

**LAW OF UKRAINE  
ON THE VALUE ADDED TAX**

**No. 168/97-VR**

**of 3 April 1997**

as amended and supplemented by Laws of Ukraine  
of 27 June 1997 under No. 403/97-BP,  
of 16 July 1997 under No. 460/97-BP,  
of 19 September 1997 under No. 535/97-BP,  
of 26 September 1997 under No. 550/97-BP,  
of 15 October 1997 under No. 573/97-BP,  
of 19 November 1997 under No. 644/97-BP,  
of 5 December 1997 under No. 698/97-BP,  
of 23 December 1997 under No. 770/97-BP,  
of 30 December 1997 under No. 794/97-BP,  
of 30 December 1997 under No. 799/97-BP,  
of 15 January 1998 under No. 25/98-BP,  
of 4 March 1998 under No. 169/98-BP,  
of 24 March 1998 under No. 208/98-BP,  
of 6 October 1998 under No. 163-XIV,  
of 20 November 1998 under No. 277-XIV,  
of 1 December 1998 under No. 285-XIV,  
of 11 December 1998 under No. 309-XIV,  
of 24 December 1998 under No. 362-XIV,  
of 25 December 1998 under No. 368-XIV,  
of 15 January 1999 under No. 403-XIV,  
of 18 February 1999 under No. 442-XIV,  
of 18 March 1999 under No. 515-XIV,  
of 19 March 1999, No. 522-XIV,  
of 6 May 1999 under No. 624-XIV,  
of 13 May 1999 under No. 645-XIV,  
of 2 June 1999 under No. 714-XIV,  
of 3 June 1999, No. 722-XIV,  
of 7 July 1999 under No. 854-XIV,  
of 14 July 1999 under No. 932-XIV,  
of 14 July 1999 under No. 934-XIV

(amendments introduced by Law of Ukraine No. 934-XIV, dated 14 July 1999,  
had been in effect until January 1, 2002),

of 14 July 1999 under No. 942-XIV,  
of 14 July 1999 under No. 943-XIV,  
of 15 July 1999 under No. 971-XIV,  
of 15 July 1999 under No. 946-XIV,  
of 15 July 1999 under No. 973-XIV,  
of 15 July 1999 under No. 977-XIV

(amendments introduced by Law of Ukraine No. 977-XIV, dated 15 July 1999, are applied by taxpayers in  
the course of determination of tax obligations based on results of the accounting (tax) period that falls on the  
date of the entry into force by the said Law),

of 16 July 1999 under No. 991-XIV  
(taking account of the amendments introduced by Law of Ukraine No. 3333-IV, dated 12 January 2006),  
of 20 October 1999 under No. 1172-XIV,  
of 18 November 1999 under No. 1242-XIV,  
of 3 December 1999 under No. 1274-XIV,  
of 3 December 1999 under No. 1278-XIV,  
of 14 December 1999 under No. 1288-XIV,  
of 21 December 1999 under No. 1330-XIV,  
of 13 January 2000 under No. 1375-XIV,  
of 17 February 2000 under No. 1460-III,  
of 2 March 2000 under No. 1523-III,  
of 16 March 2000 under No. 1559-III,  
of 16 March 2000 under No. 1561-III,  
of 23 March 2000 under No. 1606-III,  
of 23 March 2000 under No. 1608-III,  
of 11 May 2000 under No. 1712-III,  
of 11 May 2000 under No. 1715-III,  
of 1 June 2000 under No. 1749-III,  
of 1 June 2000 under No. 1783-III,  
of 8 June 2000 under No. 1807-III,  
of 22 June 2000 under No. 1841-III,  
of 13 July 2000 under No. 1874-III,  
of 13 July 2000 under No. 1926-III,  
of 14 September 2000 under No. 1954-III,  
of 14 September 2000 under No. 1955-III,  
of 21 September 2000 under No. 1969-III,  
of 21 September 2000 under No. 1991-III,  
of 7 December 2000 under No. 2120-III,  
of 7 December 2000 under No. 2133-III,  
of 21 December 2000 under No. 2181-III,  
of 21 December 2000 under No. 2199-III,  
of 11 January 2001 under No. 2211-III,  
of 18 January 2001 under No. 2233-III,  
of 22 March 2001 under No. 2323-III,  
of 5 April 2001 under No. 2355-III,  
of 17 May 2001 under No. 2410-III,  
of 11 July 2001 under No. 2649-III,  
of 12 July 2001 under No. 2660-III,  
of 4 October 2001 under No. 2744-III,  
of 15 November 2001 under No. 2779-III,  
of 29 November 2001 under No. 2831-III,  
of 20 December 2001 under No. 2899-III,  
of 20 December 2001 under No. 2905-III,  
of 10 January 2002 under No. 2921-III,  
of 7 February 2002 under No. 3045-III,  
of 7 March 2002 under No. 3073-III,  
of 7 March 2002 under No. 3118-III,  
of 4 July 2002 under No. 40-IV

(amendments contemplated by Law of Ukraine No. 40-IV, dated 4 July 2002,

entered into force as from the 1<sup>st</sup> of January 2003),  
(amendments to this Law contemplated by Law of Ukraine No. 40-IV, dated 4 July 2002,  
were suspended for 2003 in connection with suspending the effect of Clause 3 in Section VII of Law of  
Ukraine No. 40-IV, dated 4 July 2002,  
pursuant to Law of Ukraine No. 380-IV, dated 26 December 2002,  
for 2004 - pursuant to Law of Ukraine No. 1344-IV, dated 27 November 2003,  
for 2005 - pursuant to Law of Ukraine No. 2285-IV, dated 23 December 2004),  
of 24 December 2002 under No. 346-IV,  
of 26 December 2002 under No. 380-IV,  
of 16 January 2003 under No. 440-IV,  
of 16 January 2003 under No. 469-IV,  
of 6 March 2003 under No. 601-IV,  
of 22 May 2003 under No. 856-IV,  
of 22 May 2003 under No. 857-IV,  
of 9 July 2003 under No. 1028-IV,  
of 2 October 2003 under No. 1218-IV,  
of 23 October 2003 under No. 1240-IV  
(amendments introduced by Law of Ukraine No. 1240-IV, dated 23 October 2003,  
were in effect prior to the 1<sup>st</sup> of July 2004),  
of 20 November 2003 under No. 1300-IV,  
of 27 November 2003 under No. 1344-IV,  
of 28 November 2003 under No. 1352-IV,  
of 4 March 2004 under No. 1595-IV,  
of 11 May 2004 under No. 1701-IV,  
of 11 May 2004 under No. 1702-IV,  
of 15 June 2004 under No. 1766-IV,  
of 15 June 2004 under No. 1779-IV,  
of 15 June 2004 under No. 1782-IV,  
of 17 June 2004 under No. 1801-IV,  
of 24 June 2004 under No. 1878-IV,  
of 29 June 2004 under No. 1924-IV,  
of 1 July 2004 under No. 1965-IV,  
of 18 November 2004 under No. 2188-IV,  
of 16 December 2004 under No. 2264-IV,  
of 23 December 2004 under No. 2285-IV,  
of 23 December 2004 under No. 2287-IV,  
of 15 March 2005 under No. 2470-IV,  
of 25 March 2005 under No. 2505-IV  
(peculiarities of application of certain changes contemplated by Law of Ukraine No. 2505-IV, dated 25  
March 2005,  
as are set forth in Clause 13 “Transitional Provisions” in Section 2 of the said Law),  
(amendments introduced by sub-clause "e" in Clause 8 of Section 2  
of Law of Ukraine No. 2505-IV, dated 25 March 2005,  
entered into force as from the 1<sup>st</sup> of June 2005),  
(amendments introduced by sub-clause "d" in Clause 12 of Section 2  
of Law of Ukraine No. 2505-IV, dated 25 March 2005,  
in the part relating to the exclusion of Clause 11.26  
entered into force as from the 1<sup>st</sup> of July 2005),  
of 3 June 2005 under No. 2642-IV,

(amendments introduced by sub-clause 8 in Clause 1 of Section I as are introduced by Law of Ukraine No. 2642-IV, dated 3 June 2005, entered into force as from the 1<sup>st</sup> of September 2005),  
of 23 June 2005 under No. 2711-IV,  
of 7 July 2005 under No. 2771-IV,  
of 7 July 2005 under No. 2772-IV,  
of 6 October 2005 under No. 2960-IV,  
of 18 October 2005 under No. 2987-IV,  
of 19 January 2006 under No. 3370-IV,  
of 19 October 2006 under No. 273-V,  
of 30 November 2006 under No. 398-V,  
of 14 December 2006 under No. 463-V,  
of 19 December 2006 under No. 489-V

(Pursuant to Clause 13 in Section 2 of Law of Ukraine No. 2505-IV, dated 25 March 2005, a moratorium on granting new benefits and expending the existing benefits has been introduced as from the date of the entry into force by this Law for 5 years)

The term “transfer”, which is used in the wording “operations involving the transfer of land plots underlying real estate or land plots with no constructions thereon” in sub-clause 5.1.17 of Clause 5.1 in Article 5 of this Law, has been officially interpreted

(Pursuant to Resolution No. 2-пп/2004 of the Constitutional Court of Ukraine dated 5 February 2004)

(The words “tax authority” in all cases have been replaced with the words “authority of the State Tax Service” in applicable cases pursuant to Law of Ukraine No. 1955-III, dated 14 September 2000, throughout the text of the Law)

(In the text of the Law, the words “sale” and “rendering” have been replaced with the word “supply”, the words “services (works)” and “services (results of works)” have been replaced with the word “services” in applicable cases pursuant to Law of Ukraine No. 1782-IV, dated 15 June 2004)

(In the text of the Law, the words “exportation of goods (services) outside the customs territory of Ukraine” or “exportation (sending) of goods (services) outside of the customs territory of Ukraine” in any combinations have been replaced with the word “exportation” in applicable cases and tense, and the words “importation of goods (services) into the customs territory of Ukraine” or “importation (sending) of goods (services) into the customs territory of Ukraine” in any combinations have been replaced with the word “importation” in applicable cases and tense pursuant to Law of Ukraine No. 2505-IV, dated 25 March 2005)

This Law shall define payers of the value added tax, objects, the basis and rates of taxation, a list of non-taxable and exempt operations, specifics of taxation of export/import operations, shall specify a definition of

the tax voucher, and shall lay down procedures for accounting, reporting and payment of the value added tax to the budget.

## **Article 1. Definitions**

The terms used in this Law shall have the following meanings:

1.1. “Tax, taxation, taxpayer, taxable operation (in applicable cases)” shall mean the value added tax, VAT taxation, a payer of the value added tax, an operation subject to taxation with VAT.

(Clause 1.1 of Article 1 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

1.2. “Person” shall mean any of the persons listed below, irrespective of whether such person is a [Ukrainian] resident or not:

a business entity, including an enterprise with foreign investments, irrespective of the form of such investments and the time when they were made;

(Paragraph 2 in Clause 1.2 of Article 1 as amended pursuant to the Law of Ukraine, dated 20 December 2001, under No. 2899-III)

any other legal entity that is not a business entity;

a natural person (a [Ukrainian] citizen, a foreign national or a stateless person), who is engaged in activities as are classified as business activities in accordance with law, or in imports of goods into the customs territory of Ukraine;

a representative office of a foreign resident that has no “legal entity” status.

(Clause 1.2 of Article 1 is supplemented with paragraph 5 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

For purposes of taxation, two or more persons, who are engaged in joint (common) activities without establishing a legal entity, shall be regarded as a separate person within such activities.

(Clause 1.2 of Article 1 is supplemented with paragraph 6 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

Records of results of joint (common) activities shall be maintained by the taxpayer authorized to do so by the other parties pursuant to terms and conditions of the agreement, separately from records of business results of such a taxpayer.

(Clause 1.2 of Article 1 is supplemented with paragraph 7 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

For purposes of taxation, business relationships between participants of joint (common) activities shall be regarded as relationships on the basis of separate civil-law agreements.

(Clause 1.2 of Article 1 is supplemented with paragraph 8 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

Procedures applicable to tax records of and reporting on results of joint (common) activities shall be laid down by the central tax agency.

(Clause 1.2 of Article 1 is supplemented with paragraph 9 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

1.3. “Taxpayer” shall mean a person, who under this Law is required to withhold and transfer to the budget the tax paid by a purchaser, or a person, who imports goods into the customs territory of Ukraine.

1.4. “Supply of goods” shall mean any operations carried out pursuant to sale-purchase agreements, exchange agreements, supply agreements and other civil-law agreements that contemplate a transfer of rights of ownership to such goods for compensation, irrespective of terms within which such compensation has been provided, as well as operations involving a supply of goods (results of works) on a free-of-charge basis and operations involving a transfer of property by a lessor onto the books of a lessee pursuant to a financial lease or a supply of property pursuant to any other agreements whose terms and conditions contemplate a deferral of payment and a transfer of the right of ownership to such property not later than on the date of the last payment.

(Paragraph 1 of Clause 1.4 in Article 1 as amended pursuant to the Law of Ukraine, dated 16 January 2003, under No. 469-IV, as restated by the Law of Ukraine, dated 3 June 2005, under No. 2642-IV, as amended pursuant to the Law of Ukraine, dated 7 July 2005, under No. 2771-IV)

Operations involving a transfer of goods under agreements for storage (safe custody), trust management agreements, operative lease agreements and other civil-law agreements, which do not provide for the transfer of the right of ownership to (possession or disposal of) such goods to another person, shall not be regarded as supply.

(Paragraph 2 of Clause 1.4 in Article 1 as amended pursuant to the Law of Ukraine, dated 16 January 2003, under No. 469-IV, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

“Supply of services” shall mean any operations of a civil-law nature involving performance of works, rendering of services, granting of a right to use or dispose of goods, including intangible assets, as well as a supply of property other than goods for compensation, as well as operations involving performance of works and rendering of services on a free-of-charge basis. In particular, the supply of services shall include granting a right to use or dispose of goods under lease agreements, supply agreements, licensing agreements

or via other methods of transferring a right to a patent, copyright, a trademark and other intellectual property rights, including industrial property rights.

(Paragraph 3 of Clause 1.4 in Article 1 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV, as amended pursuant to the Law of Ukraine, dated 7 July 2005, under No. 2771-IV)

(Clause 1.4 in Article 1 as restated by the Law of Ukraine, dated 26 September 1997, under No. 550/97-BP)

1.5. “Accounting (tax) period” shall mean a period, for which a taxpayer is required to assess and pay the tax into the budget.

1.6. “Tax obligation” shall mean a total amount of the tax received (assessed) by the taxpayer during the accounting (tax) period, which amount has been determined pursuant to this Law.

1.7. “Tax credit” shall mean an amount, by which a taxpayer has a right to reduce the tax obligation for the accounting period, which amount has been determined pursuant to this Law.

1.8. “Budget reimbursement” shall mean an amount that is to be refunded to a taxpayer from the budget in connection with paying the tax in excess as and when provided by this Law.

1.9. “Collection of debts” shall mean a banking service concerned with collection of funds from a debtor of a client upon an instruction of such a client in payment of the debtor’s debt or acceptance of promissory notes, cheques and other payment and trade documents.

1.10. “Factoring” shall mean an operation involving an assignment by the first creditor of rights to claim a third party debt to the second creditor subject to the prior or subsequent compensation of the cost of such debt to the first creditor.

1.11. “Cash method” shall mean a method of tax accounting, whereby the date, on which tax obligations arise, is determined as a date of transfer (receipt) of funds to (in) a taxpayer’s bank account (cashier’s office) or a date of receipt of other types of compensation of the cost of goods (services) supplied (or to be supplied), and the date, on which on a right to tax credit arises, is determined as a date, on which funds were written off from the taxpayer’s bank account (given out of a cashier’s office), or a date, on which other types of compensation of the cost of goods (services) supplied (to be supplied) to the taxpayer were provided.

(Article 1 is supplemented with new Clause 1.11 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

1.12. “Duty-free shop (duty-free store)” shall mean a point of retail sale of goods (related services) that are subject to a customs regime, pursuant to which the goods (related services) not designated for consumption within the customs territory of Ukraine are imported, kept and supplied under customs control at points of entry at the customs border opened for international communication, other customs control zones specified by Ukrainian customs authorities, without collection of the import duty, this tax as well as other taxes and charges whose base of taxation is the value of such goods (related services), non-tariff regulation measures

and licensing of activities concerned with retail sale of goods (services related to such sale), including excisable goods.

(Article 1 is supplemented with new Clause 1.12 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

1.13. Clause 1.13 in Article 1 is deleted

(Pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

1.13.1. Sub-clause 1.13.1 of Clause 1.13 in Article 1 is deleted

(Pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

1.13.2. Sub-clause 1.13.2 of Clause 1.13 in Article 1 is deleted

(Pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

1.13.3. Sub-clause 1.13.3 of Clause 1.13 in Article 1 is deleted

(Pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

1.13.4. Sub-clause 1.13.4 of Clause 1.13 in Article 1 is deleted

(Pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

1.13.5. Sub-clause 1.13.5 of Clause 1.13 in Article 1 is deleted

(Pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

(Article 1 is supplemented with new Clause 1.13 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV, Clause 1.13 in Article 1 was deleted pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

1.14. "Related services" shall mean services whose cost is included into the customs value of goods that are being exported or imported pursuant to rules set out by customs law.

(Article 1 is supplemented with new Clause 1.14 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)



1.15. Other terms shall have the meanings defined by tax laws or other laws to the extent they are not inconsistent with this Law and other tax laws.

(Article 1 is supplemented with new Clause 1.15 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

1.16. “Tax promissory note” shall mean a written unconditional monetary obligation of a taxpayer to pay into the budget a relevant amount of funds pursuant to procedures and within time periods specified by this Law, which obligation is confirmed by commercial banks through avals, with a promissory note being issued by the taxpayer for deferring of payment of the value added tax that is collected at the time of importation of goods into the customs territory of Ukraine.

The tax promissory note shall not be protested, the amount specified in an outstanding promissory note unpaid shall be regarded as tax arrears that shall be covered pursuant to the procedures specified by law for payment of tax debt.

(Article 1 is supplemented with new Clause 1.16 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV, in connection with which Clauses 1.11 and 1.12 shall be regarded as Clauses 1.17 and 1.18, respectively)

1.17. Such terms as “corporate rights, related party, resident, non-resident, good will, funds, securities, derivatives, goods, dividends, interest, royalties, credit, deposits, leasing (renting), barter, goods (works, services) received free of charge, gross production (circulation) expenses, fixed assets and intangible assets subject to depreciation” shall have the meanings defined in the Law of Ukraine “On the Corporate Profit Tax”.

(Clause 1.17 in Article 1 as amended by the Laws of Ukraine, dated 2 March 2000, under No. 1523-III, dated 24 December 2002, under No. 346-IV)

1.18. “Usual prices” shall have the meaning as defined in and shall be applied in accordance with the rules set forth in Clause 1.20 in Article 1 of the Law of Ukraine “On the Corporate Profit Tax”.

(Article 1 is supplemented with Clause 1.18 pursuant to the Law of Ukraine, dated 24 December 2002, under No. 346-IV)

## **Article 2. Taxpayers**

Taxpayers shall be:

2.1. any person, who:

a) carries on or plans to carry on business activities and is registered at his/its discretion as a taxpayer to pay the tax hereunder;

b) is subject to the obligatory registration as a taxpayer to pay the tax hereunder;

c) imports goods (related services) in volumes that are subject to VAT taxation pursuant to rules set forth in this Article.

2.2. Any person, who has registered at his/its discretion as a taxpayer.

(Clause 2.2 in Article 2 as amended pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

2.3. A person must be obligatorily registered as a taxpayer in the event that:

2.3.1. the total amount of proceeds from operations undertaken to supply goods (services), including with the use of a local or global computer network, which are subject to taxation under this Law, that has been calculated for (paid, transferred to) such a person or in payment of obligations to third parties during the last 12 calendar months, exceeds in aggregate UAH 300,000 (excluding the value added tax).

(Sub-clause 2.3.1 of Clause 2.3 in Article 2 as amended pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

2.3.2. A person, who is authorized to pay consolidated tax assessable on objects of taxation that arise as a result of supply of services by railway enterprises in connection with their principal business and by communications enterprises subordinated to the taxpayer pursuant to the procedures specified by the Cabinet of Ministers of Ukraine.

2.3.3. A person, who supplies goods (services) within the customs territory of Ukraine with the use of the global or local computer networks, in which case a non-resident person may carry on such activity only through its permanent establishment registered in the territory of Ukraine.

2.3.4. A person, who carries out operations involving sales of seized property, irrespective of whether or not such person achieves the total amount of operations involving the supply of goods (services) as is indicated in Sub-clause 2.3.1 in Clause 2.3 of this Article, as well as irrespective of which regime of taxation is used by such a person pursuant to law.

2.4. Any person, who imports (for natural persons – brings (sends over)) goods (related services) into Ukraine's customs territory for their use or consumption within the customs territory of Ukraine, irrespective of which regime of taxation is used by such a person pursuant to law, except for natural persons not registered as taxpayers, who bring (send over) goods (items) in their accompanying luggage or receive them as mailings as part of non-trading circulation in volumes that are not subject to taxation pursuant to customs law (except for importation by such natural persons of motor vehicles or spare parts for them), and non-residents who send mail in accordance with rules of the Universal Postal Union into the customs territory of Ukraine, and recipients of such mail.

In the event that natural persons, who are not registered as taxpayer to pay the tax hereunder, bring (send over) goods (items) in volumes that exceed the amount of non-trading circulation as is subject taxation, such persons shall pay the value added tax at the time such goods (items) cross of the customs border of Ukraine without registration based on the customs value of goods (items), which exceed the amount of non-trading circulation.

(Article 2 as amended by the Law of Ukraine, dated 26 September 1997, under No. 550/97-BP, dated 15 January 1998, under No. 25/98-BP, dated 20 November 1998, under No. 277-XIV, dated 14 September 2000, under No. 1955-III, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

### **Article 3. Objects of Taxation and Operations not subject to Taxation**

3.1. The object of taxation shall be operations carried out by taxpayers involving:

3.1.1. supply of goods and services, where the locality, wherein such services are provided, is in the customs territory of Ukraine, including operations involving a transfer of the right of ownership to pledged property to the lender (creditor) for covering the borrower's debt, as well as operations involving a transfer of property under a financial lease to the lessee for use;

3.1.2. importation of goods (related services) under the customs regime of importation or re-importation (hereinafter referred to, as "importation").

