

## On Amendments and Additions to the Law of Ukraine “On Enterprise Profit Tax”

Article 1	Specification of Terms
Article 2	Taxpayers
Article 3	Taxation Object
Article 4	Gross Income
Article 5	Total Expenditures
Article 6	The Procedure of Transfer of Balance Losses to the Subsequent Taxation Periods
Article 7	Taxation of Special Transactions
Article 8	Amortization
Article 9	Amortization of Expenses involved in the Extraction of Mineral Wealth
Article 10	Tax Rate
Article 11	Accounting Rules
Article 12	Bad Debts
Article 13	Taxation on Non Residents
Article 14	Taxation of Agricultural Manufacturers
Article 15	Introduction of Changes into the Law
Article 16	Procedure for Calculating the Tax and Terms of Payment of the Tax
Article 17	Transfer of Tax to the Budget
Article 18	Special Rules
Article 19	Avoiding Double Taxation
Article 20	Responsibility of Taxpayers
Article 21	Other Provisions
Article 22	Final Provisions

**Law of Ukraine**  
**On Amendments and Additions**  
**to the Law of Ukraine "On Enterprise Profit Tax"**

Supreme Rada of Ukraine hereby enacts:

1. To introduce the following amendments and additions in the Law of Ukraine "On Enterprise Profit Tax" read as follows:

**Law of Ukraine "On Enterprise Profit Tax"**

**Article 1. Specification of Terms in this Law are treated as follows:**

1.1. Tangible Assets - capital assets and circulating assets of any form other than funds, securities, derivatives and intangible assets.

1.2. Intangible Assets - industrial and intellectual property, and other similar rights recognised as the taxpayer's property under the respective legislation.

1.3. Funds - Ukrainian Hryvnias or foreign currency.

1.4. Securities - document confirming the right to property or borrowing and meeting the requirement of the existing legislation on securities.

1.5. Derivative - standardised document confirming the right and/or obligations to purchase or sell securities, tangible or intangible assets and funds in the future under the terms therein. Standard form of derivative and the procedure of their emission and circulation shall be regulated by the law.

Derivatives include:

1.5.1. Forward Contract - standardised document, confirming obligations of the person to purchase (sell) securities, goods or funds within the determined period and on the established terms in the future at fixed prices as of the date of conclusion of forward contract. Thus, any party to forward contract has the right to repudiate the fulfilment of the contract only by the consent of the other party or in cases provided in Civil code.

Claims for the non-fulfilment or inappropriate fulfilment of forward contract may be submitted only against the issuer of such forward contract.

The seller of forward contract shall not transfer (sell) obligations under such a contract to other persons without the consent of the purchaser of forward contract.

The buyer of forward contract has the right to sell such a contract to other person, including the seller of forward contract before the expiration of the term of validity (liquidation) of forward contract without the consent of other party to the contract.

1.5.2. Futures Contract - standardised document confirming obligations to purchase (sell) securities, goods and funds within the determined period and on the established terms in the future at fixed prices as of the date of performing the obligations by parties of the contract.

Thus, any party to a futures contract has the right to repudiate the fulfilment of the

contract only by the consent of other party or in cases provided in Civil code.

The buyer of futures contract has the right to sell such a contract before its expiration to other persons without the consent of the seller of the contract.

1.5.3. Option - standardised document confirming the right to purchase (sell) securities, goods or funds on the established terms in the future at fixed prices as of the date of conclusion of such option or as of the date of purchasing agreed upon by the parties.

First seller of option (issuer) shall bear absolute and irreversible obligations to sell goods (securities, funds) under the option contract.

Any buyer of option has the right to repudiate purchasing such securities, goods or funds.

Claims for the non-fulfilment: or inappropriate fulfilment of obligations under the option contract shall be submitted against the issuer of option.

Option may be sold without the restrictions to other persons before its expiration.

1.5.4. According to the types of values, the following groups of derivatives are determined:

a) stock derivative - standardised document confirming the right to sell and/or purchase securities in the agreed terms in the future. Rules of emission and circulation of stock derivatives shall be established by the government body entrusted with the regulation of securities market;

b) currency derivative - standardised document confirming the right to sell and/or purchase currency in the agreed terms in the future. Rules of emission and circulation of currency derivatives shall be established by the National Bank of Ukraine.

c) commodity derivatives - standardised document confirming the right to sell and/or purchase exchange goods (excluding securities) on the agreed standard terms in the future. Rules of emission and circulation of commodity derivatives shall be established by the body entrusted with the regulation of commodity market.

1.6. Commodities - tangible and intangible assets, securities and derivatives used in various transactions, excluding their emission and repayment.

1.7. Goodwill - intangible assets the cost of which is the difference between book cost of assets of enterprise and their real cost as integrated property complex occurred due to the use of the best manager skills, dominance on commodity market (works, services), new technologies, etc. Cost of goodwill shall not be subject to amortisation and shall not be included in the total expenses of the taxpayer.

1.8. Corporate rights - rights to hold shares in the authorised fund of the legal entity, including rights to manage, to get the appropriate share of profit of such legal entity, as well as to get a share of its assets in case of legal entity liquidation in accordance with valid legislation.

1.9. Dividends - amounts paid by the legal entity to holders (agents of shareholder) of shares issued by the legal entity in accordance with the distribution of the

share of profit of the legal entity.

Dividends shall not include payments to the legal entity related to the reverse repayment of shares issued by the legal entity before.

1.10. Interest - payment made by the borrower in favour of creditor for the attracted funds or assets to be used within the established period. Term "interest" includes:

- payment for the use of credited funds or goods (works, services);
- payment for the use of deposited funds;
- payment for the purchase of goods by instalments;
- payment for the use of property (leasing and renting).

Interest is calculated as the interest on principle sum of debt or fixed sums. If funds are received from the sales of bonds, treasury bills or savings (deposit) certificates, issued by the borrower, calculated interest is the interest on the nominal value of securities, payment of fixed premiums or winnings or the difference between price of distribution and price of redemption of such securities (sum of discount).

Payments under other civil law agreements, irrespective of the fact whether they are expressed in absolute (fixed) prices or as interest on the amount of agreement or on other value basis shall not be treated as interest.

1.11. Credit - funds and material values granted by residents or non-residents to legal entities or natural persons for the established term and at interest. Credit is subdivided into financial credit, credit against goods and credit against securities confirming loan operations.

1.11.1. Financial credit - funds lent by resident bank or non-resident bank determined as bank institution according to the law of the country of sojourn of non-resident, or by residents and non-residents with the status of non-bank credit institutions according to the respective law, to legal entity or person for the established term, for special purposes and at interest. Procedures for granting of financial credits shall be established by the National Bank of Ukraine (in relation to bank credits) and by the Cabinet of Ministers (in relation to non-bank credit institutions) according to the law.

1.11.2. Credit against goods - goods transferred by resident or non-resident into the property of legal entity or natural person under the terms of agreement which stipulates delay in final time limited settlements and at interest.

Credit against goods provides for the transfer of the right of ownership of goods (results of works, services) on the date of signing of the agreement or on the date of receiving of goods (works, services) by purchaser (customer), irrespective of the time of debt repayment.

1.11.3. Credit against securities confirming loan operations - funds attracted by legal entity - debtor - from other legal entities or natural persons as a compensation for value of bills or certificates of deposit issued (emitted) by such debtor. Rules of the emission (issuance), sales and repayment (buy-out) of the mentioned above securities, as

well as requirements for their issuers shall be established by the respective law.

1.12. Sales by instalments - transaction which provides for the sales by resident or non-resident of goods on an instalment time limited plan regarding final settlements and at interest to physical or legal entities.

Sale by instalments provides for the transferring of goods to the purchaser on the date of first instalment with the transfer of the right of ownership of these goods after the final settlements.

Rules of sales by instalments shall be established by the Cabinet of Ministers of Ukraine.

1.13. Deposit - funds granted by physical or legal entities to the resident recognised as financial institution according to the law of Ukraine or to the non-resident on the established term and at interest. Deposits can be attracted through the emission of savings (deposit) certificates. The rules of conducting of deposit transactions shall be established for banking institutions by the National Bank of Ukraine according to the legislation.

Deposits exclude earnest money paid as the security of contract obligations of one party before the other party.

1.14. Pawn transaction - a transaction conducted by physical or legal entity related to the receiving of funds from legal entity recognised as financial institution according to the law of Ukraine with goods or currency values in pledge according to the law of Ukraine. Pawn transactions are the variation of loan against pledge.

1.15. Residents are legal entities and other Ukrainian business entities without the status of legal entity (branch subsidiary, representative office etc.) which are established and operate according to the Ukrainian legislation and located within the territory of Ukraine.

Ukrainian diplomatic missions, consulates and other official missions which are located abroad and are using diplomatic privileges and immunities, as well as branch subsidiaries and representative offices of Ukrainian enterprises and organisations which are located abroad and are not involved in the business activity.

1.16. Non-residents are legal entities and other business entities without the status of legal entity (branch subsidiary, representative office etc.) which are located abroad Ukraine and established and operate according to the foreign legislation.

Diplomatic missions, consulates and other official missions of foreign states, international organisations and their representative offices which are located within Ukrainian territory and are using diplomatic privileges and immunities, as well as representative offices of foreign organisations and companies which are located within Ukraine and are not involved in the business activity in accordance with Ukrainian legislation.

1.17. Permanent missions of non-residents in Ukraine are missions of foreign companies and firms, international organisations and their branches which are located in Ukraine and do not enjoy diplomatic immunities and diplomatic or similar privileges

under the international agreement or law. They have any organisational form and have no status of legal entity. They serve as agencies through which entrepreneurial activity of non-resident is carried out in full or partially. Permanent missions of non-residents in Ukraine also include natural persons representing interests of non-resident in Ukraine and are in civil law relations with them. Non-residents are involved in the business activity in Ukraine through their permanent missions. Registration of permanent missions as the taxpayers shall be conducted in the manner prescribed by the central authority of the State tax service.

1.18. Leasing (rent) operation is economic operation conducted by physical or legal entity (lessor) which provides for the granting of capital assets or land to other physical or legal entities (lessee) at interest and on the established term. The object of leasing can be soft goods. Leasing (rent) of the integrated property complexes of government enterprises is regulated by the respective law.

Leasing (rent) operations are held in forms of operative leasing (rent), financial leasing (rent), reverse leasing (rent), land rent and renting of residential buildings.

1.18.1. Operative leasing (rent) - economic transaction conducted by physical or legal entity which provides for the transfer of the right to capital assets to the lessee on the term which does not exceed the term of complete amortisation with obligatory return of these capital assets to their owner after the expiration date of leasing (rent) contract.

Capital assets transferred for operative leasing remain as a part of capital assets of lessor.

1.18.2. Financial leasing (rent) - economic transaction conducted by physical or legal entity which provides for the purchase by the lessor of capital assets at the request of the lessee with further transfer of them to the lessee on the term which does not exceed the term of complete amortisation of these capital assets with obligatory transfer of the right of ownership of these capital assets to the lessee.

Financial leasing is the variation of financial credit. Expenditures incurred by the lessor due to the purchase of objects of financial leasing are not included in the total expenditures or in the capital assets of this lessor.

Capital assets transferred for financial leasing are not included in the capital assets of the lessee.

1.18.3. Reverse leasing (rent) - economic transaction conducted by physical or legal entity which provides for the sales of capital assets of financial institution with the simultaneous receiving of these capital assets by the physical or legal entity for operative of financial leasing.

1.18.4. Land rent - economic transaction which provides for the granting of land by the lessor to other legal or physical entity on the established term, for the determined purposes and for rent payment. The procedure for land rent shall be established by the respective law.

1.18.5. Rent of residential buildings - economic transaction which provides for the granting by the owner of residential building or apartment to the physical or legal entity on the established or unlimited term for the determined purpose and for rent

payment.

Maximum size of rent payment paid by the physical persons for the renting of residential housing to be used as place of permanent residence is subject to regulation the manner prescribed by the Cabinet of Ministers of Ukraine.

Size of rent payment paid by physical persons for renting or residential building to be used for other purposes rather than as permanent place of residence and size of rent paid by legal entities shall not be subject to regulation.

The procedure for renting of residential buildings shall be established by the Cabinet of Ministers of Ukraine with regard for provisions of Housing Code of Ukraine.

Leasing (rent) of other buildings and constructions shall be conducted under the terms determined by leasing (rent) contracts.

1.19. Barter trade (exchanges of goods) - economic transaction which provides for the settlements for goods (works, services) in any form other the money, including any type of accounting for and redemption of mutual debt that shall not result in the inclusion of funds in the seller's account for compensation of cost of these goods (works, services).

1.20. Conventional price - cost of goods (works, services), including sum of calculated (paid) interest and value of foreign currency which can be received in case of their sale to persons who are not related with the seller under the contract concluded on a voluntary basis on conventional terms of economic activity.

If domestic sales prices are subject to state regulation according to the law, conventional price if the price fixed according to the principles of this regulation.

If sales (alienation) of goods (currency values) is made on a compulsory basis according to the law, conventional price is the price actually received from the sales.

Conventional deposit interest rate is the rate which is determined in methods prescribed by the National Bank of Ukraine.

If tax control authorities are provided with documentary grounds which cast doubts on the lawfulness of determination of conventional prices by the taxpayer, these authorities have the right to request price justification and the taxpayer is obliged to present such justification upon such request.

1.21. Incomes originated in Ukraine - incomes received by residents or non-residents from any activity in the territory of Ukraine, including interest, dividends, royalty and other passive incomes paid by residents of Ukraine, incomes from renting by residents or non-residents of property located in Ukraine, including movable parts of transport in ports of registry located in Ukraine, incomes from sales of real estate located in Ukraine, incomes received as contributions and risk insurance and re-insurance premiums in the territory of Ukraine and incomes of insurance companies-residents from risk insurance of insurance companies-residents outside Ukraine, other incomes from economic activity in the customs territory of Ukraine or in the territories under the control of customs of Ukraine (customs zones, special license customs warehouses, etc.).

1.22. Financial Aid Not Subject To Repayment:

funds transferred to the taxpayer as gifts under appropriate agreements that do not provide for material compensation or return of such funds (except for budget subsidies and subventions) or without such agreements;

amount of bad debt that was refunded by the borrower to the creditor after such debt had been written off;

amount of taxpayer's debt to other legal or physical person which remained uncollected after the expiration of period of limitation;

credit or deposit granted to the taxpayer without the establishment of terms of the return of principle sum, excluding credits granted against non-term bonds and bearer deposits in the banking institutions.

