

## **ADAPTATION OF FOREIGN ECONOMIC ACTIVITIES UNDER MARTIAL LAW AND ECONOMIC RECOVERY**

Russia's military aggression caused a large number of temporary changes to the legislation regulating foreign economic activity. In particular, new legal norms of currency, tax and customs regulation were introduced. Unfortunately, this legislation is not stable and requires almost daily monitoring of new changes [1; 2].

First, attention should be paid to NBU Resolution No. 18 of February 24, 2022 «On the operation of the banking system during the introduction of martial law». Thus, paragraph 14 of this Resolution establishes that cross-border transfer of currency values from Ukraine/transfer of funds to correspondent accounts of non-resident banks in hryvnias/foreign currency opened in resident banks is prohibited, including transfers carried out on behalf of clients, except in cases of:

- import operations of residents for the purchase of critical import goods according to the list approved by the Cabinet of Ministers of Ukraine;
- currency operations of residents to fulfill obligations secured by a state guarantee;
- transfer of funds for the purpose of fulfilling the obligations of a resident to a non-resident under a contract of sale of goods concluded between them, provided that such transfer is made at the expense of funds received under a credit (loan) from an MFI or under a sub-loan from the state, for the financing of which the state attracted credit (loan) from MFI;
- operations to return to a non-resident the advance payment (advance payment) received by a resident to his current account in a bank in Ukraine after February 23, 2022 under a contract for the purchase and sale of goods concluded with a non-resident, in connection with non-fulfillment of obligations by the resident under this contract;
- currency transactions by residents and non-residents for mobilization and other measures (needs) determined by the laws of Ukraine regulating relations in the spheres of national security and defense;
- on the basis of separate permits (decisions) of the National Bank of Ukraine, adopted on the basis of appeals to the Cabinet of Ministers of Ukraine, ministries, the National Security and Defense Council of Ukraine, the Security Service of Ukraine, signed by the head of a state body or a person performing his duties.

In order to consider the issue of issuing a separate permit (decision) to the NBU via e-mail by the servicing bank of the legal entity specified in the application, a notice (letter) with information on the ultimate beneficial owners of such a legal entity, received by the servicing bank as a result of proper verification of such a client in accordance with the requirements of the legislation of

Ukraine [1]. In addition, the maximum settlement terms for operations on the export and import of goods are 90 calendar days and apply to operations carried out from April 5, 2022.

At the same time, the time limits do not apply to operations on the export and import of goods (including unfinished calculations for the operation), the amount of which (equivalent to the official exchange rate of the hryvnia to foreign currencies established by the NBU on the date of the operation) is less than 400 thousand hryvnias [1; 3].

Funds from a non-resident for operations of a resident for the export of goods shall be credited to the resident's bank account in Ukraine.

In accordance with paragraph 17 of NBU Resolution No. 18, authorized institutions are prohibited from carrying out any currency transactions:

- using Russian and Belarusian rubles;
- the participant of which is a legal entity or an individual who is located (registered/permanently resides) in the Russian Federation or the Republic of Belarus;
- to fulfill obligations to legal entities or individuals located (registered/permanently residing) in the Russian Federation or the Republic of Belarus.

Thus, the calculation of import deliveries is possible only within the limits of the list of goods established by Resolution of the Cabinet of Ministers of Ukraine No. 153.

At the same time, the basis for carrying out operations on the import of goods of critical import is the compliance of such goods with their description specified in the list, and not with the product codes of the UCT in the list are indicated for reference. To date, laws of Ukraine No. 2120 of March 15, 2022 and No. 2142 of April 5, 2022 significantly changed the taxation of goods when they are imported into the customs territory of Ukraine [1].

Thus, Law No. 2120 «On Amendments to the Tax Code of Ukraine and other legislative acts of Ukraine regarding the effect of norms during the period of martial law» established the possibility of transition of business entities on the general taxation system to the single tax of group 3 at the rate of 2% of turnover without VAT, and also set an excise tax rate of 0% on oil products and gas (liquefied gases, propane and butane) and 7% VAT on them. Law No. 2142 made significant changes to the tax and customs legislation, in particular, regarding the import of goods into the customs territory of Ukraine. These changes concern both exemption from taxation on imported goods and simplification of customs clearance.