For taxation purposes, the following shall be also regarded as importation:

importation from outside Ukraine' customs border into Ukraine's customs territory of goods (related services) under lease (renting) agreements (including in the event of returning of leased property to a resident lessor or any other person upon an instruction of such a lessor), pledge agreements and other agreements that do not contemplate a transfer of the right of ownership to such goods (property) or provide for their exchange for corporate rights or securities, including situations when such importation is related to the returning of goods in connection with termination of the said agreements;

supply of goods from the territory of duty-free stores into the customs territory of Ukraine for their free circulation (except for the territory of other duty-free stores);

supply of processed products (finished products) covered by the customs regime of processing in Ukraine's customs territory into Ukraine's customs territory for their free circulation;

in such other instances as are specified by the Customs Code of Ukraine;

3.1.3. exportation of goods (related services) in the customs regime of exportation or re-exportation (hereinafter referred to, as "exportation"), supplying of transport services concerned with carriage of passengers, baggage (cargo) and freight outside the State border of Ukraine.

(Paragraph 1 of Sub-clause 3.1.3 of Clause 3.1 as amended pursuant to the Law of Ukraine, dated 7 July 2005, under No. 2771-IV)

For taxation purposes, the following shall be also regarded as exportation of goods:

exportation of goods (related services) outside the customs border of Ukraine under financial lease (renting) agreements (including in cases when property under a financial lease is returned to a non-resident lessor or any other person upon an instruction of such a lessor), pledge agreements and other agreements that do not

contemplate a transfer of the right of ownership to such goods (property) or contemplate their exchange for corporate rights or securities, including cases when such exportation is in connection with termination of the said of agreements;

supply of goods (related services) from the customs territory of Ukraine into the territory of duty-free stores;

transfer of goods cleared under the customs regime of exportation into the customs regime of a customs warehouse for subsequent exportation of such goods from Ukraine's customs territory;

in other instances as are specified in the Customs Code of Ukraine.

(Clause 3.1 in Article 3 as amended by the Laws of Ukraine, dated 15 January 1998, under No. 25/98-BP, dated 20 November 1998, under No. 277-XIV, dated 16 January 2003, under No. 469-IV, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

3.2. The following operations shall not be objects of taxation:

3.2.1. issuance (issue), placement, in any forms of management and sale (repayment, redemption) for cash, of securities that are issued by business entities, the National Bank of Ukraine, the Ministry of Ukraine, local self-government bodies pursuant to law, including investment and mortgage certificates, certificates of the fund of operations with real estate, derivatives as well as corporate rights expressed in forms other than securities; exchange of the said securities and corporate rights expressed in forms other than securities for other securities; settlement and clearing, registrar and depository activities on the securities market, as well as asset management activities (including pension asset management, banking management funds), pursuant to law.

Rules set forth in this Sub-clause shall not apply to operations involving sales of travelers', bank and personal cheques, securities, settlement and payment documents, plastic (payment) cards;

(Sub-clause 3.2.1 of Clause 3.2 in Article 3 as amended by the Laws of Ukraine, dated 15 July 99, under No. 977-XIV, dated 29 November 2001, under No. 2831-III, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

3.2.2. transfer of property into storage (safe custody), as well as leasing (renting), except for the transfer into a financial lease;

return of property from storage (safe custody) to its owner, as well as return of property previously transferred into a lease (rent) to the lessor, except for that transferred into financial leasing;

calculation and payment of interest or commission fees as part of a rent (lease) payment under a financial lease agreement in the amount that does not exceed the double discount rate of the National Bank of Ukraine in effect on the date of calculation of such interest (commission fees) for the time period in question, which amount has been calculated on the basis of the value of the leased property provided under such a financial lease agreement; in respect of the property provided under a financial lease valued in foreign currency,

interest paid shall be determined, for taxation purposes, in Ukrainian hryvnias pursuant to the exchange rate set by the National Bank on the date of the payment;

transfer of property into a pledge (mortgage) to the lender (creditor) and/or as security for another actual claim of the creditor, returning of such property from the pledge (mortgage) to its owner upon the lapse of the term of the respective agreement, if the place of such transfer (return) is within the customs territory of Ukraine;

repayment in cash of the principal amount of a consolidated mortgage debt and payment of interest calculated thereon, combination and/or purchasing (selling) of a consolidated mortgage debt, replacement of one part of the consolidated mortgage debt for another part of the consolidated mortgage debt, or returning (buy-back) of such consolidated mortgage debt by the resident or for the resident's benefit pursuant to law;

(Sub-clause 3.2.2 of Clause 3.2 in Article 3, as amended pursuant to the Law of Ukraine, dated 16 January 2003, under No. 469-IV, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

3.2.3. rendering of insurance, co-insurance and re-insurance services by entities that have licenses to carry out insurance activities pursuant to law, as well as insurance-related services of insurance (re-insurance) brokers and insurance agents;

rendering of mandatory social and pension insurance services, non-pension benefit services, services concerned with attraction and servicing of pension deposits;

(Sub-clause 3.2.3 of Clause 3.2 in Article 3, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

3.2.4. circulation of foreign currency valuables (including national and foreign currency), banking metals, banknotes and coins of the National Bank of Ukraine, except for those that are used for numismatic purposes, whose base of taxation shall be their sale price; issuance, circulation and repayment of tickets of State lotteries initiated pursuant to a license from the Ministry of Finance of Ukraine; payments of monetary winnings, monetary prizes and monetary awards; acceptance of parlays, including through an exchange of funds for tokens and other substitutes of the hryvnia designated for use in amusement machines and other gambling equipment, supply of uncanceled stamps of Ukraine, envelopes or postcards with uncanceled stamps of Ukraine, except for collection stamps, envelopes or postcards or postcards for philatelist needs whose base of taxation shall be their sale price;

(Sub-clause 3.2.4 in Article 3, as amended pursuant to the Laws of Ukraine, dated 26 September 1997, under No. 550/97-BP, dated 14 July 1999, under No. 932-XIV, as restated by the Law of Ukraine, dated 15 July 99, under No. 977-XIV, with amendments introduced by the Law of Ukraine, dated 21 September 2000, under No. 1969-III)

3.2.5. rendering of collection services, settlement and cash services, services with concerned with attraction, depositing and returning of funds under loan agreements, deposit agreements (including pension deposit agreements), agreements for management of funds and securities (corporate rights and derivatives), assignment, extending, management and re-assignment of financial credits, credit guarantees and bank sureties by the person that has provided such credits, guarantees or sureties;

(Paragraph 1 of Sub-clause 3.2.5 in Article 3, as amended pursuant to the Law of Ukraine, dated 26 September 1997, under No. 550/97-BP, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

trading in debt for cash or securities, except for operations involving collection of debts and factoring operations, except for factoring operations if the subject matter of a debt is foreign currency valuables, securities, including compensation documents (certificates), investment certificates, mortgage certificates with fixed returns, housing cheques, land bonds and derivatives;

(Paragraph 2 in Sub-clause 3.2.5 of Clause 3.2 in Article 3, as amended pursuant to the Laws of Ukraine, dated 15 July 99, under No. 977-XIV, dated 25 March 2005, under No. 2505-IV)

importation of property as technical or charitable (humanitarian) assistance pursuant to the rules of international agreements of Ukraine, to whose binding force the Supreme Rada of Ukraine granted its consent, or pursuant to law;

(Sub-clause 3.2.5 of Clause 3.2 in Article 3 is supplemented with paragraph 3 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

3.2.6. payment of the cost of State paid services that are provided to natural persons or legal entities by agencies of executive power and bodies of local self-government, with the requirement for receiving (supplying) such services being laid down by law, including fees for registration, licenses (permits) issued, certificates in the form of charges, State duties etc.;

3.2.7. payment in cash of salaries (other payments similar to salaries), as well as pensions, stipends, subsidies, grants out of budgets or the Pension Fund of Ukraine or national mandatory social insurance funds (except for those that are provided in kind);

payments of dividends, royalty in cash or in the form of securities, which are made by an issuer;

rendering of commission (brokerage, dealer) services concerned with trading in and/or management of securities (corporate rights), derivatives and foreign currency valuables, including any monetary payments (including commission fees) to stock or currency exchanges or over-the-counter stock trading systems or their members in connection with arranging for and trading in securities by licensed securities traders, as well as in derivatives and foreign currency valuables;

(Sub-clause 3.2.7 of Clause 3.2 in Article 3, as amended by the Laws of Ukraine, dated 15 July 99, under No. 977-XIV, dated 2 March 2000, under No. 1523-III, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

(The effect of the amendments introduced by the Law of Ukraine, dated 2 March 2000, under No. 1523 to Sub-clause 3.2.7 in Clause 3.2 extends onto matters and issues that have occurred since 1 October 1997, but do not entail re-assessment of tax obligations)

or changes to transactions governed by civil law)

3.2.8. supply for consideration of aggregate gross assets of a taxpayer (taking account of the value of goodwill) to another taxpayer.

(Paragraph 1 of Sub-clause 3.2.8 of Clause 3.2 in Article 3 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

Paragraph 2 of Sub-clause 3.2.8 of Clause 3.2 in Article 3 is deleted

(Pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

The supply of aggregate gross assets shall mean the supply of an enterprise as a separate ongoing concern or inclusion of gross assets of the enterprise or a part thereof into assets of another enterprise. In such case, the purchasing enterprise acquires rights and obligations (is a successor) of the enterprise selling such assets.

Paragraph 4 of Sub-clause 3.2.8 of Clause 3.2 in Article 3 is deleted

(Pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

In the course of joint (common) activities, a transfer of goods (works, services) onto the books of the taxpayer that is empowered under the agreement to maintain records of results of such joint activities, shall be regarded as supply of such goods (works, services);

(Sub-clause 3.2.8 of Clause 3.2 in Article 3, as restated by the Law of Ukraine, dated 15 July 99, under No. 977-XIV)

3.2.9. Sub-clause 3.2.9 of Clause 3.2 in Article 3 is deleted

(Article 3 is supplemented with sub-clause 3.2.9 pursuant to the Law of Ukraine, dated 6 September 1997, under No. 550/97-BP, Sub-clause 3.2.9 of Clause 3.2 in Article 3 is deleted pursuant to the Law of Ukraine, dated 15 July 99, under No. 977-XIV, in connection with which sub-clause 3.2.10 shall be regarded as sub-clause 3.2.9)

3.2.9. transfer on a free-of-charge basis of property of all forms of ownership into State ownership or communal ownership of village and city communities or into their common ownership, which property is recorded on the books of one taxpayer and are transferred to the books of another taxpayer, if such operations are carried out by resolution of the Cabinet of Ministers of Ukraine, central or local agencies of executive power, bodies of local self-government passed within limits of their powers.

This provision shall apply to:

operations involving a free-of-charge transfer of items from the books of a taxpayer, whose property is in State or communal ownership, to the books of another legal entity, whose property is respectively in State or communal ownership;

operations involving a free-of-charge transfer of non-privatized housing (including common-use space and buildings and structures adjacent to housing), as well as objects of social infrastructure (including objects whose construction is not completed) from the books of a taxpayer to the books of a legal entity, whose property is in State or communal ownership, or directly to the balance sheet of the relevant local Rada.

For purposes of this Sub-clause, objects of social infrastructure shall mean:

kindergartens, secondary schools, secondary vocational schools, children's musical and art schools;

health care institutions, medical check-up points, points of prophylaxis and assistance to employees;

sport halls and playgrounds, stadiums, children's recreational camps;

culture clubs and centers;

libraries and library collectors;

utilities, including networks of supply of electricity, gas, heat, water and water discharge outlet; buildings and structures designated for their servicing (boiler-rooms, boiler-houses, sewage and water-supply facilities, collectors and their equipment);

fire stations and fire-fighting machinery and equipment;

(Article 3 is supplemented with Sub-clause 3.2.9 pursuant to the Law of Ukraine, dated 4 March 1998, under No. 169/98-BP, Sub-clause 3.2.9 of Clause 3.2 in Article 3, as restated by the Law of Ukraine, dated 6 October 1998, under No. 163-XIV, as amended pursuant to the Law of Ukraine, dated 15 July 99, under N977-XIV, as restated by the Laws of Ukraine, dated 21 December 1999, under No. 1330-XIV, dated 29 June 2004, under No. 1924-IV)

3.2.10. supply of paid services in the area of out-of-school education by an out-of-school educational institution to students, pupils and attendees.

(Article 3 is supplemented with sub-clause 3.2.10 pursuant to the Law of Ukraine, dated under 22 June 2000, under No. 1841-III)

3.2.11. providing by authorized banks of services concerned with trust management of banking management funds, payment of fees for management of a fund dealing with operations with real estate, for remittance of monies out of the construction financing fund to finance construction, for effectuation of payments under mortgage certificates pursuant to law.

(Article 3 is supplemented with sub-clause 3.2.11 pursuant to the Law of Ukraine, dated 7 February 2002, under No. 3045-III)



(The effect of Sub-clause 3.2.11 in Clause 3.2 in Article 3 was suspended for 2004 pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(Sub-clause 3.2.11 of Clause 3.2 in Article 3, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

3.2.12. payment of an arbitration fee and reimbursement for other expenses relating to resolution of a dispute by arbitration pursuant to law;

(Clause 3.2 in Article 3 is supplemented with sub-clause 3.2.12 pursuant to the Law of Ukraine, dated 11 May 2004, under No. 1701-IV)

3.2.13. Sub-clause 3.2.13 of Clause 3.2 in Article 3 is deleted

(Clause 3.2 in Article 3 is supplemented with sub-clause 3.2.13 pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV, Sub-clause 3.2.13 of Clause 3.2 in Article 3 is deleted pursuant to the Law of Ukraine, dated 7 July 2005, under No. 2771-IV)

3.2.14. rendering of agency services and services concerned with charterage of shipping by shipping agents.

(Clause 3.2 in Article 3 is supplemented with sub-clause 3.2.14 pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

#### **Article 4. Base of Taxation**

4.1. The base of taxation of operations involving a supply of goods (services) shall be determined based on their contractual price set on the basis of market prices, but not lower than usual prices, including an excise tax, import duty, other national taxes and charges (mandatory payments), pursuant to Ukrainian tax law (except for the value added tax, as well as a charge for mandatory State pension insurance, cell mobile communications services that are included into the price of goods (services)). The contractual price shall include any amounts of funds, the cost of tangible and intangible assets that are transferred to the taxpayer directly by the seller or through a third party in connection with compensation of the cost of goods (services).

In the event that the usual price for goods (services) exceeds the contractual price for such goods (services) by more than 20%, the base of taxation of an operation involving the supply of such goods (services) shall be determined on the basis of usual prices.

(Clause 4.1 of Article 4 is supplemented with paragraph 2 pursuant to the Law of Ukraine, dated 30 November 2006, under No. 398-V)

(Clause 4.1 of Article 4 as amended pursuant to the Law of Ukraine, dated 15 July 99, under No. 977-XIV)

(The effect of Clause 4.1 of Article 4 was suspended for 2005 pursuant to the Law of Ukraine, dated 23 December 2004, under No. 2285-IV)

(Clause 4.1 of Article 4 as restated by the Laws of Ukraine, dated 25 March 2005, under No. 2505-IV, dated 7 July 2005, under No. 2771-IV)

4.2. In the event of supply of goods (works, services) without payment or with partial payment of their cost in cash as part of barter (commodity exchange) operations, performance of operations involving a free-of-charge transfer of goods (works, services), payments in kind as remuneration of labor to natural persons, who are employed by the taxpayer, a transfer of goods (works, services) within the balance sheet of the taxpayer for non-production use, expenses for which use are not deducted as gross expenses and are not subject to depreciation, as well as to a person related to the seller or a business entity, which is not registered as a taxpayer, the base of taxation shall be determined on the basis of the actual price of the operation, but not lower than a usual price.

(Clause 4.2 of Article 4 as amended pursuant to the Law of Ukraine, dated 4 March 1998, under No. 169/98-BP)

4.3. For goods, which are imported into Ukraine's customs territory by taxpayers, the basis of taxation shall be the contractual price of such goods, but not lower than their customs value as is indicated in a import customs declaration, taking account of expenses associated with transportation, loading, unloading, re-loading and insurance up to the point of crossing the customs border of Ukraine, payment of brokerage, agency, commission and other fees related to importation of such goods, payment for use of intellectual property belonging to such goods, excise taxes, import duties, as well as other taxes, charges (mandatory payments), except for the value added tax, which are included into the price of the goods (works, services) pursuant to Ukrainian tax laws. The determined value shall be re-calculated in Ukrainian hryvnias pursuant to the exchange rate of the National Bank of Ukraine in effect at the end of the operating day preceding the day, on which the goods (shipment of goods) were for the first time subjected to the regime of customs control pursuant to customs law.

(Paragraph 1 of Clause 4.3 of Article 4 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

For services, which are supplied by residents at the place of rendering of such services within the customs territory of Ukraine, the base of taxation shall be the contractual price of such works (services), taking account of excise taxes as well as other taxes, charges (mandatory payments), except for the value added tax, which are included into the price of the supplied works (services) pursuant to Ukrainian tax laws. The determined value shall be re-calculated in Ukrainian hryvnias pursuant to the exchange rate of the National Bank of Ukraine in effect at the end of the operating day preceding the day, on which a report evidencing the fact of receipt of the services was drawn up.

(Paragraph 2 of Clause 4.3 of Article 4 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

4.4. For finished products, which have been made within the territory of Ukraine from give-and-take materials of a non-resident, if such products are supplied into the customs territory of Ukraine, the base of

taxation shall be the contractual price of such products, taking account of an excise tax, import duties, as well as other taxes, charges (mandatory payments), except for the value added tax, which are included into the price of such products pursuant to Ukrainian tax laws. The determined value shall be re-calculated in Ukrainian hryvnias pursuant to the exchange rate of the National Bank of Ukraine in effect on the date of occurrence of tax obligations. In such case, the tax shall be paid into the budget by the purchaser pursuant to the procedures contemplated for taxation of goods being imported, and the liability for payment of the tax by the purchaser of such products shall be born by the domestic processor of such products.

4.5. If following the supply of goods (services) there is any change in the amount of compensation of their value, including a revision of prices upon delivery, any re-calculation in cases of return of goods to the person that provided them, the amounts of tax obligations and tax credit of the supplier and the recipient shall be subject to relevant adjustment.

4.5.1. If as a result of such re-calculation there is a decrease of the amount of compensation for the benefit of the taxpayer that is a supplier, then:

a) the supplier shall accordingly reduce the amount of the tax obligations based on results of the tax period, during which such re-calculation was carried out, and shall send the recipient the calculation of the adjusted figure of the tax;

b) the recipient shall accordingly reduce the amount of tax credit based on results of such tax period in the event that the recipient is registered as a taxpayer on the date, on which such adjustment was carried out, and has increased its tax credit in connection with having received such goods (services).

4.5.2. If as a result of such re-calculation there is an increase of the amount of compensation for the benefit of the taxpayer that is a supplier, then:

a) the supplier shall accordingly increase the amount of tax obligations based on results of the tax period, during which such re-calculation was carried out, and shall send the recipient the calculation of the adjusted figure of the tax;

b) the recipient shall accordingly increase the amount of tax credit based on results of such tax period in the event that the recipient is registered as a taxpayer on the date, on which such re-calculation was carried.

4.5.3. It shall be permitted to reduce the amount of tax obligations of the taxpayer that is a supplier in the event of a change to the compensation of the cost of goods (services) provided to persons who were not payers of this tax on the date of the supply only:

a) in the event that earlier supplied goods are returned into the supplier's ownership, upon providing the recipient with full compensation of their cost in cash;

b) in the event that prices relating to warranty-related replacements of goods are revised.

(Clause 4.5 of Article 4 as amended pursuant to the Law of Ukraine, dated 16 January 2003, under No. 469-IV, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

4.6. The cost of tare, which is defined as returnable (pledgeable) under terms and conditions of an agreement (contract), shall not be included into the base of taxation. In the event that within terms specified by the

Cabinet of Ministers of Ukraine, but within time periods not exceeding 12 calendar months from the date, on which returnable tare was received, such tare is not returned to the shipper, the cost of such returnable tare shall be included into the base of taxation of the recipient.

(Clause 4.6 of Article 4 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

4.7. If a taxpayer is engaged in the supply of consumable goods (selling under commission arrangements), which are purchased from persons who are not registered as payers of the tax, the base of taxation shall be the commission fee of such a taxpayer. Rules on selling under commission arrangements and on determining commission fees shall be laid down by the Cabinet of Ministers of Ukraine.

(Paragraph 1 of Clause 4.7 of Article 4 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

In cases when a taxpayer is engaged in the supply of goods received under commission (consignment) agreements, surety agreements, agency agreements, trust management agreements and other civil-law agreements, which empower such a taxpayer (hereinafter referred to, as the “commissionaire”), to supply goods on behalf of and upon an instruction by another person (hereinafter referred to, as the “principal”) without transferring the right of ownership to such goods, the base of taxation shall be the sale price of these goods as is determined pursuant to the procedures specified in this Law. The date of an increase of the commissionaire's tax obligations shall be the date determined under the rules set forth in Clause 7.3 of this Law, and the date of an increase of the commissionaire’s tax credit shall be the date, on which funds were transferred to the principal or on which other types of compensation of the cost of the said goods were provided to the latter. In such case, the date of the increase of the principal’s tax obligations shall be the date, on which funds or other types of compensation of the cost of goods were received from the commissionaire.

In the event that a taxpayer (hereinafter referred to, as the “agent”) is engaged in the purchase of goods (works, services) upon an instruction and at the cost of a third person (hereinafter referred to, as the “principal”), the date of an increase of such an agent’s tax credit shall be the date of transfer of funds (delivery into management of securities, other debt-evidencing documents) for the benefit of the seller of such goods (works, services) or delivery of other types of compensation for the cost of such goods (works, services), and the date of the increase of tax obligations shall be the date of transfer of such goods (results of works, services) to the principal. In such case, the principal shall not increase its tax credit by the amount of funds (the value of securities, other debt-evidencing documents) transferred (handed) to the agent, but has a right to increase its tax credit for the tax period, in which the goods (works, services) purchased by the agent upon its instruction were received.

The said rule does not apply to operations involving exportation of used goods outside the customs territory of Ukraine or importation of used goods into the customs territory of Ukraine under the said agreements whose taxation is governed by relevant rules of this Law.