#### 1.23. Goods (Works, Services) Granted Without Payment:

goods granted by the taxpayer as gifts under the appropriate agreements which do not provide for monetary or other compensation for such tangible or intangible assets, or their return, or without such an agreement;

works and services given by the taxpayer without demand for compensation for their cost;

goods transferred to the legal or natural person for authorised storage and used by him for production or business purposes.

1.24. Authorised Storage - business transaction which involves the transfer of material values to other person for storage under appropriate agreement on storage which does not permit the use of these assets for production or business purposes or further return of these tangible assets to the taxpayer without changing qualitative or quantitative properties of these assets.

1.25. Bad Debt - debt that matches one of the following descriptions: debt incurred under obligations With the overdue period of limitation;

debt that was not redeemed due to the lack of funds of physical or legal entity which was pronounced bankrupt according to the established legal procedures or legal entity which is liquidated;

debt that was not recovered due to the lack of funds that were raised from the sales by open (public) auctions of the borrower's assets pledged as security for the debt if other legal actions of the creditor regarding the claim against other property of the borrower did not caused absolute covering of the debt;

debt unrecovered due to the force-major circumstances provided for in the current legislation;

undischarged debt on the part of the deceased physical persons, or those recognised by the law as lost, disabled or dead, or undischarged debt of physical persons sentenced to imprisonment.

#### 1.26. Related Person - person matching one of the following characteristics:

legal entity which exercises control over the taxpayer or is controlled by the

taxpayer, or is under the control together with the taxpayer;

physical person or members of his family who exercise control over the taxpayer. Members of the taxpayer's family are spouses, close relatives (children or parents) of either physical person or his/her spouse, or spouses of any close relative of the physical person or his/her spouse;

person authorised by the taxpayer to act on his behalf in legal actions involving the establishment, change or suspension of legal relationships, or members of his family.

"To control" hereinafter means to own directly or through other related physical or legal entities the largest share in the taxpayer's authorised fund, or to have the largest part of votes in the taxpayer's administrative body, or hold a share of not less than 20% of the authorised fund of the taxpayer.

Physical person's total share in the taxpayer's authorised fund (or votes in his administrative body) is determined as the total amount of corporate rights of such physical person or members of his family, or legal entities which are under the control of the physical person or members of his family.

1.27. Original Stock Issue Incomes - the excess of enterprise's incomes from the initial issue of its shares and other corporate rights over the face value of the stock (other corporate rights).

1.28. Investment - economic transaction which provides for the acquisition of capital assets, intangible assets, corporate rights and securities in exchange for funds or assets.. Investment is subdivided into capital, financial investment and re-investment.

1.28.1. Capital Investment means economic transaction which provides for the purchase of buildings, constructions and other real estate, capital and intangible assets subject to amortisation under the law.

1.28.2. Financial Investment means economic transaction which provides for the purchase of corporate rights, securities, derivatives and other financial instruments. Financial investment is subdivided into direct and portfolio investment.

Direct Investment - economic transaction which provides for the placing funds or assets into the authorised fund of the legal entity in exchange of corporate right issued by this legal entity.

Portfolio Investment - economic transaction which provides for the acquisition of securities, derivatives and other financial assets for money on stock exchange (excluding purchasing of shares by directly the taxpayer and related persons in size which exceeds 50 percent of the total sum of shares issued by other legal entity recognised as direct investment).

1.28.3. Re-investment means economic transaction which provides for the capital or financial investment made at the expense of income (profit) received from investment.

1.29. Tax, taxation, taxpayer - enterprise income tax, taxation of enterprise's income, the payer of enterprise income tax.

1.30. Royalty - any payments as fees (compensation) for the enjoying or granting

permission to enjoy the right to industrial and intellectual property and other similar right to property recognised as the right of the business entity, including enjoying author's right to any scientific, literature, art works, information mediums recording, right to copy and distribute patents or licenses, trademarks, rights to inventions, industrial or scientific samples, draughts, models or diagrams related to computer data processing system, secret formula or process, right to information related to industrial, commercial or scientific expertise.

## **Article 2. Taxpayers**

2.1. The taxpayers are;

2.1.1. Taxpayers-residents - business entities, budgetary, public and other enterprises, institutions and organisations engaged in the activity related to receiving of income both in the territory of Ukraine and abroad.

2.1.2. Taxpayers-non-residents - physical or legal entities provided with any organisational and legal status which receive incomes originated in Ukraine, excluding institutions and organisations enjoying diplomatic status and immunities under the international agreements of Ukraine or law.

2.1.3. Branches, departments and other separated subdivisions of the legal entities — the business entities — specified in Clauses 2.1.1 and 2.1.2 which have appropriate banking account and must keep separate accounting register concerning the results of activity.

2.1.4. Permanent missions of non-residents which receive incomes originated in Ukraine or act as agents (representatives) of these non-residents or their founders.

2.2. The profit tax payers, in case the profits were received from the railway transport exploitation, are the railroad administrations. The list of works and services related to the railway transport exploitation is approved by the Cabinet of Ministers of Ukraine.

2.2.1. The railroad profits, received from the railway transport exploitation, are defined within the profitable revenues which are relocated between the railroads in manner, prescribed by the Cabinet of Ministers of Ukraine.

2.2.2. The profit tax payers, in case the profits were not received from the railway transport exploitation, are the railroad enterprises and their structural subdivisions.

2.3. The National Bank of Ukraine and its institutions (excluding self-sustaining ones subject to tax on usual terms) shall pay to the state budget the sum excess of the sum of gross incomes of the consolidated budget of the reporting year over the total expenditures of the period followed by the reporting year ("in case they are not compensated at the expense of the gross incomes of these years) at the end of financial year. In case the approved NBU expenditures exceed the received incomes at the end of the year, the deficit shall be covered from the National budget.

2.4. Penitentiary establishments and their enterprises using the labour of special contingency direct incomes received from the activity specified by the Ministry of Internal Affairs for financing of the primary activity of these institutions and enterprises

with these incomes to be included in the respective estimates of their financing approved by the Ministry of Internal Affairs of Ukraine.

2.5. Enterprises which have separated subdivisions without status of legal entity can pay consolidated tax in the manner prescribed by the State Tax Administration of Ukraine.

2.6. Permanent mission of non-resident during 30 calendar days from the date of state registration shall be registered by the tax authority at the place of its location in the manner prescribed by the State Tax Administration of Ukraine, Permanent mission which was not registered within the established term shall be treated as the tax evader.

### **Article 3. Taxation object**

3.1. Object of taxation is income determined as the decrease in the amount of adjusted gross income over the reporting period, determined in accordance with item 4.3 of the present Law by the following sums:

total expenditures of the taxpayer, determined in article 5 of the present Law;

depreciation charges, calculated in accordance with article 8 and article 9 of the present Law;

### **Article 4. Gross Income**

4.1. Gross Income - total amount of incomes of the taxpayer from all types of activities, received (accrued) over the reporting period in the form of cash, tangible and intangible assets either in the territory of Ukraine, its continental shelf, its exclusive (marine) economic zone, or outside the territory of Ukraine".

Gross Income Includes:

4.1.1. General incomes from the sale of produced goods (works, services), including those provided by ancillary and service entities that do not have the status of the legal entity and incomes from the sale of securities (excluding their first issue (distribution) and their final repayment (liquidation)).

4.1.2. Incomes from bank, insurance and other transactions related to providing of financial services, foreign currency trading, dealings in valuable papers and debt instruments.

4.1.3. Incomes from transactions stipulated in article 7 and Clause 8.3.3 and item 9.4 of the present Law.

4.1.4. Incomes from joint activity and in form of dividends received from the non-residents, interests, royalties, ownership of debt claims, as well as incomes in form of lease payments.

4.1.5. Incomes not accounted for in the calculation of gross incomes for periods followed by the reporting one, but revealed during the current reporting period.

4.1.6. Other incomes from the "non-sale" transactions and from other sources, including the following:

sums of financial aid obtained without payment which was received by taxpayer

during the reporting period, cost of goods (works, services) which were granted by the taxpayer without payment during the reporting period, excluding cases when this aid and goods (works, services) are received by non-profit organisation in the manner specified in item 7.11 of the present law. Such transactions may as well be performed between legal entity and its separated subdivisions which are not legal entities;

sums not used and returned insurance reserves in the manner specified in item 12.2 of this law;

sums of arrears that are subject to be included into the gross income in respect with items 12.3 and 12.4 of the present Law;

insurance reserves used for other purposes;

cost of tangible assets transferred to the taxpayer according to storage agreements and used by him for personal or economic purposes;

sums of penalties and/or fines received according to the voluntary decision of parties to agreement or by the decision of tax authorities, ruling by court or arbitration;

sums of state duty which has been pre-paid by the claimant and which is to be returned to him upon the decision of court (arbitrary court).

4.2. The following are excluded from the gross income:

4.2.1. Amounts of excise tax, value-added tax received (calculated) by the enterprise which are included in the sales price for produced goods (works, services), excluding cases when such enterprise-recipient shall not pay VAT and amounts of individual income tax which are transferred to the budget at the expense of these incomes in the manner prescribed by the law of Ukraine "On Individual Income Tax".

4.2.2. Funds or assets received by the taxpayer as compensation for compulsory state alienation of other assets of the taxpayer in cases provided by the legislation.

4.2.3. Funds or assets received by the taxpayer by the court ruling (arbitration) as compensation for direct expenses or losses incurred by the taxpayer due to the violation of his rights and legitimate interests if they were not included by the taxpayer in the gross income or covered at the expense of insurance reserves.

4.2.4. Amount of overpaid taxes, duties and other compulsory payments which are returned or are to be returned to the taxpayer from the budget.

4.2.5. Funds or assets received by the taxpayer as direct investment or reinvestment to corporate rights issued by the taxpayer.

4.2.6. Incomes of the central bodies of state administration, local self-government bodies received from providing of state services (granting licenses, permissions, certificates, registration, other services which is obligatory under the Law) in case of including of such incomes into the respective budgets.

4.2.7. Incomes from additional pension plans established according to the norms of item 5.8. of article 5 of this law and revenues of other non-profit organisations which meet the requirements of item 7.11 of article 7 of this law.

4.2.8. Funds of mutual investments of the investment funds and companies if anyone of their founders (participants, shareholders) and related persons has no more than 10 percent in the authorised fund of these investment funds of companies and if these investment funds and companies within 30 days after the expiration of the tax year distribute between shareholders (founders) no less than 90 percent of the annual income from investment.

4.2.9. Amount of original stock issue income received by the taxpayer.

4.2.10. Nominal value of the registered but not paid securities confirming loan operations and payment documents issued by the debtor in the name of the taxpayer as the security or confirmation of the debt of the debtor to other taxpayer (bonds, savings certificates, treasury bills, bills, promissory notes, letters of credit, checks, guarantees, bank's orders and other payment documents).

4.2.11. Income from joint activity received at the territory of Ukraine without establishment of legal entity and dividends received by the taxpayer from other taxpayers taxed in the manner specified by items 7.7 and 7.8 of this law.

4.2.12. Funds or assets to be returned to the holder of corporate rights issued by the legal entity after complete liquidation of this legal entity-issuer.

4.2.13. Funds or assets received in form of international technical aid, which is granted by foreign states in accordance with international agreements that have come in force in the manner prescribed by legislation.

4.2.14. Funds granted to taxpayer from the State Innovation Fund on the reversible basis when performing innovation projects in manner, prescribed by the Cabinet of Ministers of Ukraine.

4.2.15. Other revenues directly determined by the norms of this law.

4.3. Adjusted gross income - gross income specified in item 4.1. of this article and decreased in the manner prescribed by item 4.2. of this article.

## **Article 5. Total Expenditures**

5.1. Total production and turnover expenditures (hereinafter referred to as expenditures) - amount of expenditures incurred by the taxpayer as cash, tangible or intangible assets in the result of compensation for the cost of goods (works, services), provided (produced) by the taxpayer for them to be used for individual economic activity.

5.2. Total expenditures include:

5.2.1. Any expenditures paid ("calculated over the reporting period and related to preparation, organisation, starting of production, sale of goods (works, services) and protection of labour with regard for the restrictions specified by items 5.3-5.8 of this article.

5.2.2. Funds transferred to all-Ukrainian associations of persons who suffered from Chernobyl nuclear plant disaster by enterprises of these associations with charity purposes, in case the mentioned enterprises employ at least 75 percent of such persons and as much as 10 percent of taxable profit is transferred.

5.2.3. Funds or assets voluntarily transferred (forwarded) to the state or local budgets, non-profit and charitable organisations in cases specified by item 7.11 of article 7 of this law which do not exceed 4 percent of the taxable income over the reporting period, excluding allocations under the pension plans established according to this law.

5.2.4. Contributions to insurance reserves in the manner prescribed by article 12 of this law.

5.2.5. Paid (calculated) taxes, duties (mandatory payments) prescribed by the Law of Ukraine "On system of taxation", excluding taxes, duties (mandatory payments) specified by Clauses 5.3.3 and 5.3.4, as well as fines, penalties and forfeits stipulated by Clause 5.3.5 of the present Law.

For those taxpayers whose main type of activity is manufacturing of agricultural production, the gross expenditures only include payments for land which is not used in the agricultural production turnover.

5.2.6. Expenditures not included in the total expenditures of the previous reporting tax periods incurred due to the loss, elimination or damage to documents specified by the rules of the tax accounting and confirmed by these documents in the reporting tax period;

5.2.7. Expenditures not accounted for in the previous tax periods because of mistakes discovered in the reporting tax period in the calculation of tax obligations.

5.2.8. Sums of bad debt if legal measures concerning collection of debts did not produce positive effect and sums of debt with the expired term of limitation. Norms of this item apply to banks and other non-bank financial institutions with the regard for article 12 of this law.

5.2.9. Expenditures for transactions specified by item 5.9 and article 7 of the present Law.

5.2.10. Expenditures related to improvement of capital assets (as stipulated by Clause 8.7.1 of the present Law), as well as balance value of capital assets and intangible assets which exceeds their sales value, determined in manner prescribed by article 8 of the present Law.

5.3. Expenditures which shall not be included in the total expenditures.

5.3.1. Expenditures for activities other than economic one, namely:

organisation and conducting of receptions, presentations, holidays, entertainment and leisure, purchase and distribution of gifts (excluding charitable contributions and grants by non-profit organisations specified by item 7.11 of article 7 of this law and expenditures related to advertisement regulated by Clause 5.4.4 of item 5.4 of this article);

Restrictions in part 2 of this Clause do not apply to taxpayers, the major activity of which is organisation or receptions, presentations and holidays by order and at the expense of other individuals.

lotteries, participation in gambling;

financing of personal needs of physical persons (excluding payments specified by items 5.5 and 5.6 of this article) and in other cases specified by this law;

5.3.2. Acquisition, construction, reconstruction, modernisation, repair and other improvements of capital assets, as well as those related to mining of minerals according to articles 8 and 9 and Clause 7.9.4 of this law.

