

EBS QUARTERLY REVIEW

**LEGISLATION
CHANGES REVIEW**





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NEWS ON QUARANTINE

THE SUPREME COUNCIL OF UKRAINE ADOPTED A LAW “ON AMENDMENT OF SEVERAL REGULATIONS OF UKRAINE AIMED AT PREVENTION OF THE SPREAD OF THE CORONAVIRUS DISEASE (COVID-19)”

The Supreme Council of Ukraine has adopted a Law “On amendment of several regulations of Ukraine aimed at prevention of the spread of the coronavirus disease (COVID-19)”, which will enter into force on the date of its publication in the official printed media.

The Law stipulates introduction of changes to:

- The Code of Ukraine on Administrative Offenses and introduction of administrative liability for violation of quarantine rules, sanitary and hygienic rules, anti-epidemic rules and norms which shall entail imposition of fine on citizens in the amount of 17,000.00 – 34,000.00 hryvnias and on officials in the amount of 34,000.00 – 170,000.00 hryvnias.
- The Criminal Code of Ukraine and introduction of criminal liability for violation of rules and norms introduced in order to prevent epidemic, other infectious diseases and other mass noninfectious diseases (poisoning) and combat them, if such actions caused or could knowingly cause spread of such diseases, it shall be punishable by a fine in the amount of 17,000.00 – 51,000.00 hryvnias, or arrest for a term up to 6 months, or limitation of liberty for a term up to 3 years, or deprivation of liberty for a term up to 3 years. The same deed committed, if it caused death of people or other dire consequences, shall be punished by deprivation of liberty for a term of five to eight years.
- The Tax Code of Ukraine and introduction of temporary customs and value added tax exemption for importation to the customs territory of Ukraine of the pharmaceutical products, medical products and/or medical equipment needed to perform measures aimed at prevention of epidemic and pandemic of the coronavirus disease (COVID-19), list of which is provided by the Cabinet of Ministers of Ukraine.
- The Code of Labor Laws and the Law of Ukraine «On Vacations», which were supplemented with the following provision: If the Cabinet of Ministers of Ukraine imposes quarantine, the term of leave without pay is not included into the general term of leave without pay, stipulated by the Code of Labor Laws and the Law of Ukraine «On Vacation Leaves».

Besides, final provisions of the mentioned Law stipulate that for the period of the quarantine or restriction measures, connected with COVID-19, the employer can let the employee to perform the work, indicated in the labor agreement, at home and grant vacation leave, if the employee agrees to it.

From the date of the quarantine imposition, the terms for receipt of administrative and other services and terms of provision of such services, stipulated by the law, shall be suspended. After termination of the quarantine, these terms shall be prolonged taking into account the time, which passed from the moment of suspension.

The state authorities are prohibited to perform state inspection (control) of the planned measures relating to state inspection (control) of the economic activities.

It is stipulated that the foreigners or people without citizenship, who were unable to leave Ukraine or submit to the regional offices/departments of the State Migration Service of Ukraine the application to prolong their term of stay on the territory of Ukraine and/or replace the temporary/permanent residence permit as a result of quarantine imposition, shall not bear administrative responsibility for violation of laws on legal status of the foreigner or person without citizenship, if such violation occurred during the quarantine or as a result of its imposition. Issue of the documents, which identify the person, confirm citizenship of Ukraine or special status of the person during the quarantine shall be performed at the place where the application is submitted.

Source <https://zakon.rada.gov.ua/laws/show/530-20>

REAL ESTATE TAX EXEMPTION DURING QUARANTINE



As it is known, introduction of the quarantine as a result of coronavirus epidemic caused significant changes in the Ukrainian economy. In order to minimize them, a series of new laws was adopted. Including [The Law No 533 \(with amendments by the Law No. 540\)](#). It added to the [Tax Code of Ukraine](#) a norm, according to which the non-residential real estate, owned by a individual or a legal entity, shall not be an object of tax on real estate, which is not a land plot, during the period from 1st till 31 of March till 2020. The tax authorities clarified procedure of this exemption in the [Information Letter No 7](#).

How legal entities can use this tax exemption

The norms, introduced by Laws, stipulate that payers of the real estate tax (except for individuals) are entitled to submit adjustment tax declaration, which will show the changes of the tax liability for the corresponding month. It means that reduction of real estate tax liabilities (except for individuals) for March 2020 will be performed exclusively when the tax payers submit adjustment declarations to the tax declaration for 2020.

In the adjustment tax declarations the tax payers can reduce amount of tax liabilities for the first quarter of 2020 (March 2020 is the third month of the first quarter) by the amount which is proportionate to one month of the quarter. For example, if in the tax declaration for 2020 the tax liabilities amounted to 720 thousand hryvnias (180 thousand hryvnias for each quarter), the tax payer, who wishes to reduce the tax liabilities for March 2020, shall be entitled to submit the adjustment real estate tax declaration for 2020 and reduce the tax liabilities for the first quarter 2020 by 60 thousand hryvnias.

How individuals can use the tax exemption

In 2020 the controlling authorities assess real estate taxes for individuals for 2019 tax (report) year. Therefore the requirements relating to the tax exemption, stipulated by [Law No 533](#), **will be taken into account by the controlling authorities, when assessing the taxes for individuals who pay taxes for real estate**, in year 2021 for 2020 tax (report) year.