(Clause 4.7 of Article 4 as amended by the Laws of Ukraine, dated 26 September 1997, under No. 550/97-BP, dated 4 March 1998, under No. 169/98-BP, as restated by the Laws of Ukraine, dated 15 July 99, under No. 977-XIV, and dated 25 March 2005, under No. 2505-IV)

4.8. In the event that a taxpayer carries out operations involving a supply of goods (services), which are the object of taxation pursuant to Clause 3.1 in Article 3 of this Law, against security of debt obligations of the purchaser provided to such a taxpayer in the form of a promissory note or a bill of exchange or other debt-evidencing instruments (hereinafter referred to, as the “promissory note”) issued by such a purchaser or a third party, the base of taxation shall be the contractual price of such goods (services), but not lower than usual prices, excluding discounts from or other reductions off the nominal value of such a promissory note, and under interest-bearing promissory notes – it shall be the contractual price of such goods (services), but not lower than usual prices as increased by the amount of interest payable or to be paid on the amount of the nominal value of such a promissory note.

In the event that the taxpayer makes a return delivery of goods (services) upon consent of the holder of the promissory note, instead of repayment in cash of the debt amount specified in the promissory note, the base of taxation shall be the contractual price of such goods (services), but not lower than usual prices, excluding discounts from or other reductions off the nominal value of such a promissory note, and under interest-bearing promissory notes – it shall be the contractual price of such goods (services), but not lower than usual prices as increased by the amount of interest payable or to be paid on the amount of the nominal value of such a promissory note.

For purposes of taxation, pursuant to this Law the promissory notes (except for tax promissory notes) issued or received shall not be regarded as a means of payment and shall not change the amount of tax credit or tax obligations for this tax, except for tax promissory notes.

(Article 4 is supplemented with Clause 4.8 pursuant to the Law of Ukraine, dated 15 July 99, under No. 977-XIV, Clause 4.8 of Article 4 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

4.9. If fixed production assets or non-production assets are liquidated by an independent resolution of the taxpayer or are transferred on a free-of-charge basis to a person, who is not registered as a taxpayer, as well as in the event that fixed assets are converted to non-production assets, such liquidation, transfer on a free-of-charge basis or conversion shall be regarded for taxation purposes as supply of such fixed production assets or non-production assets at usual prices existing on the date of such supply, and for fixed assets belonging to Group 1 – as supply at usual prices, but not lower than their balance-sheet value.

Rules set forth in this Clause shall not apply to instances when fixed production assets or non-production assets are liquidated in connection with their destruction or ruining as a result of an act of god, in other instances when such liquidation is carried out without the taxpayer’s consent, including in the event of theft of fixed assets, or when the taxpayer gives to the State tax authority a relevant document confirming destruction, disassembly or transformation of a fixed asset by other methods, as a result of which the fixed asset may not be used in the future for its originally designated purpose.

If as a result of liquidation of the fixed asset there are components, parts, elements or other leftovers that have value, such components, parts, elements or other leftovers shall be liquidated pursuant to the rules set for liquidation of the fixed asset.

(Article 4 is supplemented with Clause 4.9 pursuant to the Law of Ukraine, dated 15 July 99, under No. 977-XIV)

4.10. In the event of rendering of services concerned with shipments (carriage) of goods (freight, passengers) in transit through the customs territory of Ukraine, the base of taxation shall be calculated proceeding from the cost of services concerned with such transit shipments (carriage) rendered within the customs territory of Ukraine (taking account of the distance from the point of first crossing the State border of Ukraine to the point of final crossing the State border of Ukraine).

(Article 4 is supplemented with Clause 4.10 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

4.11. Clause 4.11 of Article 4 is deleted

(Article 4 is supplemented with Clause 4.11 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV, Clause 4.11 of Article 4 was deleted pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

## **Article 5. Operations exempt from Taxation**

5.1. The following operations shall be exempt from taxation:

5.1.1. supply of domestic products of children's nutrition by "milk kitchen" facilities and specialized stores and points of sale that carry out functions of distribution points pursuant to the procedures and in accordance with the list of products specified by the Cabinet of Ministers of Ukraine;

5.1.2. supply of (subscription for) periodical publications of printed mass media and books, except for erotic publications, student copybooks, textbooks and training manuals of Ukrainian production, "Ukrainian language - foreign language" and "foreign language – Ukrainian language" dictionaries; delivery of periodical publications of printed mass media within the customs territory of Ukraine;

(Sub-clause 5.1.2 of Clause 5.1 as amended pursuant to the Law of Ukraine, dated 17 February 2000, under No. 1460-III)

(The effect of Sub-clause 5.1.2 of Clause 5.1 in Article 5 was suspended for 2004 (except for operations involving supplies of student copybooks, text books and training manuals of domestic production) pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(The effect of Sub-clause 5.1.2 of Clause 5.1 in Article 5 is renewed in connection with amendments introduced to Clause 49 in Part 1 of Article 80 of the Law of Ukraine, dated 27 November 2003, under No. 1344-IV, pursuant to the Law of Ukraine, dated 17 June 2004, under No. 1801-IV)

(Sub-clause 5.1.2 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.3. supply of services concerned with upbringing and education of children by children's musical and art schools, schools of arts, culture centers; services concerned with pre-school upbringing, rudimentary, secondary, vocational and higher education by institutions that have a special permit (license) to supply such services, irrespective of their organizational and legal status and forms of ownership, pursuant to the list of such services specified by the Cabinet of Ministers of Ukraine, as well as services concerned with accommodation of pupils or students in boarding schools or dormitories;

(Sub-clause 5.1.3 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.4. supply of goods of special designation for disabled persons pursuant to the list prescribed by the Cabinet of Ministers of Ukraine, the authorized agency of State executive power, including cars for disabled persons, with payments for them with monies from the State or local budgets of budgets, as well as operations involving their free of charge transfers to disabled persons in instances specified by law;

(Sub-clause 5.1.4 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 14 December 2006, under No. 463-V)

5.1.5. supply of services concerned with payment and delivery of pensions from the general system of mandatory State pension insurance, non-state pension benefits, insurance payments (including annuities) under long-term life insurance agreements, payments from bank pension accounts, payments under pension deposits, as well as monetary assistance to the population that is granted out of the budget pursuant to approved social programs;

(Sub-clause 5.1.5 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.6. supply of services concerned with registration of civil status acts by State bodies empowered to carry out such registration pursuant to law;

5.1.7. supply (including by pharmacies) of registered medical drugs and items of medical designation permitted for use in Ukraine in accordance with the list that is determined by the Cabinet of Ministers of Ukraine before the 1<sup>st</sup> of September of the year preceding the year of account. If until the above date the list has not been specified, the list for the previous year shall be effective;

(The effect of Sub-clause 5.1.7 of Clause 5.1 in Article 5 was suspended for 2004 (except for the supply of medical drugs and items of medical designation permitted for use in Ukraine in accordance with the list that is specified by the Cabinet of Ministers of Ukraine), pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(Sub-clause 5.1.7 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.8. supply of health care services pursuant to the list specified by the Cabinet of Ministers of Ukraine by health care institutions that have a license to supply such services, as well as supply of services by rehabilitation institutions to disabled persons and disabled children, which institutions have a license to supply such services.

(The effect of Sub-clause 5.1.8 of Clause 5.1 in Article 5 was suspended for 2004 (except for services concerned with the list that this specified by the Cabinet of Ministers of Ukraine), pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(Sub-clause 5.1.8 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 7 July 2005, under No. 2772-IV, as amended pursuant to the Law of Ukraine, dated 19 January 2006, under No. 3370-IV)

5.1.9. supply of vouchers for resort and rehabilitation treatment and recreation in the territory of Ukraine of natural persons aged under 18 years;

(Sub-clause 5.1.9 of Clause 5.1 in Article 5 as amended by the Laws of Ukraine, dated 7 July 1999, under No. 854-XIV, dated 2 March 2000, under No. 1523-III, dated 27 November 2003, under No. 1344-IV, dated 17 June 2004, under No. 1801-IV, as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.10. supply of the following services to the procedures and within normative limits specified by the Cabinet of Ministers of Ukraine:

keeping of children in pre-school institutions, boarding schools, receiving facilities at institutions of the Ministry of Internal Affairs of Ukraine,

keeping of persons in homes for elderly persons and disabled persons,

nutrition and sleeping accommodation for persons, who have no housing, in places specially designated for this,

nutrition for children in schools, vocational schools and for persons in health care institutions;

nutrition, providing with property, housing and other services that are provided to convicts in institutions of the penitentiary system pursuant to the list approved by the Cabinet of Ministers of Ukraine;

(Sub-clause 5.1.10 in Article 5 is supplemented with a paragraph pursuant to the Law of Ukraine, dated 26 September 1997, under No. 550/97-BP)

5.1.11. Sub-clause 5.1.11 of Clause 5.1 in Article 5 is deleted

(The effect of Sub-clause 5.1.11 of Clause 5.1 in Article 5 was suspended for 2004 pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)



(Sub-clause 5.1.11 of Clause 5.1 in Article 5 is deleted pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.12. Sub-clause 5.1.12 of Clause 5.1 in Article 5 is deleted

(The effect of Sub-clause 5.1.12 of Clause 5.1 in Article 5 was suspended for 2004 pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(Sub-clause 5.1.12 of Clause 5.1 in Article 5 is deleted pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.13. rendering of services concerned with carriage of persons by passenger transport (except for taxis) within boundaries of one town or village, rates for which carriage are governed by the body of local self-government pursuant to its competence defined by law.

This exemption shall not apply to operations involving the renting of passenger transport vehicles;

(Sub-clause 5.1.13 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.14. supply of cult services and supply of items of cult designation (except for excisable goods) by religious organizations under the list specified by the Cabinet of Ministers of Ukraine;

(Sub-clause 5.1.14 of Clause 5.1 in Article 5 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.15. supply of burial services by any taxpayers under the list specified by the Cabinet of Ministers of Ukraine;

(Sub-clause 5.1.15 of Clause 5.1 in Article 5 as amended pursuant to the Law of Ukraine, dated 4 March 1998, under No. 169/98-BP)

5.1.16. transfer of seized property, found items, treasures or property declared as ownerless into State ownership.

(Paragraph 1 of Sub-clause 5.1.16 of Clause 5.1 in Article 5 as amended pursuant to the Law of Ukraine, dated 14 December 2006, under No. 463-V)

(Sub-clause 5.1.16 of Clause 5.1 in Article 5 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

The supply of such goods through subsequent operations shall be taxed on general grounds;

(Sub-clause 5.1.16 of Clause 5.1 in Article 5 is supplemented with paragraph 2 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.17. supply (selling, transfer) of land plots, land shares, except for those underlying real estate and are included into their cost pursuant to law (taking into account the provisions set forth in Sub-clause 5.1.19 of Clause 5.1 in Article 5 of this Law);

rent payment for land plots in State ownership or a community's ownership, if such rent payment is fully included into relevant budgets;

(The effect of Sub-clause 5.1.17 of Clause 5.1 in Article 5 was suspended for 2004 pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(Sub-clause 5.1.17 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 15 June 2004, under No. 1782-IV)

(The term "transfer", which is used in the word combination "operations involving a transfer of land plot underlying real estate or land plots having no constructions thereon shall be exempt from taxation" in Sub-clause 5.1.17 of Clause 5.1 in Article 5 of this Law, was officially interpreted by Decision No. 2-пн/2004 of the Constitutional Court of Ukraine, dated 5 February 2004)

(The effect of Sub-clause 5.1.17 of Clause 5.1 in Article 5 has been restored in connection with the amendments introduced to Clause 49 in Part 1 of Article 80 of the Law of Ukraine, dated 27 November 2003, under No. 1344-IV, in accordance with the Law of Ukraine, dated 17 June 2004, under No. 1801-IV)

5.1.18. transfer on a free-of-charge basis of rolling stock by one railway company or railway enterprise of common use to another railway companies or railway enterprises of common use in State-ownership pursuant to the procedures laid down by the Cabinet of Ministers of Ukraine;

5.1.19. privatization on a free-of-charge basis of housing, including places of common use (including basements and attics) in apartment buildings, land plots underlying houses and land plots pursuant to law, as well as rendering of services, the receipt of which under law is a pre-condition to privatization of housing, land plots underlying houses and land plots;

(Paragraph 1 of Sub-clause 5.1.19 of Clause 5.1 in Article 5 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

transfer on a free-of-charge of corporate rights (participation interest, interest, shareholding, share) issued by a processing enterprise to a private agricultural enterprise into ownership pursuant to the Law of Ukraine "On Specifics of Privatization of Property in the Agro-Industrial Complex.

(Clause 5.1 in Article 5 is supplemented with sub-clause 5.1.19 pursuant to the Law of Ukraine, dated 26 September 1997, under No. 550/97-BP, sub-clause 5.1.19 of Clause 5.1 as amended by the Laws of Ukraine, dated 15 July 99, under No. 977-XIV, dated 2 March 2000, under No. 1523-III, as restated by the Law of Ukraine, dated 15 June 2004, under No. 1782-IV)

(The effect of Sub-clause 5.1.19 of Clause 5.1 in Article 5 was suspended for 2004 (except for privatization of the housing pool on a free-of-charge basis) pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(The effect of Sub-clause 5.1.19 of Clause 5.1 in Article 5 was restored in connection with amendments introduced to Clause 49 in Part 1 of Article 80 of the Law of Ukraine, dated 27 November 2003, under No. 1344-IV, pursuant to the Law of Ukraine, dated 17 June 2004, under No. 1801-IV)

5.1.20. supply of housing (premises from the residential pool), except for their first supply.

For purposes of this Sub-clause, the first supply of housing (premises from the residential pool) shall mean:

- a) first transfer of finished newly constructed housing (premises in the residential pool) to a purchaser into ownership or supply of services (including the value of materials acquired at the expense of a contractor) concerned with construction of such housing at the cost of a client;
- b) first sale of re-constructed or capitally renovated housing (premises in the residential pool) to a purchaser who is a person other than the owner of such property as on the date, when the said property was accepted into operation (use) in connection with such re-construction of capital renovation, or supply of services (including the value of materials acquired at the expense of the contractor) concerned with such reconstruction or capital renovation at the expense of the client.

Rules set forth in this Sub-clause shall also apply to the first supply of dacha (summer) or garden houses, as well as to any other property registered pursuant to law as housing (residential premises), individual garages or individual places at garage-style parking places.

(Clause 5.1 in Article 5 is supplemented with sub-clause 5.1.20 pursuant to the Law of Ukraine, dated 26 September 1997, under No. 550/97-BP, Sub-clause 5.1.20 as restated by the Laws of Ukraine, dated 14 July 1999, under No. 942-XIV, dated 2 March 2000, under No. 1523-III, dated 15 June 2004, under No. 1782-IV)

(The effect of Sub-clause 5.1.20 of Clause 5.1 in Article 5 was suspended for 2004 pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(The effect of Sub-clause 5.1.20 of Clause 5.1 in Article 5 was suspended for 2004 (except for sales or transfers of newly constructed housing for use thereof as a place of residence, if prior to the 1<sup>st</sup> of January 2004 the housing had been transferred to the

purchaser into ownership or if construction of such housing had been commenced against obligations of the purchaser or investor, where the purchaser or investor had made a payment not lower than 30% of the value of the aggregate square space of such housing as determined pursuant to prices existing in effect on the date of such payment) pursuant to Law of Ukraine No. 1344-IV, dated 27 November 2003, taking account of the amendments introduced by Law of Ukraine No. 1801-IV, dated 17 June 2004)

5.1.21. grant of charitable assistance, to wit a free of charge transfer of goods (works, services) to persons specified in paragraphs "a", "b" and "f" in Sub-clause 7.11.1 of Article 7 of the Law of Ukraine "On the Corporate Profit Tax" with a goal of their direct use for charitable purposes, as well as operations involving transfers on a free-of-charge basis of such goods (works, services) to acquirers (subjects) of charitable assistance pursuant to law.

(Paragraph 1 of Sub-clause 5.1.21 as restated by the Law of Ukraine, dated 2 March 2000, under No. 1523-III, with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

The transfers on a free-of-charge basis shall mean the supply of goods (works, services) to acquirers of charitable assistance without any monetary, financial or other types of compensation of their value on the part of such recipients or other persons. Violations of the said right shall be regarded as willful tax evasion by a person, who provides such goods (services).

(Paragraph 2 of Sub-clause 5.1.21 of Clause 5.1 in Article 5 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

Rules on marking of goods received as charitable assistance, which make it impossible to sell or otherwise alienate the said goods in the absence of such marking, and procedures for distribution of such goods, as well as procedures for control over designated distributions of charitable assistance in the form of specifically provided services shall be prescribed by the Cabinet of Ministers of Ukraine.

(Part 3 in Sub-clause 5.1.21 of Clause 5.1 in Article 5 has entered into force since the 1<sup>st</sup> of January 1998 pursuant to the Law of Ukraine, dated 19 November 1997, under No. 644/97-BP)

(Paragraph 3 of Sub-clause 5.1.21 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

Marked goods received as charitable assistance provided, which goods are sold for cash or other types of compensation, and/or proceeds received from such supply shall be subject to seizure and taking as government revenues pursuant to the established procedures.

(Paragraph 4 of Sub-clause 5.1.21 of Clause 5.1 in Article 5 as restated by the Laws of Ukraine, dated 30 December 1997, under No. 794/97-BP,  
dated 25 March 2005, under No. 2505-IV)

Operations involving the furnishing of charitable (including humanitarian) assistance in the form of excisable goods (works, services), securities, intangible assets and goods (works, services) designated for use in business activities, including at the time of importation thereof into the customs territory of Ukraine, except for goods, which are covered by international treaties, to whose binding force the Supreme Rada of Ukraine has granted its consent, shall not be exempt from taxation.

(Paragraph 5 of Sub-clause 5.1.21 of Clause 5.1 in Article 5 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV, as restated by the Law of Ukraine, dated 14 December 2006, under No. 463-V)

Paragraph 6 of Sub-clause 5.1.21 of Clause 5.1 in Article 5 is deleted

(Pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

(Clause 5.1 in Article 5 is supplemented with sub-clause 5.1.21 pursuant to the Law of Ukraine, dated 19 November 1997, under No. 644/97-BP)

If other laws contain rules on taxation of charitable (including humanitarian) assistance, which differ from the rules set forth in this Sub-clause, the rules of this Sub-clause shall prevail.

(Sub-clause 5.1.21 of Clause 5.1 in Article 5 is supplemented with a paragraph pursuant to the Law of Ukraine, dated 14 December 2006, under No. 463-V)

5.1.22. payment of funds to cover the cost of fundamental research, academic research and R&D works by a person, who obtains such funds directly from an account with the State Treasury of Ukraine;

(Clause 5.1 in Article 5 is supplemented with Sub-clause 5.1.22 pursuant to the Law of Ukraine, dated 15 July 99, under No. 977-XIV, sub-clause 5.1.22 of Clause 5.1 in Article 5 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.1.23. rendering by state-owned or communal libraries of services concerned with:

completing of registration documents and recording documents (tickets, log-books);

use of rare, valuable reference books, books (night delivery desk);

thematic selection of literature upon a request of a reader;

furnishing of thematic, addressed bibliographical and factographic references.

(Clause 5.1 in Article 5 is supplemented with sub-clause 5.1.23 pursuant to the Law of Ukraine, dated 16 March 2000, under No. 1561-III, Sub-clause 5.1.23 of Clause 5.1 in Article 5 as restated by the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.2. The following operations shall be exempt from taxation:

5.2.1. supply of goods (except for excisable goods) and services (except for gambling and lottery business and services concerned with the supply of excisable goods received under commission (consignment) agreements, surety agreements, agency agreements, agreements for trust management and other civil-law agreements, which empower such a taxpayer (hereinafter referred to, as the “commissionaire”) to supply goods on behalf of and upon an instruction by another person (hereinafter referred to, as the “principal”) without a transfer of the right of ownership to such goods), which goods are directly produced by enterprises and organizations of non-government disabled persons’ organizations that have been founded and owned by non-government disabled persons’ organizations, wherein the number of disabled persons, who had their principal place of work during the previous accounting period is not less than 50% of the average listed number of hired employees, and provided that the labor compensation fund for such disabled persons accounts during the accounting period for 25% of the amount of total expenses related to labor remuneration, which expenses are deduced as gross production expenses.

Direct production of goods shall be such production, as a result of which the amount of expenses incurred for processing (treatment, other types of transformation) of raw materials, components, parts, other purchasable commodities, which are used in producing such goods, totals 8% of the sale price of such goods produced.

The said enterprises and organizations of non-government disabled persons’ organizations shall be entitled to use this benefit if there is a registration with the competent tax authority, which registration is carried out on the basis of a positive resolution of the inter-departmental Commission for activities of enterprises and organizations of non-government disabled persons’ organizations and a relevant application of the taxpayer indicating the latter’s wish to obtain such a benefit pursuant of the Law of Ukraine “On Fundamentals of Social Security of Disabled Persons in Ukraine”.

In the event of violation by the taxpayer of the requirements set forth in this Sub-clause, the tax authority shall cancel the taxpayer’s registration as a person that has the tax benefit, and the tax obligations of such a taxpayer shall be re-calculated from the tax period, in respect of which there have been uncovered such violation, pursuant to general rules on taxation specified in this Law, and with the simultaneous application of relevant financial sanctions.

Tax records of such enterprises and organizations shall be filed pursuant to the procedures specified by law.

