The procedure and volumes of bringing in such goods (including automotive add-ons) shall be established by the Cabinet of Ministers of Ukraine. The listing of such goods (including automotive add-ons) specifying codes in accordance with the Harmonized System of Describing and Coding Goods shall be established by the Appendix (addendum) to the Law of Ukraine "On motivation (stimulation) the production of motor cars in Ukraine", if such goods are not produced in the territory of Ukraine.

In case of violating the target-oriented use of such goods (including automotive add-ons), the taxpayer shall be obligated to increase his tax liability based on the results of a tax period of such violation (non compliance) for the amount of value added tax which should have been paid on the entry of such goods (including automotive add-ons) into the customs territory of Ukraine and pay a fine accrued to such amount of value added tax. The fine shall be 120% of the NBU discount rate effective on the day of increasing the tax liability. It shall be paid for the period from the day of bringing in such goods (including automotive add-ons) to the date of increasing the tax liability.

8. To mandate that until 1 January 2008 taxed with value added tax at the zero rate shall be transactions to sell motor cars produced by residents of Ukraine having an investment (including a

foreign one), in the monetary form only (interpreter - in real money or in cash (US understanding of the term "cash")), that is equivalent to no less than USD 150 millions at the official exchange rate as of the day of contributing such an investment to their authorized fund and that is registered in accordance with the procedure established by the legislation of Ukraine. These resident producers shall register with the Cabinet of Ministers of Ukraine, their investment program that contemplates a gradual localization of producing the components to such car to no less than 70% of its estimated value before the end of the tenth year since the beginning of such investment program. Localization of production shall be understood as organizing the production of certain automotive parts in the customs territory of Ukraine using the labor of Ukrainian citizens who should constitute no less than 90% of the average payroll at such company. The Cabinet of Ministers of Ukraine shall set the schedule of the gradual localization of production in accordance with the investment programme it approved.

9. During the period of putting the Chernobyl Nuclear Plant out of operation and transforming "the Shelter" into an environmentally safe system, exempt from the value added tax shall be operations performed at the expense of international technical aid granted on a free basis to put the Chernobyl Nuclear Plant out of operation and transform "the Shelter" into an environmentally safe system and ensure social protection of the Chernobyl Nuclear Plant personnel and residents of the Slavutych town. The mentioned transactions shall include transactions to:

Bring in (send) into the customs territory and purchase in the customs territory of Ukraine goods (raw materials and equipment);

Perform works and provide services within international technical aid projects.

In case of violating the target-oriented use of the goods specified in paragraph 11 or the performance of works and the provision of services, the taxpayer shall be obligated to increase his tax liability based on the results of a tax period of such violation (non compliance) for the amount of value added tax which should have been paid on the entry of such goods into the customs territory of Ukraine, or the performance of works and the provision of services, as well as pay a fine accrued to such amount of value added tax. The fine shall be 120% of the NBU interest rate effective on the day of increasing the tax liability. It shall be paid for the period from the day of bringing in such goods (the performance of works and the provision of services) to the date of increasing the tax liability.

10. To mandate that until 1 January 2009:

1) exempt from the value added tax shall be:

a) transactions to sell space launch equipment, space rockets, space apparatuses, land segments of space systems and their units, systems and components that have been produced by subjects of space activities at the expense of the State Budget of Ukraine;

b) Transactions, performed by subjects of space activities, to bring into the customs territory of Ukraine, goods for the production of space equipment (including units, systems and components for space complexes, space rockets, space apparatuses and land segments of space systems), if such goods are not produced in the territory of Ukraine and are purchased at the expense of the State Budget of Ukraine, except from excisable goods. The procedure and volumes of bringing in such goods as well as the listing of such goods specifying their codes in accordance with the State Register (Classifier) of Products and Services and the listing of companies (organizations) entitled to bring in these goods shall be specified by the Cabinet of Ministers of Ukraine;

- 2) In the event the taxpayer violates the purpose-oriented use of the said goods, he shall be obligated to increase his tax liability based on the results of a tax period of such violation (non compliance) for the amount of value added tax which should have been paid on the entry of such goods into the customs territory of Ukraine and pay a fine accrued to such amount of value added tax. The fine shall be 120% of the NBU discount rate effective on the day of increasing the tax liability. It shall be paid for the period from the day of bringing in such goods to the date of increasing the tax liability;
- 3) an annual 20% rate of speeded-up depreciation of group 3 fixed assets shall be applied to subjects of space activities. Depreciation shall be charged on group 3 fixed assets until the carrying value of the group becomes zero.

11. Until 1 January 2008, exempt from the land tax shall be;

- a) The companies producing vehicles and automotive parts and having an investment (including a foreign one) in the monetary form only, that is equivalent to no less than USD 150 millions at the official exchange rate as of the day of contributing such an investment to their statutory capital (authorized fund) and that is registered in accordance with the procedure established by the legislation of Ukraine. The land area to be exempt from the land tax shall be determined based on the amount of the monetary investment into the authorized fund of such companies per 1 hectare of the land area they occupy equivalent to USD 400 thousand at the official exchange rate effective on the day of making an investment (including a foreign one).
- b) subjects of space activities in accordance with the listing to be approved by the Cabinet of Ministers of Ukraine on an annual basis;

12. Part XV “Special Tax Regimes” of this Code shall be valid (effective) until December 31 2005.

13. To introduce such tax rates for the first year after this Code becomes effective:

- a) EPT – 25 % from the object of taxation;
- b) VAT – 19 % (17% - shall be allocated as the budget revenues and 2 % - budget development).