Source: <https://interbuh.com.ua/ua/documents/onenews/137709>

THE LAND TAX IS TEMPORARILY NOT ASSESSED - HOW TO ADJUST TAX LIABILITIES

For the period from 1st till 31 of March the land tax shall not be assessed and paid (land tax and rental fee for the state and communal land) for the land plots owned or used (including rented) by individuals or legal entities, and used by them for their economic activities. This is stipulated in the Law of Ukraine No [533-IX](#) of 17 March 2020, valid since 18 March 2020 (as amended by the Law of Ukraine dated March 30, 2020 No. 540-IX). But the tax payer have already submitted the land tax declarations for 2020. Though the changes, introduced by the Law No 533, stipulate that in order to reduce land tax liabilities for the period from 1st till 31 of March 2020, **the tax payers must submit a corrected declaration** and show changes of land tax liabilities for the corresponding months. In such a way, **reduction of the land tax liabilities for March 2020 for legal entities shall be performed only after submission of the adjustment tax declarations by the tax payers.**

Individual entrepreneurs are on the same footing as legal entities in the issues relating to assessment and payment of land tax and rental fee. If the individual entrepreneurs have deeds of title to land plots, they can themselves assess amount of payment for the land (land tax and rental fee) by submitting a tax declaration. **If the individual entrepreneur has a title to the land plot, they can submit an adjustment tax declaration showing changes of land tax liabilities for March 2020.** The exemption does not apply to the individuals, who are not entrepreneurs, because the norms, introduced by [Law No 533](#), stipulate that exemption applies only to the land plots used for economic activities.

Source: <https://interbuh.com.ua/ua/documents/onenews/137708>



EXEMPTION FROM THE UNIFIED SOCIAL TAX FOR SELF-EMPLOYED PERSONS



According to the Law of Ukraine No 533-IX of 17 March 2020 and changes to Final and transitional provisions of the Law of Ukraine "On collection and accounting of the unified social tax for compulsory state social insurance" (Law on the Unified Social Tax) the following entities are exempt from assessment, calculation and payment of the Unified Social Tax for themselves:

- individual entrepreneurs, including those using simplified taxation scheme;
- self-employed persons;
- members of farm enterprise, if they do not belong to the persons, who shall be insured on other basis.

The requirement to pay minimum insurance contribution shall not be applied for these periods and such persons, if such payer did not receive income (profit) in the reported quarter or separate month of the reported quarter. It means that item Article 7 part 1 item 2 paragraph 2 of the Law on the Unified Social Tax is suspended for the mentioned period.

Such persons are entitled at their sole discretion to assess, calculate and pay the Unified Social Tax for the periods from 1 till 31 March and from 1 till 30 April 2020 on general terms. But in this case information on the paid Unified Social Tax shall be mentioned in the reports on this tax for the reported period.

Those who used Unified Social Tax exemption for March and April 2020 shall not indicate income and amount of the Unified Social Tax in Form No 5.

If the entrepreneurs use the Unified Social Tax exemption, then according to the results of the first quarter they shall pay the Unified Social Tax only for January and February 2020, which will amount to: $1039.06 \text{ hryvnias} \times 2 \text{ months} = 2078.12 \text{ hryvnias}$.

The self-employed persons pay the Unified Social Tax by the 20th day of the month following the reported quarter (payment for the first quarter shall be made by the 20th of April).

Regarding inclusion of the months, when the Unified Social Tax was not paid, into pension insurance record — these periods will be included into pension insurance record and it will be considered that minimum insurance contribution, stipulated by the law for each of such periods, was paid.

Source: https://buh.ligazakon.net/ua/analitycs/193860_kogo-zvlnili-vd-splati-sv-za-berezen-ta-kvten-2020-roku

ENTREPRENEURS USING SIMPLIFIED TAXATION SCHEME ARE EXEMPT FROM UNIFIED TAX DURING THE VACATION LEAVE

According to [the item 295.5 of the Tax Code of Ukraine](#) the payers of the unified tax(the first and the second groups), which do not have employees, are exempt from the unified tax **during one calendar month for the period of vacation leave and sick leave, confirmed by the copy of the work incapacity certificate, if it lasts for 30 or more calendar days.** This right is stipulated by [item 295.5 of the Tax Code of Ukraine.](#)

In order to use such right, the entrepreneur has to submit to the local department of the State Tax Service of Ukraine application (in free form) with information about the period of annual vacation leave or sick leave adding a copy of the work incapacity certificate.

The Unified Tax, prepaid for the period of vacation leave or sick leave, shall be reckoned towards future payments of this tax according to the payer's application.

Take into account that during the quarantine the Tax Payer Service Centers change administrative services provision procedure. [These Centers provide administrative services only online.](#)

Pay attention that the legislation does not stipulate exemption from the unified social tax for the period of vacation leave or sick leave.

If the entrepreneurs use the right to vacation leave in April 2020, they will not have to pay the unified social tax for this period. Such conclusion can be made taking into account provisions of the Law of Ukraine [No 533-IX](#) of 17 March 2020. We shall remind you that this law exempts the entrepreneurs from the unified social tax for the following periods: 1-31 March and 1-30 April 2020.

Source: <https://interbuh.com.ua/ua/documents/onenews/137715>



POSTPONEMENT OF INTRODUCTION OF NOVELTIES RELATING TO CASH REGISTERS DUE TO SPREAD OF CORONAVIRUS

The Supreme Council of Ukraine adopted “anti virus” law, which postponed introduction of novelties relating to cash registers for the period of validity of measures aimed at prevention of the spread of coronavirus.

We mean the Law of Ukraine «On amendment of the Tax Code of Ukraine and other laws of Ukraine relating to support of the tax payers for the period of validity of the measures, aimed at prevention of the spread of coronavirus disease (Covid-19) [No 533-IX](#) of 17 March 2020.

The dates for introduction of the cash registers for the second, third and fourth groups of the individual entrepreneurs were postponed. Correspondingly presentation of the free software “pRROsto” for the cash registers was also postponed.