5.3.3. Expenditures related to enterprise profit tax, real estate tax and taxes specified by item 7.8. of article 7, item 10.2 of article 10, article 13 of this law; and value-added tax included in the price for goods (works, services) purchased by the taxpayer for production or non-production purposes, individual income tax paid at the expense of these incomes according to the law of Ukraine "On Individual Income Tax".

For the payers of enterprise profit tax who are not registered as the payers of value-added tax, the total production (turnover) expenditures include value-added tax included in the price of goods (works, services) the cost of which is not included in the total expenditures of such taxpayer;

5.3.4. Cost of trade patents included in the decrease of tax obligations of the taxpayer in the manner prescribed by item 16.3 of the present Law.

5.3.5. Penalties and/or forfeits and fines by the decision of the parties to the agreement or by the decision of state tax authorities, court or arbitration ruling.

5.3.6. Maintenance of management bodies supervising associations of taxpayers, including maintenance of holding companies which are separate legal entities.

5.3.7. Direct investment, including original stock issue income in favour of the issuer of corporate rights.

5.3.8. Payment of dividends;

5.3.9. Fees or other incentives related to the taxpayer to physical or legal entities if there are no documents proving that such incentives were paid as compensation for actually given service (period). In case of availability of the above proofs, the amounts of actual payments shall be included in the total expenditures as long as these payments do not exceed amounts calculated by conventional prices.

Sums of losses of the taxpayer incurred due to the sale of goods (works, services) or their exchange by the prices lower than conventional prices to related persons should not be included in the total expenditures.

If the sum of payment (incentives) or its part to related persons cannot be treated as the total production (turnover) expenditures, this sum (or part) shall be the base for calculation of social allocations according to item 5.7. of this article.

Any expenditures which are not confirmed by the respective settlement, payment or other documents which should be obligatory kept and preserved under the rules of tax accounting shall not be included in the total expenditures.

In case of the loss, elimination or damage to the above documents, the taxpayer has the right to apply in writing to the tax authority and take measures necessary for renewal of these documents. Written application should be sent to/or together with the

submission of calculation of tax obligations over the reporting period. If the taxpayer fails to submit written application within the established term and fails to renew the above documents before the expiration of tax period following the reporting period, expenditures that were not registered shall be treated as the total expenditures. Besides, the taxpayer should pay a penalty at discount rate of the National bank of Ukraine increased by 1.2 times.

If the taxpayer renew the above documents in the next periods, the confirmed expenditures (with the regard for penalty) shall be included in the total expenditures of the reporting period when this renewal occurred.

#### 5.4. Peculiarities of the Including of Two-Purpose Expenditures in the Total Expenditures of the Taxpayer

The total expenditures include:

5.4.1. Expenditures of the taxpayer for providing of the hired workers with overalls, footwear, uniform necessary for the fulfilment of professional duties, and special foodstuffs according to the list established by the Cabinet of Ministers of Ukraine.

5.4.2. Any expenditures related to research and technical provision of economic activity, for inventions and rationalisation of economic processes, research and experiments and design, production and testing of models and samples related to the primary activity of the taxpayer, payment of royalty and acquisition of intangible assets (excluding those subject to amortisation) for their use for economic purposes of the taxpayer. This Clause applies to any expenditures for the above measures irrespective of the fact whether such measures caused the increase in the taxpayer's incomes.

Expenditures for purchase of scientific and technical literature and subscription for specialised periodical press, as well as payments for participation in scientific workshops for the taxpayer's primary activity.

Expenditures of taxpayer related to vocational training or re-training of natural persons involved in labour relations with such taxpayer, with the exception of natural persons related with the taxpayer in manner and sizes established by the Cabinet of Ministers of Ukraine.

Primary activity means activity of the taxpayer specified in his statutory documents which is regular and permanent over the calendar year regarded as the reporting period. Criteria of regarding activity as the primary one shall be established by the Cabinet of Ministers of Ukraine.

The taxpayer shall bear responsibility for proving relation of the expenditures for purposes specified by this Clause to his primary activity.

If any disputes concerning the relation of the expenditures for purposes specified by this Clause to primary activity of the taxpayer arise between the tax authorities and the taxpayer, the tax authorities should apply to the Ministry of Ukraine for Science and Technology. The Ministry's conclusion shall be the basis for the adoption of decision by tax authority.

Taxpayers shall appeal against the decision of the tax authorities, based on the

results of expertise made by the Ministry of Ukraine For Science and Technology, on usual terms.

5.4.3. Expenditures for assurance repair (service) or assurance replacement of goods sold by the taxpayer the cost of which are not covered at the expense of the purchasers which does not exceed the sum of the replacement of goods accepted (announced) by the taxpayer, which costs not exceed 10 percent of the total cost of the sold goods if the term of assurance repair has not expired.

In case of the replacement of goods, the taxpayer shall keep records of the damaged goods returned to the purchasers and keep records of purchasers who applied for replacement of goods or received the respective services in the manner prescribed by the Central Tax Body.

Replacement of goods without receiving of the damage goods or in case of the lack of adequate accounting, the total expenditures of the seller cannot be increased by the cost of replacement.

The procedure of assurance repair (service) or assurance replacement, the list of goods subject to assurance service shall be established by the Cabinet of Ministers of Ukraine according to the law concerning protection of consumers' rights.

'Announcement' means advertisement, technical documents, agreement or other document containing obligation of the seller to observe the conditions and term of assurance service.

5.4.4. Expenditures of the taxpayer for pre-sales activity and advertisement concerning goods (works or services) (sold) provided by these taxpayer.

Expenditures for organisation of receptions, presentations and holidays, purchase and distribution of presents, including free distribution of samples of products or free services (fulfilment of works) for advertisement purposes which do not exceed 2 percent of the sum of gross income of the taxpayer over the reporting period.

5.4.5. Expenditures of the taxpayer for maintenance and exploitation of environment protection funds (excluding expenditures subject to amortisation or compensation according to articles 8 and 9 of this law) owned by him, expenditures for wastage storage, burying or payment for storage, processing, burying and destruction of taxpayer's wastage by other organisations, for cleaning of sewage, and other expenditures for ecological systems protection affected (polluted) as a result of the taxpayer's economic activity.

In case of any disputes concerning the relation of expenditures for ecological protection to the taxpayer's activity arise between the tax authorities and the taxpayer, the tax authorities shall apply to the Ministry of Ukraine For Environmental and Nuclear Protection. The Ministry's conclusion is the basis for adoption of decision by the tax authority.

5.4.6. Expenditures for accidental crop insurance, transportation of output of the taxpayer; civil amenability related to exploitation of transport facilities included in fixed assets of the taxpayer; ecological and nuclear damage caused by the taxpayer to other persons; taxpayer's property; credit or other commercial risk of the taxpayer, except for

life insurance, health insurance and other risk related to activity of physical persons being in labour relations with the taxpayer which are not obligatory under the legislation, or any expenditures for insurance of other physical or legal entities.

If the terms of insurance provide for the payment of insurance compensation in favour of the taxpayer-insurer, the insured losses incurred by the taxpayer are treated as his total expenditures over the tax period and the sum of insurance compensation for such losses are included in gross incomes of this taxpayer in the tax period when they were received.

5.4.7. Expenditures for purchasing of licenses or other state certificates for economic activity, including payments for enterprise registration in the organs of state registration, excluding expenditures for purchasing of trade patents established by the law of Ukraine "On Patenting of Some Types of Entrepreneurial Activity".

5.4.8. Expenditures for business trips of physical persons being in trade relations with the taxpayer or being the member of management bodies of the taxpayer within the limits for return fare (including cargo transportation) and transportation on site, hotel (motel) accommodation, meals, services (washing, cleaning, repair and ironing of clothes, footwear or linen), renting of residential buildings, telephone calls, registration of foreign passports, certificates for entry (visas), obligatory insurance, other documented expenditures related to the rules of entrance and stay in the place of destination, including duties and taxes subject to payment according to the expenditures.

The above expenditures can be included in the total expenditures of the taxpayer provided submission of the documents confirming these expenditures, namely tickets or luggage tickets, bills of hotel (motel) or other persons providing physical person with accommodation and stay, insurance policies, etc. Expenditures in cash for purposes specified in Clauses 5.3.1 and 5.4.4 of this article and for purposes not related to compensation for personal expenditures for the trip of the physical person shall not be included in the total expenditures of the taxpayer.

The expenditures for meals shall not include the cost of alcoholic drinks and tobacco, tip, excluding cases when tip is included in the account according to the law of the country of stay, and payment for shows.

In addition to expenditures specified in part I of this Clause, compensation for not documented expenditures for meals and other personal need of physical person (daily expenses) incurred because of the trip within the limits established by the Cabinet of Ministers of Ukraine per each full day of trip, including day of arrival and day of departure can be paid.

The above limits shall be expressed in Hryvnias:

a uniform sum for foreign business trips, irrespective of the country of destination and status of the populated locality;

a uniform sum for business trips across Ukraine, irrespective of the status of populated locality.

Daily expenditures shall be calculated as follows:

in case of business trip across Ukraine and to countries with which border control is not established or is eliminated - according to notes of the sending and receiving party on the business trip certificate the form of which is established by Central Body of State Tax Service;

In case of business trip to countries with full border control - according to notes made by border control bodies in passport or document replacing it.

In case of the lack of the above notes daily expenditures shall not be included in the total expenditures of the taxpayer.

Any expenditures for business trip shall not be included in the total expenditures of the taxpayer if documents confirming the relation of this trip to primary activity of the taxpayer are available, namely invitations of the receiving party which activity corresponds to the activity of the taxpayer; agreement (contract); other documents establishing or confirming the wish to establish civil law relations; documents confirming participation of person invited in negotiations, conferences or symposiums devoted to problems related to primary activity of the taxpayer.

At the request by the representative of tax authority the taxpayer should insure translation of reporting and confirming documents issued in the foreign language at his own expense.

Sums and expenditures for business trip of government officials and other persons who are going on a business trip on the decision of enterprises, institutions and organisations which are fully or partially maintained (financed) from budgets shall be established by the Cabinet of Ministers of Ukraine. Daily expenses for these categories of physical persons shall not exceed the sum established for other persons going on a business trip according to part 2 of this Clause. The owner or authorised person can establish additional restrictions on the sums and directions of spending funds assigned for business trip.

5.4.9. The total expenditures of the taxpayer for maintenance and exploitation of projects of social infrastructure budgeted and maintained at the taxpayer's expense as of the date of enactment of this law (excluding capital expenditures subject to amortisation) include:

day-care or day-nursery;

secondary and vocational schools and institutions for advanced employees of the taxpayer;

schools for children, music and art schools, in case they do not provide paid services and are not engaged in commercial activity;

health care establishments, rooms for free medical investigation, prevention and care for employees;

gymnasium and sports grounds used free of charge for physical and psychological recreation of employees, clubs and houses of culture, in case they do not provide paid services and are not engaged in paid services and other commercial activity (excluding recreational, tourist and similar facilities);

facilities used by the taxpayer for providing employees with meals;

multi-apartment housing facilities, including dormitories, one-apartment housing facilities in rural regions and housing and utilities projects budgeted by legal entities and are to be transferred to the balance of local radas according to the documented decision of the taxpayer.

5.4.10. The total expenditures of the taxpayer include expenditures for maintenance and operation (excluding those subject to amortisation) of:

housing facilities owned by legal entities whose primary activity is to render paid tourist services to other persons or to lease facilities to other persons or organisations in the manner prescribed by this law;

individual aircrafts, motor-launches, boats and yachts designated for rest which are owned by legal entities, primary activity of which is to render paid transportation and tourist services to other persons or organisations and sports organisations.

The total expenditures of the taxpayer shall not include expenditures for maintenance and operation of housing facilities (excluding housing facilities specified in Clause 5.4.9 of this item), individual aircrafts, motor-launches, boats and yachts designated for rest which are used for purposes other than those specified in this Clause or by other taxpayers than those mentioned in this Clause.

Restrictions specified by this Clause do not apply to the taxpayers primary activity of which is to ensure maintenance and operation of housing facilities, individual aircrafts, motor-launches, boats and yachts designated for rest which are owned by other persons, by the request and at the expense of other persons.

#### 5.5. Peculiarities of Calculation of Expenditures of the Taxpayer In Case Of Interest Payments On Debt Liabilities

5.5.1. Any expenditures related to the payment or calculation of interest on debt liabilities (including on credits, deposits or as rent) over the reporting period are included in the total expenditures if these payment or calculation are made in the course of economic activity of the taxpayer.

5.5.2. For the taxpayers mentioned in Clause 5.5.3 of this item, any expenditures for payment or calculation of interest on debt liabilities over any tax period can be included in total expenditures only if their sum does not exceed the sum of incomes of the taxpayer over the reporting period received as interest increased by 50 percent of taxable income over the reporting period less interest.

5.5.3. Provisions of item 5.5.2 apply to the taxpayers if 50 percent or more of their authorised fund are held or managed (directly or indirectly) by non-residents of Ukraine and by legal entities exempted from enterprise profit tax according to item 7.11 of article 7 of this law.

5.5.4. For the purposes of Clause 5.5.2, taxable income less interest shall be treated as the adjusted gross income of the reporting period less income of the reporting period received as interest decreased by the sum of the total expenditures of the reporting period less total expenditures of the reporting period determined with regard for

restrictions specified in Clause 5.5.2 of this item and decreased by the sum of depreciation charges calculated according to articles 8 and 9 of this law.

5.5.5. Expenditures for payment of interest meeting the requirements of Clause 5.5.1 but not included in the total production (turnover) expenditures pursuant to provisions of Clause 5.5.2 over the reporting period are subject to inclusion in the future tax periods while restrictions specified in item 5.5.2. are still observed.

#### 5.6. Peculiarities of Calculation Expenditures for Salaries

5.6.1. Taking into account provisions of Clause 5.3.10 of this article, the total expenditures of the taxpayer include .expenditures for salaries for physical persons being in labour relations with the taxpayer (hereinafter -employees) which include expenditures for principal, additional salaries and any other type of salaries based upon tariff rates, in form of premiums, bonuses, compensation for goods (work or services), author's fees and implementation of civil law contracts, any other expenditures in monetary and material forms determined according to the mutual agreement of the parties.

5.6.2. In addition to payments specified in Clause 5.6.1 of this item, the total expenditures of the taxpayer include obligatory payments and compensation for the cost of services rendered to employees specified by legislative acts, as well as contributions by the taxpayer to obligatory life or health insurance of employees in cases provided by the legislation.