(Sub-clause 5.2.1 in Article 5 as amended by the Laws of Ukraine, dated 26 September 1997, under No. 550/97-BP, dated 5 December 1997, under No. 698/97-BP, dated 24 March 1998, under No. 208/98-BP, dated 2 March 2000, under No. 1523-III, as restated by the Laws of Ukraine, dated 13 July 2000, under No. 1926-III, dated 25 March 2005, under No. 2505-IV, dated 6 October 2005, under No. 2960-IV)

5.2.2. Sub-clause 5.2.2 is deleted

(Pursuant to the Law of Ukraine,  
dated 2 March 2000, under No. 1523-III)

5.2.3. transfer on a free-of-charge basis of products (works, services) of their own production (except for excisable goods) by auxiliary agricultural enterprises and medical/production labor clinics (workshops, sections) at hostel houses and territorial centers for lonely persons of elderly age (pensioners), provided that such transfer is carried out for such institutions' own needs;

(Sub-clause 5.2.3 of Clause 5.2 in Article 5 as amended  
pursuant to the Law of Ukraine, dated 14 December 2006, under  
No. 463-V)

5.2.4. supply of such services by agricultural producers in rural localities as are concerned with repairs of schools, pre-school institutions, boarding schools, health care institutions, and furnishing of financial assistance (not exceeding 1 non-taxed citizens' income per month for 1 person) in the form of food products of their own production, and land tillage services for families that have many children, labor and war veterans, rehabilitated citizens, persons disabled as a result of accidents at work, persons disabled from childhood, lonely persons of elderly age, persons, who have suffered as a result of the Chernobyl catastrophe, and to schools, pre-school institutions, boarding schools, health care institutions;

Paragraph 2 of Sub-clause 5.2.4 of Clause 5.2 in Article 5 is deleted

(Pursuant to the Law of Ukraine, dated 25 March 2005,  
under No. 2505-IV)

5.2.5. transfer on a free-of-charge basis of devices, equipment, materials, except for excisable ones, to scientific institutions and academic organizations, higher educational institutions of III - IV accreditation levels recorded into the State Registry of Academic Organizations supported by the State.

(Clause 5.2 in Article 5 is supplemented with sub-clause 5.2.5 pursuant to the Law of  
Ukraine, dated 1 December 1998, under No. 285-XIV, Sub-clause 5.2.5 of Clause 5.2  
in Article 5 as amended by the Laws of Ukraine, dated 25 March 2005, under  
No. 2505-IV, dated 14 December 2006, under No. 463-V)

5.2.6. Sub-clause 5.2.6 is deleted

(Clause 5.2 is supplemented with sub-clause 5.2.6 pursuant to the Law of  
Ukraine, dated 14 December 1999, under No. 1288-XIV, Sub-clause 5.2.6 of  
Clause 5.2 in Article 5 was deleted pursuant to the Law of Ukraine, dated 7  
March 2002, under No. 3073-III)

5.3. Operations involving a supply of goods (works, services) contemplated for needs of diplomatic missions, consulate institutions of foreign countries and reprehensive offices of international organizations in Ukraine, as well as for use by diplomatic personnel and members of their families residing together with such personnel, shall be exempt from taxation. Exemption procedures and the list of operations subject to exemptions shall be specified by the Cabinet of Ministers of Ukraine, proceeding from the reciprocity principle in respect of each country.

5.4. Operations involving the importation of goods of sea fishery (fish, mammals, mussels, crabs, water-inhabiting plants etc., cooled, salted, frozen, tinned, ground into powder or other products), extracted (caught, produced) by ships registered in the State Registry of Ships of Ukraine or the Ship Book of Ukraine shall be exempt from taxation. Operations involving further supplies of the said goods by any persons shall be taxed pursuant to general procedures.

(Clause 5.4 in Article 5 as restated by the Law of Ukraine, dated 30.12.97 p. No. 794/97-BP)

(The effect of Clause 5.4 in Article 5 was suspended for 2004 pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(Clause 5.4 in Article 5 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.5. The tax exemptions contemplated by this Law shall not apply to operations involving:

supply of goods under the customs regime of importation or re-importation (except for cases listed in Sub-clause 5.1.7 of Clause 5.1 and Clause 5.3 of this Article);

supply of excisable goods (except for cars for disabled persons pursuant to Sub-clause 5.1.4 of Clause 5.1 and goods pursuant to Clause 5.3 of this Article).

(Clause 5.5 as amended pursuant to the Law of Ukraine, dated 17 February 2000, under No. 1460-III, as restated by the Laws of Ukraine, dated 25 March 2005, under No. 2505-IV, and dated 14 December 2006, under No. 463-V)

5.6. Clause 5.6 in Article 5 is deleted

(Pursuant to the Law of Ukraine, dated 14 December 2006, under No. 463-V)

5.7. Clause 5.7 in Article 5 is deleted

(Article 5 is supplemented with Clause 5.7 pursuant to the Law of Ukraine, dated 1 December 1998, under No. 285-XIV, was deleted pursuant to the Law of Ukraine, dated 2 March 2000, under No. 1523-III)

5.8. Clause 5.8 in Article 5 is deleted

(Article 5 is supplemented with Clause 5.8 pursuant to the Law of Ukraine, dated 14 September 2000, under No. 1954-III)

(The effect of Clause 5.8 in Article 5 was suspended for 2001 in connection with suspension of the effect of Clause 2 in Article 5 of the Law of Ukraine, dated 14 September 2000, under No. 1954-III, in accordance with the Law of Ukraine, dated 7 December 2000, under No. 2120-III)



(The effect of Clause 5.8 in Article 5 was suspended for 2003 in the part relating to providing benefits to organizations of national sports federations for Olympic and Para-Olympic types of sports in connection with partial suspension of the effect of Clause 2 in Article 5 of the Law of Ukraine, dated 14 September 2000, under No. 1954-III, pursuant to the Law of Ukraine, dated 26 December 2002, under No. 380-IV, for 2004 – pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(Clause 5.8 in Article 5 as amended pursuant to the Law of Ukraine, dated 16 December 2004, under No. 2264-IV)

(The effect of Clause 5.8 in Article 5 was suspended for 2005 pursuant to the Law of Ukraine, dated 23 December 2004, under No. 2285-IV)

(Clause 5.8 in Article 5 was deleted pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

#### 5.9. Clause 5.9 in Article 5 is deleted

(Article 5 is supplemented with Clause 5.9 pursuant to the Law of Ukraine, dated 14 September 2000, under No. 1954-III)

(The effect of Clause 5.9 in Article 5 was suspended for 2001 in connection with suspension of the effect of Clause 2 in Article 5 of the Law of Ukraine, dated 14 September 2000, under No. 1954-III, pursuant to the Law of Ukraine, dated 7 December 2000, under No. 2120-III)

(The effect of Clause 5.9 in Article 5 was suspended for 2003 in the part relating to providing benefits to organizations of national sports federations for Olympic and Para-Olympic types of sports in connection with partial suspension of the effect of Clause 2 in Article 5 of the Law of Ukraine, dated 14 September 2000, under No. 1954-III pursuant to the Law of Ukraine, dated 26 December 2002, under No. 380-IV, for 2004 – pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(Clause 5.9 in Article 5 as amended pursuant to the Law of Ukraine, dated 16 December 2004, under No. 2264-IV)

(The effect of Clause 5.9 in Article 5 was suspended for 2005 pursuant to the Law of Ukraine, dated 23 December 2004, under No. 2285-IV)

(Clause 5.9 in Article 5 is deleted pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

#### 5.10. Clause 5.10 in Article 5 is deleted

(Article 5 is supplemented with Clause 5.10 pursuant to the Law of Ukraine, dated 14 September 2000, under No. 1954-III)

(The effect of Clause 5.10 in Article 5 was suspended for 2001 in connection with suspension of the effect of Clause 2 in Article 5 of the Law of Ukraine, dated 14 September 2000, under No. 1954-III pursuant to the Law of Ukraine, dated 7 December 2000, under No. 2120-III)

(The effect of Clause 5.10 in Article 5 was suspended for 2003 in the part relating to providing benefits to organizations of national sports federations for Olympic and Para-Olympic types of sports in connection with partial suspension of the effect of Clause 2 in Article 5 of the Law of Ukraine, dated 14 September 2000, under No. 1954-III, pursuant to the Law of Ukraine, dated 26 December 2002, under No. 380-IV, for 2004 – pursuant to the Law of Ukraine, dated 27 November 2003, under No. 1344-IV)

(Clause 5.10 in Article 5 as amended pursuant to the Law of Ukraine, dated 16 December 2004, under No. 2264-IV)

(The effect of Clause 5.10 in Article 5 was suspended for 2005 pursuant to the Law of Ukraine, dated 23 December 2004, under No. 2285-IV)

(Clause 5.10 in Article 5 is deleted pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.11. Clause 5.11 in Article 5 is deleted

(Article 5 is supplemented with Clause 5.11 pursuant to the Law of Ukraine, dated 4 March 2004, under No. 1595-IV, Clause 5.11 in Article 5 is deleted pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.13. The following operations shall be exempt from taxation, which operations are undertaken as part of scientific and technological cooperation pursuant to the Scientific and Technological Cooperation Agreement between Ukraine and the European Union:

transfer on a free-of-charge basis of goods, works, services purchased with funds from the European Union or organizations established with participation of the European Union into the customs territory of Ukraine;

importation as well as performance (rendering) of works, services (for funds provided by the European Union) for their use or consumption within the customs territory of Ukraine by organizations established with participation of the European Union and/or participants involved into scientific and technological cooperation.

In the event of violation of requirements for special-purpose use of the said goods, works and services, the taxpayer shall be required to increase tax obligations based on results of the tax period, during which the

violation occurred, by the amount of the value added tax that should have been paid at the time of importation, performance (rendering) of works, services within this territory or assessed on a general basis, as well as to be pay penalties assessed pursuant to law.

(Article 5 is supplemented with Clause 5.13 pursuant to the Law of Ukraine, dated 1 July 2004, under No. 1965-IV)

5.14. Operations involving importation of cultural valuables pursuant to UCG FEA codes 9701 10 00 00, 9701 90 00 00, 9702 00 00 00, 9703 00 00 00, 9704 00 00 00, 9705 00 00 00, 9706 00 00 00, made 50 and more years ago, which valuables are imported with a view of their further transfer to museums, galleries, exhibition centers, archives, culture or educational institutions that are in State or communal ownership, shall be exempt from taxation.

(Paragraph 1 of Clause 5.14 in Article 5 with amendments introduced pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

Operations involving subsequent sales of the said cultural valuables by legal entities and natural persons shall be taxed in accordance with law.

Tax exemptions contemplated in this Clause shall apply to operations with cultural valuables that are imported into Ukraine and are recorded in the State Registry for Cultural Valuables of Ukraine. Procedures for establishment and maintenance of this Registry shall be approved by the Cabinet of Ministers of Ukraine.

(Article 5 is supplemented with Clause 5.14 pursuant to the Law of Ukraine, dated 18 November 2004, under No. 2188-IV)

5.15. Operations involving the supply of services concerned with carriage (transportation) of passengers and cargoes in transit through the territory and ports of Ukraine shall be exempt from taxation.

(Article 5 is supplemented with Clause 5.15 pursuant to the Law of Ukraine, dated 25 March 2005, under No. 2505-IV)

5.16. Operations involving the supply of services that are rendered to and paid for by foreign ships pursuant to Ukrainian law with port fees shall be exempt from taxation.

(Article 5 is supplemented with Clause 5.16 pursuant to the Law of Ukraine, dated 3 June 2005, under No. 2642-IV)

5.17. Operations involving the temporary importation into Ukraine's customs territory and subsequent exportation from Ukraine's customs territory (as well as importation into Ukraine's customs territory of goods earlier exported from the customs territory of Ukraine) of goods according to the list determined by Article 206 of the Customs Code of Ukraine, and aircraft that are imported into Ukraine's customs territory under operative leasing agreements shall be exempt from taxation. The term of temporary importation shall be determined by Article 208 of the Customs Code of Ukraine. The Cabinet of Ministers of Ukraine shall be authorized to extend the term specified in the Customs Code of Ukraine.

(Article 5 is supplemented with Clause 5.17 pursuant to the Law of Ukraine, dated 7 July 2005, under No. 2771-IV)

## Article 6. Rates of the tax

6.1. Objects of taxation specified in Article 3 of this Law, except for transactions exempt from taxation and transactions subject to a zero rate pursuant to this Law, shall be taxed at the rate of 20 percent.

6.1.1. The tax shall be equal to 20 percent of the tax base specified in Article 4 of this Law, and shall be included in the price of goods (works, services).

6.2. In case of exportation of goods and services, related to such goods, the rate of the tax shall be "0" percent of the tax base:

(Paragraph 1 of Clause 6.2 of Article 6 as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

6.2.1. Subject to a zero rate shall also be transactions:

(Paragraphs 1 and 2 of sub-clause 6.2.1 of Clause 6.2 of Article 6 are replaced with paragraph 1 pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

- of supply of services, which involve works relating to movable property earlier shipped into the customs territory of Ukraine for the purpose of performing such works and shipped outside the customs territory of Ukraine by the taxpayer who performed such works, or by the non-resident recipient.

(sub-clause 6.2.1 of Clause 6.2 of Article 6 has the new paragraph 2 added pursuant to the Law of Ukraine dated 7 July 2005, under No. 2771-IV)

The works relating to movable property include works relating to the processing of goods, which may include processing (treatment) of goods (such as assembling, setting up, mounting or installing) resulting in production of other goods, including performance of works relating to processing of give-and-take raw materials, as well as upgrade and repair of goods, involving performance of a set of processes resulting in complete or partial restoration of productive capacities of an object in question (or its components), as specified in the regulatory and technical documents, the result being the improved conditions of such an object.

(sub-clause 6.2.1 of Clause 6.2 of Article 6 has the new paragraph 3 added pursuant to the Law of Ukraine dated 7 July 2005, under

No. 2771-IV, and thus paragraphs  
2 – 11 shall be paragraphs 4 - 13)

- of provision of fuel or supplies for sea-going (ocean-going) vessels, which:

are used for navigation activities, carriage of passengers or cargo for a compensation, or for other commercial, industrial or fishing activities performed outside the territorial waters of Ukraine;

are used for rescue activities in the neutral or territorial waters of other countries;

are part of the Navy Force of Ukraine and are headed outside the territorial waters of Ukraine, including for purposes of anchorage;

- of provision of fuel or supplies for aircraft that:

carry out international flights for navigation activities or carriage of passengers or cargo for a compensation;

are part of Ukraine's Air Force and are headed outside the air border of Ukraine, including to places of temporary stationing;

- of provision of fuel (refueling) and supplies for space craft and satellites.

Goods shall be considered exported by the taxpayer if their exportation is certified by the properly prepared cargo declaration.

Supply of goods for purposes of provision of supplies for railroad or automobile transport in the customs territory of Ukraine irrespective of its ownership and types of transportation performed by this transport, shall be taxed under the rate specified in sub-clause 6.1 of this Article;

(Paragraph 13 of sub-clause 6.2.1  
of Clause 6.2 of Article 6 as  
amended pursuant to the Law of  
Ukraine dated 25 March 2005,  
under No. 2505-IV)

6.2.2. sub-clause 6.2.2 of Clause 6.2 of Article 6 is deleted

(pursuant to the Law of Ukraine  
dated 25 March 2005, under  
No. 2505-IV)

6.2.3. supply of goods (works, services) by retail enterprises located in the territory of Ukraine in the areas of customs control (duty-free shops), pursuant to procedures established by the Cabinet of Ministers of Ukraine.

Provision of goods (works, services) may be performed by duty-free shops without charging the value-added tax only to natural persons heading outside the customs border of Ukraine, or to the natural persons who are being transported by vehicles which are owned by residents and are outside the customs border of Ukraine. A procedure for controlling compliance with provisions of this sub-clause shall be established by the Cabinet

of Ministers of Ukraine. Incompliance with provisions of this sub-clause shall entail responsibility established by law.

Goods purchased in duty-free shops without value-added tax charged, in the event of the shipment of such goods back into the customs territory of Ukraine, shall be subject to taxation pursuant to procedures established for taxation of import transactions;

6.2.4. of supply of transport services by railway, automobile, sea or river transport, involving transportation of passengers, luggage, shipments and cargo outside the state border of Ukraine, specifically: from a point outside the state border of Ukraine to a point of external customs control of Ukraine; from a point of external customs control of Ukraine to a point outside the state border of Ukraine; between points outside the state border of Ukraine, as well as by air transport: from a point outside the state border of Ukraine to the point of performance of customs procedures relating to entry of passengers, luggage, shipments and cargo through the customs border into the customs territory of Ukraine (including internal customs points); from a point of performance of customs procedures relating to the passage of passengers, luggage, shipments and cargo through the customs border outside the customs border of Ukraine (including internal customs points) to a point outside the state border of Ukraine; between the points outside the customs border of Ukraine.

(Paragraph 1 of sub-clause 6.2.4 of Clause 6.2 of Article 6 as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV, as amended pursuant to the Law of Ukraine dated 3 June 2005, under No. 2642-IV)

In a case where supply of transport services, specified in part one of this sub-clause, is performed in the form of broker, agent or commission transactions involving transport tickets, transport documents, signing of agreements or bills for transportation of passengers or cargo by an authorized person of the carrier, transactions involving such services shall be taxed at the rate established by clause 6.1 of this Article.

Transactions of supply of services, performed by the taxpayer, which are related the transit transportation (moving) of passengers and shipments through the territory of Ukraine, shall be taxed pursuant to procedures specified in Clause 5.15 of this Law;

(Paragraph 3 of sub-clause 6.2.4 of Clause 6.2 of Article 6 as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

6.2.5. Sub-clause 6.2.5 of Clause 6.2 of Article 6 is deleted

(sub-clause 6.2.5 of Article 6 as amended pursuant to the Law of Ukraine dated 26 September 1997, under No. 550/97-VR)

(sub-clause 6.2.5 of Clause 6.2 of Article 6 is deleted pursuant to the Law of Ukraine dated 03.12.99 No. 1274-XIV)

6.2.6. until 1 January 2008, supplies to the processing enterprises of milk and meat (live weight) by agricultural producers of any type of ownership and business;

(Clause 6.2 of Article 6 has the sub-clause 6.2.6 added pursuant to the Law of Ukraine dated 23.12.97, No. 770/97-VR, sub-clause 6.2.6 of Clause 6.2 of Article 6 as amended pursuant to the Law of Ukraine dated 19.10.2006 No. 273-V)

(sub-clause 6.2.6 of Clause 6.2 of Article 6 has been extended until 1 January 2005 pursuant to Law of Ukraine dated 28.11.2003 No. 1352-IV, until 1 January 2006 - pursuant to the Law of Ukraine dated 23.12.2004 No. 2287-IV, until 1 January 2007 - pursuant to the Law of Ukraine dated 18.10.2005 No. 2987-IV)

6.2.7. Sub-clause 6.2.7 of Clause 6.2 of Article 6 is deleted

(Clause 6.2 of Article 6 has sub-clause 6.2.7 added pursuant to the Law of Ukraine dated 30.12.97 No. 799/97-VR)

(sub-clause 6.2.7 of Clause 6.2 of Article 6 is deleted pursuant to the Law of Ukraine dated 03.12.99 No. 1274-XIV)

6.2.8. of supply of goods (except for excisable goods) and of services (except for gambling and lottery businesses and of services of supply of excisable goods, received within the limits of commission (consignment) agreements, authorization, trust, authorized management, other civil-legal agreements, which empower such a commissioner to supply goods on behalf and under instruction of the committent without transfer of the ownership of such goods), which are directly manufactures by enterprises and public organizations of invalids, which are established by public organizations of invalids and are in their ownership, in which the number of invalids who had there principal place of employment during the previous accounting period is not less than 50 percent of the average number of the staff, and on condition that the

wage fund of such invalids during the accounting period is not less than 25 percent of the total wage costs included in gross production expenses.

Production of goods shall be considered direct if the costs of processing (treatment, other processing) of raw materials, components, parts, other purchased goods used to produce such goods, is not less than 8 percent of the selling price of such produced goods.

Such enterprises and organizations of public organizations of invalids may apply this privilege on condition of registration in the relevant tax body, which is to be administered on the basis of submission of a positive decision of the inter-agency Committee for issues concerning activities of enterprises and organizations of public organizations of invalids and a relevant statement of the taxpayer concerning one's desire to receive such a privilege pursuant to the Law of Ukraine "On the principles of social protection of invalids in Ukraine".

In a case of violations of requirements of this sub-clause by the taxpayer, the tax body shall cancel its registration as a person entitled to the tax privilege, and tax liabilities of such a taxpayer shall be carried over from the tax period, in connection with the results of which the violations were established, pursuant to general rules of taxation established by this Law, with relevant financial sanctions being applied at the same time.

Tax reporting documents of such enterprises and organizations shall be filed pursuant to the procedures established pursuant to law.

(Clause 6.2 of Article 6 has sub-clause 6.2.8 added pursuant to the Law of Ukraine dated 24.03.98 No. 208/98-VR, sub-clause 6.2.8 of Clause 6.2 of Article 6 in accordance with Laws of Ukraine dated 13.07.2000 No. 1926-III, dated 25.03.2005 No. 2505-IV, dated 06.10.2005 No. 2960-IV)

6.2.9. sub-clause 6.2.9 of Clause 6.2 of Article 6 is deleted

(Clause 6.2 of Article 6 has sub-clause 6.2.9 added pursuant to the Law of Ukraine dated 15.06.2004 No. 1766-IV, sub-clause 6.2.9 of Clause 6.2 of Article 6 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

6.3. A zero rate of the tax shall not apply if goods (related services), which are exported, are exempt from taxation pursuant to clause 5.1 (except for sub-clauses 5.1.2, 5.1.7) and clause 5.2 of Article 5 of this Law.

(Clause 6.3 of Article 6 as formulated in the Law



6.4. A place of supply of goods shall be:

a) if goods are shipped or transported by the seller or buyer or a third person – the place where the goods are actually situated at the time of shipping or transporting;

in the event of supply of goods, which are assembled or installed with or without the supplier's assistance, or on his behalf – the place where such goods are assembled or installed;

if such goods, due to technical, technological or other similar reasons can not be delivered to the customer in the form other than disassembled or not-assembled – the place where the goods are situated at the time of their shipment or transportation to the person to which they are being supplied;

b) if the goods are not being shipped or transported – the place where the goods are situated at the time of supply;

c) if it is immovable property that is being sold – the place where it is situated;

d) in case of provision of services of supply of goods for sea, air or railroad motor vehicles in the part that corresponds to the carriage of passengers or shipments in the customs territory of Ukraine, - the point of departure of such transport vehicle.

For purposes of applying this sub-clause the following terms shall be used:

part of a carriage of passengers or shipments by a transport vehicle through the customs territory of Ukraine – the part of carriage performed between the point of departure in the customs territory of Ukraine (the point of crossing the state border of Ukraine) and the point of arrival of such a transport vehicle in the customs territory of Ukraine (the point of crossing the state border of Ukraine), without any stopovers outside such customs territory;

point of departure of the transport vehicle - the point of boarding of passengers or loading of cargo on the transportation vehicle;

point of arrival of the transport vehicle in the customs territory of Ukraine – the last point in the customs territory of Ukraine for boarding (un-boarding) of passengers or loading (unloading, reloading) of cargo in the customs territory of Ukraine.