So now the key dates are the following:

- **01.08.2020** — there will be an opportunity to use software instead of classical cash registers;
- **01.01.2021** — a list of activities, which require usage of the cash registers, will be increased, “cash back” mechanism will be introduced.
- **from 01.04.2021** — Individual entrepreneurs of the second, third and fourth groups must use cash registers (including cash registers software as an alternative for classical ones).

Source: State Tax Service of Ukraine on the official Facebook page.



APPROVED LIST OF PHARMACEUTICAL AND MEDICAL PRODUCTS, IMPORT OF WHICH IS EXEMPT FROM CUSTOMS DUTY AND VAT DUE TO CORONAVIRUS

The Cabinet of Ministers approved a list of pharmaceutical products, medical products and medical equipment needed to prevent spread of the coronavirus disease (COVID-19), which shall be exempt from customs duty and VAT when they are imported to the customs territory of Ukraine.

We mean recently introduced exemptions, stipulated in paragraph 71 of the Sub-Chapter 2, Chapter XX of the Tax Code of Ukraine and paragraph 96, Chapter XXI of the Customs Code of Ukraine.

The mentioned list includes:

- pharmaceutical products needed to treat patients with COVID-19;
- disinfectants and antiseptics;
- medical equipment for the medical institutions, treating patients with COVID-19;
- means of individual protection;
- medical devices for screening;
- consumables needed to treat patients with COVID-19;
- medical products, laboratory equipment, consumables, laboratory reagents;
- other medical products and laboratory equipment.

This list was approved by the order of the Cabinet of Ministers of Ukraine No 224 of 20 March 2020. This Order entered into force on 22.03.2020 (date of its publication) and shall be valid during the validity of paragraph 71 of Sub-Chapter XX of the Tax Code and paragraph 96 of Chapter XXI of the Customs Code of Ukraine.

Source: <https://interbuh.com.ua/ua/documents/onenews/137690>

TAX LEGISLATION



ALL PREVIOUSLY REGISTERED LEGAL ENTITIES SHALL SUBMIT INFORMATION ON FINAL BENEFICIARIES AFTER 28 APRIL

The Law of Ukraine “On prevention and combating of legalization (laundering) of illegal proceeds, financing of terrorism and proliferation of weapons of mass destruction” [No 361-IX](#) of 6 December 2019 shall enter into force **on 28 April 2020**.

All previously registered legal entities are obliged to submit to the state registrar information about the final beneficiary and ownership structure within 3 days after entry into force of a regulation, which will adopt form and structure of the property.

[The Law](#) also obliges to keep information on final beneficiary and ownership structure updated, to renew it, to **inform the state registrar about any changes within 30 business days** after their occurrence, and to submit confirmation of such changes to the registrar.

Even if the structure and information about the beneficiary were not changed, it is necessary to inform about absence of such changes, when changing any information about legal entity in the Unified State Register.

Failure to submit or untimely submission of information on the final beneficiary or about its absence, or documents, confirming such information, shall entail fine for the head of the legal entity or authorized representative of the legal entity (executive body) amounting to **1000–3000 of the non-taxable minimum income (17,000–51,000 hryvnias)**.

WHICH INTERNATIONAL DOUBLE TAXATION AGREEMENTS ARE VALID IN 2020

State Tax Service has provided a list of double taxation agreements valid in 2020.

According to the Ministry of Foreign Affairs of Ukraine, as of 01.01.2020 Ukraine has such treaties with 70 countries. Including:

- Great Britain (11.08.1993, amended on 05.12.2019);
- Ireland (17.08.2015);
- Qatar (09.04.2019);
- Cyprus (07.08.2013, amended on 28.11.2019);
- Luxembourg (18.04.2017);
- Malta (28.08.2017);
- Czech Republic (20.04.1999, amended on 09.12.2015).

Relations between Ukraine and Serbia and Montenegro are regulated by the Convention between the Cabinet of Ministers of Ukraine and Federal Government of the Federal Republic of Yugoslavia on double taxation relating to tax on income and capital, which entered into force on 29.11.2001.

Besides, Ukraine uses the USSR double taxation agreements, which shall remain valid before entry into force of new agreements. The USSR agreements are still valid for relations with Spain, Malaysia and Japan.

Source: [Letter of the State Tax Service of Ukraine of 04.02.2020 No 1852/7/99-00-09-02-02-07](#)



THE MOST IMPORTANT CHANGES RELATING TO LEASE OF STATE AND COMMUNAL PROPERTY, VALID SINCE 1 FEBRUARY

A new Law of Ukraine "On Lease of State and Communal Property" [No 157-IX](#) of 03.10.2020 entered into force on 01.02.2020.

There will be no more tenders for the right to lease property, organized by the committees, consisting of the officials from the State Property Fund, ministries, departments and structural departments of the executive bodies of town councils or their deputies. Existing tender committees shall be eliminated.



Instead, there will be electronic auctions in the trade system ProZorro.Sale. All documents for the auction shall be uploaded in the personal cabinet. There is no more requirement to submit documents to the officials, which shall check their completeness and correctness.

The officials have no more rights to review documents of the potential tenants and prohibit them to take part in the auction. Since 1 February 2020, all potential tenants, without any exceptions (if they meet all requirements), will have right to take part in the state or communal property lease auctions.

The property acceptance procedure without tender or auction becomes more complicated. If the transfer of some property without tender started according to the old rules, but as of 1 February 2020 decision about transfer of property without tender was not taken, all previous actions, aimed at acceptance of this property, become invalid. After 1 February 2020 the potential tenants, which were entitled to receive the property without tender according to the old rules, must check whether they meet new requirements.