Thus, in accordance with the «Transitional Provisions» of the Tax Code of Ukraine, set out in the

new version, it is stated that payers of the single tax of the third group, who use the special features of taxation established by this paragraph, are exempted from the obligation to calculate and pay value added tax on supply transactions goods, works and services, the place of supply of which is located in the customs territory of Ukraine, and when goods are imported into the customs territory of Ukraine, as well as from the submission of tax returns on value added tax, and their registration by the payer of value added tax is suspended [1; 4].

The specified exemption from taxation does not apply to operations of importation into the customs territory of Ukraine under the customs regime of import and supply to the customs territory of Ukraine of goods originating from a country recognized by the occupying power in accordance with the law and/or recognized as an aggressor state in relation to Ukraine in accordance with the legislation, or imported from the territory of the occupying state (aggressor) and/or from the occupied territory of Ukraine, defined as such in accordance with the law.

Chapter XX «Transitional Provisions» was supplemented by subsection 69.23, according to which, temporarily, from April 1, 2022, during the period of martial law on the territory of Ukraine, transactions involving the importation of goods into the customs territory of Ukraine are exempted from VAT to the customs regime of import by business entities that are registered single tax payers of the first, second and third groups, except for individuals and legal entities that have chosen the single tax rate, with payment of VAT [1].

Chapter XXI «Final and Transitional Provisions» of the Customs Code of Ukraine is supplemented with the part that until the termination or abolition of martial law on the territory of Ukraine, the clearance and customs clearance of goods imported (forwarded) to the customs territory of Ukraine for free circulation are exempted from import duty taxation, except for ethyl alcohol and other alcohol distillates, alcoholic beverages, beer (except kvass of «live» fermentation), tobacco products, tobacco, industrial tobacco substitutes, liquids used in electronic cigarettes [1].

The exemption from import duty taxation, provided for in this subsection, does not apply to goods originating from a country recognized by the occupying power in accordance with the law and/or recognized by the aggressor state in relation to Ukraine in accordance with the law, or imported from the territory of the occupying power (aggressor) and/or from the occupied territory of Ukraine, defined as such in accordance with the law.

This rule does not apply to vehicles originating from or imported from the Russian Federation, the Republic of Belarus, and the temporarily occupied territories of Ukraine. During the last three weeks, the Committee of the Verkhovna Rada on Finance, Tax and Customs Policy has been actively working on canceling the tax benefits granted during the importation of goods under the customs import regime.

The draft law No. 7311-d, prepared and submitted for consideration by the Verkhovna Rada, provides, in particular, the exclusion of subsection 69.23 of clause 69 of subsection 10 of chapter XX «Transitional provisions» from the Tax Code of Ukraine and the second paragraph of subsection 1 and subsection 2 of clause 911 of chapter XXI «Final and transitional provisions» from the Customs Code of Ukraine.

Therefore, in the event that the Law of Ukraine enters into force in accordance with draft law No. 7311-d, in fact, all tax benefits will be canceled.

Law No. 2173 «On Amendments to the Tax Code of Ukraine and other legislative acts of Ukraine regarding the administration of individual taxes during the period of war and state of emergency» established that temporarily, for the period of the anti-terrorist operation and/or the implementation of measures to ensure national security and defense, and deterring the armed aggression of the Russian Federation and/or the introduction of martial law in accordance with the legislation, are exempted from taxation with value added tax and excise tax on the importation into the customs territory of Ukraine and delivery to the customs territory of Ukraine of goods (according to the list), the final recipient of which, in accordance with the certificates of the end user or in accordance with the terms of the contract, defined law enforcement agencies, the Ministry of Defense of Ukraine, the Armed Forces of Ukraine and other military formations, voluntary formations of territorial communities, formed in accordance with the laws of Ukraine, other entities engaged in the fight against terrorism in accordance with the law, and/or participate in the implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation [1-4].

## References

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