In the event of a round trip, a return trip (transportation) for purposes of taxation shall be considered a separate transportation;

e) if goods are sold via the Internet irrespective of place of registration of one's domain (site, web page or address) – the place the seller is located or the place of the seller's residence.

(Article 6 has clause 6.4 added  
pursuant to Law of Ukraine dated  
25 March 2005, under No. 2505-  
IV)

6.5. A place of supply of services shall be:

a) in exceptional cases specified in sub-items "в", "д" - "е" of this sub-clause, - the place where the person providing the service is registered as a payer of this tax, and if such a service is provided by a non-resident – the place where one's representative office is located, and in case there is no such an office – the place of location of a resident performing agent (representative) activities on behalf of such a non-resident, and if there is not such resident – the place of actual location of the buyer (recipient), who in this case acts as a tax agent of the non-resident;

b) sub-clause "г" of Clause 6.5 of Article 6 is deleted

(pursuant to Law of Ukraine  
of 3 June 2005, under No. 2642-IV)

c) in case of provision of services by agents, intermediaries or other participants of the market of immovable property (hereinafter - realtors), other persons responsible for preparation, coordination, overseeing and performance of works concerning construction and remodeling of immovable property (including services of architects and designers), other similar services relating to sales or construction of immovable property, - the place where such immovable property is or will be situated;

d) the place where the services are actually provided in the area of:

culture, art, sports, science, education, entertainment or other similar areas of activities, including activities of producers in such areas of activities, and related services;

activities that are auxiliary with respect to transportation activities, such as loading, unloading, reloading, warehouse processing of goods and other similar types of works (including insurance);

valuation of immovable property;

carrying out any works concerning movable property that alter its qualitative characteristics;

(Paragraph 5 of sub-clause "г" of  
Clause 6.5 of Article 6 is  
deleted pursuant to Law of  
Ukraine  
of 3 June 2005, under No. 2642-IV,  
as amended pursuant to the Law  
of Ukraine dated 7 July 2005,  
under No. 2771-IV)

e) place of registration of a buyer or his permanent representative office, and if there is no such a place of registration - place of the permanent address or permanent residence, if buyers, to which the specified services are provided, reside outside the customs territory of Ukraine, provide services relating to:

transfer or issue of copyrights, patents, licenses, as well as related rights, including trademarks;

provision of advertisement services and other services relating to promotion of goods (services) on the market (promotion);

provision of services by consultants, engineers, lawyers, accountants, auditors, actuaries and other similar services, as well as services relating to data processing and provision of information, including such services involving use of computer systems;

issuance of a requirement not to engage in particular types of activities in part or in full;

provision of services by natural persons, who are hired by the supplier, for the benefit of another person;

provision of agent services on behalf of and at the expense of another person, provided that the buyer is provided with services, specified in this sub-clause;

renting movable property (including bank safes);

f) in case of provision of services to the staff servicing sea, air and space objects – the place provision of such services.

(Article 6 has clause 6.5 added pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

#### **Article 7. Procedure for assessment and computation of the tax**

(Article 7 has been revoked in part relating to agricultural producers – participants of the experiment involving introduction of the unified (fixed) tax in the territory of Globynsky region of Poltava oblast in relation to all transactions that are objects of taxation, except for transactions of sale of one's own production by such agricultural producers)

(pursuant to Laws of Ukraine dated 15 January 1998, under No. 25/98-VR, dated 20 November 1998, under No. 277-XIV)

7.1. Supply of goods (works, services) shall be carried out on the basis of agreed (contractual) prices with additional assessment of the value-added tax.

#### 7.2. Tax invoice

7.2.1. A taxpayer shall be required to provide the buyer with a tax invoice that must have the following data specified in separate lines:

- a) serial number of the tax invoice;
- b) date of issue of the tax invoice;

c) full or short name, as specified in the statutory documents of a legal entity or full name of the natural person registered as payer of the value-added tax;

(sub-clause "B" of sub-clause 7.2.1 of Clause 7.2 of Article 7 as amended pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

d) tax number of the taxpayer (seller or buyer);

e) place of location of the legal entity or the place of the tax address of the natural person registered as payer of the value-added tax;

f) description (nomenclature) of goods (works, services) and their quantity (volume, amount);

g) complete or short name specified in statutory documents of the recipient;

(sub-clause "g" of sub-clause 7.2.1 of Clause 7.2 of Article 7 as amended pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

h) price of supply exclusive of the tax;

i) rate of the tax and corresponding amount of the tax in the numerical expression;

j) the total amount payable inclusive of the tax.

7.2.2. In case of exemption from taxation in cases specified in Article 5 of this Law, a note "without VAT" shall be made in the tax invoice with a reference to the relevant sub-clause of Clause 5.1 or clause of Article 5.

7.2.3. A tax invoice shall be issued in two copies at the time when the seller's tax obligations arise. The original tax invoice shall be given to the buyer, and the copy shall be retained by the seller of the goods (works, services).

(Paragraph 1 of sub-clause 7.2.3 of Clause 7.2 of Article 7 as amended pursuant to the Law of Ukraine dated 19.11.97 No. 644/97-VR)

For taxable and tax-exempt transactions different tax invoices shall be issued.

A tax invoice is a reporting tax document and, at the same time, it is a payment document.

A tax invoice shall be issued for a full or partial supply of goods (works, services). If a part of goods (works, services) does not contain separate value, the list (nomenclature) of partially supplied goods shall be specified in an annex to the tax invoice pursuant to the procedures established by the central body of the state tax service of Ukraine, and shall be used for determination of the total tax liability.

Payers of the tax shall be required to keep tax invoices during the period established by the legislation for obligations to pay taxes.

7.2.4. The right to assess the tax and issue tax invoices shall be given only to persons registered as payers of the tax pursuant to the procedures established by Article 9 of this Law.

Subjects of entrepreneurial activities, which have elected the simplified system of taxation that does not require payment of the tax or provides for the tax rates other than specified in clause 6.1 of Article 6 or clause 8<sup>1</sup>.2 of Article 8<sup>1</sup> of this Law, shall not have the right to assess the tax, tax credit and issue a tax invoice, as well as to receive a refund for the tax period in which such election took place. These rules also apply to enterprises exempt from payment of the tax to the budget based on the decision of the court.

(sub-clause 7.2.4 of Article 7 has paragraph two added pursuant to the Law of Ukraine dated 20 December 2001, under No. 2899-III, paragraph two of sub-clause 7.2.4 of Clause 7.2 of Article 7 as amended pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

7.2.5. For natural persons not registered as subjects of entrepreneurial activities that import goods (articles) into the customs territory of Ukraine in volumes subject to taxation pursuant to laws of Ukraine, issuance of the customs declaration shall be equal to the filing of a tax invoice.

7.2.6. A tax invoice shall be issued by the taxpayer who supplies goods (services), based on the demand of the recipient of the goods (services), and shall be a basis for assessment of a tax credit. As an exemption from this rule, a basis for the assessment of a tax credit in case of supplies of goods (services) for cash or based on payments using payment system cards, bank or personal checks within the limits of the maximum amount established by the National Bank of Ukraine for payment transactions, is a properly issued receipt, other payment or settlement document that certifies the receipt of the payment by the supplier from the recipient of such goods (services), specifying the total amount paid, amount of the tax and the tax number of the supplier.

If a supplier of goods (services) refuses to issue a tax invoice or violates the procedure for filling-out the invoice, the recipient of such goods (services) may add to the tax declaration for the reporting tax period a statement of complaint concerning the supplier, with this statement being a basis for including the amount of this tax into the tax credit. The statement shall be supported by copies of receipts or other payment documents supporting the fact of payment of the tax as a result of the purchase of such goods (services).

The receipt of such a complaint is a basis for conducting an unscheduled in-site inspection of the supplier to establish correctness of his assessment of tax liabilities relating to the civil-legal transaction in question.

A basis for assessment of a tax credit without receiving a tax invoice may also be:

A transit ticket, hotel bill or a bill issued to the taxpayer for communication services, other services, the cost of which is determined based on the meters' readings, including total payment amounts, amount of the tax and the tax number of the seller, except for those where the form is established under international standards;

(Paragraph five of sub-clause 7.2.6 of Clause 7.2 of Article 7 as amended pursuant to the Law of Ukraine dated 03.06.2005 p . No. 2642-IV)

cash receipts containing the value of delivered goods (services), the total amount of the assessed tax (specifying the fiscal number, but not specifying the tax number of the supplier). For purposes of such assessment the total value of supplied goods (services) may not exceed 200 hryvnas per day (exclusive of the value-added tax).

(sub-clause 7.2.6 of Clause 7.2 of Article 7 as amended pursuant to the Law of Ukraine dated 19.11.97 No. 644/97-VR, as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

7.2.7. In case of importation of goods into the customs territory of Ukraine the document that confirms the right to receive a tax credit shall be a cargo customs declaration prepared pursuant to requirements of legislation, which certifies the payment of the value-added tax, or the cancelled tax promissory note.

(sub-clause 7.2.7 of Clause 7.2 of Article 7 as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

7.2.8. Payers of the tax shall be required to keep separate accounting records for transactions of supply and purchase of goods (services), which are subject to taxation under this tax, as well as those that are not objects of taxation pursuant to Article 3 and exempt from taxation pursuant to Article 5 of this Law.

paragraph two of sub-clause 7.2.8 of Clause 7.2 of Article 7 is deleted

(pursuant to Law of Ukraine of 3 June 2005, under No. 2642-IV)

The consolidated results of such accounting shall be presented in tax declarations the form and procedures for filling out which shall be established pursuant to legislation. A taxpayer shall maintain a registry of received and issued tax invoices in the documentary or electronic form based on his choice, in which there will be specified the serial number of the tax invoice, date of receipt (issuance), the total amount and the amount of the assessed tax, as well as registration numbers of the taxpayer and the seller, who issued the tax invoice to the taxpayer. If the original tax invoice is available, failure to enter it into the said registry shall not be the basis for refusing to include the amount of the tax, specified in this tax invoice, in the tax credit of

such a taxpayer. The form and procedures for maintaining registries of received and issued tax invoices shall be established by the central tax agency.

(Paragraph 3 of sub-clause 7.2.8  
of Clause 7.2 of Article 7 as  
amended pursuant to the Law of  
Ukraine dated 3 June 2005, under  
No. 2642-IV)

In the course of a documentary (scheduled or unscheduled on-site) examination, a taxpayer shall be required to ensure access for the tax inspector to the registry of tax invoices, and, in case the registry is maintained in the electronic form – to provide electronic information carrier at one's own expense. The taxpayer shall be required to keep the electronic information carrier during a period established by law. A taxpayer shall be required to use any of the widely available in Ukraine operation computer systems based on his own choice, chosen from those proposed by the central tax agency.

(sub-clause 7.2.8 of Clause 7.2 of  
Article 7 as restated by the Law of  
Ukraine dated 25 March 2005,  
under No. 2505-IV)

### 7.3. Date when tax liabilities arise

7.3.1. The date when tax liabilities arise in connection with supply of goods (works, services) shall be the date that falls on the tax period during which the earlier of the following events occurred:

either a date of receipt of money from the buyer (customer) on a bank account of the taxpayer as payment for goods (works, services), which are to be supplied, and in case of supply of goods (works, services) for cash – the date the cash is entered into the cash register of the taxpayer, and if there is no such cash register – the date the cash is received by the bank servicing the taxpayer;

or the date of shipment of goods, and for works (services) – the date of issuance of a document that certifies the fact of performance of works (services) by the taxpayer.

7.3.2. In the event of supply of goods or services using vending machines or other similar equipment that does not require a cash register managed by the authorized natural person, the date when the tax liabilities arise shall be the date when cash receipts are extracted from such vending machines or similar equipment.

(Paragraph 1 of sub-clause 7.3.2  
of Clause 7.3 of Article 7 as  
amended pursuant to the Law of  
Ukraine dated 25 March 2005,  
under No. 2505-IV)

The rules for handling such cash receipts shall be established the National Bank of Ukraine.

If the supply of goods (works, services) through vending machines is carried out using tokens, cards or other substitutes for Hryvna, the date of the increase of the gross income shall be the date of supply of such tokens, cards or other substitutes of Hryvna.

7.3.3. If the supply of goods (works, services) is carried out using credit or debit cards, travel, commercial, personal or other check, the date of increase of tax liabilities shall be either the date of issuance of the tax invoice certifying the fact of the taxpayer's supplying goods (works, services) to the buyer, or the date of issue of the receipt (check), depending on which event took place earlier.

7.3.4. The date of tax liabilities of a lessor in case of financial rent transactions (leasing) shall be the date of the actual transfer of the object of financial rent (leasing) for use by the lessee.

(sub-clause 7.3.4 of Clause 7.3 of Article 7 as restated by the Law of Ukraine dated 16 January 2003, under No. 469-IV)

7.3.5. The date of tax liabilities in case of supply of goods (works, services) where payment is made from the budget funds is the date of receipt of such funds on the current account of the taxpayer or the date of receipt of the compensation in any other form, including reduction of the debt of such a taxpayer based on his liabilities to the budget in question.

(sub-clause 7.3.5 of Clause 7.3 of Article 7 as amended pursuant to the Law of Ukraine dated 10.01.2002 No. 2921-III)

7.3.6. The date of tax liabilities in case of importation is the date of filing a customs declaration specifying the amount of the tax payable. The date of tax liabilities in case of importation of works (services) is the date of the withdrawing of the funds from the account of the taxpayer as a payment for the works (services), or the date of issuance of the document certifying the fact of performance of works (services) by non-resident regardless of which event took place earlier.

(the first sentence of sub-clause 7.3.6 of Clause 7.3 of Article 7 was suspended for 2005 pursuant to the Law of Ukraine dated 23.12.2004 No. 2285-IV)

(sub-clause 7.3.6 of Clause 7.3 of Article 7 as amended pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

7.3.7. The date of tax liabilities of the contractor operating under a contract recognized as long-term pursuant to the Law of Ukraine "On the Corporate Profit Tax", is the date of increase in the gross income of the long-term contractor.

7.3.8. An advance payment for the cost of the goods (related services), which are exported or imported, shall not change the amount of the tax credit or tax liabilities of the taxpayer – such an exporter or importer, respectively.



(sub-clause 7.3.8 of Clause 7.3 of Article 7 as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

7.3.9. A person, who over the last twelve calendar months had taxable supplies the value of which does not exceed the amount specified in sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law (exclusive of this tax), may elect to use a cash method of tax accounting.

If the said election took place at the time of registration of this person as payer of this tax, the cash method shall begin to apply on the date of such registration and may not be changed until the end of the year in which such registration took place.

If this election takes place at any given time after the registration of the person as payer of this tax, the cash method shall begin to apply in the tax period following the tax period, in which this choice was made, and may not be changed during the next twelve monthly (or four quarterly) tax periods.

A decision to elect the cash method shall be submitted to the tax body together with the application for tax registration or tax declaration for the reporting (tax) period, during which such choice was made.

During the period of application of the cash method the taxpayer shall be required to indicate it in his tax declarations for this tax.

A taxpayer who has elected the cash method of accounting may not apply it to:

Import and export transactions;

transactions of supply of excisable goods.

If goods (services) remain unpaid for fully (inclusive of this tax) during three tax months following the month in which they were supplied by the taxpayer which had elected the cash method (during the quarter following the quarter in which they were supplied, for taxpayers which have elected the quarter tax period), and such payer has not commenced a procedure for collection of bad debt pursuant to legislation, then the amount of assessed taxes shall be included in tax liabilities of such a taxpayer based on the results of the next tax period.

Application of the cash method shall be terminated since the tax period following the tax period during which the taxpayer himself made his decision to elect generally applicable rules for determination of the date of tax liabilities and tax credit (accrual method), or reached the volume of taxable transactions specified by sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law.

A taxpayer may himself discontinue using the cash method by way of sending a relevant application to the address of the tax body at the place of his tax registration.

If volumes of taxable transactions based on the results of the accounting period shall exceed the amount specified in sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law, the taxpayer shall be required to discontinue to use the cash method by way of sending the relevant application to the address of the tax body in which he is registered as payer of this tax, together with filing the tax declaration for respective reporting period. In this case the taxpayer applies general rules of taxation starting with the next tax period. If a

taxpayer failed to file such an application within the established in this sub-clause period, the tax body shall be required to reassess the amount of tax liabilities and tax credit of such taxpayer starting with the tax period within which falls the final date for submission of his application for discontinuing the cash method, and the taxpayer shall not be allowed to use the cash method during the next 36 tax months.

From the beginning of the application of the cash method on the grounds specified in this Law, the amounts of tax liabilities and tax credits incurred prior to the application of the cash method shall not be reassessed in connection with the beginning of such application.

In case of discontinuation of the use of the cash method on any grounds and application of the general system of taxation by this law:

the amount of tax obligations of the taxpayer shall be increased by the amount assessed on the value of goods (services) supplied by the taxpayer, but not paid for in money or in other types of compensation on the date of the taxpayer's changing to the regular regime of taxation;

the amount of the tax credit of the taxpayer shall be increased by the amount assessed on the value of goods (services), received by the taxpayer, but not paid for in money or in other types of compensation on the date of the taxpayer's changing to the regular regime of taxation.

(Clause 7.3 of Article 7 has sub-clause 7.3.9 added pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

#### 7.4. Tax credit

7.4.1. Tax credit for the accounting period shall be determined on the basis of the agreed (contract) value of goods (services), but not higher than the level of regular prices, if this agreed price on such goods (services) differs by more than 20 percent of the regular price on such goods (services), and consists of the amounts of taxes assessed (paid) by the taxpayer at the rate established in clause 6.1 of Article 6 and in Article 8<sup>1</sup> of this Law, during such accounting period in connection with:

(Paragraph 1 of sub-clause 7.4.1 of Clause 7.4 of Article 7 as restated by the Law of Ukraine dated 30.11.2006 No. 398-V)

purchase or manufacturing of goods (including in the course of their importation) and services for the purpose of their further use in taxable transactions within the limits of the business activities of the taxpayer;

purchase (construction, assembly) of fixed assets (permanent assets including other non-circulating material assets and unfinished capital investments into non-circulating capital assets), including such in the course of their importation, for the purpose of further use in production and/or supplies of goods (services) for taxable transactions within the limits of business activities of the taxpayer.

The right to accrue a tax credit arises irrespective of whether or not such goods (services) and fixed assets began to be used in taxable transactions within the limits of business activities of the taxpayer during the

reporting tax period, as well as whether or not the taxpayer carried out taxable transactions during such reporting tax period.

If later such goods (services) begin to be used in transactions which are not objects of taxation pursuant to Article 3 of this Law or are exempt from taxation pursuant to Article 5 of this Law, or the fixed assets are converted into non-production assets, then for the purpose of taxation such goods (services) and fixed assets shall be considered sold at their regular price in the tax period in which the beginning of such use or conversion occurred, but not less than the price of their purchase (manufacturing, construction, assembly).

(sub-clause 7.4.1 of Clause 7.4 of Article 7 as amended pursuant to the Law of Ukraine dated 15.07.99 No. 977-XIV, as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

7.4.2. If a taxpayer purchases (produces) goods (services) and fixed assets intended for use in transactions which are not objects of taxation pursuant to Article 3 of this Law or are exempt from taxation pursuant to Article 5 of this Law, then the amounts of the tax paid in connection with such purchase (manufacturing) shall not be included in the tax credit of such payer.

The amount of the tax paid by the taxpayer in connection with the purchase of a car (except for taxi) to be included in the fixed assets, shall not be included in the tax credit and shall be treated as gross expenses.

Paragraph 3 of sub-clause 7.4.2 of Clause 7.4 of Article 7 is deleted

(pursuant to Law of Ukraine dated 7 July 2005, under No. 2771-IV)

(sub-clause 7.4.2 of Clause 7.4 of Article 7 as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

7.4.3. If goods (works, services), produced and/or purchased, are partly used in taxable transactions, and are partly not used in such transactions, then the amount of the tax credit shall also include the part of the tax paid (assessed) at the time of the production or the purchase, which corresponds to the part in which such goods (works, services) were used in taxable transactions in the accounting period.

7.4.4. If a taxpayer purchases (produces) tangible and intangible assets (services), which are not intended for use in the business activities of such taxpayer, then the amount of the tax paid in connection with such purchase (production) shall not be included in the tax credit.

(sub-clause 7.4.4 of Clause 7.4 of Article 7 as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

7.4.5. The amounts of the tax paid (assessed) in connection with a purchase of goods (services) not supported by tax invoices or customs declarations (other similar documents pursuant to sub-clause 7.2.6 of this Clause) shall not be included in the tax credit.

(Paragraph 1 of sub-clause 7.4.5 of Clause 7.3 of Article 7 as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

If at the time of inspection of the taxpayer by the body of the state tax service the amounts of the tax earlier included in the tax credit remain unsupported by the documents specified in this sub-clause, the taxpayer shall be held accountable in the form of financial sanctions established by law and assessed on the amount of tax credit not confirmed by the documents indicated in this sub-clause.

(sub-clause 7.4.5 of Article 7 as restated by the Law of Ukraine dated 26 September 1997, under No. 550/97-VR)

7.5. The date when the right of the taxpayer to a tax credit arises shall be:

7.5.1. the date of the earliest of the following events:

either the date of withdrawal of the money from the bank account of the taxpayer as payment for goods (works, services), the date of issue of the corresponding invoice (receipt) – in case of payments based on use of credit or debit cards or commercial checks;

or the date of receipt of the tax invoice certifying the fact of purchase by the taxpayer of goods (works, services);

7.5.2. for transactions involving importation of goods (related services) or deliveries of services by a non-resident in the customs territory of Ukraine – the date of payment of the tax under tax liabilities pursuant to sub-clause 7.3.6 of this Article;

(sub-clause 7.5.2 of Clause 7.5 of Article 7 as amended pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV, as restated by the Law of Ukraine dated 7 July 2005, under No. 2771-IV)

7.5.3. the date when the right of the lessee to an increase in the tax credit for financial rent (leasing) transactions shall be the date of the actual receipt of the object of financial leasing by the lessee.

(sub-clause 7.5.3 of Clause 7.5 of Article 7 as restated by the Law of

7.5.4. The date when the right of the customer to a tax credit under contracts recognized as long-term contracts pursuant to Law of Ukraine "On the Corporate Profit Tax", is the date of an increase in the gross expenses of the customer under the long-term contract.