Officials have no more rights to demand that the potential tenants make market assessment of the property at their own expense. If residual book value of the property exceeds 10% of its initial cost, this cost will be used at the auction. The market value of the property will be determined by the demand for this property on the part of the potential tenants. If the residual book value of the property is less than 10% of its initial value, the reassessment shall be made by its owner, who shall have no right to shift this obligation to the potential tenants.

The officials have no more right to restrict purpose, for which the entrepreneurs can use the vacant property, except for the property which has educational, medical, social-cultural or sports purpose. Most of the announcements about lease of the property will include information that the auction winner can use the property for any purposes, which are not prohibited by the law.

Minimum lease term of the state or communal property is 5 years, meanwhile if the lease agreement for 5 years or less is concluded as a result of auction using electronic trade system ProZorro.Sale, such agreement does not need to be notarized.

ENVIRONMENTAL TAX COLLECTION PROCEDURE IN 2020

We draw your attention that environmental tax collection procedure is regulated by Articles 240-250 of the Tax Code and was not changed.

Environmental tax payers fill in tax declarations according to the form adopted by the order of the Ministry of Finance No 715 of 17.08.2018 and submit them within 40 calendar days after the last calendar day of the reported quarter to the monitoring institutions. The report shall include information on:

- a) emission of pollutants by the stationary sources, contamination of water resources, location of wastes in the specially designated places or objects during the reported quarter - where stationary sources or specially designated places or objects are located.
- b) generation of radioactive wastes and temporary storage of radioactive wastes during a period exceeding the term of license - at the place of registration of the tax payer at the controlling authorities.

Before changing the form of declaration, it is necessary to take into account the offers, mentioned in the letters of the State Financial Service:

- of 16.01.2019 No 1422/7/99-99-12-03-04-17 about obligation to execute additional annex 1 to the declaration by the environmental tax payers, which relates to liabilities for CO2 emission by the stationary sources with the code 19011000;
- of 26.04.2019 No 13932/7/99-99-12-03-04-17 on peculiarities of the administration of the environmental tax on CO2 emission with an illustrative example of calculation of CO2 emission.

The deadlines for submission of the declarations and payment of the environmental tax are the following:

- IV quarter 2019 — 10 February 2020, deadline for tax payment — 19 February 2020;
- I quarter 2020 — 12 May and 20 May 2020 correspondingly;
- II quarter 2020 — 10 August and 19 August 2020 correspondingly;
- III quarter 2020 — 9 November and 19 November 2020 correspondingly;
- IV quarter 2020 — 9 February and 19 February 2021 correspondingly.

Source: [Notification of the State Tax Service Department in Zhytomyr oblast](#)

INCOME TAX

Correction of mistakes relating to income tax by means of the current declaration: how to fill in the annex



The State Tax Service reminds that in order to correct mistakes in the reporting (new reporting) declaration on income tax for the period following the period, in which mistakes were found, the tax payer shall fill in the ВП-Annex.

Meanwhile:

- table 1 «Correction of the mistake(-s) in the reported (tax) period, following the period in which the mistake was found» of ВП-Annex contains correct values for the tax period, for which adjustment is provided;
- table 2 «Results of the mistakes correction» of ВП-Annex contains amount by which the income tax liability increases (reduces).

The reporting (new reporting) declaration can adjust value for one reported period and contain one ВП-Annex.

The headline of the ВП-Annex mentions reported period, for which adjustment is provided, and contains a note: "Reporting" or "New reporting",

There is no need to fill in and submit annexes to the lines of Table 1 of ВП-Annex, referred to in Table 1 of ВП-Annex.

But in addition to the income tax declaration, the tax payer must submit supplement to it, executed in free form, with explanation of the corrections.

Source: [State Tax Service explanation](#) from the category 102.20.02 chapter «Questions – answers from data basis» ZIR (zir.tax.gov.ua)

WHEN TO FILL THE ПП-ANNEX TO THE INCOME TAX DECLARATION AND Д6-ANNEX TO VAT DECLARATION FOR THE FIRST TIME

As it is known, the obligation to execute and submit a separate report on tax relief was canceled on 1 January 2020 by the order of the Cabinet of Ministers "On amendment of the order of the Cabinet of Ministers No 1233 of 27.12.2010" No 891 of 31.10.2018 ([Order No 891](#)).

Now accounting of tax reliefs of the economic entities shall be made on the basis of the information available in the submitted declarations - the mentioned changes entered into force on 1 January 2020 ([item 2 of the Order No 891](#)).

Declaration on Income Tax was supplemented with a ПП-Annex "Information on amount of tax exemptions" according to the order of the Ministry of Finance No 481 of 14.11.2019, which entered into force on 20.12.2019.

VAT Declaration was supplemented with Д6-Annex "Calculation of VAT amount which was not paid to the budget because of tax reliefs" according to the order of the Ministry of Finance No 488 of 20.11.2019.

ПП-Annex to VAT Declaration shall be executed for the reported periods of the year 2020.

It means that for the first time it will be executed by the tax payers as a part of an income tax declaration for the first quarter of 2020.

ПП-Annex contains information on:

- code of tax relief according to the manual approved by the Tax State Inspection and its name;
- amount of tax reliefs;
- period of usage of tax reliefs in the reported period;
- amount of tax reliefs, used for their intended purpose.

ПП-Annex to VAT Declaration shall be filled in as year-to-date total, codes for the reliefs are indicated in the manual of reliefs current as of the date of submission.

Д6-Annex "Calculation of VAT amount which was not paid to the budget because of tax reliefs" shall be submitted starting with the reported (tax) period for January 2020.