5.6.3. The total expenditures of the taxpayer exclude individual income tax paid to the budget if the taxpayer is the person authorised to withhold this tax.

#### 5.7. Peculiarities of Inclusion of Social Security Payments in the Total Expenditures

5.7.1. The total expenditures of the taxpayer include social insurance of physical persons being in labour relations with the taxpayer charged on the payments specified in Clause 5.6.1 of item 5.6 of this article, at the rate and in the manner prescribed by the respective law.

The following allocation are included into the social insurance:

- allocations for mandatory pension insurance in manner prescribed by legislation;
- allocations for mandatory social insurance, including mandatory medical insurance, in manner prescribed by legislation.

5.7.2. Allocations to the Pension account of the employee opened in the framework of pension plans specified by item 5.8 of this article are transferred by the taxpayer - the employer at the expense of incomes of this employee and are not included in the total expenditures of the taxpayer - the employer.

#### 5.8. Additional Pension Security (Pension Plan)

5.8.1. Pension plan means the procedure of management and distribution of accrued pension contributions which meets the following requirements:

- a) pension accounts are opened by the taxpayer in banks authorised by the Cabinet of Ministers of Ukraine with the agreement of the National Bank of Ukraine;

b) depositors to the pension account can be employees having been in labour relations with the taxpayer;

c) money cannot be withdrawn from the depositor's account before the depositor reaches the age established by the Cabinet of Ministers of Ukraine, excluding cases when this depositor is going abroad for permanent residence; is recognised as missing or dead by the court decision; died.

d) In case of the death of the owner of pension account, funds and interest accrued on these funds are transferred to heirs of this owner and are included into pension accounts of the heirs in the manner prescribed by the law;

e) bank authorised to take care of deposited funds in a liquid form according to the rules established by the law concerning pension insurance;

f) enterprise which launches pension plan in favour of its employees should be registered in the manner prescribed by the law concerning pension plans.

5.8.2. Funds on pension accounts formed according to Clause 5.8.1 of this article can be spent for insurance against risks of the depositors in civil law relations, including credit security, purchase of goods or real estate, etc. by instalments.

Payments from pension accounts for risk covering specified in this Clause can be made after opening of pension account within the term established by the law.

5.8.3. Sums deposited in the name of employee over the reporting period by the employer in the pension plan are not subject to individual income tax in case of their transfer to this pension plan but these sums are included (with regard for calculated interest) to incomes of this employee (his hires) in case of their payment. The above contributions are not included in the base of calculation of social payments specified by Clause 5.7.1 of item 5.7 of this article.

5.8.4. The total expenditures of the taxpayer include the total contributions of the employee to additional pension plans which are deposited in his name by the taxpayer and do not exceed 15 percent of gross income received by the employee from the taxpayer over the tax period when the above transaction occurred.

5.8.5. If the law concerning pension security provides for other rules than those specified in this item rules of this law concerning pension security apply.

5.9. The taxpayer keeps records of the increase (decrease) in book value of the purchased goods, accessories and semi-products at a warehouse, goods in progress and finished goods (including livestock breeding). If the book value of these remained goods by the end of the reporting quarter exceeds their book value by the beginning of the same reporting quarter, the difference is deducted from the total expenditures of the taxpayer during this reporting quarter.

If the cost of these remained goods by the beginning of the reporting quarter exceeds their cost by the end of this reporting quarter, the difference is added to the total expenditures of the taxpayer during this reporting period.

The application of this item is not extended to agricultural production manufacturers.

5.10. Additional restrictions concerning the inclusion of expenses in the total expenditures of the taxpayer, excluding those specified in this law are not allowed.

#### **Article 6. The Procedure of Transfer of Balance Losses to the Subsequent Taxation Periods**

6.1. If the taxpayer who is a resident has a negative object of taxation during the reporting period, balance losses may be transferred to the subsequent taxation periods during five taxation years following the year when these losses occurred and the object of taxation of the subsequent taxation periods may be reduced during these five years.

6.2. The reduction mentioned in item 6.1. shall be made according to the results of the taxation period following the reporting period, and in case of the lack of gross income derived during the period following the reporting period the reduction shall be transferred to the next period.

6.3. If balance losses of the previous quarter were not covered by gross incomes according to the results of the next reporting quarter, the difference is subject to indexation according to the official inflation rate of this reporting quarter.

#### **Article 7. Taxation of Special Transactions**

7.1. Taxation of barter transactions.

7.1.1. Income and expenses for barter transactions shall be determined by the taxpayer based on the contracted price for this transaction which is not lower than regular price.

7.1.2. Taxpayer shall submit the calculation of proceeds from barter transactions together with the calculation of enterprise profit tax to the State Tax Administration office located in the place of residence of the taxpayer.

7.2. Taxation of insurance activity

7.2.1. Income from insurance (excluding life insurance) of insurers-residents shall be taxed at the rate of 3 percent of the sum of gross income from insurance activity and shall not be subject to tax specified in article 10 of this law. For the purpose of taxation of insurance activity, gross income from insurance activity means the sum of insurance contributions, insurance payments or insurance premiums (hereinafter referred to as the sum of total contributions) obtained by insurer over the reporting period under contracts for insurance and reinsurance of risks in Ukraine or abroad.

7.2.2. Accounting of transactions related to life insurance of physical persons should be done separately.

Incomes received by insurers-residents as insurance contributions, payments or premiums accumulated during the reporting period under the contracts for insurance and reinsurance of life in Ukraine or abroad are not included into incomes specified by Clause 7.2.1. of this item.

Insurance reserves (reserve funds) for recovering of risks (losses) from life insurance are formed separately from the insurance reserves (reserve funds) for recovering of risks (losses) from other kinds of insurance and are used only for

recovering of risks related to life insurance. The method of forming of insurance reserves (reserve funds) of insurers is determined by the Committee for Insurance Supervision of Ukraine.

Incomes received by insurers from life insurance and reinsurance are not subject to taxation specified by Clause 7.2.1. of this item of article 10 of this law, but are subject to taxation specified by item 13.4 of article 13 of this law, in cases stipulated by this item.

7.2.3. If the insurer obtains income from the sources other than those specified in Clauses 7.2.1. and 7.2.2., this income shall be taxed on usual terms. Thus, total expenses related to obtaining of this income shall not include expenses incurred by the insurer in the course of insurance (reinsurance).

7.2.4. For the purpose of taxation, life insurance means transaction which provides for insurance payment in the following cases:

if the insured person died; if the court made a decision to recognise the insured person as died;

if the insured person has reached the date of expiration of insurance contract or reached the age determined in the insurance contract. In this case, the contract term should not be less than 120 calendar months and should not provide for partial payments before the expiration of this contract or occurrence of insurance case. For the transition period up to 2003 the term of contract for life insurance of individuals above 50 is 60 calendar months.

In case of cancellation of the contract for life insurance which is not caused by the death of the insured person, income of the insurer is subject to taxation according to the procedure specified by Clause 7.2.1 of this item according to the results of taxation period when this cancellation occurred with the observance of the tax rate of 6 percent.

Income from insurance of physical persons under other terms is taxed in the manner prescribed by Clause 7.2.1. of this item.

### 7.3. Taxation of Transactions in Foreign Currency

7.3.1. Incomes received (calculated) by the taxpayer in foreign currency and related to sale of goods (works, services) during reporting period shall be expressed in Hryvnias at the National Bank's official exchange rate as of the date when such incomes were earned (calculated) and shall not be liable to revaluation due to change in Hryvnias exchange rate that occurred during such reporting period.

The book cost of the foreign currency received by taxpayer due to such sale (foreign currency earnings) is determined at the rate specified in part one of this Clause.

7.3.2. Expenditures incurred (calculated) by the taxpayer in foreign currency during reporting period and related to sale of goods (works, services) the value of which is included into taxpayer's gross expenditures shall be determined in the amount equal to the book cost of foreign currency calculated in accordance with items 7.3.1, 7.3.4 and 7.3.6 of this article and shall not be liable to revaluation due to change in Hryvnia's exchange rate that occurred during the reporting period.

7.3.3. Any debt of the taxpayer or to the taxpayer, principle amount of which (less

interest and agent's commission) is expressed in foreign currency, shall be shown in either debtor's or creditors accounts by way of conversion of this amount into Hryvnia at the National Bank's official exchange rate as of the date when the indebtedness occurred (hereinafter referred to as book value of debt) and is not subject to revaluation due to the change of exchange rate of Hryvnias.

If the debt is sold (repaid) during the reporting period, the value of such debt shall be calculated by conversion of this amount into Hryvnias at the National Bank's official exchange rate which was effective as of sale (repayment) date.

7.3.4. If foreign currency was purchased for Hryvnias, total expenses or gross incomes of the purchaser shall not be changed. The amount of Hryvnias paid by the taxpayer due to such purchase (less commission or cost of other services provided by persons engaged in conversion (exchange) transactions upon the taxpayer's message) is referred to as book cost of such foreign currency.

If foreign currency was purchased for other foreign currency, the book cost of the foreign currency purchased shall be specified at the level of book cost of foreign currency sold.

7.3.5. If foreign currency was sold for Hryvnias, gross incomes of the taxpayer should be increased by the amount of Hryvnias given from the purchaser due to such sale, while the gross expenditures of the taxpayer should be increased by the book cost of such foreign currency.

7.3.6. With the purpose of taxation, any foreign currency or debt in foreign currency that were at the taxpayers account as of end of reporting period shall be converted into Hryvnias at the National Bank's official rate which was effective as of last working day of the reporting period. At the same time, positive or negative difference between results of such conversion and book cost of foreign currency/debt should be included either into gross incomes or total expenditures of the taxpayer - the creditor or into the total expenditures or gross incomes of the taxpayer — the debtor, according to the results of reporting period. As for the following taxation period, the book cost of foreign currency/debt in foreign currency shall be equal to the value of the latter specified as of end of the previous reporting period.

7.3.7. Any expenses related to the payment for services provided by other persons engaged in conversion (exchange) transactions and authorised by these taxpayers should be included in the total expenses of the taxpayers - the currency market entities.

7.3.8. Banks keep a tax accounting of foreign currency transactions separate from other taxpayers.

Accounting of foreign currency sale/purchase transactions that are performed upon the message and at the expense of banks' clients shall be kept separately from accounting of foreign currency sale/purchase transactions performed upon the bank's decision and at the expense of other (personal) sources.

When performing foreign currency sale/purchase transactions upon the message and at the expense of clients, the bank's gross incomes shall include commission (brokerage) and other similar bonuses paid (calculated) by the bank due to these

transactions during the reporting period, while the total expenditures shall include bank's expenses incurred (calculated) due to these transactions during the reporting period.

When performing foreign currency sale/purchase transactions upon the bank's decision, bank's gross incomes or total expenditures shall include the final financial result of exchange (conversion) transactions by the results of reporting period.

The final financial result of exchange (conversion) transactions by the results of reporting period shall be calculated as the total financial results of exchange (conversion) transactions by the results of each banking day. The financial result of exchange (conversion) transactions by the results of banking day is the difference between gross incomes received (calculated) by bank as a result of foreign currency sales during the given banking day and the total expenditures incurred (calculated) by bank as a result of foreign currency purchases during the given banking day.

Calculations for the financial results of exchange (conversion) transactions should not include commissions (brokerage) and other similar bonuses paid or received (calculated) by bank due to these exchange (conversion) transactions, in case the mentioned amounts are in a common manner included into bank's gross incomes or total expenditures.

The manner stipulated by Clause 7.3-6 of this article is extended to the foreign currency included into banks' own funds as of the last day of reporting period.

#### 7.4. Taxation of Transactions with Related Persons with the Purpose of Taxation:

7.4.1. Income of the taxpayer from the sale of goods (works, services) to related persons shall be determined according to the negotiated prices for these goods (works, services) as of the sale date. Such negotiated prices shall not be below the conventional prices for these goods (work, services).

7.4.2. Expenses incurred by the taxpayer due to the purchasing of goods (works, services) from a related person shall be determined according to the negotiated prices for these goods (works, services) as of the purchase date. Such negotiated prices shall not exceed the conventional prices for these goods (works, services).

7.4.3. Provisions contained in Clauses 7.4.1 and 7.4.2 also apply to transactions with legal entities who are not taxpayers according to article 10 of this law or who pay income tax at other rate than that established for the taxpayer.

7.4.4. Taxpayer's expenditures incurred after payment of interest on deposits, rent payments, civil-law agreements with related persons shall be determined according to negotiated prices (interest rates on deposit) which shall not exceed conventional prices (conventional interest rates on deposit).

7.5. Incomes derived from sales (exchange or other kind of transfer) of capital assets and intangible assets, which are subject to depreciation under article 8 of this Law, should be included in taxpayer's gross income.

#### 7.6. Taxation of Transactions Involving Sales of Securities and Derivatives

7.6.1. For the purpose of taxation, the taxpayer shall keep separate records of financial results of sale of securities and derivatives.

If expenses incurred by the taxpayer due to the purchase of securities and derivatives exceed the amount of income received from sales (alienation) of securities and derivatives over the reporting period, the balance losses shall reduce the income from the above transactions received during the next taxation periods over the terms determined in article 6 of this Law.

If incomes received (self-assessed) by the taxpayer during the reporting period due to sale (alienation) of securities and derivatives exceed expenditures incurred (calculated) by the taxpayer during the reporting period due to purchase of securities and derivatives and such expenditures are increased by the amount of uncompensated balance losses from such transactions of the previous periods, the profit shall be included into the gross incomes based on the results of this reporting period.

7.6.2. The term "sale of securities and derivatives" is used in the following meaning:

- any purchase or sale of securities or stock derivatives by securities sellers whose status is determined by the appropriate legislation on securities and stock exchange;

- any purchase or sale of commodity derivatives by participants of commodity exchange whose status is determined by the appropriate legislation on commodity exchange;

- any purchase or sale of securities by persons who do not have the status of security dealers.

7.6.3. The term "expenses" means funds or assets paid (calculated) by the taxpayer to the seller of securities or derivatives as compensation for their value.

Expenses also include amounts of any buyer's debts which occur due to these purchases.

7.6.4. The term "incomes" means funds or assets received by the taxpayer from sale, registration or other ways of alienation of securities and derivatives and increased by cost of any material values or intangible assets, which are transferred to the taxpayer due to such sales, exchange or alienation.

7.6.5. Provisions of this item are also extended to determination of balance losses and/or profits received by the taxpayer from corporate rights transactions and specified in terms other than the securities.

7.6.6. Provisions of this item do not apply to purchases of material assets under specific term conditions.

## 7.7. Taxation of Joint Ventures Within the Territory of Ukraine Without the Establishment of Legal Entity

7.7.1. Joint activities of enterprises without the establishment of a legal entity shall be regulated by the agreement on joint activity providing for pooling of funds or assets of participants for the joint business purpose.