7.6. For goods (services) a purchase (supply) of which is controlled by meters, the fact of the receipt (supply) of such goods (services) must be supported by the meter readings.

7.7. A procedure for determination of the amount of the tax payable (transferable) to the State budget of Ukraine or refundable from the State budget of Ukraine (subject to a budget refund), and relating payment periods.

7.7.1. The amount of the tax, payable (transferable) to the budget or refundable from the budget, shall be determined as the difference between the amount of the tax liabilities in the reporting tax period and the amount of the tax credit in the same reporting tax period.

In the amount determined pursuant to sub-clause 7.7.1 of this Clause is positive, then such an amount shall be paid (transferred) to the budget within periods established by law for the corresponding tax period.

In the amount determined pursuant to sub-clause 7.7.1 of this Clause is positive, then such an amount shall be deducted from the amount of the tax arrears under this tax incurred in the previous tax periods (including arrears deferred or restructured according to law), and if there are no such arrears – it shall be included in the tax credit for the next tax period.

7.7.2. If in the next tax period the amount determined pursuant to sub-clause 7.7.1 of this Clause will be negative, then:

a) the part of such negative amount that is equal to the amount of the tax actually paid by the recipient of the goods (services) in the previous tax period to the suppliers of such goods (services) shall be refunded from the budget;

b) the part of the negative value remaining after the budget refund shall be added to the tax credit for the next tax period.

7.7.3. A taxpayer may himself make a decision to deduct the total amount of the budget refund payable to him from the tax liabilities under this tax in the next tax periods. Such a decision shall be reflected by the taxpayer in the tax declaration that he will file based on the results of the accounting period in which the right to file an application for budget refund pursuant to provisions of this Article arose. When such a decision is made the said amount shall not be taken into account for determination of the amounts of budget refunds in the next tax periods.

7.7.4. A taxpayer who has the right to receive a budget refund and who has passed a decision to return the complete amount of the budget refund, shall submit to the relevant tax body a tax declaration and the statement of the return of such full amount of the budget refund, which must be reflected in the tax declaration. The taxpayer shall, within the five – day period following the submission of the declaration to the tax body, submit to the body of the State Treasury of Ukraine a copy of the declaration, with the note of the tax body that it was accepted, to maintain the registry of tax declarations by payers.

The declaration shall be supported by the computation of the amount of the budget refund, copies of cancelled tax promissory notes (tax receipts), if such are available, and the original fifth principal sheets (copies of the declaring entity) of customs cargo declarations, in case of export transactions.

The form of application for a refund and the form for computation of the amount of budget refund shall be established under the procedure established by the central tax agency.

7.7.5. During 30 days following the date of receipt of tax declaration, the tax body shall carry out documentary in-office (in camera) examination of data indicated in the declaration. If there are sufficient grounds to believe that computation of the amount of the budget refund was performed in violation of provisions of tax legislation, tax body has the right, during the same period, to carry out an unscheduled on-site (documentary) examination of the payer to examine correctness of the assessment of the budget refund.

A tax body shall be required, within the five-day period following the completion of the examination, to provide the office of the state treasury one's conclusion specifying the amount to be refunded from the budget.

(Paragraph two of sub-clause  
7.7.5 of Clause 7.7 of Article 7 as  
repeated by the Law of Ukraine  
dated 3 June 2005, under  
No. 2642-IV)

7.7.6. On the basis of the received conclusion of the corresponding tax body, the office of the state treasury shall provide the taxpayer with the specified in the conclusion amount of the budget refund by way of transferring funds from the budget account to the current bank account of the taxpayer within five workdays following the receipt of the conclusion of the tax body.

7.7.7. If based on the results of the documentary in-office (in camera) or unscheduled on-site examination (documentary examination), the tax body establishes that the amount of the budget refund does not match the amount stated in the tax declaration, then this tax body:

a) in the event of understatement of the declared by the taxpayer amount of the budget refund compared to the amount determined by the tax body in the course of such inspections – shall send to the taxpayer a tax notice specifying the amount of such understatement and the basis for its computation. In this case it is assumed that the taxpayer voluntarily declines to receive this amount of the understatement of the budget refund and deducts it pursuant to sub-clause 7.7.3 of this Clause from tax liabilities under this tax in the next tax periods;

б) in the event of overstatement of the declared by the taxpayer amount of the budget refund compared to the amount determined by the tax body in the course of such inspections, the tax body shall send to the taxpayer a tax notice specifying the amount of such overstatement and the basis for its computation;

в) if as a result of such inspections it is established that the taxpayer is not entitled to a budget refund, the tax body shall send to the taxpayer a tax notice specifying the reasons for denying the budget refund.

7.7.8. If as a result of the examination of the amount of the tax declared for a refund, the taxpayer or the tax body initiates a procedure of administrative appeal, the tax body shall, not later than on the workday

following the day of receipt of the corresponding notice from the payer or the court's decision to initiate proceedings, be required to notify of this the office of the state treasury. The state treasury office shall suspend the procedure of refunding in the part corresponding to the appealed amount until the passage of the final decision on the administrative or judicial appeal.

After completion of the procedure of administrative or judicial appeal, the tax body shall, within the five workdays following the day of receipt of the relevant decision, be required to provide the state treasury office with the conclusion specifying the amount of the tax that must be refunded from the budget.

(sub-clause 7.7.8 of Clause 7.7 of Article 7 as restated by the Law of Ukraine dated 7 July 2005, under No. 2771-IV)

7.7.9. If a taxpayer exports outside the customs territory of Ukraine goods (related services) received from other taxpayer under terms of commission, consignment, authorization or other types of agreements that do not involve the transfer of ownership to such goods (related services) from such other taxpayer to the exporter, the right to receive a budget refund belongs to such other taxpayer. The commission received by the exporting taxpayer from such other taxpayer shall be included in the base of taxation for this tax at the rate established in paragraph one of Clause 6.1 of Article 6 of this Law, and shall not be included in the customs value of goods (related services) that are exported.

(sub-clause 7.7.9 of Clause 7.7 of Article 7 as amended pursuant to the Law of Ukraine dated 3 June 2005, under No. 2642-IV)

7.7.10. The source of payment of the budget refund (including the budget arrears) is the general revenue of the State budget of Ukraine. It shall be prohibited to limit or condition the payment of budget refunds on the revenue available or lack of revenue from this tax received in particular regions of Ukraine.

7.7.11. The following persons do not have the right to obtain a budget refund:

a) a person who:

was registered as payer of this tax less than 12 calendar months before the month based on the results for which the application for a budget refund is filed, and/or had volumes of taxable transactions in the last 12 calendar months which are less than the declared amount of the budget refund (except for assessment of a tax credit as a result of a purchase or assembly (construction) of the fixed assets;

did not carry out activities during the last twelve calendar months;

б) sub-clause "б" of sub-clause 7.7.11 of Clause 7.7 of Article 7 is deleted

(pursuant to Law of Ukraine dated 3 June 2005, under No. 2642-IV)

б) person who is a payer of the unified tax under the simplified system of taxation, accounting and reporting, which provides for payment of this tax in a way other than one established by this Law, or for exemption from such a payment.

(sub-clause 7.7.11 of Clause 7.7 of Article 7 has sub-clause "б" added pursuant to the Law of Ukraine dated 7 July 2005, under No. 2771-IV) (Clause 7.7 of Article 7 as amended by the Laws of Ukraine dated 04.03.98 No. 169/98-VR, dated 20 November 1998, under No. 277-XIV, of 14.07.99 No. 934-XIV, of 2 March 2000, under No. 1523-III, of 21.12.2000 No. 2181-III, of 15.06.2004 No. 1766-IV, as formulated in the Law of Ukraine of 25.03.2005 No. 2505-IV)

## 7.8. Tax periods.

7.8.1. A tax period is one calendar month, and in cases specifically addressed in this Law - one calendar quarter, taking into account that:

if a person is registered as the taxpayer on a day other than the 1-st day of a calendar month, the first tax period shall be the period beginning on the day of such registration and ending on the last day of the first full calendar month;

if a person's tax registration is cancelled on a day other than the last day of the calendar month, then the last tax period shall be the period that starts on the first day of that month and ends on the day of the cancellation.

7.8.2. A taxpayer the value of taxable transactions of which in the last twelve monthly tax periods did not exceed the amount specified sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law, may elect the quarterly tax period. The application for election of the quarterly tax period shall be submitted to the tax body together with declaration based on the results of the last tax period of the calendar year. The quarterly tax period begins to apply from the first tax period of the next calendar year.

If during any period from the beginning of application of the quarterly tax period the volume of taxable transactions of the taxpayer exceeds the amount specified in sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law, such a taxpayer shall be required to elect the monthly tax period starting with the month in which such an excess took place, which must be specified in the corresponding tax declaration on the results of such month.

(Clause 7.8 of Article 7 as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

7.9. Clause 7.9 of Article 7 is deleted



(pursuant to the Law of Ukraine  
dated 25 March 2005, under  
No. 2505-IV)

#### **Article 8. Left out**

(Article 8 as amended by the  
Laws of Ukraine dated 15.01.98  
No. 25/98-VR,  
dated 20 November 1998, under No. 277-XIV,  
dated 01.06.2000 No. 1783-III,  
dated 27.11.2003 No. 1344-IV,  
dated 23.12.2004 No. 2285-IV,  
left out pursuant to Law  
of Ukraine dated 25.03.2005 No. 2505-IV)

#### **Article 8. Particular aspects of taxation of transactions involving supplies of travel services**

8.1. If a tour operator supplies a travel product, travel services with the place of direct supply outside the customs territory of Ukraine, the base of taxation for such a tour operator shall be the amount of compensation, which is the difference between the value of the travel product and travel services supplied by this operator, and the level of expenses incurred by this travel operator as a result of a purchase (creation) of this travel product and such travel services.

8.2. Expenses incurred by a tour operator shall be determined as total expenses incurred by the operator in connection with orders of natural or legal persons, specified in relevant contracts signed pursuant to existing legislation.

8.3. A procedure for taxation of transactions involving supply by a tour operator of a travel product, travel services, with the place of their supply being in the customs territory of Ukraine, shall be carried out on the basis of generally applicable rules pursuant to this Law.

8.4. The base of taxation for transactions performed by travel agents is the commission, which is assessed (paid) by the travel operator, and other suppliers of services for the benefit of the travel agent, including at the expense of the money received by the latter from the consumer of the travel product, travel services.

8.5. The supply of a travel product or travel services with the place of supply being either in the customs territory or outside the customs territory of Ukraine, may be carried out only by a resident, who has a required license and conforms to requirements specified in clause 2.3 of Article 2 of this Law.

8.6. To determine the maximum amount pursuant to sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law, there shall be taken for purposes of computation the cost of supplies of travel products or travel services, delivered by the travel operator or the travel agent.

(The Law has Article 8 added  
pursuant to the Law of Ukraine  
dated 3 June 2005, under  
No. 2642-IV)

## **Article 8<sup>1</sup>. Special regime of taxation of activities in the sphere of agriculture, forestry and fishery**

8<sup>1</sup>.1. Any legal or natural person that carries out entrepreneurial activities in the sphere of agriculture, forestry and fishery, relating to processing or reprocessing such products produced by this person, as well as to provision of related services specified in this Article (hereinafter referred to as the agricultural enterprises), may elect a special regime of taxation for the value-added tax.

8<sup>1</sup>.2. A special regime of taxation provides for:

a) exempting agricultural enterprises from the obligation to pay this tax at the rate established in Clause 6.1 of Article 6 of this Law;

b) taxation of transactions involving sale (supply) by agricultural enterprises of agricultural products at the following rates of the tax:

6 percent of the value of the sold (supplied) forestry or fishery goods and related services;

9 percent of the value of the sold (supplied) agricultural goods and related services.

Rates of the tax specified in this clause shall be assessed on the base of taxation determined pursuant to Article 4 of this Law.

8<sup>1</sup>.3. The amount of the tax determined by the agricultural enterprise as a result of application of the rates established in clause 8<sup>1</sup>.2 of this Article:

shall fully remain in the ownership of the agricultural enterprise, shall not be paid (collected) into the budget in conformity with the provisions of this Law and shall be used to refund the amounts of the value-added taxes paid (assessed) by such agricultural enterprise on the price of production inputs, as well as for other purposes;

shall not be included in gross income of agricultural enterprises for the purpose of taxation of enterprise profits.

8<sup>1</sup>.4. If the amount of the tax, assessed (derived) by the agricultural enterprise under the rates established clause 8<sup>1</sup>.2 of this Article, is less than the amount of the tax, assessed by him on the price of production factors at the rate established in clause 6.1 of Article 6 of this Law, then this negative difference shall not be subject to budget refund and shall not be included in the gross expenses of the agricultural enterprises for purposes of the enterprise profit tax.

8<sup>1</sup>.5. An agricultural enterprise – subject of the special regime of taxation has the right to a budget refund in case of export of agricultural products (related services). In this case the amount of the budget refund shall be determined under the general rules of this Law, taking into account that it will be determined depending on the part of the tax credit that arose as a result of a purchase by this agricultural enterprise of production inputs used for production of the exported agricultural products (related services).

8<sup>1</sup>.6. An agricultural enterprise – subject of the special regime of taxation has no right to:

assess and collect this tax at the rate established in clause 6.1 of Article 6 of this Law in case of a sale (supply) of agricultural products;

register as a subject of the simplified systems of taxation which provide for a procedure for payment of this tax other than provided for by general provisions of this Law, or for exemption from payment of this tax.

8<sup>1</sup>.7. When an agricultural enterprise supplies goods (services) that do not conform to the definition of the agricultural products pursuant to this Article, the tax liabilities of the agricultural enterprise shall include amounts of the tax assessed at the rate established in clause 6.1 of Article 6 of this Law, and the tax credit shall include amounts of the tax assessed on the amount of expenses which are not production factors in the sphere of agriculture pursuant to of this Article.

In this case the amount of the tax payable to the budget or subject to budget refund shall be determined under general rules of this Law.

8<sup>1</sup>.8. An agricultural enterprise – subject of the special regime of taxation shall be required to provide, upon demand of the buyer, a tax invoice pursuant to procedures established in clause 7.2 of Article 7 of this Law, taking into account that in such tax invoice there shall be specified the amount of the tax computed under one of the rates specified in clause 8<sup>1</sup>.2 of this Article. The buyer of such agricultural products has the right to include the amount of the tax specified in such tax invoice into the amounts of one's tax credit under general terms of this Law.

8<sup>1</sup>.9. To obtain a registration certificate of the taxpayer under the special regime of taxation, an agricultural enterprise shall be required to register in the relevant tax body under rules and in terms specified by Article 9 of this Law for registration of payers of the value-added tax, voluntarily, and the tax body shall be required to issue to the agricultural enterprise a certificate of one's registration as subject of the special regime of taxation within the period established by this Law.

A certificate of registration of the agricultural enterprise as subject of special regime of taxation shall be required to include, in addition to data specified in the certificate of registration of the payer of the value-added tax under general conditions, an exclusive list of activities of such agricultural enterprise.

A certificate of registration of the agricultural enterprise as subject of special regime of taxation may be cancelled on the following grounds:

- a) an agricultural enterprise files an application for its de-registration as subject of special regime of taxation, or an application for its registration as payer of this tax under general rules;
- б) an agricultural enterprise shall be required to register as payer of this tax under general rules in the case specified in clause 8<sup>1</sup>.11 of this Article;
- в) an agricultural enterprise is subject to Clause 9.6 of Article 9 of this Law.

In such cases the agricultural enterprise shall be required to return to the tax body the certificate of one's registration as subject of the special regime of taxation.

8<sup>1</sup>.10. A tax body shall be required to refuse to register the agricultural enterprise as subject of the special regime of taxation, if such agricultural enterprise during the twelve calendar months preceding the month in which the application for such registration is submitted, carried out taxable transactions involving goods

(services), other than agricultural products, in the amount that exceeds the amount specified in Article 2 of this Law. Such taxable transactions shall not include transactions involving sale (supply) of assets that were included in the relevant group of the fixed assets of such agricultural enterprise twelve or more calendar months earlier than the month in which their sale (supply) took place.

8<sup>1</sup>.11. If an agricultural enterprise – subject of the special regime of taxation performs taxable transactions involving goods (services) other than agricultural products in the amount that exceeds the maximal volume established by Article 2 of this Law, during the period specified in this clause, then in the month following the month in which such excess took place, such agricultural enterprise shall be required to elect the general regime of taxation at the rate established in paragraph one of Clause 6.1 of Article 6 of this Law. Such taxable transactions shall not include transactions involving sale (supply) of assets included in the relevant group of fixed assets of such agricultural enterprises not later than twelve calendar months preceding the month in which their sale (supply) took place.

8<sup>1</sup>.12. An agricultural enterprise (subject of the special regime of taxation) shall submit to the appropriate tax body a tax declaration within the period established by law for the quarterly period.

If agricultural enterprise carried out supplies of goods (services), which pursuant to this Article are taxed at different rates, then the tax declaration must reflect separately:

a) amount of taxes assessed (derived) at the rates established by sub-clause "b" of Clause 8<sup>1</sup>.2 of this Article, and at the rate established by clause 6.1 of Article 6 of this Law;

б) the composition of the tax credit based on the share of the production factors (and in case of application of both rates established in sub-clause "b" of Clause 8<sup>1</sup>.2 of this Article, - the respective shares of the production factors) of the total amount of the tax credit.

A tax declaration submitted by agricultural enterprises – subjects of the special regime of taxation, shall be designed and approved according to law.

8<sup>1</sup>.13. For purposes of this Article the following terms shall be used:

8<sup>1</sup>.13.1. production factors - goods (services), which are purchased by the agricultural enterprise for use in the course of production of agricultural products, including acquisition of fixed assets which are predominantly used for such production. The use of fixed assets shall be considered predominant if the amount of compensation received by the taxpayer from the sale (supply) of the agricultural products produced using such fixed assets is greater than the amount of compensations received by the taxpayer from sale (supply) of other goods (services) produced using such assets for the reporting period, except for the sale (supply) of such fixed assets;

8<sup>1</sup>.13.2. agricultural products – goods produced as a result of activities in the sphere of agriculture, forestry or fishery (except for excisable goods);

8<sup>1</sup>.13.3. services accompanying agricultural products, - services relating to:

a) sowing and planting plants, harvesting crops, their briquetteing or storing, other field works, including addition of fertilizers and substances for plant protection;

- b) packaging and preparing for sale, including drying, peeling, grinding, disinfecting and making silage from agricultural products;
- c) gathering agricultural products;
- d) growing, breeding, feeding and slaughtering cattle, applying measures of plant protection, carrying out anti-epizootic measures;
- e) provision of services to other agricultural enterprises using agricultural machinery, except for leasing of such machinery;
- f) provision of services accompanying agricultural business activities, including general management services (relating to issues of taxation, financial reporting and accounting, organizing internal production management), as well as distribution (sale, supply) of agricultural products, grown, fattened, caught or collected (treated) directly by the taxpayer;
- g) eliminating weeds and harmful insects, treating crops and agricultural lands by using plant protection measures, as well as animal protection measures;
- h) using land-improvement and irrigation machinery for crops and agricultural lands;

#### 8<sup>1</sup>.13.4. activity in the sphere of agriculture:

- a) activity involving production of products of horticulture, specifically plant cultures, as well as activities involving growing of fruits and vegetables, flowers and decorative plants (in open or closed soil); mushrooms, seed, spices, saplings and sea weeds;
- b) activities involving production of products of cattle farming, including (but not exclusively) poultry products, rabbits, bees, silk worms and snakes, other edible mammals, birds and reptiles;

#### 8<sup>1</sup>.13.5. activity in the sphere of forestry:

- a) activities relating to planting, growing or cutting of trees or brushwood, and caring of trees and brushwood (except for cutting the trees or brushwood within the limits of Crimean and Carpathian mounts, which for purposes of taxation by this tax shall be considered industrial production), gathering of wild mushrooms and berries;

#### 8<sup>1</sup>.13.6. activities in the sphere of fishery:

- a) catching fresh water fish, breeding such fish;
- б) harvesting oysters, crawfish, toads, wild water seeds, and cultivating them;

8<sup>1</sup>.13.7. activities relating to processing or re-processing products obtained as a result of activities of the taxpayer in the sphere of agriculture, fishery and forestry (only in the part dealing with processing (reprocessing) of wild mushrooms or berries) shall be considered activities in the sphere of agriculture, fishery or forestry, respectively, on condition that such products are grown, fattened, caught or gathered (treated) directly by the taxpayer;

8<sup>1</sup>.13.8. The terms specified in this clause shall be used also for classification of types of economic activities under the State classifier of Ukraine under groups 01.1 - 01.4 of section 0.1, as well as sections 0.2 and 0.5. Following provisions of this Clause, the Cabinet of Ministers of Ukraine shall prepare and publish a complete list of types of activities subject to provisions of this Article.

8<sup>1</sup>.14. Until 1 January 2007 the rate of the tax established in sub-clause "6" of Clause 8<sup>1</sup>.2 of this Article, shall be 10 percent of the base of taxation for persons carrying out types of activities specified in clause 8<sup>1</sup>.13 of this Article.

(The Law has Article 8<sup>1</sup> added pursuant to the Law of Ukraine dated 24.06.2004 No. 1878-IV)

(Article 8<sup>1</sup> is suspended until 1 January 2006 pursuant to the Law of Ukraine dated 23.12.2004 No. 2287-IV), until 1 January 2007 - pursuant to the Law of Ukraine dated 18.10.2005 No. 2987-IV, until 1 January 2008 - pursuant to Law of Ukraine dated 19.10.2006 No. 273-V)

### **Article 9. Registration of persons as payers of the value-added tax**

9.1. The central tax body shall maintain the registry of taxpayers.

9.2. Any person that is being registered as payer of the value-added tax shall have the individual tax number issued, which will be used for purposes of administering of this tax.

9.3. Persons meeting definitions of Clause 2.3 of Article 2 of this Law shall be required to register as taxpayer with the tax body at the place where they are located (place of residents). The form of an application for registration shall be established pursuant to the procedures specified by the central tax agency. Data from the registry of taxpayers shall be published pursuant to the procedures established by the central tax agency.