Currently we have the following valid manuals of tax reliefs, provided by the current legislation on payment of taxes, duties and other obligatory fees, in particular [No 95/1](#) and [No 95/2](#) of 01.01.01, which were approved by the State Tax Service

These reliefs include:

- Income tax relief:

11020025 - Amount of income, which is not taxable according to the international treaties of Ukraine

11020301 - Financial result reduces before taxation: by negative value of taxation object for the past tax (reported) years. The mentioned provisions are applied taking into account item 3 of Sub-Chapter 4 of Chapter XX "Transitional Provisions" of this Code.

- Value Added Tax reliefs:

14060394 - zero tax rate is applied to export of goods beyond the customs territory of Ukraine in the export customs regime

14060508 - 7% tax rate is applied to supply to the customs territory of Ukraine of pharmaceutical products, production and usage of which is allowed in Ukraine and which are registered in the State Register of the Pharmaceutical Products

14060465 - VAT is temporarily (before 1 January 2022) not applied to supply of ferrous and non-ferrous scrap as well as paper and carton for recycling (recyclable paper and wastes), goods number 4701 according to the Ukrainian Classification of Goods for Foreign Economic Activities.

VALUE ADDED TAX

Changes to the Provision on Registration of VAT Payers entered into force on 9 March

With the Order No 30 of 29.01.2020 (registered in the Ministry of Justice on 14.02.2020 with number 171/34454) the Ministry of Finance amended [Provision on Registration of VAT Payers](#).

This order entered into force in 10 days after its official publication (on 9 March, it was published in the "Ofitsiynyi Visnyk Ukrainy" No 16 on 28.02.2020)

What are the changes?

1. Improved algorithm for formation of the individual tax number of VAT payers by the State Tax Service in order to identify their first or second registration as a VAT payer, including the entrepreneurs, whose series (if available) and number of the passport are written in the Unified State Register.

Now the individual tax number of the individuals is the 12-digit number with the following structure:

- 1st - 10th digits - tax payer identification number;
- 11th and 12th digits - check value, which is formed according to the algorithm, approved by the State Tax Service.

For the individual entrepreneurs, who refused to receive tax payer identification number because of their religious beliefs, informed the appropriate state authorities about it and have a corresponding note in their passports, whose information in the Unified State Register contains passport series (if available) and number instead of identification number — **1st - 10th digits of the 12-digits individual tax payer number include passport number**.

2. Increased list of persons, authorized by the VAT payer to submit request to get an extract from the VAT Payers Register. **In particular, a person responsible for bookkeeping and tax accounting of the entity can submit such a request.**

3. It is clarified, that on the date, when the corresponding authorities receive information from the Unified State Register on state registration of termination of the legal entity (except for transformation) or state registration of termination of entrepreneurial activities of the individual entrepreneur, or on the date of registration in the Unified Tax Payers Register of information on usage of simplified taxation system, which does not stipulate payment of the VAT, it is necessary to make a note in the Register "Registration of the entity shall be canceled". In addition to such note it is necessary to indicate a reason for cancellation of the registration according to item 184-1 of the Tax Code of Ukraine and date of occurrence of such reason.

In case if the Register contains information that VAT registration of the entity shall be canceled, data from the Register, before the date of cancellation, must be provided with a note "Registration of the entity shall be canceled", reason for such cancellation of the VAT payer and date of occurrence of such a reason.

4. In the text of the provision the words "State Fiscal Service of Ukraine" (in all declensions) are replaced by the words "State Tax Service of Ukraine".

5. The **changes** were introduced to:

- **Application about registration of the VAT payer (Form No 1-ПДВ)**
- **Resolution about cancellation of registration of the VAT payer (Form No 6-РПДВ).**

This order entered into force on 9 March 2020 (published in "Ofitsiynyi Visnyk Ukrainy" No 16 on 28.02.2020).

Source "Debet-Kredyt"

https://news.dtkt.ua/taxation/pdv/60813?_ga=2.241662529.2114182533.1583832065-585050806.1563523892

PERSONAL INCOME TAX

When failure by the tax agent to pay personal income tax is considered repeated

Cassation Court expressed its point of view about the cases, when tax payer shall be punished for repeated failure to pay taxes.

[Article 127 of the Tax Code of Ukraine](#) stipulates punishment for the tax payer, including tax agent, for failure to pay taxes before or after payment of income to the other tax payer. At the same time the amount of fine is determined without taking into account time of such delay (as stipulated by [Article 126 of the Tax Code of Ukraine](#)), but taking into account quantity of such delays within certain period of time.

Such point of view was expressed by the Cassation Administrative Court of the Supreme Court, which has also mentioned that every case of failure to pay the tax, confirmed by the authorities, is an additional offense. **The fact that these violations were detected during one or several inspections** does not influence the amount of fine.

In particular the court did not support position of the tax payer, who considered, that in order to impose increased fine ([stipulated in Article 127 of the Tax Code of Ukraine](#)) it is not enough to indicate several cases of violation of tax legislation in one inspection certificate. The tax payer has legal consequences only on the basis of the tax notification-resolution, i.e. If the authorities during one inspection detect several cases, when personal income tax was not paid to the budget, the offense cannot be considered repeated.

Source: [Order of the Cassation Court of the Supreme Court of 21.01.2020, case No 820/11382/15](#)



FINANCIAL AID FOR EMPLOYEE'S MEDICAL CARE

1. Transfer of financial aid to the account of the medical institution.

If financial aid for medical care of the employee or his first-degree relatives is transferred to the account of the medical institution, the employer can use the norm, stipulated in item 170.7.4. paragraph "a" of the [Tax Code of Ukraine](#).

First degree relatives according to [Article IV of the Tax Code of Ukraine](#) include parents, husband or wife and children of such individual including adopted children (item 14.1.263 of [the Tax Code of Ukraine](#)).