7.7.2. Accounting of the results of joint activity shall be made by the legal entity authorized by other parties pursuant to the contract conditions, apart from the accounting of economic results of this legal entity.

7.7.3. The partial payment of income received by participants of joint activity shall be set equal to dividend payment according to the procedure and taxation stipulated in Clauses 7.8.2, 7.8.6 - 7.8.8. of item 7.8. of this article.

7.7.4. If the income from joint activity was not distributed during the reporting period, for the purpose of taxation, they shall be regarded as distributed between participants under contract for joint activity by the end of the reporting period and are subject to taxation according to Clause 7.7.3. of this item.

7.7.5. If the expenses incurred by taxpayer during the reporting period and related to joint activity exceed incomes received from these transactions, the balance losses shall reduce the incomes from this joint activity of the future tax periods during the period specified by Article 6 of this law.

7.7.6. For the purposes of taxation, economic relations between the participants of joint activities shall be equal to relations based on separate civil law contracts.

7.7.7. Procedure of tax accounting and reporting of the results of joint activity shall be established by Central Body of State Tax Service.

## 7.8 Taxation of Dividends

7.8.1. If the decision to pay dividends was adopted, the issuer of corporate rights shall effect payment to the holder of these rights in proportion to his share in the statutory fund of the enterprise issuing these rights, irrespective of whether this enterprise was profitable or not over the reporting period, if other sources of payment of dividends are available.

7.8.2. Apart from cases specified by Clause 7.8.5 of this item, the taxpayer paying dividends to his shareholders (holders) shall calculate and deduct tax on dividends at the rate of 30% of the calculated amount, irrespective of whether the issuer is the payer of income tax established by this law or not. This tax shall be included in the budget before or together with payment of dividends.

Payment document submitted by the taxpayer to the serving bank should contain the amount of dividends that should be paid and amount of tax on dividends established by this item. Bank has no right to accept this payment document if it does not meet the above requirements.

7.8.3. The taxpayer issuing corporate rights shall decrease the amount of tax on income by the amount of tax on dividends paid to the budget specified by Clause 7.8.2 of this Article. The above tax operations specified in Clause 7.2 of this Article are not allowed.

7.8.4. If the amount of tax on dividends exceeds the amount of income tax liabilities of the issuing enterprise over the reporting period, the difference shall reduce income tax liabilities of the enterprise over the following tax periods in the manner stipulated by Article 6 of this law.

7.8.5. Tax on dividends established by Clause 7.8.2 of this Article shall not apply in case of payment of dividends as shares issued by the enterprise calculating dividends if this payment does not influence the distribution of shares in the Statutory Fund of the issuing enterprise.

7.8.6. Legal entities that receive taxable dividends according to Clause 7.8.2 of this Article or dividends paid as shares according to provisions of Clause 7.8.5 of this Article shall not include these dividends in gross income.

7.8.8. If dividends are paid to the physical persons on privileged shares, amounts of such payments shall be subject to taxation according to Clause 7.8.2 of this Article and shall be equal to additional benefits provided by the law of Ukraine "On Personal Income Tax".

7.8.9. If, in case of absolute liquidation of the enterprise, the holder of corporate rights issued by this enterprise received funds or assets the value of which exceeds the book cost of these corporate rights, then the exceeding amount should be included in gross income of this holder. If the amount of funds or value of assets is less than nominal value of corporate rights, then the amount of losses should be included in the total expenses of the taxpayer over the tax period when such compensation was paid, but not earlier than the absolute liquidation of the issuing enterprise occurred.

## 7.9. Taxation of Transactions With Debt Claims and Debt Liabilities.

7.9.1. Taking into account peculiarities provided by this law, funds or assets are not included in gross income and are not taxed if these funds or assets were attracted by the taxpayer because of the following:

- receiving of financial credits from other creditors and repayment of the principal credit amount given by the taxpayer to other debtors;

- placing of funds or assets on deposit, or time accounts, or trust accounts, as well as repayment to the taxpayer of the principal amount of deposit, or time accounts, or trust accounts opened by other persons in favor of this taxpayer;

- leasing, delivery on concession or consignment, trust management or responsible storage of assets, as well as, in accordance with other civil law contracts which do not provide the transfer of property rights on this property to this taxpayer.

7.9.2. Taking into account peculiarities specified by this law, funds or assets should not be included in gross income if these funds or assets were given by taxpayer because of the following:

- returning of the principal amount of credit to other creditors, or extending credits to other debtors;

- returning of the taxpayer of the principal amount of deposits, or time deposits, or trust accounts; placing by the taxpayer of funds on deposits, on time accounts or trust accounts opened by other persons in favor of the taxpayer;

- leasing, delivery on concession or consignment, trust management or responsible storage of assets by the taxpayer, as well as in accordance with other civil law contracts which do not provide for the transfer of property rights on this property to other person.

“Principal amount” means the amount of granted credit or deposit (term or trust accounts), excluding interest (fixed payments, premiums and winnings).

7.9.3. Income received by the taxpayer from sales (allocation) of bonds, saving certificates and other securities issued by him, excluding securities ensuring corporate rights, with the limited term of validity are included in gross income of the taxpayer during the taxation period when the sale (allocation) occurred. Losses incurred by the taxpayer who is the purchaser of these securities and the taxpayer because of the redemption of nominal value of bonds, saving certificates and other securities with the limited period of validity issued by him are included in the total expenses of the taxpayer over the taxation period when the redemption has occurred or has to be occur. As for the interest securities issued by the taxpayer, the payment of interest is included in the total expenses of the taxpayer during the tax period when this payment was calculated. As for the discount securities issued by taxpayer, balance losses from their allocation are included in the total expenses of the taxpayer over the tax period when the sale (allocation) of these securities occurred.

Expenses of the taxpayer for the purchasing of these securities are included in the total expenditures of the taxpayer. Funds received by the taxpayer because of the

redemption of securities purchased by him and interest on them are included in gross income of the taxpayer.

7.9.4. Taxation of transactions with the unlimited securities should be set equal to taxation of dividends.

This Clause does not apply to securities ensuring corporate rights.

Unlimited securities means securities without the established term of redemption, or with the term of redemption exceeding ten years from the moment of the issue, or securities which provide for the issuer's right to adopt unilateral decision on prolongation of the term of redemption (liquidation) of these securities according to the term of issuing, regardless the general term of validity of these securities.

Losses incurred by the taxpayer and related to the purchase of the unlimited securities shall not be included in the total expenditures and are subject to depreciation as intangible assets according to article 8 of this law. This Clause does not apply to securities ensuring corporate rights.

7.9.5. When alienating the property pledged to ensure full amount of debt claim, total expenditures and gross incomes of a persons who put in pledge and a holder of a pledge should be determined in the following order:

Alienation of property for persons who put in pledge should be set equal to sale of this object in the tax period of such alienation, and the principal amount of credit and charged interest which were not returned to the creditor (guarantor), - to the sale price of such pledge.

In case of alienation of property to pledge holder to ensure the full amount of debt claim, such alienation shall be set equal to the purchase of this property over the tax period of this pledge; the principal amount of credit and calculated interest that was not returned to the creditor (guarantor) shall be set equal to the purchasing price of this property.

If the creditor sells the pledged property to other persons, his incomes or losses are treated on usual terms.

If the pledge should be sold on auction (public tender) to redeem debt liabilities, then gross income and total expenditures of holder of a pledge are determined in the manner prescribed by Clause 12.3.4. of this Law and the Law of Ukraine "On Pledge".

The procedure of issue and repayment of secured debt liabilities shall be established by the respective law.

7.10. Special Procedure for Taxation of Income under Long- Term Contracts

7.10.1. The taxpayer can choose special procedure for taxation of income received as advance payment or payment for the executed work; the taxation is done under a long-term contract and provides for the execution of the order at the expense of the customer.

7.10.2. Long-term contract means contract for construction (production) or installation of tangible assets that will be included to fixed assets of a client or to elements of such fixed assets, or used to creation of intangible assets related to production, construction or installation (i.e. “engineering”, research & development) provided the term of its implementation exceeds nine months from the date of first expenditures or receiving an advance payment.

7.10.3. Assessment of income/expenditures related to the implementation of the contract shall be done by the performer (customer) separately on the basis of accumulating result.

7.10.4. Gross income of the performer earned over the reporting period shall be increased by the sum of production expenditures incurred over the reporting period because of the implementation of a long-term contract.

7.10.5. Gross income of the performer over the reporting period should be determined as a sum of conventional price of long-term contract and fulfillment ratio of advanced contract.

7.10.6. Expenditures of performer incurred over the reporting period should be determined as actual paid (calculated) expenditures related to fulfillment of long-term contract in such reporting period.

7.10.7. Total expenditures of the customer incurred over the reporting period shall be included to the total expenditures or gross incomes of such performer according to results of such period and in amounts defined in Clause 7.10.5 and 7.10.6. of this article.

7.10.8. For the purposes of taxation, the amount of an advance payment which paid to the performer of a contract shall be included in the gross income of the performer, but within the amounts defined pursuant to Clause 7.10.5. of this item, exclusively.

7.10.9. After the expiration of the long-term contract the performer should recalculate the amounts of tax liabilities determined for the results of each tax period and define the fulfillment ratio of the long-term contract as ratio of expenditures incurred over the respective reporting periods against the actual total expenditures incurred (calculated) by performer when performing the long-term contract, and define the incomes as the sum of final contractual price of the object of the long-term contract and recalculated fulfillment ratio of the long-term contract.

If the recalculation shows that the taxpayer overestimates or underestimates the amount of tax liabilities calculated for the results of any tax period over the term of validity of the long-term contract, then the amount of overestimation or underestimation should be included into underestimation or overestimation of gross income of such taxpayer, respectively, using to the defined difference 120 percent rate of the National Bank of Ukraine at the moment of such recalculation, for the period when such overpayment or underpayment existed.

The amounts provided by the above mentioned recalculation should be included into the total expenditures or gross incomes of the performer for the results of the reporting period of the contract expire date. Period of prescription of claims should start from the tax period of the contract expire date.

7.10.10. Tax reports of performer of the long-term contract for the results of each tax period should be submitted to tax body in form established by central tax body of Ukraine.

7.10.11. Expenditures of customer of long-term contract should be included to his/her total expenditures in amounts of funds or property (intangible assets) transferred to performer in advance or in form of cost of object of long-term contract or its part transferred to the support of customer.

7.10.12. Clauses 7.10.3. to 7.10.6. of this article is applicable to the transactions related to subscription of the periodical press or leasing of tangible assets, leasing of land and premises, if such transactions will be paid for term which exceeds the reporting period.

#### 7.11. Taxation of Non-Profit Institutions and Organizations.

7.11.1. This article applies to non-profit institutions and organizations which are:

a) bodies of state power of Ukraine, bodies of local self-government and institutions or organizations established by them which are funded from the respective budgets;

b) charitable funds and organizations established in the manner specified by the law for providing charitable activity, including public organizations established with the aim to provide ecological, health, sport, cultural, education and scientific activity, as well as creative unions;

c) pension funds, credit unions established by in the manner specified by the law;

d) Legal entities other than those specified in part 'b' whose activity does not provide for deriving profit according to the respective laws;

e) Unions, associations and other legal entities' unions established with the aim to represent interests of their founders maintained only by founders' contributions and are not involved in any entrepreneurial activity, excluding earning of "passive" incomes;

f) Religious organizations registered in accordance with procedures established by the law.

7.11.2. Incomes of non-profit organizations specified in part 'a' of Clause 7.11.1 shall be exempt from tax if they are earned as:

- Funds or assets which are not subject to repayment, or as free financial aid, or charitable donations;
- Passive incomes;
- funds or property received by such nonprofit organizations as compensation for government services rendered.

7.11.3. The following revenues of non-profit organizations indicated in Item (b), Clause 7.11.1., shall be tax-exempt:

- Funds or property received free of charge or as grants or voluntary donations;
- Passive incomes;
- Funds or property received by such nonprofit organizations as a result of their principal activities, taking into account the provisions of Clause 7.11.11.

7.11.4. The following revenues of non-profit organizations indicated in item (c), Clause 7.11.1., shall be tax-exempt:

- Funds received by credit unions and pension funds in the form of contributions for additional pensions or for the other purposes provided by law;
- Passive incomes from sources determined by the laws on credit unions and pension funds.

7.11.5. Revenues of nonprofit organizations indicated in Item (d), Clause 7.11.1., received as funds or property resulting from their principal activities and as passive incomes shall be tax-exempt.

7.11.6. The following revenues of non-profit organizations indicated in Item (e), Clause 7.11.1., shall be tax-exempt:

- Single or periodical contributions of their founders;
- Passive incomes.

7.11.7. The following revenues of non-profit organizations indicated in Item (f), Clause 7.11.1., shall be tax-exempt:

- Funds or property received free of charge or as grants or voluntary donations;
- Any other revenues from cultural services rendered and passive incomes.

7.11.8. Revenues or property of nonprofit organizations, except nonprofit organizations indicated in Items (a) and (b), Clause 7.11.1., shall not be allocated among their founders or participants, and nor shall these revenues or property be used for the benefit of any separate founder or participant thereof, including executives (except in the form of wages and deductions for social facilities).

Revenues of budget-sustained educational establishments, health care institutions, archives, and (public) libraries shall be remitted to relevant budgets, and, if such budget subsidization is insufficient, such revenues shall be entered on special accounts and used exclusively to finance these establishments and institutions inasmuch as allowed by regulations adopted by the Cabinet of Ministers of Ukraine.

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

Revenues of non-profit organizations indicated in Item (c), Clause 7.11.1., shall be allocated only among their founders (participants) in keeping with legally set procedures.

7.11.9. Revenues received by nonprofit organizations from sources other than those specified in Clauses 7.11.2-7.11.7., where and when such revenues are allowed by the laws on nonprofit organizations, shall be taxed on general terms, provided each such organization keeps a separate record of its minor activities as per regulations prescribed for taxpayers.

7.11.10. For taxation purposes, the central inland revenue authority shall keep records of all nonprofit organizations exempted pursuant to this Article.

State registration of nonprofit organizations shall be carried out in keeping with legally set procedures.

7.11.11. In the event of liquidation, a non-profit organization's assets shall be transferred to another relevant nonprofit organization or remitted to the budget.

7.11.12. The central inland revenue authority shall establish procedures of accounting and presentation of expenditure and revenue reports, and shall perforce resolve to strike an organization guilty of transgression of this Law or other legislative acts on nonprofit organizations from the list of nonprofit organizations, exposing it to the company income tax. Such decisions may be contested in due course of law.