Natural persons who are not business entities and import goods (articles) into the customs territory of Ukraine in the amounts that are subject to taxation pursuant to the customs legislation, shall pay the value added tax at the time such goods (articles) cross the customs border of Ukraine, without their registration as payers of this tax.

9.4. If a person to which Clause 2.3 of Article 2 of this Law does not apply, wishes to voluntarily register as taxpayer and meets the requirements of sub-clause 2.2 of Article 2 of this Law, then such registration shall be performed on the basis of the application of this person.

If the volume of taxable transactions of the person during the reporting tax period exceeds the amount set in sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law, not more than twice, then such person shall be required to send to the tax body an application for registration during the twelve calendar days following such a reporting tax period.

If a person signs one or more civil-legal agreements (contracts) which, if implemented, will result in taxable transactions the volume of which will exceed, during the reporting tax period, in two times or more the amount established by sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law, then such person shall be required to register as payer of this tax until the end of such reporting tax period.

A person who fails to send such application in such cases and in such terms, shall be held responsible for non-assessment or non-payment of this tax at the level of the registered payer without the right to assess tax credit and obtain a budget refund.

9.5. An application for registration shall be sent to the address of the tax body with confirmation of delivery or shall be handed in person by a representative of such a person to an official of the tax body. The tax body shall be required to issue to the applicant (send by mail) a certificate of tax registration of this person within the ten days following the date of receipt of the application for registration.

9.6. Taking in account provisions of Clause 9.5 of this Article, an application for registration shall be submitted (sent) to a tax body by:

a) persons who are required to register pursuant to sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law, not later than on the twentieth calendar day following the moment when taxable transactions reached the amount specified in the said clause;

b) persons who are required to register in connection with their performing transactions established in sub-clauses 2.3.2 - 2.3.4 of Clause 2.3 and Clause 2.4 of Article 2 of this Law, not later than twenty calendar days prior to the beginning of performance of such transactions;

c) persons who have made a voluntary decision to register as payers of the tax, not later than twenty calendar days prior to the beginning of the tax period starting with which such persons shall be considered payers of this tax and shall have the right to a tax credit and to issue tax invoices.

Forms for the application for registration and the certificate of registration shall be established by the central tax agency.

9.7. Copies of the certificate of registration, approved by the tax body, must be put on display in the taxpayer's office and in all the taxpayer's separate units in places where they will be immediately visible.

The rules for such display and responsibility for failure to comply with these rules shall be established by the central tax agency.

9.8. Registration shall remain effective until the date of its cancellation, which takes places in cases where:

a) a taxpayer, who until the month in which the application for cancellation of registration is filed, has been registered pursuant to provisions of sub-clause 2.3.1 of Clause 2.3 of Article 2 of this Law for more than twenty four calendar months, including the month of registration, and had in the last twelve successive calendar months the volume of taxable transactions that is less than the volume established in the said sub-clause;

b) the liquidation committee of the taxpayer, who was announced bankrupt, ends work or the taxpayer is liquidated under his own decision or based on the decision of a court (the natural person is deprived of one's status of the business person);

c) a person registered as taxpayer is registering as payer of the unified tax or becomes a subject of other simplified systems of taxation, which provide for special procedures for assessment or payment of the value-added tax, different than those established by this Law, or exempt such person from payment of this tax based on a court decision or due to other reasons;

d) a person, registered as taxpayer, elects, pursuant to this Law, a special regime of taxation under rates other than specified in Article 6 and of Article 8<sup>1</sup> of this Law;

e) a person, registered as taxpayer, fails to submit to a tax body a declaration for this tax during the twelve consecutive tax months, or files such declaration (tax computation) which demonstrates lack of taxable supplies during this period, as well as in cases specified by law in connection with the procedure for registration of business persons.

Cancellation of registration due to reasons specified in sub-clause "a" of this Clause shall be carried out on the basis of the application of the taxpayer.

Cancellation of registration due to reasons specified in sub-clauses "б" - "r" of this Clause, shall be carried out based on the initiative of the relevant tax body or such person.

In case of cancellation of registration a taxpayer shall be deprived of the right to assess a tax credit and obtain a budget refund, but shall be required to pay the amount of tax liabilities or tax arrears that were incurred prior to such cancellation, and within the terms established by law, provided there are such liabilities or arrears, whether or not such person will remain registered as payer of this tax at the date of payment of such amounts of the tax, or not.

If, based on the results of the last tax period a person is entitled to a budget refund, such refund shall be provided within the terms established by this Law, whether or not this person will remain registered as payer of this tax on the date of receipt of this budget refund, or not. This rule does not apply to the persons specified in sub-clause "b" of this Clause.

A tax body may not refuse to cancel registration if case of existence of conditions specified in sub-clauses "a" - "b" of this Clause, and shall be required itself to make a decision to cancel the registration on grounds specified in sub-clauses "c" - "d" of this Clause.

A decision to cancel registration on the basis of the application of the taxpayer shall be passed within terms established in this Article for tax registration.

A taxpayer shall be required to return one's registration certificate to the tax body:

if cancellation of registration is carried out upon the initiative of the taxpayer, - together with the application for such cancellation;

if cancellation of registration is carried out upon the initiative of the tax body, - during twenty calendar days following the making of the decision on the cancellation. In this case a late return of such certificate shall be treated as late filing of tax reporting documents regarding this tax.



In case of the cancellation of registration the last tax period shall be the period beginning on the next day after the last day of the previous tax period, and ending on the day of such cancellation.

A taxpayer, who on the day of the cancellation of registration still has remaining inventory or fixed assets with respect to which a tax credit was assessed in the past or current tax periods, shall be required to recognize a conditional sale of such goods at regular prices and to increase the amount of one's tax liabilities accordingly for the tax period during which this cancellation took place.

(Article 9 as amended by the  
Laws of Ukraine dated 15.01.98  
No. 25/98-VR,  
dated 20 November 1998, under No. 277-XIV,  
dated 14 September 2000, under No. 1955-III,  
as restated by the Law of Ukraine  
dated 25 March 2005, under  
No. 2505-IV)

#### **Article 10. Persons responsible for assessment, withholding and payment (transfer) of the tax into the budget**

10.1. Persons responsible for assessment, withholding and payment (transfer) of the tax to the budget, are:

- a) payers of the tax specified in Article 2 of this Law;
- b) a customs body – in case of administering the tax from persons specified in clause 2.4 of Article 2 of this Law;
- c) if payment of the tax by persons specified in clause 2.4 of Article 2 of this Law is deferred by way of provision of a tax promissory note, - a taxpayer who has issued such tax promissory note;
- d) is services are provided by a non-resident – the non-resident's permanent representative office, and of there are no such office – the person receiving such services, if a place of supply of such services is located in the customs territory of Ukraine;
- e) payers of the tax specified in sub-clause 2.3.4 of Clause 2.3 of Article 2 of this Law, who perform transactions involving sales of seized property.

10.2. Payers of the tax, specified in sub-clauses "a", "c", "d", "e" of Clause 10.1 of this Article, shall be responsible for ensuring correct and timely determination of the amount of the tax, as well as its complete and timely payment to the budget pursuant to law. A person, who pursuant to requirements of Clause 2.2 of Article 2 of this Law was required to register as taxpayer, but did not perform such registration, shall be responsible for assessment and payment of this tax, as well as responsible for failing to assess or pay it as a person registered as taxpayer, without the right to issue tax invoices and accrue a tax credit.

10.3. Payers of the tax specified in clause 2.4 of Article 2 of this Law, shall be responsible for complying with the rules for provision of information for determination of the base of taxation (amount of the tax payable) to a person specified in sub-clause "6" of Clause 10.1 of this Article.

10.4. Control of correctness of assessment and payment (transfer) of the tax into the budget shall be performed by the relevant tax body, and in case of importation of goods with payment of the tax at the time of its customs clearance – by the relevant customs body based on the rules established by a joint decision of the central tax and customs bodies.

10.5. Amounts of the tax assessed by the customs body shall be paid by payers of the tax directly to the accounts of the state budget (the state treasury).

A security issued by the importer of goods (related services) is a means of ensuring their delivery to the destination customs and proper payment of the tax to the budget.

(Paragraph two of Clause 10.5 in Article 10 as restated by the Law of Ukraine dated 7 July 2005, under No. 2771-IV)

10.6. Forms for declaration and tax computation for this tax shall be established pursuant to law.

(Article 10 as amended by the Laws of Ukraine dated 19.11.97 No. 644/97-VR, dated 26 September 1997, under No. 550/97-VR, dated 30.12.97 No. 794/97-VR, dated 15 January 1998, under No. 25/98-VR, dated 20 November 1998, under No. 277-XIV, dated 21.12.2000 No. 2181-III, as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

### **Article 11. Closing provisions**

11.1. Law of Ukraine "On the value added tax" shall come into force on 1 October 1997.

(Clause 11.1 in Article 11 as amended by the Laws of Ukraine dated 27.06.97 No. 403/97-VR, dated 16.07.97 No. 460/97-VR)

If under agreements that were signed before this Law comes into force, and which provided for transactions exempt from taxation pursuant to sub-clauses "г", "д" of Clause 1 of Article 5 of Decree of the Cabinet of Ministers of Ukraine "On the value-added tax", expenses were made or computations were carried out before the enactment of this Law, payers of the tax who are parties to such agreements shall perform taxation of such transactions under such agreements in conformity with rules established by the said Decree.

(Clause 11.1 in Article 11 has paragraph two added pursuant to the Law of Ukraine dated 26

September 1997, under  
No. 550/97-VR)

11.2. Until other legislative acts are brought in conformity with provisions of this Law, they will be effective in part that does not contradict this Law.

11.3. Decree of the Cabinet of Ministers of Ukraine "On the value-added tax" of 26 December 1992 No. 14-92 (Vidomosti Verkhovnoyi Rady Ukrainy, 1993, No. 10, p. 78, No. 26, p. 281, No. 34, p. 356, No. 49, p. 458, No. 50, p. 471; 1994 p., No. 20, p. 120, No. 22, p. 149, No. 27, p. 220; 1995 p., No. 44, p. 318; 1996 p., No. 25, p. 101, No. 27, p. 128, No. 31, p. 147, No. 41, pp. 190, 192) shall be considered revoked.

11.4. Changes in the procedure for taxation by the value-added tax may be made only by way of making changes to this Law by a separate law on issues of taxation by this tax. If other law, regardless of the time of its enactment, shall establish rules of taxation by this tax different from those specified in this Law, then the priority shall be given to provisions of this Law. This rule does not apply to an international treaty (agreement), ratified by the Verkhovna Rada of Ukraine.

(Clause 11.4 in Article 11 as  
repeated by the Law of Ukraine  
dated 25 March 2005, under  
No. 2505-IV)

11.5. From the moment this Law comes into force, payers of the tax in case of importation of goods into the customs territory of Ukraine, provided that the customs declaration is prepared (except for temporary, partial, periodical or preliminary declarations), may, upon their own initiative, provide customs control bodies with tax promissory notes in the amount of tax liabilities to be cancelled on the 30-th calendar day following the date of its provision to the customs control body, with one copy remaining with the body of customs control, and another copy sent by the body of customs control to the address of the body of the state tax service at the place of registration of the taxpayer, and the third copy being kept by the taxpayer;

a tax promissory note must be supported by a commercial bank by way of aval/security;

commercial banks shall be required to pay for the tax promissory note in case it is not cancelled by the taxpayer in time;

a taxpayer may, upon one's own initiative, cancel the tax promissory note earlier by way of transferring money to the budget or by the offset using the budget refund confirmed by the tax body;

if a date for payment of liabilities under the tax promissory note occurs prior to the end of the period for filing the declaration to the tax body for the reporting (tax) period in which it was provided to the body of customs control, the taxpayer shall not include the amount of liabilities under this promissory note in the tax liabilities and shall cancel this promissory note by way of transferring money to the budget. In this case the taxpayer has the right to include the transferred amounts of liabilities under the promissory note in the tax credit for the reporting (tax) period in which such payment took place;

a date for payment of liabilities under the tax promissory note occurs after the end of the period for filing the declaration to the tax body for the reporting (tax) period in which it was provided to the body of customs control, the amount of liabilities under such tax promissory note shall be included in the tax liabilities of the payer in the accounting (tax) period, in which it was submitted to the body of customs control. In this case

the taxpayer has the right to include in the tax credit the amounts of liabilities under the tax promissory notes in the next reporting (tax) period on condition that the amounts of tax liabilities are paid by way of transferring money to the budget;

if a taxpayer on the date of submission of a tax promissory note to the body of customs control has the amount of the budget refund confirmed by the tax body, with this amount being equal or greater than the amount of liabilities under the tax promissory note, the taxpayer has the right to include the amount of liabilities under the tax promissory note in the tax obligations for the reporting (tax) period in which it was submitted to the body of customs control. In this case the tax promissory note shall be considered cancelled and the taxpayer shall have the right to include in the tax credit the amounts of liabilities under the tax promissory note in the next reporting (tax) period;

the Cabinet of Ministers of Ukraine has the right to establish longer periods for payments under the tax promissory notes for particular categories of activities that have seasonal nature or are performed on the basis of the long-term agreements;

obligation to pay under a tax promissory note may not be transferred to other persons, a tax promissory note is not subject to endorsement; interest or other fees for the use of a promissory tax note shall not be charged;

procedure for issuance, circulation and payment of tax promissory notes shall be established by the Cabinet of Ministers of Ukraine.

This Clause does not apply to transactions involving importation into the customs territory of Ukraine of excisable goods and goods belonging to commodity groups 1 - 24 under Ukrainian classification of goods subject to foreign economic activities, as well as transactions involving importation into the customs territory of Ukraine of any goods, carried out by persons which were registered as payers of this tax less than twelve calendar months before the month in which such importation occurs, or by those who are subjects of taxation under rules established by legislation for issues concerning simplified systems of taxation, which provide for payment of this tax under rates other than those established in Clauses 6.1 of Article 6 and 8<sup>1</sup>.2 of Article 8<sup>1</sup>.

(Clause 11.5 in Article 11 as amended by the Laws of Ukraine dated 26 September 1997, under No. 550/97-VR, dated 15.10.97 No. 573/97-VR, dated 06.05.99 No. 624-XIV, dated 14.07.99 No. 934-XIV, dated 2 March 2000, under No. 1523-III, dated 01.06.2000 No. 1783-III, dated 20 December 2001, under No. 2899-III, dated 09.07.2003 No. 1028-IV, dated 02.10.2003 No. 1218-IV, dated 23.10.2003 No. 1240-IV, dated 17.06.2004 No. 1801-IV, as restated by the Law of Ukraine dated 25 March 2005, under No. 2505-IV,

as amended pursuant to the Law  
of Ukraine dated 3 June 2005,  
under No. 2642-IV,  
as formulated in the Law of Ukraine  
dated 7 July 2005, under No. 2771-IV)

Payers of the tax, which carry out projects of technological parks pursuant to Law of Ukraine "On the special regime for innovation activities of technological parks", when importing new equipment, installations, parts, shall provide to the bodies of customs control tax promissory notes with the cancellation/payment period of 720 calendar days, and when importing materials that are not produced in Ukraine, shall submit a tax promissory note in the amount of tax liabilities with the cancellation/payment period of 180 calendar days following the date of submission of the promissory note to the body of customs control.

(Clause 11.5 in Article 11 has  
paragraph added pursuant to the  
Law of Ukraine dated 16.07.1999  
No. 991-XIV, as amended by Law  
of Ukraine  
dated 12.01.2006 No. 3333-IV)

(Clause 11.5 in Article 11 has been suspended for 2007 in the part dealing with application of this Clause to transactions relating to importation into the customs territory of Ukraine of the goods under the commodity heading 2711 under UKT ZED pursuant to the Law of Ukraine dated 19.12.2006 No. 489-V)

11.6. Until 1 January 2000 there will be effective the provisions of this Law relating to application of a zero rate of the value-added tax to supplies:

(Paragraph 1 of Clause 11.6 in  
Article 11 as amended pursuant to  
the Law of Ukraine dated  
25.12.98 No. 368-XIV)

of coal and products of its enrichment, coal and peat briquettes;

electricity;

(Paragraph 3 of Clause 11.6 in  
Article 11 as amended pursuant to  
the Law of Ukraine dated 26  
September 1997, under  
No. 550/97-VR)

natural gas imported in Ukraine.

(Clause 11.6 in Article 11 has new  
paragraph four added pursuant to  
the Law of Ukraine dated

30.12.97 No. 799/97-VR, in  
connection with it paragraph four  
shall be paragraph five)

In the period from 1 May 2000 till 1 January 2001 in case of exportation on the basis of trade barter transactions the amount of the value-added tax paid (assessed) in connection with purchase of goods (works, services) shall not be added to the tax credit, but shall be included in gross production (turnover) expenses of the taxpayer.

(Clause 11.6 in Article 11 has  
paragraph four added pursuant to  
the Law of Ukraine dated 26  
September 1997, under  
No. 550/97-VR)

(Paragraph five of Clause 11.6 in  
Article 11 as amended pursuant to  
the Law of Ukraine dated  
25.12.98 No. 368-XIV, as restated  
by the Law of Ukraine dated  
11.05.2000 No. 1712-III)

11.7. Clause 11.7 in Article 11 is deleted

(pursuant to Law  
of Ukraine dated 25.03.2005 No. 2505-IV)

11.8. Clause 11.8 in Article 11 is deleted

(Clause 11.8 in Article 11 as  
amended pursuant to the Law of  
Ukraine dated 26 September  
1997, under No. 550/97-VR,  
is deleted pursuant to Law  
of Ukraine dated 25.03.2005 No. 2505-IV)

11.9. Until Ukraine's legislative acts concerning taxation of give-and-take raw materials are brought in conformity with provisions of this Law, payments of the value-added tax for transactions relating to importation of give-and-take raw materials into the customs territory of Ukraine shall be carried out pursuant to the procedures established by Law of Ukraine "On transactions with give-and-take raw materials in foreign economic relations".

(Clause 11.9 as restated by the  
Law of Ukraine dated 15.10.97  
No. 573/97-VR)

Until complete implementation of the agreements, under the same procedure shall be administered taxes (fees), the base of taxation for which is the customs value of goods of all categories of finished products produced from give-and-take raw materials of a resident, returned to (shipped into) the customs territory of

Ukraine, provided that under the agreements on the processing of the raw materials the actual expenses were incurred prior to 1 October 1997, or provided that such give-and-take raw materials were exported in full or in part before 1 October 1997.

(Clause 11.9 in Article 11 has paragraph two added pursuant to the Law of Ukraine dated 19.11.97 No. 644/97-VR, paragraph two of Clause 11.9 in Article 11 as amended pursuant to the Law of Ukraine dated 15.07.99 No. 977-XIV)

11.10. Clause 11.10 in Article 11 is deleted

(pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.11. Temporarily, until the enactment of the Tax Code of Ukraine, payers of the tax that sell thermo-energy, natural gas (except for liquefied natural gas), including transportation costs, provide services relating to water supplies, drainage, or supply services the cost of which is included in the apartment fees or housing maintenance fees, to natural persons, budget agencies, not registered as payers of this tax, as well as housing maintenance enterprises, apartment maintenance entities, condominiums, other similar payers of the tax, which collect payments from the said buyers for purposes of their further transfer to sellers of such goods (services) as a compensation for their value (hereinafter referred to as ZHEKs), shall determine the base of taxation of transactions relating to supply of such goods (services) on the basis of the cash method. The base of taxation of transactions of supply of the said goods (services) for ZHEKs and budgets agencies receiving such goods (services), provided they are registered as payers of the tax, shall also be determined on the basis of the cash method.

(Paragraph 1 of Clause 11.11 in Article 11 as amended pursuant to the Law of Ukraine dated 22.05.2003 No. 857-IV)

In case of a change of the method of determination of the base of taxation, the amounts of tax liabilities and tax credit (including amounts of budget or export refunds) assessed before the beginning of application of the cash method or after the end of the period of its application, shall not be reassessed in connection with the change in the method used.

The terms used in this clause have the following meaning:

services the cost of which is included in the apartment fees or housing maintenance fees - services relating to technical maintenance of lifts and dispatch systems, fire safety and smoke extinguishing automatic systems, household electric ovens, maintenance of ducts, in-house systems of water / heating supplies, drainage and sewage, removal and utilization of solid household waste, cleaning of the house and adjacent territories, as well as other services provided by ZHEKs to the specified in this clause buyers at their expense.

paragraph five of Clause 11.11 in Article 11 is deleted

(pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

(Clause 11.11 in Article 11 as amended by the Laws of Ukraine dated 26 September 1997, under No. 550/97-VR, dated 19.11.97 No. 644/97-VR, dated 30.12.97 No. 794/97-VR, dated 02.06.99 No. 714-XIV, dated 15.07.99 No. 946-XIV, as formulated in Law of Ukraine dated 11.07.2001 No. 2649-III)

11.12. Paragraph one of Clause 11.12 in Article 11 is deleted

(pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph two of Clause 11.12 in Article 11 is deleted

(Clause 11.12. in Article 11 has paragraph two pursuant to Law of Ukraine dated 15.01.99 No. 403-XIV, paragraph two of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph 3 of Clause 11.12 in Article 11 is deleted

(Clause 11.12. in Article 11 has paragraph three added pursuant to the Law of Ukraine dated 18.03.99 No. 515-XIV, paragraph 3 of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph four of Clause 11.12 in Article 11 is deleted



(Clause 11.12 has paragraph four added pursuant to the Law of Ukraine dated 03.06.99 No. 722-XIV, paragraph four of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph five of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has paragraph five added pursuant to the Law of Ukraine dated 15.07.99 No. 971-XIV, paragraph five of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph six of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has paragraph six added pursuant to the Law of Ukraine dated 15.07.99 No. 973-XIV, paragraph six of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph seven of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has paragraph seven added pursuant to the Law of Ukraine dated 03.12.99 No. 1278-XIV, paragraph seven of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph eight of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has paragraph eight added pursuant to the Law of Ukraine dated 13.01.2000 No. 1375-XIV,

paragraph eight of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph nine of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has paragraph nine pursuant to the Law of Ukraine dated 23.03.2000 No. 1606-III, paragraph nine of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph ten of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has paragraph ten added pursuant to the Law of Ukraine dated 23.03.2000 No. 1608-III, paragraph ten of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph eleven of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has paragraph eleven added pursuant to the Law of Ukraine dated 11.05.2000 No. 1715-III, paragraph eleven of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

Paragraph twelve of Clause 11.12 in Article 11 is deleted

(Clause 11.12. in Article 11 has paragraph twelve added pursuant to the Law of Ukraine dated 01.06.2000 No. 1749-III, paragraph twelve of Clause 11.12 in Article 11 as amended pursuant to the Law of Ukraine dated 04.10.2001 No. 2744-III, as formulated in Laws of Ukraine

dated 07.03.2002 No. 3118-III,  
dated 11.05.2004 No. 1702-IV,  
is deleted pursuant to Law  
of Ukraine dated 25.03.2005 No. 2505-IV)

During the period of effectiveness of the agreement on product sharing the value-added tax shall be paid in conformity with provisions of Law of Ukraine "On product sharing agreements".