In particular, item 170.7.4 paragraph "a" of the [Tax Code of Ukraine](#) stipulates among other things that taxable income does not include charitable aid, provided by the residents - legal entities or individuals in any amount (cost), in particular to the medical institutions to pay for the treatment of the tax payer or his/her first-degree relatives, including purchase of pharmaceutical products (donor components, prosthetic and orthopaedic appliances, medical products for individual usage of people with disabilities) in the amount which is not covered by the Compulsory State Social Medical Insurance Fund, **except for expenditures on:**

- cosmetic treatment or cosmetic surgery (including cosmetic prosthetics, which is no connected with medical purposes);
- hydrotherapy or heliotherapy, which are not connected with medical diseases;
- dentistry and dental prosthodontics using precious metal, galvanopating and ceramic;
- abortion (except for abortion on therapeutic grounds, or if the pregnancy resulted from rape);
- sex reassignment surgery;
- treatment of sexually transmitted infections (STIs) (except for AIDS and STIs caused by nonsexual transmission or rape);
- treatment of tobacco or alcohol addiction;
- purchase of pharmaceutical products, medical products and appliances which are not included in a list of life-saving products, approved by the Cabinet of Ministers of Ukraine (the order of the Cabinet of Ministers "Certain issues of state regulation of prices for pharmaceutical and medical products" [No 333](#) of 25.03.2009).

Medical institution means a legal entity of any ownership and legal form or its separate department, which provides services to the population on the basis of the corresponding license and professional activity of the medical (pharmaceutical) workers (part 1 Article 3 of the Law of Ukraine "Fundamentals of Ukrainian legislation on Health Care" [No 2801-XII](#) of 19.11.1992, further referred to as the Law No 2801). List of medical institutions is approved by the Order of the Ministry of Health of Ukraine [No 385](#) of 28.10.2002.

WE SHALL MENTION

Compulsory State Social Medical Insurance is not introduced nowadays, and restrictions relating to the amount of nontaxable charitable aid, mentioned in item 170.7.4 paragraph "a" of the [Tax Code of Ukraine](#), are not valid.

The employee has to submit application with a request to pay for medical care, supplemented with invoice with a list of medical services, issued by the medical institution.

Personal income tax and military levy

The aid transferred to the account according to item 170.7.4 paragraph "a" of the [Tax Code of Ukraine](#) is **exempt from personal income tax and military levy**. But it must be indicated in the tax calculation according to the form No 1ДФ as "169".

WE SHALL MENTION

Taking into account item 170.7.5 [of the Tax Code of Ukraine](#), the receiver of the charitable aid for medical care is entitled to use it within 24 calendar months, following the month when it was received.

Correspondingly, if the charitable financial aid is not used by the receiver during the set period and is not returned to the provider before its termination, the receiver is obliged to include unused amount of such aid to the general annual taxable income and pay tax.

Though item 170.7.6 [of the Tax Code of Ukraine](#) stipulates opportunity to address the monitoring authorities in order to prolong the period of usage of the charitable aid explaining the reasons, which make it impossible to use it in full during the set period, and the head (his/her deputy or authorized person) of such monitoring authority can take a decision about such prolongation. If the monitoring authority refuses to approve such prolongation, its decision can be appealed against in the institution stipulated by the Tax Code of Ukraine for appeal against decision of the monitoring authority.

Unified Social Tax

The unified social tax shall **not** be charged on the amount, transferred to the medical institution: it is clear from item 13 Chapter II of the List of types of payments made by the employer, which do not require charging of the unified social tax, approved by the Order of the Cabinet of Ministers No 1170 of 22.12.2010 (further referred to as the [List No 1170](#)).

2. Aid for medical care is paid to the employee in cash

In such situation the employers must pay attention to item 165.1.19 [of the Tax Code of Ukraine](#).

According to it, the general monthly (annual) taxable income does not include income in the monetary form or cost of property (services), which are provided as aid for medical care and medical service for the tax payer or his/her first-degree relatives, child which is under the care of a tax payer, **provided that there is documented confirmation of the expenditures connected with provision of the mentioned assistance** (if money is provided), including but not limited to purchase of the pharmaceutical products, donor components, prosthetic and orthopaedic appliances, medical products for individual usage by people with disabilities at the expense of a charitable organization or the employer, except for expenditures compensated by the Compulsory State Social Medical Insurance Fund (which is still not created).

Continued

Medical services — mean activities of the medical institutions and individuals, which were registered and received a corresponding license in the order, stipulated by the law, in the health care, which is not obligatorily restricted to medical assistance, but is directly connected with its provision ([part 1 Article 2 of the Law No 2801](#)).

Medical assistance — means activities of the professional medical workers, aimed at prevention, diagnostics, treatment and rehabilitation in connection with diseases, injuries, poisoning and pathological condition, as well as pregnancy and delivery ([Article 2 Part 1 of the Law No 2801](#)).

[In the Clarification](#) from the category 103.15 chapter «Questions - answers from the data basis» ZIR (zir.tax.gov.ua) officials of the State Tax Service, commenting on the above mentioned norm, recommend tax payers to confirm actual expenditures, connected with medical treatment and services, providing the **agreements, identifying seller of the goods (works, services) and the buyer (receiver), payment documents, invoices**, etc.

At the same time in separate letters and individual tax consultations the inspectors provide wider information on all necessary confirmation documents. For example, letter of the State Financial Service [No 5003/6/99-99-13-02-03-15](#) of 13.03.2017 stipulates:

“Such confirmation documents can include documents confirming that the individual-tax payer needs treatment and medical service (in particular availability and characteristics of the disease, injury, poisoning, pathological condition of the tax payer), documents on provision of such services, which identify supplier of the service and the tax payer, who receives the services, and cost of such services: Agreements, payment documents, invoices, service acceptance certificates, other corresponding documents, depending on necessary treatment or medical services, diseases and its condition”.