7.11.13. "Government services" shall be understood as any paid services that must be acquired under the law and which are rendered individuals and entities by organs of executive authority, local self-administration, and institutions and organizations formed by them and sustained by relevant budgets. The category of government services shall not include taxes and duties (compulsory payments) determined by the Law of Ukraine "On Taxation System".

"Passive incomes" shall be understood as revenues received as interest, dividends, insurance benefits and indemnities. As well as royalties.

"Principal activities" shall be understood as activities of nonprofit organizations in terms of charity, education, culture, sciences, and other services in the public domain, also in setting up a system of citizens' self-sufficiency and such other goals as may be specified in their documents of association drawn up pursuant to the laws on nonprofit organizations, The statutory documents of nonprofit organizations shall contain detailed lists of their principal activities.

#### 7.12. Specificities of Taxation of Enterprises Belonging to Volunteer Invalids' Organizations

7.12.1. Revenues entirely belonging to enterprises founded by all-Ukrainian volunteer invalids' organizations, received from sales of their products (works, services) except excisable goods, agency services, and gambling business shall be tax-exempt.

Said privilege shall extend only to enterprises with at least 50 percent of invalids of the work force on payroll within any given accounting period, and where during the same period, the invalids wage packet during the same period is at least 25 percent of the general payroll costs included in gross costs. Enterprises answering the requirements of this Clause shall be registered with (local) inland revenue authorities.

#### 7.13. Specificities of Taxation of Separate Taxpayers

7.13.1. Revenues of enterprises received from sales of baby foods produced by these enterprises on Ukraine's territory shall be tax-exempt and aimed at increasing output while lowering retail prices.

Lists of baby foods shall be adopted by the Cabinet of Ministers of Ukraine.

#### 7.14. Specificities of Taxation of Innovating Centers Entered in the National Register

7.14.1. Proceeds from sales of products developed by innovating centers and declared when registering with innovating centers set up as provided by law shall be taxed at 50 percent of the currently effective rate.

7.14.2. The preferential terms set forth in Clause 7.14.1 shall be effective for the first three years after official registration of such products as innovating.

7.15. Procedures of identification of goods (works, services) as own, with regard to provisions set forth in Clauses 7.12 and 7.13 of this Article 7, shall be adopted by the Cabinet of Ministers of Ukraine.

Tax accounting of enterprises indicated in Clauses 7.12; 7.13 and 7.14 hereinabove shall be effected in keeping with procedures established by the central inland revenue authority.

7.16. The category of gross revenues shall not include funds received by the State Rail Transport Administration of Ukraine (*Ukrzaliznytsia*) and railroad companies from enterprises, organizations, and their organization departments subordinated to the

*Ukrzaliznytsia* and (other) railroad companies, entered on account of net profits left at the disposal of these enterprises as per results of any given accounting period, after carrying out all liabilities, including taxes and duties (compulsory payments) mature.

When, on the *Ukrzaliznytsia's* decision, the rolling stock of one government-run public transport company is transferred to the next, the book cost of such fixed assets as set forth in Article 8 hereunder shall undergo no changes, and such transfer shall be considered an operation with free transfer of goods (works, services), adding nothing to the taxpayer's gross revenues.

## **Article 8. Amortization**

### 8.1. Definition

8.1.1. The term "amortization", with regard to fixed and intangible assets, shall be interpreted as a gradual referral of expenses on their acquisition, manufacture or modification to a taxpayer's reduced and adjusted revenues within the limits of allocation for depreciation (capital allowances/charges) as determined by this Article.

8.1.2. The following expenses shall be subject to amortization:

- Acquisition of fixed and intangible assets for own production needs, including expenses on pedigree live-stock, purchase, sowing, and growing of perennial plantations prior to fructification;
- Independent creation of fixed assets for own production needs, including expenses on wages for manpower employed in the production of these assets;
- All types of repair, renovation, modernization or other improvements of fixed assets;
- Purchase, repair, and modernization of cars, but only by legal entities specializing in paid transportation services (taxi service) and car rental;
- Land improvements other than construction.

8.1.3. The following expenses of taxpayers shall not be subject to amortization and shall in their entirety be referred to such taxpayers' gross costs in the given accounting period:

- Purchase and fattening of commercial livestock;
- Growing perennial fruit-bearing plantations;
- Acquisition of fixed or intangible assets for subsequent sale to other taxpayers or use in the production (construction) of other fixed assets to be subsequently sold to other taxpayers;
- Conservation of fixed assets.

8.1.4. The following shall not be subject to amortization and shall be carried on account of appropriate finance sources:

- Budget spending on the construction and maintenance of improvements and dwelling buildings, purchase and maintenance of library stocks and archives;
- Budget disbursements on the construction and maintenance of highways;
- Expenses on purchase and maintenance of the National Archives of Ukraine, as well as library stocks formed and preserved at the expenses of (local) budgets, library and archival funds;
- Expenses on the acquisition, repair, and modernization of cars used for purposes other than those indicated in Clause 8.1.2 hereinbefore.

## 8.2. Definition of Fixed Assets and Groups Thereof

8.2.1. The notion "Fixed assets" shall be understood as tangible assets used in a taxpayer's production activity within a period in excess of 365 calendar days from the date from the date of launching these tangible assets into operation, the cost of which gradually lowers due to depreciation and obsolescence.

This Article shall not govern the procedures of referral to a taxpayer's production (turnover) costs of expenses involved in the acquisition of tangible assets referred to the category of low value and perishable articles as determined by the Cabinet of Ministers of Ukraine.

8.2.2. Fixed assets shall be subdivided into the following groups:

Group 1: Buildings and premises, their components and transmitting devices, including dwelling buildings and their components (flats and sanitary facilities);

Group 2: Motor transport, spare parts, furniture, household electronic, optical and engineering devices and tools, including (personal) computers, author devices for automatic data processing, information systems, telephones, microphones, other office equipment and engineering appliances;

Group 3: Any other fixed assets not included in Groups 1 and 2.

## 8.3. Procedures of Definitions and Accrual of Allocation for Depreciation

8.3.1. Amounts set aside as allocation for depreciation in the given accounting period shall be determined by using amortization norms specified in Clause b.6 hereunder, with regard to the book cost of the fixed assets' groups at the beginning of the accounting period.

No allocation for amortization shall be deducted to the budget.

8.3.2. The book cost of (each) group of fixed assets at the beginning of an accounting period shall be using this formula:

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

where:

- B(a) indicates the book cost of the given group at the beginning of the accounting period;
- B(a-1) indicates the book cost of this group at the beginning of the period preceding the given accounting period;

- P(a-1) indicates the amount of expenses involved in the acquisition of fixed assets, major repairs, renovation, modernization, and other improvements of fixed assets in the period preceding the given accounting period;
- C(a-1) indicates the amount of "phased out" fixed assets in the period preceding the given accounting period;
- A(a-1) indicates the amount of allocation for depreciation accrued in the period preceding the given accounting period.

8.3.3. Taxpayers under all forms of ownership shall have the right to annually adjust the book costs of the (above) groups of fixed and intangible assets to the indexation coefficient obtained using this formula:

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

where:

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

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

Taxpayers using the indexation coefficient shall be under the obligation to declare capital revenues in amounts equal to the difference between the book cost of the given group of fixed (intangible) assets, determined at the beginning of the given accounting period using the indexation coefficient, and that of this group of assets prior to this indexation.

Said capital revenues shall be referred to gross revenues in each accounting quarter of the tax year, in amounts equal to one-fourth of the annual amortization rate with regard to the given group of fixed (intangible) assets against the amount of capital revenues of this group of fixed (intangible) assets.

When using the accelerated depreciation method, as per Clause 8.6.2 hereunder, no indexation coefficient shall be applied.

8.3.4. The book cost of fixed assets referred to Group 1 shall be accounted per building, structure or structural component thereof and per Group 1 as the sum total of book costs of separate objects of this group.

8.3.5. The book cost of fixed assets referred to Groups 2 and 3 shall be accounted per aggregate balance sheet value of the given group of fixed assets regardless of when these assets were launched into operation. No separated accounting shall be made with regard to any objects included in Group 2 or 3 of the fixed assets.

8.3.6. Book cost accounting procedures with regard to the above groups of fixed assets shall be adopted by Ministry of Finance of Ukraine.

8.3.7. Amortization of a separate object included in Group 1 of fixed assets shall be carried out before its book cost reaches 100 tax-free minimum citizens' incomes. The residual cost of this object shall be referred to gross costs as per results of the given accounting period, while its value shall be zero.

8.3.8. Group 2 and 3 fixed assets shall be subject to amortization before the group's book cost reaches zero value.

8.3.9. Linear depreciation method shall be applied to intangible assets, whereby each type of intangible assets is amortized by equal portions proceeding from its primary cost, taking into account indexation as per Clause 8.3.3 of this Article 8, within a time limit determined by the taxpayer at his/their own discretion, proceeding from the term of beneficial use of these intangible assets or the taxpayer's term, but not in excess of 10 years of continuous operation.

Allocation for depreciation shall be carried out before the intangible assets' residual cost shows zero value.

#### 8.4. Procedures of Increasing and Decreasing the Book Cost of Fixed Assets' Groups

8.4.1. When purchasing fixed assets, the book cost of the corresponding group shall increase by the amount spent as their acquisition cost, taking into account transportation and insurance charges and other expenses involved in this acquisition, less VAT paid provided the company income taxpayer is registered as VAT payer.

8.4.2. In the case of taxpayers producing fixed assets for their own production needs, the book cost of the given group of fixed assets shall increase by the amount of all production costs involved in the creation of these fixed assets and launching them into operation, as well as expenses sustained when making such fixed assets using other finance sources, less VAT paid provided the company income tax payer is registered as VAT payer.

8.4.3. When selling certain objects of Group 1 fixed assets, thus inactivated them, Group 1 book cost shall decrease by the amount of book cost of these objects.

The excess amount of proceeds from the sale of certain Group 1 over the book cost of these tangible and intangible assets shall be referred to that taxpayer's gross revenues, and the excess amount of book cost over the proceeds shall be referred to that taxpayer's gross costs.

8.4.4. When selling Group 2 and 3 assets, the book cost of each group shall decrease by the acquisition cost of these assets (e.g., production costs, those of works and services received by a taxpayer as per swap deals). If the total amount of fixed assets equals or surpasses the book cost of the corresponding group, its (the latter's) book cost shall be considered to have zero value, with the excess amount referred to that taxpayer's gross revenues in the given accounting period.

8.4.5. When inactivating a separate object of Group 1 fixed assets due to its liquidation, major repair, renovation, and conservation, as resolved by the taxpayer or the Cabinet of Ministers of Ukraine, the group's book cost shall have zero value for depreciation purposes, and no allocation for depreciation shall be accrued.

Reactivation of fixed assets after a major repair, renovation or modernization shall be effected in keeping with procedures set forth in Clause 8.4.2 hereinabove.

8.4.6. When inactivating separate Group 2 and 3 assets due to their liquidation, major repair, renovation, modernization and/or conservation as resolved by the taxpayer or the Cabinet of Ministers of Ukraine, the group's book cost shall undergo no changes.

Reactivation of fixed assets after a major repair, renovation and/or modernization shall increase the group balance (cost) only by the amount of expenses involved in these works.

8.4.7. If by the start of the accounting quarter Group 2 and 3 fixed assets turn out to have no material value, their book cost shall be referred to that taxpayer's gross costs in this accounting period.

8.4.8. When forced to replace fixed assets, when for reasons beyond that taxpayer's control these assets (or a part thereof) turn out destroyed, stolen or damaged beyond repair, or when the taxpayer cannot help but abandon use of these assets, due to a threat of or pending their replacement, destruction or tearing down (provided such threat or inevitability is corroborated in keeping with legally set procedures), this taxpayer, in the accounting period in which all this occurs, shall:

- (a) Increase gross costs by the book cost of a separate object of Group 1 fixed assets subject to such forced replacement, with this object having zero value;
- (b) Make no changes in the balance cost of Group 2 and 3 fixed assets.

8.4.9. If an insurance company or other legal entities or individuals guilty of such damage are indemnifying the taxpayer's losses incurred by the replacement of such fixed funds, this taxpayer, within this accounting period, shall:

- (a) Increase gross his/their gross revenues by the amount of such indemnification of Group 1 fixed assets;
- (b) Decrease the relevant book costs by the amount of compensation for Group 2 and 3 fixed assets.

8.4.10. If a taxpayer resolves to liquidate a certain object of Group 1 fixed assets, due to reasons other than those indicated in Clause 8.4.8. hereinabove, the book cost of this object shall not be referred to gross costs and shall be reimbursed from the taxpayer's own sources.

## 8.5. Procedures of Accounting of Leased Fixed Assets

8.5.1. The book cost of the given group of fixed assets shall not be decreased by the cost of the taxpayer's fixed assets in operational leasehold.

8.5.2. The book cost of the given group of fixed assets shall be reduced by the cost of fixed assets in financial leasehold, in keeping with procedures prescribed for the sale of fixed assets. In such cases the lessee shall increase the book cost of the relevant

group of fixed assets in accordance with procedures envisaged for the acquisition of fixed assets.

## 8.6. Depreciation Rates

8.6.1. Depreciation rates shall be In terms of percentage of the book cost of each fixed assets group as of the end of the accounting period, assessed per calendar year, specifically:

- \* Group 1: five percent;
- \* Group 2: twenty-five percent;
- \* Group 3: fifteen percent.

8.6.2. Each taxpayer may at his/their own discretion resolve to apply accelerated depreciation to Group 3 fixed assets if acquired after this Law comes into effect, using these rates:

- \* 1st year of operation: fifteen percent;
- \* 2nd year of operation: thirty percent;
- \* 3rd year of operation: twenty percent;
- \* 4th year of operation: fifteen percent;
- \* 5th year of operation: ten percent;
- \* 6th year of operation: five percent;
- \* 7th year of operation: five percent.

Such (unilateral decisions shall be made by taxpayers manufacturing products (doing works, rendering services) subject to government-regulated tariffs.

Accounting such fixed assets shall be done separately, with regard to each such object. Allocation for depreciation shall be accrued on the book cost of such objects, equal to their primary value multiplied by the amount of expenses involved in their improvement, in keeping with procedures stipulated by Clauses 8.3.2. and 8.7.1. of this Article 8.

## 8.7. Operating and Major Repair, Renovation, Modernization, Re-equipment, and Other Improvements of Fixed Assets

8.7.1. Taxpayers shall have the right within any given accounting period to refer to gross costs any expenses involved in the improvement of fixed assets, provided their amount does not exceed five percent of the aggregate book cost of fixed assets groups as of the beginning of the accounting year.