(Clause 11.12 in Article 11 has  
paragraph thirteen added pursuant  
to the Law of Ukraine dated  
08.06.2000 No. 1807-III)

Paragraph fourteen of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has  
paragraph fourteen added  
pursuant to the Law of Ukraine  
dated 21.12.2000 No. 2199-III,  
paragraph fourteen of Clause  
11.12 in Article 11 is  
deleted pursuant to the Law of  
Ukraine dated 25 March 2005,  
under No. 2505-IV)

Paragraph fifteen of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has  
paragraph fifteen added pursuant  
to the Law of Ukraine dated  
22.03.2001 No. 2323-III,  
paragraph fifteen of Clause 11.12  
in Article 11 is deleted pursuant to  
the Law of Ukraine dated 25  
March 2005, under No. 2505-IV)

Paragraph sixteen of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has  
paragraph sixteen added pursuant  
to the Law of Ukraine dated  
05.04.2001 No. 2355-III,  
paragraph sixteen of Clause 11.12  
in Article 11 is deleted pursuant to  
the Law of Ukraine dated 25  
March 2005, under No. 2505-IV)

Paragraph seventeen of Clause 11.12 in Article 11 is deleted

(Clause 11.12 in Article 11 has paragraph seventeen added pursuant to the Law of Ukraine dated 04.07.2002 No. 40-IV)

(paragraph seventeen of sub-clause 11.12 in Article 11 is suspended for 2003 in connection with suspension of Clause 3 of Section VII of the Law of Ukraine dated 4 July 2002 No. 40-IV pursuant to the Law of Ukraine dated 26.12.2002 No. 380-IV, for 2004 - pursuant to the Law of Ukraine dated 27.11.2003 No. 1344-IV, for 2005 - pursuant to the Law of Ukraine dated 23.12.2004 No. 2285-IV)

(Paragraph seventeen of Clause 11.12 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.13. Clause 11.13 in Article 11 is deleted

(Clause 11.13 in Article 11 as amended pursuant to the Law of Ukraine dated 30.12.97 No. 799/97-VR, is deleted pursuant to Law of Ukraine dated 25.03.2005 No. 2505-IV)

11.14. If payers of the value-added tax use electronic cash registers for conducting payment transactions with customers, the receipts shall be required to contain data on the total amount payable by the buyer, inclusive of the value-added tax, and the amount of this tax payable as part of the total amount.

Procedures for assessment and accrual by the electronic cash registers of the value-added tax shall be established by the Cabinet of Ministers of Ukraine.

(Clause 11.14 in Article 11 as restated by the Law of Ukraine dated 19.03.99 No. 522-XIV)

11.15. Clause 11.15 in Article 11 is deleted

(Clause 11.15 in Article 11 as amended by the Laws of Ukraine dated 24.12.98 No. 362-XIV, dated 20.10.99 No. 1172-XIV, dated 07.12.2000 No. 2133-III, dated 20 December 2001, under No. 2905-III, dated 26.12.2002 No. 380-IV, dated 27.11.2003 No. 1344-IV, dated 23.12.2004 No. 2285-IV,

is deleted pursuant to Law of Ukraine dated 25.03.2005 No. 2505-IV)

11.16. Clause 11.16 in Article 11 is deleted

(Article 11 has new clauses 11.11 - 11.16 added pursuant to the Law of Ukraine dated 26 September 1997, under No. 550/97-VR, in connection with it clause 11.11 shall be clause 11.17)

(pursuant to Law of Ukraine dated 25.03.2005 No. 2505-IV)

11.17. Clause 11.17 in Article 11 is deleted

(pursuant to Law of Ukraine dated 25.03.2005 No. 2505-IV)

11.18. Clause 11.18 in Article 11 is deleted

(Article 11 has clause 11.18 added pursuant to the Law of Ukraine dated 19.09.97 No. 535/97-VR)

(Clause 11.18 in Article 11 is suspended for 2004 (except for enterprises producing cars, busses and parts with investments, which have investment programs approved by the Cabinet of Ministers of Ukraine until the enactment of the Law of Ukraine dated 27.11.2003 No. 1344-IV) pursuant to the Law of Ukraine dated 27.11.2003 No. 1344-IV)

(Clause 11.18 in Article 11 as amended pursuant to the Law of Ukraine dated 15.11.2001 No. 2779-III, is deleted pursuant to Law of Ukraine dated 25.03.2005 No. 2505-IV)

11.19. Clause 11.19 in Article 11 is deleted

(Article 11 has clause 11.19 added pursuant to the Law of Ukraine dated 19.09.97 No. 535/97-VR, clause 11.19 in Article 11 as amended by the Law of Ukraine dated 15.11.2001 No. 2779-III)

(Clause 11.19 in Article 11 is suspended for 2004 (except for enterprises producing

cars, buses and parts thereof, with investments, which have investment programs, approved by the Cabinet of Ministers of Ukraine before the enactment of Law of Ukraine dated 27.11.2003 No. 1344-IV) pursuant to the Law of Ukraine dated 27.11.2003 No. 1344-IV)

(Clause 11.19 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.20. Until the enactment of the Tax Code of Ukraine in cases where a taxpayer performs transactions involving supplies to persons not registered as payers of the tax, agricultural products and products of processing agricultural production, earlier purchased (provided) by such taxpayer from natural persons who are not payers of this tax, the object of taxation shall be the trade mark-up (extra charge) set by this taxpayer.

(Article 11 has clause 11.20 added pursuant to the Law of Ukraine dated 19.11.97 No. 644/97-VR, clause 11.20 in Article 11 as amended pursuant to the Law of Ukraine dated 13.05.99 No. 645-XIV, as restated by the Law of Ukraine dated 15.06.2004 No. 1779-IV)

11.21. Until 1 January 2008 the amount of the value-added tax that must be paid to the budget by enterprises of all forms of ownership for the sold milk and dairy products, meat and meat products, in full amounts shall be used only for disbursement of subsidies to agricultural producers for the milk and meat in live weight that they sold to processing enterprises.

(Paragraph 1 of Clause 11.21 in Article 11 as amended pursuant to the Law of Ukraine dated 19.10.2006 No. 273-V)

The amount of the value-added tax that must be paid to the budget by agricultural enterprises of all forms of ownership for the sold milk, cattle, poultry, cotton, as well as for dairy products and meat products produced in their own processing facilities, shall be left at the disposal of these agricultural enterprises and shall be used to support production of cattle and poultry products.

A procedure for assessment and use of these funds shall be established by the Cabinet of Ministers of Ukraine.

(Article 11 has clause 11.21 added pursuant to the Law of Ukraine

dated 23.12.97  
No. 770/97-VR,  
clause 11.21 in Article 11 as  
restated by the Law of Ukraine  
dated 18.02.99 No. 442-XIV)

(Clause 11.21 in Article 11 has  
been extended until 1 January  
2005 pursuant to the Law of  
Ukraine dated 28.11.2003  
No. 1352-IV,  
until 1 January 2006 - pursuant to  
the Law of Ukraine dated  
23.12.2004 No. 2287-IV,  
until 1 January 2007 - pursuant to  
the Law of Ukraine dated  
18.10.2005 No. 2987-IV)

11.22. Clause 11.22 in Article 11 is deleted

(Article 11 has clause 11.22 added  
pursuant to the Law of Ukraine  
dated 04.03.98 No. 169/98-VR,  
clause 11.22 in Article 11 is  
deleted pursuant to the Law of  
Ukraine dated 03.12.99 No. 1274-  
XIV)

11.23. For the period of performance of works relating to the preparation for dismantling and dismantling of power generating units at the Chernobyl nuclear power station and relating to operation and transformation of the facility "Ukryttia (Shelter)" into the ecologically safe system, which are carried out at the expense of funding provided under the international technical assistance on the free-of-charge and irrevocable basis, or at the expense of the funding allocated from the state budget as a contribution of Ukraine to the Chernobyl Fund "Ukryttia" for implementation of the international program – Plan of measures to be carried out at the facility "Ukryttia" pursuant to provisions of the Framework agreement between Ukraine and European Bank of reconstruction and development regarding activities of the Chernobyl Fund "Ukryttia" in Ukraine and the Grant Agreement (the project of nuclear safety of the Chernobyl nuclear power station) between the European bank of reconstruction and development, Government of Ukraine and Chernobyl nuclear power station:

shall be exempt from of taxation of transactions of importation of goods (raw materials, materials, equipment and machinery);

a zero rate shall be applied to transactions of supply of goods (raw materials, materials, equipment and machinery), performance of works and of supply of services in the customs territory of Ukraine, carried out within the framework of international technical assistance. Amounts of the value-added tax paid by the taxpayer – performer of works, services under a contract signed with the recipient of the international technical assistance or with a non-resident person, who signed a contract with the recipient, shall be refunded

from the budget during the month following the submission of the tax declaration, on condition of properly prepared documents and verification of these documents through documentary examinations.

These privileges do not apply to transactions relating to excisable goods and goods of categories 1 - 24 of the Ukrainian classification of goods involved in foreign economic activities.

If the said goods are not used for intended purposes or works are performed and services supplied not as intended, the taxpayer shall be required to increase tax liabilities for the tax period in which such violation took place, by the amount of the value-added tax that had to be paid at the time of importation of such goods or performance of works and supply of services in the customs territory, and to pay interest assessed on this amount of the tax, based on the 120 percent of the refinancing rate of the National bank of Ukraine effective on the day of the increase of tax liabilities, and for the period from the date of importation of such goods or performance of works and supply of services, until the date of the increase in the tax obligations.

(Article 11 has clause 11.23 added pursuant to the Law of Ukraine dated 11.12.98 No. 309-XIV, clause 11.23 in Article 11 as amended pursuant to the Law of Ukraine dated 03.06.99 No. 722-XIV, as restated by the Law of Ukraine dated 22.05.2003 No. 856-IV)

11.24. Clause 11.24 in Article 11 is deleted

(Article 11 has clause 11.24 added pursuant to the Law of Ukraine dated 11.12.98 No. 309-XIV, clause 11.24 in Article 11 is deleted pursuant to the Law of Ukraine dated 03.06.99 No. 722-XIV)

11.24. Clause 11.24 in Article 11 is deleted

(Article 11 has clause 11.24 added pursuant to the Law of Ukraine dated 07.07.99 No. 854-XIV, Clause 11.24 in Article 11 is deleted pursuant to the Law of Ukraine dated 2 March 2000, under No. 1523-III)

11.25. Clause 11.25 in Article 11 is deleted

(Article 11 has clause 11.25 added pursuant to the Law of Ukraine dated 14.07.99 No. 943-XIV,



Clause 11.25 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.26. Clause 11.26 in Article 11 is deleted

(Article 11 has clause 11.26 added pursuant to the Law of Ukraine dated 18.11.99 No. 1242-XIV, Clause 11.26 in Article 11 as amended by the Laws of Ukraine dated 27.11.2003 No. 1344-IV, dated 15.06.2004 No. 1766-IV, is deleted pursuant to Law of Ukraine dated 25.03.2005 No. 2505-IV)

11.27. Clause 11.27 in Article 11 is deleted

(Article 11 has clause 11.27 added pursuant to the Law of Ukraine dated 16.03.2000 No. 1559-III, clause 11.27 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.28. Clause 11.28 in Article 11 is deleted

(Article 11 has clause 11.28 added pursuant to the Law of Ukraine dated 16.03.2000 No. 1559-III, clause 11.28 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.29. Until 1 January 2008 Clause 7.7 of Article 7, clauses 10.1 and 10.2 in Article 10 of this Law shall be suspended in the part dealing with payment to the budget of the value-added tax in connection with transactions of supply of goods (works, services) of one's own production, including products (except for excisable goods) produced on the basis of give-and-take terms of processing from one's own agricultural raw materials, except for transactions of supply to processing enterprises of milk and meat in live weight, performed by agricultural producers regardless of organizational – legal forms and forms of ownership, in which the amount derived from the supply of agricultural products of one's own production and products of processing thereof in the previous reporting (tax) year is not less than 50 percent of the total amount of the gross income of the enterprise.

(Paragraph 1 of Clause 11.29 as amended by the Laws of Ukraine dated 18.01.2001 No. 2233-III, dated 19.10.2006 No. 273-V)

For newly established agricultural producers of any form of ownership the relative share of agricultural products in the total amount of the gross income of the enterprise in the current year shall be determined on the basis of the data for the accounting period.

These money shall be left at the disposal of the agricultural producers and shall be used by them to purchase material – technical resources intended for production purposes. If such accumulated funds are not used for intended purposes, such funds will be irrevocably collected and transferred to the State budget of Ukraine.

A procedure for accumulation and use of the said funds shall be established by the Cabinet of Ministers of Ukraine.

(Article 11 has clause 11.29 added pursuant to the Law of Ukraine dated 13.07.2000 No. 1874-III)

(Clause 11.29 in Article 11 has been extended until 1 January 2005 pursuant to the Law of Ukraine dated 28.11.2003 No. 1352-IV, until 1 January 2006 - pursuant to Law of Ukraine dated 23.12.2004 No. 2287-IV, and until 1 January 2007 - pursuant to the Law of Ukraine dated 18.10.2005 No. 2987-IV)

11.30. Clause 11.30 in Article 11 is deleted

(Article 11 has clause 11.30 added pursuant to the Law of Ukraine dated 21.09.2000 No. 1991-III)

(Clause 11.30 in Article 11 shall be suspended for 2004 (except for enterprises that signed agreements before the enactment of the Law of Ukraine dated 27.11.2003 No. 1344-IV, if the transferred amount of advanced payments exceeds 20 percent of the value of the contract) pursuant to the Law of Ukraine dated 27.11.2003 No. 1344-IV)

(Clause 11.30 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.31. Clause 11.31 in Article 11 is deleted

(Article 11 has clause 11.31 added pursuant to the Law of Ukraine dated 11.01.2001 No. 2211-III)

(Clause 11.31 in Article 11 shall be suspended for 2004 (except for enterprises that signed agreements before the enactment of the Law of Ukraine dated Law of Ukraine dated 27.11.2003 No. 1344-IV, the transferred amount of advanced payments exceeds 20 percent of the value of the contract) pursuant to the Law of Ukraine dated 27.11.2003 No. 1344-IV)

(Clause 11.31 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.32. Clause 11.32 in Article 11 is deleted

(Article 11 has clause 11.32 added pursuant to the Law of Ukraine dated 11.01.2001 No. 2211-III)

(Clause 11.32 in Article 11 shall be suspended for 2004 (except for enterprises that signed agreements before the enactment of the Law of Ukraine dated Law of Ukraine dated 27.11.2003 No. 1344-IV, the transferred amount of advanced payments exceeds 20 percent of the value of the contract) pursuant to the Law of Ukraine dated 27.11.2003 No. 1344-IV)

(Clause 11.32 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.33. Clause 11.33 in Article 11 is deleted

(Article 11 has clause 11.33 added pursuant to the Law of Ukraine dated 17.05.2001 No. 2410-III, clause 11.33 in Article 11 as amended pursuant to the Law of Ukraine dated 16 January 2003, under No. 440-IV, is deleted pursuant to Law of Ukraine dated 25.03.2005 No. 2505-IV)

11.34. Clause 11.34 in Article 11 is deleted

(Article 11 has clause 11.34 added pursuant to the Law of Ukraine dated 12.07.2001 No. 2660-III)

(Clause 11.34 in Article 11 shall be suspended for 2004 (except for enterprises that signed agreements before the enactment of the Law of Ukraine dated 27.11.2003 No. 1344-IV, the transferred amount of advanced payments exceeds 20 percent of the value of the contract) pursuant to the Law of Ukraine dated 27.11.2003 No. 1344-IV)

(Clause 11.34 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.35. Clause 11.35 in Article 11 is deleted

(Article 11 has clause 11.35 added pursuant to the Law of Ukraine dated 07.03.2002 No. 3073-III)

(Clause 11.35 in Article 11 is suspended for 2004 pursuant to the Law of Ukraine dated 27.11.2003 No. 1344-IV)

(Clause 11.35 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.36. Clause 11.36 in Article 11 is deleted

(Article 11 has clause 11.36 added pursuant to the Law of Ukraine dated 24.12.2002 No. 346-IV, clause 11.36 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.37. Temporarily, until 1 January 2009 exempt from taxation shall be transactions of importation of goods specified in clause "o" in Article 19 of the Law of Ukraine "On the unified customs tariff", as well as transactions of supply of such goods to publishing houses and printing enterprises in the territory of Ukraine.

(Paragraph 1 of Clause 11.37 in Article 11 as amended pursuant to

the Law of Ukraine dated  
20.11.2003 No. 1300-IV)

In the event of use of the said goods not for intended purposes, the taxpayer shall be required to increase tax liabilities based on the results for the tax period in which such violation occurred, by the amount of the value-added tax that was to be paid at the moment of importation of such goods, as well as to pay the interest pursuant to legislation of Ukraine.

(Article 11 has clause 11.37 added pursuant to the Law of Ukraine dated 06.03.2003 No. 601-IV, which was suspended for 2004 pursuant to the Law of Ukraine dated 27.11.2003 No. 1344-IV, except for production of notebooks for pupils, textbooks and training books produced domestically, Clause 11.37 was restored in connection with re-enactment of the Law of Ukraine dated 06.03.2003 No. 601-IV pursuant to the Law of Ukraine dated 17.06.2004 No. 1801-IV)

11.38. Temporarily, until 1 January 2009 exempt from taxation shall be transactions of performance of works and supply of services in publishing activities, activities involving production and distribution by publishing enterprises, publishing organizations, by printing enterprises, distributors of book products produced in Ukraine, transactions involving production and/or supply of paper or card board produced in Ukraine for publishing book products, as well as transactions of supply of books produced in Ukraine, except for services concerning advertisement, placement of materials of advertisement or erotic nature and publications of advertisement or erotic nature.

(Article 11 has clause 11.38 added pursuant to the Law of Ukraine dated 06.03.2003 No. 601-IV, clause 11.38 in Article 11 as formulated in Law of Ukraine dated 20.11.2003 No. 1300-IV)

11.39. Clause 11.39 in Article 11 has been cancelled

(Article 11 has clause 11.39 added pursuant to the Law of Ukraine dated 23.10.2003 No. 1240-IV, clause 11.39 in Article 11 is no longer effective in connection with expiry of the Law of Ukraine dated 23.10.2003 No. 1240-IV)

11.40. Temporarily, until 1 January 2009 exempt from taxation shall be transactions involving performance of works and supply of services by subjects of entrepreneurial activities – residents of Ukraine, who at the same time carry out publishing activities, production and distribution of book products and production of paper and card board. The gross income of such a subject of entrepreneurial activities, derived from publishing activities, activities of production and distribution of book products and production of paper and card board, must be no less than 100 percent of the amount of its gross income for 1 reporting (tax) period from the time of establishment of such subject of entrepreneurial activities, or not less than 50 percent of the total amount of its gross income for the previous reporting (tax) year.

(Article 11 has clause 11.40 added pursuant to the Law of Ukraine dated 20.11.2003 No. 1300-IV)

11.41. Clause 11.41 in Article 11 is deleted

(Article 11 has clause 11.41 added pursuant to the Law of Ukraine dated 15.03.2005 No. 2470-IV, clause 11.41 in Article 11 is deleted pursuant to the Law of Ukraine dated 25 March 2005, under No. 2505-IV)

11.42. Provisions of Clause 4.5 of Article 4 and paragraph three of sub-clause 7.7.3 of Clause 7.7 of Article 7 of this Law do not apply to arrears to which the mechanisms of write-offs, mutual offsets, restructuring and/or partial payment on terms specified in Law of Ukraine "On measures aimed to ensure stable operation of enterprises of the fuel and energy complex" apply.

(Article 11 has clause 11.42 added pursuant to the Law of Ukraine dated 23.06.2005 No. 2711-IV)

11.42. If a natural person – subject of entrepreneurial activities is at the same time registered as payer of the value-added tax and as payer of the unified tax under the simplified system of taxation, accounting and reporting, then the procedure of assessment and payment of the value-added tax established in this Law shall apply to this person.

Legal and natural persons - subjects of entrepreneurial activities, who are payers of the unified tax under the simplified system of taxation, accounting and reporting, and are not registered as payers of the value-added tax, shall not be entitled to the assessment of the tax, tax credit and issuance of tax invoices, as well as to a budget refund.

(Article 11 has clause 11.42 added pursuant to the Law of Ukraine dated 7 July 2005, under No. 2771-IV)

11.43. Payment of the value-added tax at the time of importation of the movable property for purposes of repair in the customs regime of processing, as well as for purposes of modernization, shall be carried out by

way of provision of a simple promissory note in cases and under the procedure established by the Cabinet of Ministers of Ukraine.

(Article 11 has clause 11.43 added  
pursuant to the Law of Ukraine  
dated 7 July 2005, under  
No. 2771-IV)

11.44. Temporarily until 1 January 2008 transactions of supply of scrap of ferrous metals, including transactions of importation of such goods, shall be exempt from taxation. The list of such goods with codes pursuant to UKT ZED specified, shall be approved by the Cabinet of Ministers of Ukraine.

(Article 11 has clause 11.44 added  
pursuant to the Law of Ukraine  
dated 30.11.2006 No. 398-V)

11.45. Temporarily, until 1 January 2008 in case of exportation (export) of goods outside the border of the customs territory of Ukraine by means of trade barter transactions, the amount of the tax paid (assessed) in connection with acquisition of goods (services), shall not be included in the tax credit, but added to gross expenses of the taxpayer.

(Article 11 has clause 11.45 added  
pursuant to the Law of Ukraine  
dated 30.11.2006 No. 398-V)

**President of Ukraine**

**L. KUCHMA**

**Kyiv**