The same documents are mentioned in Individual Tax Consultation of the State Tax Service [No 290/6/99-00-04-07-03-15/ІПК](#) of 18.09.2019 and Individual Tax Consultation [No 3055/6/99-99-13-02-03-15/ІПК](#) of 10.07.2018, etc.

It means, that if the employer wishes to use item 165.1.19 of the Tax Code, in addition to the traditional application with a request to provide aid for medical care the employee must prepare documented confirmation. Otherwise the tax will be charged as for the ordinary assistance according to the rules, described in [“Financial Assistance from the Employer Procedure of provision, accounting and taxation”](#). **Personal income tax and military levy**

If the necessary documents are provided, there will be no **need to pay personal income tax any military levy**. In its turn the accrued and paid income must be shown in the tax calculation according to the form 1ДФ as “143”.

Unified Social Tax

There is no need to charge the unified social tax on the mentioned aid: this is confirmed by Chapter I item 14 of the [List No 1170](#). According to the latter, the payments, which do not require to charge the unified social tax, include one time financial aid, provided to separate employees for family purposes, payment of medical treatment, improvement of children's health, and burial.

EMPLOYEE'S PROFESSIONAL DEVELOPMENT: WHEN TO CHARGE PERSONAL INCOME TAX?

If the invited party of the event and the receiver of the information and advisory services (according to the agreement) is an employer, personal income tax is not charged.

According to [the item 165.1.21 of the Tax Code of Ukraine](#) personal income tax is not applied to the amount paid by any legal entity or individual to the national higher education institution and professional colleges for education, training or re-training of the tax payer, which does not exceed three minimum salaries, set for the 1st of January of the reported (tax) year for each complete or incomplete month of education, training or re-training of such individuals [\(item 165.1.21 of the Tax Code of Ukraine\)](#).

Also according to item [165.1.37 of the Tax Code of Ukraine](#) general monthly (yearly) taxable income does not include expenditures of the employer for professional development (re-training) of the tax payer according to the law.

Professional education of the employees is performed directly at the employer's place, in the professional colleges and higher education institutions, at the enterprises, in the institutions and organizations (according to the contract) [\(Article 6 of the Law of Ukraine No 4312-VI of 12.01.2012 "On Professional Development of Employees"\)](#).

It means, that the employer's expenditures connected with the professional development (re-training) of the employee are not included in the taxable income of such individual (employee).

Receiving information and advisory services (workshops, conferences), it is necessary to take into account provisions of the contract.

If the employee takes part in the workshops and conferences, and if the invited person of such an event and the recipient of such information and advisory services (according to the agreement) is a legal entity (employer), on behalf of whom the employee is acting, the amount paid by the legal entity (employer) for participation in the workshop (conference) is not considered to be income of such an employee and no personal income tax shall be charged.

If, according to the agreement, the invited person and receiver of the information and advisory services is an employee, then the amount, paid by the employer for participation in the workshop (conference) for such an employee, is considered to be an additional benefit, and as a result of this it is included into general monthly (yearly) taxable income with 18% tax and 1,5% military levy.

Source State Tax Service in Zaporizhia oblast





LAW OF UKRAINE ON AMENDMENT OF CERTAIN REGULATIONS RELATING TO FINANCIAL SERVICES RECEIVERS RIGHT PROTECTION

The Law of Ukraine “On amendment of certain regulations of Ukraine relating to financial services receivers’ rights protection” No 122-IX of 20.09.2019 entered into force on 19.01.2020.

The Law introduces a whole range of novelties relating to principles of financial services receivers’ rights protection, responsibility for violation of consumer’s rights, and financial services advertisement procedure.

Besides, the mentioned Law determines the rule for interpretation of rights and obligations, stipulated by the agreement with the financial services receiver, in favor of such a receiver, if they are ambiguous in the text of the agreement.

<https://zakon.rada.gov.ua/laws/show/122-20>

HR MANAGEMENT NEWS

ELECTRONIC SICK LEAVE CERTIFICATES

Everybody has heard that Ukraine will introduce electronic sick leave certificates on 1 April 2020. We decided to provide detailed information in order to answer all the questions that may arise.

So what is an electronic sick leave certificate, how to receive/use it, etc.

The most important is to understand which regulation stipulates full replacement of paper sick leave certificate by an electronic one.

Order of the Cabinet of Ministers of Ukraine No 159 of 03.03.2020

(<https://www.kmu.gov.ua/npas/pro-osoblivosti-vedennya-elektronno-a159>)

Source of information on sick leave certificate will be Sick Leave Certificates Electronic Register, where the doctor must fill in all the necessary information about the certificate, stipulated by the Maintenance Procedure of the Sick Leave Certificates Electronic Register. (<https://zakon.rada.gov.ua/laws/show/328-2019-%D0%BF>).

Pursuant to the Order of the Cabinet of Ministers, by 1 April 2020 the Ministry of Social Policy, Pension Fund and Social Insurance Fund had to establish exchange of the information from three systems to form electronic sick leaves and exchange information.

Then it will function in the following way:

1. The doctor opens sick leave certificate in the electronic system and signs it with his/her electronic digital signature.
2. Then information is automatically submitted to the Social Insurance Fund through the register in the Pension Fund.
3. The information is also provided to the employer, who can review it in the personal cabinet on the website of the Pension Fund of Ukraine.