Expenses in excess of this amount shall be referred to book cost increment with regard to Groups 2 and 3 (book cost of a separate object of Group 1 fixed assets) and shall be subject to amortization at the rates prescribed for such fixed assets.

## **Article 9. Amortization of Expenses Involved in the Extraction of Mineral Wealth**

9.1. Any expenses involved in the prospecting (supplementary exploration) and development of any deposits (including any oil or gas wells) are placed, subject to amortization.

9.2. Said group of disbursements shall include expenses involved in the prospecting (supplementary exploration) and equipment of any deposits (wells). Lists of expenses referred to this group shall be adopted by the Cabinet of Ministers of Ukraine.

9.3. Accounting of the book cost of expenses involved in the extraction of mineral wealth shall be carried out separately, with regard to each deposit (quarry, pit, borehole). Such accounting procedures shall be established by the Cabinet of Ministers of Ukraine.

9.4. The amount of allocation for depreciation of expenses on extraction of mineral wealth shall be calculated for the given accounting period using this formula:

$$S(a) = B(a) \times O(a) / O(t)$$

where:

- S(a) means the amount (sum) of allocation for depreciation during the accounting quarter;
- B(b) means the book cost of the group (of fixed assets) as of the beginning of the accounting period, equal to the book cost of this group at the start of the quarter preceding the accounting period, multiplied by the amount of expenses on the prospecting (supplementary exploration) and equipment of deposits (boreholes/wells) that were sustained during the previous quarter;
- O(a) means the amount (actual size) of natural wealth factually extracted during the accounting quarter;
- O(t) means the total rated value (actual size) of natural wealth yielded by the given deposit during the accounting period.

Taxpayers under all forms of ownership shall have the right to annually adjust the book cost of expenses involved in the extraction of mineral wealth to the indexation coefficient obtained using this formula:

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

where:

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

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

Taxpayers using the indexation coefficient shall be under the obligation to declare capital revenues in amounts equal to the difference between the book cost of expenses involved in the extraction of mineral wealth, as of the start of the accounting year, using this indexation coefficient, and that of such expenses prior to this indexation.

Said capital revenues shall be referred to that taxpayer's gross revenues in each accounting quarter of the fiscal year, in an amount obtained as the result of adding the amount of capital revenue to the coefficient:

$$O(ay) / O(t) / 4$$

where:

- O(ay) means the amount (actual size) of natural wealth actually extracted throughout the year preceding the accounting period;

- O(t) means the total rated value (actual size) of natural wealth yielded by the given deposit.

9.5. The total rated value of natural wealth thus extracted shall be determined using methods adopted by the Cabinet of Ministers of Ukraine.

9.6. In the event that work aimed at prospecting (supplementary exploration) of deposits of natural wealth yields no results or if the given taxpayer resolves to abandon further prospecting or developing such deposits due to its cost inefficiency, expenses involved in such prospecting (supplementary explorations) may be referred to gross production (turnover) costs in the current tax period, with the balance cost of this group of expenses involved in the extraction of mineral wealth having zero value.

### **Article 10. Tax Rate**

10.1. Taxpayers' revenues, including (those of) enterprises under individual ownership, shall be taxable at 30percent per taxation object.

10.2. Any person making payments to an individual or entity when winning at lottery, casino or other gambling places (houses) shall be under the obligation to deduct 30 percent from this win as payment to the budget.

This Clause shall not apply to state lottery. State lottery shall be understood as a lottery allowed by the Ministry of Finance of Ukraine, on terms envisaging a prize pool in an amount not less than 50 percent of the proceeds, and deductions to the State Budget of Ukraine of at least 30 percent of the proceeds less payments from the prize pool.

### **Article 11. Accounting Rules**

#### 11.1. Tax Periods

For the purposes of this Law, the following periods shall be used:

- Accounting (tax) year, meaning a period from January 1 till December 31 of the current year;
- Accounting (tax) quarter.

#### 11.2. Date of Increasing Gross Costs

11.2.1. The date of increasing gross production (turnover) costs shall be a date during the accounting period in which any of the previous events took place, or

- The date of drawing from a taxpayer's bank account the amount payable for goods (works, services), or when buying any of this for cash, the date of such payment made by the taxpayer's cash department, or
- The date on which a taxpayer receives goods ,and regarding works (services)- the date of actual receipt of the results thereof.

11.2.2. With regard to taxpayers acquiring works (goods, services) using credit or debit cards or commercial checks, the date of increasing gross costs shall be the date of drawing up an appropriate bill (purchase receipt).

11.2.3. With regard to swap deals (barter), this date shall be the date of the final (balancing) transaction performed after the first operation determined by Clause 11.3.4 hereunder.

11.3.1 The date of increasing gross revenues shall be the date on which any of the previous events occurred in the given accounting period; or

-The date on which the buyer's (customer's) funds were entered on the taxpayer's bank account as payment for goods (works, services) to be sold.

- when selling goods (works, services) for cash, this date shall be the date on which such amount was received by the taxpayer's cash department and in the absence of a cash department, the date of collection of this amount in cash by the taxpayer's serving bank, or

- the date of shipment of goods, and in the case of works (services), the date on which their results became actually available to the taxpayer.

11.3.2. When trading in products (foreign exchange values) or works (services) using vending machines or other such equipment that does not require the presence of cash registers to be supervised by an authorized individual, the date of increasing gross revenues shall be the date of cash withdrawal from such vending machines or other equipment.

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

In cases when such products (works, services) are dispensed by vending machines using slugs, cards or other substitutes of the Hryvnia, the date of increasing gross revenues shall be the date of sale of such slugs, cards or other substitutes of the Hryvnia.

11.3.3. When such goods (works, services) are sold using credit or debit cards, traveler's, commercial, personal or other checks, the date of increasing gross revenues shall be the date of drawing up appropriate bills (purchase receipts).

11.3.4. In the case of barter (swap deals), the date of increasing gross revenues shall be (the date of) any of the following events that happened previously,

- or the date of shipment; in the case of works (services), this shall be the date on which their results become actually available to the given taxpayer,

- or the date of receipt of goods; in the case of works (services), the date on which the taxpayer actually receives their results.

11.3.5. When selling goods (works, services) with payments financed by the budget, the date of increasing gross revenues shall be the date of remittance of such budget funds on the taxpayer's settlement account or shall be the date on which an

appropriate compensation in any other form is received, including reductions in the taxpayer's budget liabilities.

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

If the debtor delays interest/commission payments, the creditor shall have the right to activate the mechanism of bad debt regulation, as per Clause 12.1. of Article 12 hereunder. The accrual method used to determine the creditor's tax liabilities on such loans/deposits shall not be applied until full redemption of such liabilities by the creditor or until such debts or parts thereof are written off and carried to the creditor's expenses, in keeping with procedures established by this Law.

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

## **Article 12. Bad Debts**

### **12.1. Procedures of Regulation of Doubtful and Bad Debts**

12.1.1. Taxpayers selling goods (works, services), including banks and non-banking financial establishments, shall have the right to reduce gross revenues in the given accounting period by the cost of goods forwarded (works/services provided) in cases when their buyers delay payments without prior agreement with these taxpayers. Said reductions shall be allowed when such delay in payments for goods (works, services) exceed 30 days from the date stated in the contract, and after the taxpayer has turned to a court of law (arbitration) for exacting such payments.

12.1.2. If the court of law (arbitration) fails to answer to such claim because of the taxpayer or answers to it partially, the taxpayer shall be under the obligation to increase gross revenues of the relevant accounting period by the cost of goods forwarded (works/services provided) or by that part of such cost which was not recognized by the court of law (arbitration) and accrue penalties at the National Bank of Ukraine's rate effective on the date of such increase, multiplied by 1.2. Said penalties shall be calculated from the first day of the accounting period following the one in which gross incomes were thus increased.

12.1.3. When appealing such court ruling (arbitration award), in keeping with legally set procedures, the taxpayer shall not have to increase gross revenues, as per Clause 12.1.2. hereinabove, until the final ruling in the case.

12.1.4. Notice on gross revenue reduction and a copy of the court's decision to initiate civil proceedings in the case shall be submitted to the (local) inland revenue authority in keeping with procedures established by the central inland revenue authority.

## 12.2. Specificities of Covering Bad Debts by Banks and Non-Banking Financial Establishments

12.2.1. Any bank or non-banking financial establishment, set up in keeping with legally set procedures, except insurance companies (hereinafter referred to as financial institutions), shall be under the obligation to form insurance reserves to indemnify such losses as may be sustained in terms of the principal debt (less interest and commission fees) under all types of loans and other dynamic operations referred to these institutions' principal activities as provided by law.

12.2.2. With regard to provisions of Clause 12.2.3. hereunder, such insurance reserves shall be formed by each financial institution independently, in an amount sufficing to cover the risk of nonreturn of the principal debt under such loans (other liabilities) as may be recognized nonstandard using methods established by the National Bank of Ukraine for banks, and by the Cabinet of Ministers of Ukraine for non-banking financial institutions; also under loans (other liabilities) recognized as bad debts by this Law.

12.2.3. The amount of such insurance reserves as may be formed by increasing gross costs of such financial institutions shall not be in excess of:

- 20 percent of the debt liabilities with regard to commercial banks particularly in terms of the joined debt under loans and guarantees actually given debtors (valued) on the last business day of the given tax period;
- Amount established by the laws on non-banking financial institutions, but not in excess of 30 percent of the amount of debt liabilities, particularly in terms of the joined debt of such non-banking financial institutions on the last business day of the tax period.

The amount of said liabilities shall not include debtors' liabilities arising from operations that are not part of the given financial institution's principal activities.

The notion "principal activities" shall interpreted as operations defined by Article 3 of the Law of Ukraine "On Banks and Banking", and be relevant articles of the laws on non-banking financial institutions.

12.2.4. When reducing the aggregate amount of nonstandard or bad loans (other liabilities) as results of the given accounting period, due to their transfer to the standard category or referral to gross costs, using procedures set forth in Clause 12.3. hereunder, or when reducing the amount of debt liabilities used as the basis for restrictions as per Clause 12.2.3. hereinabove, the excess amount of insurance reserve shall be used to increase the gross revenue of this financial institution as per results of this accounting period.

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

12.3. Procedures of Indemnification of Bad Debts at the Expense of Taxpayers' Insurance Reserves

12.3.1. Bad debts shall be referred to the creditors' gross costs, provided the period of limitation under the given loan agreement with debtor has expired by the time this Law comes into effect. In cases when this period is still valid at the time of enactment of this Law, bad debts shall be indemnified using insurance reserves and shall be referred to gross costs in keeping with procedures stipulated by other Items of this Clause.

In each such case, the debtor's gross revenues shall be increased by the amount of his/their liabilities in the given accounting period.

12.3.2. Bad debts under contracts envisaging the issue of a bill for the creditor's benefit, as the guarantee of the debtor's commitments, shall be reimbursed at the expense of that creditor's insurance reserve, provided the protested bill has remained unpaid for 30 calendar days from the date of the protest, and provided the payee of bill has commenced bankruptcy arbitration proceedings.

In such case, the gross income of the drawer of the bill shall be increased by the amount of the bill protested for nonpayment, within the taxation period into which the 30th calendar day from the moment of protesting such bill falls.

12.3.3. Bad debt of a debtor, who has been declared bankrupt according to the procedure set forth by the law, shall be reimbursed from the insurance fund of the creditor after a court decides that the debtor should be considered bankrupt. Money received by the creditor after the liquidation procedure is completed and the property of the debtor is sold, shall be added to gross incomes of the creditor, within the taxation period during which such moneys were received.

In case when a creditor grants a loan to a debtor against which a bankruptcy case had been initiated before the loan agreement was signed, and when information about the initiation of such case was published (except for cases when financial loans under debtor's rehabilitation procedures are granted against the corporate rights of the debtor), bad debts deriving out of such loan shall be reimbursed only at the expense of the creditor.

In such case, the gross income of the debtor, who has been declared bankrupt according to the procedure set forth by the law, shall not be increased by the amount of such bad debt.

12.3.4. Debts on pawn shall be reimbursed according to the procedure prescribed by the Law of Ukraine "On Mortgage".

The mortgagee may reimburse, from the insurance fund, a part of debt remaining outstanding due to insufficiency of moneys received by the creditor from the sales of mortgaged property of the debtor, and provided that other legal acts of the creditor aimed at compulsory withdrawal of other debtor's property have not covered the debt completely. Sales of mortgaged property shall be made only through auctions (public tenders). In case when mortgaged property is disposed of otherwise, the creditor shall cover losses by profit remaining after taxation.

The procedure for holding of auctions (public tenders) shall be set forth by the Cabinet of Ministers of Ukraine.

12.3.5. Bad debt which has been caused by the inability of the debtor to repay the debt due to acts of the God or natural calamities (force major), shall be reimbursed from the insurance fund of the creditor if any of the following documents exist:

confirmation of the Ukrainian Chamber of Commerce and Industry about the existence of force major circumstances on the territory of Ukraine, or

confirmation of authorized institutions of another country, legalized by Ukraine's consular office, about the existence of force major circumstances on the territory of such country;

declaration by the President of Ukraine of extraordinary ecological situation in some areas of Ukraine approved by the Supreme Rada of Ukraine, or decision of the Cabinet of Ministers of Ukraine to declare some areas of Ukraine as suffering from flood, draught, fire and other natural calamities, including decisions to declare some areas as suffering from unfavorable weather conditions which resulted in the loss of harvest in amounts exceeding 30 per cent of average harvest for the preceding five years.

In such case the gross income of the debtor shall not be increased by the amount of debt caused by the debtor's inability to repay such debt due to the acts of God or natural calamities (force major), during the whole period such force major circumstances were in force.

12.3.6. Overdue debts of enterprises, institutions and organizations whose property may not be sequestered (or those not subject to privatization) in compliance with the law of Ukraine, shall be reimbursed from the insurance fund of the creditor in case when during 30 calendar days from the moment the debt became overdue such debt was not repaid from the State Budget of Ukraine or from respective local budgets, or was not reimbursed otherwise.

In such case, the creditor, within the time set forth by the law, shall apply to a court of law (court of arbitration) with a claim for reimbursement of losses caused by debtor's failure to repay this loan. In case when the creditor fails to apply to the court of law (court of arbitration) within the time set forth by the law, or when the court of law (court of arbitration) rejects the claim or refuses to consider the claim, the creditor shall

increase gross income by the amount of the bad debt within the respective taxation period.

12.3.7. Overdue debts of natural persons who have been declared missing or dead by a court, shall be reimbursed from the insurance fund of the creditor provided that the decision of the court to declare such natural persons missing or dead was adopted after the loan agreement had been concluded.

In such case the creditor may undertake legal actions to reimburse the bad debt from the legacy of such natural persons, within the limits and according to the procedure set forth by the law.