It means, that in order to have access to the electronic sick leave certificates, the enterprise must be registered on the website of the Pension Fund of Ukraine (Electronic Services Portal): <https://portal.pfu.gov.ua/sidebar/Templates/HowToReg>

After registration, the employer will have access to the information on full-time employees, including:

- number of the sick leave certificate
- date of opening
- date of closure
- individual tax number of the insured person
- name of the insured person

In the ideal case such system will start functioning on 1 April 2020, but it does not mean that there will be no more paper certificates. Elimination of paper sick leave certificates will be gradual, because electronic sick leave certificate requires registration in the Electronic Register of all doctors, who are allowed to issue sick leave certificates, and installation of necessary equipment in the medical institutions.

Also it is still not clear whether the employer must check correctness of execution/filling in of the sick leave certificate, or after its closure on the Portal it will be automatically accepted for payment.

We are waiting for detailed information, which must appear on 1 April 2020, when the first electronic sick leave certificate is issued and additional clarifications are provided.

Now we can recommend to start registration on the Portal. Electronic Register of Sick Leave Certificates is functioning already, and the registered employer can see the information on sick leave of the employees, and prepare application-calculation for the sick leave certificate. But this information is still not an electronic sick leave certificate, which can replace the paper one.

OTHER NEWS

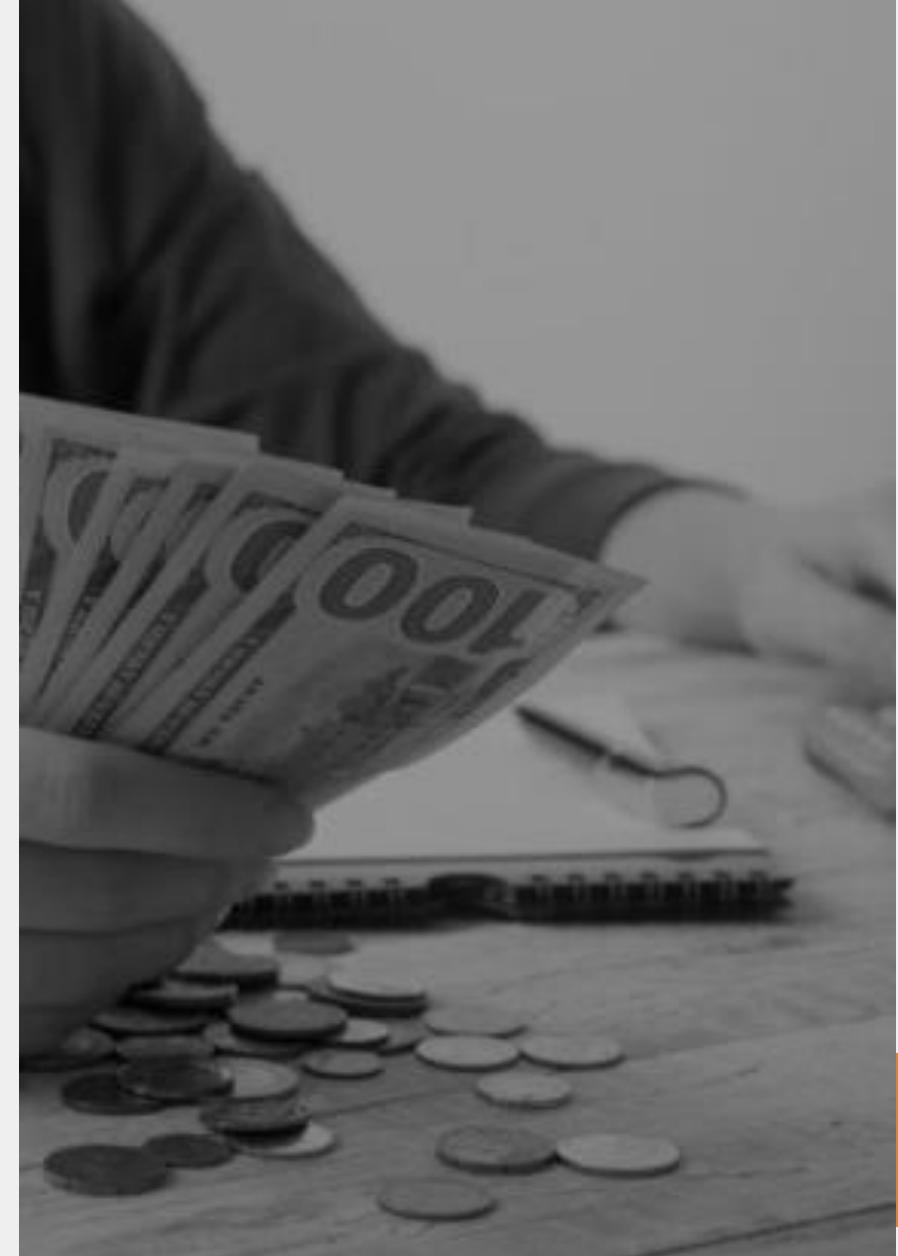
ON ENSURING THE FUNCTIONING OF UKRAINIAN AS THE STATE LANGUAGE

Article 32 of the Law of Ukraine “On ensuring the functioning of Ukrainian as the state language” entered into force on 16 January 2020. It stipulates that: The state language is the language of advertising.

Regarding printed media that is published in one of the official languages of the EU, it is permitted to place advertising in the language in which the printed media is published. However, as regarding advertising that is distributed by foreign TV and radio organizations as well as those TV and radio organizations that broadcast in one or several languages that have official status in the EU, it is permitted to distribute such advertising in official languages of the EU, but together with Ukrainian.

Also it is stipulated that peculiarities of usage of the languages of indigenous communities and national minorities in Ukraine shall be set by the corresponding laws.

Source <https://zakon.rada.gov.ua/laws/show/2704-19>



THANK YOU FOR YOUR ATTENTION

The publication was prepared by the Financial Management and Accounting Outsourcing professionals

If you have any questions relating to the provided information, please send your comments or offers to: info@ebskiev.com

We would be grateful for your feedback!