12.3.8. Overdue debts existing under agreements, which a court has declared to be fully or partially invalid through the fault of the debtor, shall be reimbursed from the insurance fund of the creditor in case when the debtor fails to repay the debt under said agreements within 30 calendar days from the date when the court declared such agreements fully or partially invalid.

In such case the gross income of the debtor shall be increased by the amount of such debt within the taxation period, into which falls the decision of the court of law (court of arbitration) to declare such agreements fully or partially invalid through the fault of the debtor.

12.3.9. Overdue debts existing under agreements (or parts thereof), which a court has declared invalid through the fault of the creditor or through the fault of both parties, shall be reimbursed by debtor's repayment of the amount of debt, and in case such amount is not repaid within 30 calendar days - from the profit of the creditor after taxation.

In such case the gross income of the debtor shall be increased by the amount of such debt within the taxation period, into which falls the decision of the court of law (court of arbitration) to declare such agreements (or parts thereof) invalid through the fault of both parties.

12.3.10. Overdue debts of natural persons with respect to whom investigation has been initiated according to the provisions of the Criminal Procedure Code of Ukraine, shall be reimbursed from the insurance fund of the creditor in case when during 180 days from the date the investigation had started the location of the person was not established.

12.3.11. Overdue debts of legal entities with respect to chief executive officers of which investigation has been initiated according to the provisions of the Criminal Procedure Code of Ukraine, shall be reimbursed from the insurance fund of the creditor in case when during 180 days from the date the investigation had started the location of the person was not established.

12.3.12. In case when all efforts to recover bad debts according to Clause 12.3 of this Article have not brought positive results, banks and non-banking financial institutions shall add such debts to gross expenditures in amount not reimbursed from the insurance fund created in compliance with this Article.

#### 12.4. Additional Provisions

12.4.1. In case when the debtor fully or partially repays the bad debt which was already added by the creditor to his gross expenditures, and which was reimbursed from the insurance fund in compliance with Clause 12.1 and Clause 12.3 of this Article, the creditor shall increase his gross income by the amount received from the debtor within the taxation period in which the repayment of said debt or part thereof took place.

12.4.2. In case when, in the opinion of a respective authorized institution determined in Clause 12.3.5, Clause 12.3 of this Article, the force major circumstances are temporary and do not effect the capacity of the debtor to repay the debt after they expired, the creditor shall submit a demand to the debtor to pay the said debt within 30 calendar days after such force major circumstances expired. In case when the debtor failed to repay the said debt, or when the creditor failed to file a claim for reimbursement of such debt with a court of law (court of arbitration) within the time set forth by the law, gross incomes of the creditor and the debtor shall be increased by the amount of such debt.

12.4.3. In case when a natural person-debtor, who has been recognized by a court as missing or dead, appears, the creditor shall undertake relevant actions to recover the debt from such person. In case when such natural person repays the debt, which was earlier added by the creditor to his gross expenditures or reimbursed from the insurance fund, the creditor shall increase the gross income by the amount received from the debtor, within the taxation period during which the said debt was repaid.

12.4.4. In case when, according to the law, the decision to declare agreements invalid has been canceled, and the creditor fails to appeal against such decision within the time set forth by the law, the creditor shall increase his gross income by the amount of the debt which was earlier added to gross expenditures or reimbursed from the insurance fund, within the taxation period during which the time for appeal expired.

12.4.5. In case when a natural person with respect to whom investigation had initiated, was found and repaid the debt, which was earlier added by the creditor to gross expenditures or reimbursed from the insurance fund, the creditor shall increase the gross income by the amount received from the debtor, within the taxation period during which the repayment of the said debt (part thereof) took place.

12.4.6. In case when legal entities or natural persons, who have been declared guilty of causing damages according to the provisions of the Civil Code of Ukraine, repay the debt of a natural person, which was earlier added by the creditor to his gross expenditures or reimbursed from the insurance fund, the creditor shall increase the gross

income by the amount received as repayment of the debtor's debt, within the taxation period during which the repayment of the said debt (part thereof) took place.

### **Article 13. Taxation of Non-Residents**

13.1. Gross incomes of non-residents who do not exercise business activities in Ukraine through a permanent representative office, received from sources on the territory of Ukraine (including permanent representative offices of such non-residents), with the exception of incomes specified in Clauses 13.2-13.5 of this Article, shall be taxed at the rate of 15 percent at the time of payment of such incomes.

Gross incomes of non-residents who do not exercise business activities in Ukraine through a permanent representative office, received from sources on the territory of Ukraine (including permanent representative offices of such non-residents), in the form of interest (dividends) on securities which are issued by persons who are not payers of this tax, shall be taxed at the rate of 30 per cent at the time of payment of such incomes. In this case the tax specified in Paragraph 1 of this Clause shall not be applied.

13.2. Incomes of non-residents received from residents as payment for the freight of vehicles shall be taxed at the rate of 6 percent at the source of payment of these incomes at the expense of these payments.

13.3. Incomes of non-residents received in the form of insurance fees, insurance payments or insurance premiums from re-insurance of risks on the territory of Ukraine shall be taxed at the rate of 10 percent at the source of payment of these incomes at the expense of these payments.

Incomes of non-residents received in the form of insurance fees, insurance payments or insurance premiums from insurance of risks on the territory of Ukraine, as well as incomes from rendering advertising services on the territory of Ukraine shall be taxed at the rate of 30 percent at the source of their payment at the expense of these payments.

13.4. Incomes of non-residents received in the form of dividends on corporate securities issued by the residents of Ukraine shall be taxed at the rate of 30 percent at the source of their payment at the expense of these payments.

13.5. Incomes of non-residents who conduct their business on the territory of Ukraine through permanent representative offices shall be taxed according to a common procedure. In such case the permanent representative office for taxation purposes shall be treated equally to a tax-payer who conducts his business independently from such non-resident.

In case when a non-resident conducts his business not only in Ukraine, but outside the country as well, as when he does not separately calculate profits received from business conducted through the permanent representative office in Ukraine, the

amount of profit subject to taxation in Ukraine shall be determined on the basis of a split-up balance sheet compiled by the non-resident and approved by the tax body at the location of such representative office.

In case when it is impossible, by way of direct calculations, to determine the profit received by non-residents from business conducted in Ukraine, it shall be determined by a respective tax body on the basis of the gross income or expenditures proceeding from the profitability margin of 30 percent.

13.6. For taxation purposes, permanent representative offices shall also include residents of Ukraine whose main business is the rendering of agency, trust or commission and other similar services, at the expense of, and in favor of a non-resident.

#### **Article 14. Taxation of Agricultural Manufacturers**

14.1. Enterprises whose main business is the manufacturing of agricultural products shall pay profit tax according to the procedure and in amount set forth by this Law, based on the results of a tax year.

Gross incomes and expenditures of enterprises manufacturing agricultural products, received (borne) during a tax year shall be subject to indexing (multiplication) on the basis of official inflation index for the period from the month which follows the month when such expenditures were borne (or when such incomes were received), till the end of the tax year.

The amount of profit tax shall be reduced by the amount of tax on land which is used in agricultural turnover.

In case when the results of a tax year show that agricultural enterprises suffered losses, such losses will be moved to reduce gross incomes of future tax years according to a procedure set forth by Article 6 hereof.

14.2. Provisions of Clause 14.1 of this Article shall not apply to enterprises whose main business is the manufacturing and/or sales of decorative flower-growing products, wild-growing plants, wild animals and fowl, fish (with the exception of fish caught in rivers and closed water reservoirs), articles of fur, liquors and vodka, beer, wine and materials for production thereof (except for materials sold for further processing), which shall be taxed according to a common procedure.

#### **Article 15. Introduction of Changes into the Law**

Profit tax rates, tax privileges, objects of taxation, the procedure for calculation of profit subject to tax, and the procedure for payment of taxes to the budget may be set forth and changed only by way of introducing changes into this Law.

## **Article 16. Procedure for Calculating the Tax and Terms of Payment of the Tax**

16.1. Tax payers shall by themselves determine the amount of tax to be paid.

16.2. Profit tax shall be calculated at the rate determined by Article 10 of this Law, on the basis of the amount of profit subject to tax calculated according to Clause 3.1 of this Law, with due regard to provisions of Clauses 7.12, 7.13, 7.14, 14.1, 16.8, 16.9 and Article 6 of this Law.

16.3. Tax to be paid to the budget shall be equal to the amount calculated according to Clause 16.2 of this Article less the cost of trade licenses purchased by the tax-payer in compliance with the Law of Ukraine "On the Licensing of Some Types of Business Activities".

16.4. The tax shall be paid to the budget no later than the 20th day of the month following the reported quarter of the year.

No later than the 25th day of the month following the reported quarter of the year, tax-payers shall submit to a respective tax body their tax declarations showing the profit for the reported quarter of the year, calculated as increasing result from the beginning of the reported fiscal year.

No later than the 15th of February of the year following the reported year, tax-payers shall submit to a respective tax body their annual accounting reports. In cases set forth by the law, such reports shall be confirmed by the results of audit.

Enterprises manufacturing agricultural products shall submit tax declarations showing the profit, as well as forms showing calculations of profit tax, and shall pay the tax together with the submission of the annual accounting reports.

16.5. Payment orders for transfer of the tax to the budget shall be submitted by enterprises to banking institutions before the payment of the tax becomes due.

16.6. No later than 10 days prior to the deadline for submission of documents specified in Clause 16.4 of this Article, tax-payers may send such documents to a respective tax body by recommended mail. In this case, an argument which may arise between the tax-payer and the post-office with respect to untimely delivery of such recommended letter to the tax body, shall be resolved in a court. The procedure for mailing the above documents, and the time for delivery thereof shall be set forth by the Cabinet of Ministers of Ukraine.

Calculations of tax to be paid made by a tax-payer need not be confirmed by tax bodies, with the exception of cases set forth in Clause 16.12 of this Article.

16.7. During a quarter of a year, tax-payers, with the exception of non-residents and manufacturers of agricultural products, shall transfer advance tax payments to the budget for the first and the second months of the quarter, amount of such advance payments being determined according to Clause 16.3 of this Article, calculated as increasing result from the beginning of the year.

Advance payments shall be transferred to the budget based on the results of the first and the second months of the quarter, and before the 20th day of the second and the third months respectively.

Calculation of advance payments shall be made by the tax-payer independently, without the submission of a tax declaration. Within the terms set forth for the transfer of advance payments, the tax-payer shall inform the respective tax body of the results of such calculation. No penalty shall be imposed for difference of the advance payments from payments transferred on the basis of the results of a reported quarter of the year.

16.8. Tax to be paid to the budget by non-residents shall be calculated according to the procedure set forth by Article 13 of this Law.

16.9. Tax to be paid to the budget by tax-payers who conduct insurance business shall be calculated according to the procedure set forth by Article 7.2 of this Law.

16.10. Organizations funded from the state budget shall pay profit tax received from business activities quarterly, in the form of increasing result from the beginning of a reported tax year.

Non-profit organizations determined in Article 7.11 of this Law shall pay tax on profit received from secondary activities according to a common procedure.

16.11. Non-residents who conduct business on the territory of Ukraine through a permanent representative office shall provide for keeping books and records in compliance with the law of Ukraine, quarterly submit to tax bodies at the location of the permanent representative office declaration on profit received from sources on the territory of Ukraine, as well as calculation of profit tax in the form prescribed by the central tax body.

If case when a permanent representative office is discontinued before the expiration of a quarter, the above documents shall be submitted to the respective tax body within 15 calendar days from the moment of such discontinuing.

16.12. Non-resident profit tax shall be quarterly calculated by the tax-payer, and calculations shall be subject to approval by the tax body at the location of the permanent representative office.

A non-resident shall annually receive confirmation about the payment of profit tax from the respective tax body, in the Ukrainian language.

Annual audit of the results of financial and business activities of a non-resident shall be carried out in compliance with the law.

16.13. Responsibility for deduction and transfer to the budget of individuals' income tax, social taxes, and taxes specified in Clause 7.8, Clause 10.2 and Article 13 of this Law, shall be borne by tax-payers who make relevant payments.

Transfers of the above-mentioned taxes to the budget shall be made before/or together with making such payments.

The amount of such payments shall be the source of payment of the above-mentioned taxes.

16.14. Payment of tax by persons other than the tax payer shall not be allowed.

16.15. Procedures for keeping and compiling tax reports, declarations of profit of enterprises, and calculations of tax shall be set forth by the central tax body.

16.16. Amount of tax transferred to the budget in excess may be used for future tax payments, or returned to the tax-payer within 10 days after receiving a written application from such tax-payer.

In case when a tax-payer, which has separate subdivisions without the status of a legal entity, pays the tax on the basis of a consolidated balance sheet, and when the sum of tax calculated on the basis of a consolidated balance sheet is less than the sum of taxes paid by separate subdivisions, such excess shall not be reimbursed from the budget.

### **Article 17. Transfer of Tax to the Budget**

Moneys received as profit tax shall be transferred to the local budget at the location of the tax-payer.

### **Article 18. Special Rules**

In case when an international agreement ratified by the Supreme Rada of Ukraine sets forth rules other than those set forth in this Law, rules of the international agreement shall apply.

18.2. In case of signing agreements with non-residents, it shall not be allowed to incorporate into such agreements tax clauses according to which enterprises who are transferring payments accept income tax obligations of non-residents.

18.3. In case of signing agreements with non-residents located in offshore zones, or whose banking accounts are maintained in offshore zones, or in case of signing agreements which provide for transferring of payments for goods (works, services) in favor of non-residents located in offshore zones, regardless of whether such payments are

made directly or through banking accounts of other residents or non-residents, expenditures of tax-payers used to pay for such goods (works, services) shall be added to their gross expenditures in amount of 85 per cent of the cost of such goods (works, services).

Non-residents located in offshore zones shall include non-residents located in countries, with which established in the countries with which Ukraine has no agreements on the avoiding of double taxation ratified by the Supreme Rada of Ukraine, or established in regions of any countries that have offshore status according to the respective domestic (national) law. The list of regional offshore zones shall be made public by the Cabinet of Ministers of Ukraine on the annual basis.

### **Article 19. Avoiding of Double Taxation**

19.1. Amounts of tax on profit received from foreign sources and paid by business entities abroad shall be taken into account during the payment of profit tax in Ukraine by such business entities. Amounts of tax to be deducted in such cases shall be calculated according to the rules set forth by this Law.

19.2. Amount of the deducted tax on profit received from foreign sources within a tax period may not exceed the amount of tax to be paid in Ukraine by the tax payer within the same period.

19.3. The following taxes shall not be taken into account when deducting tax liabilities:

- capital (property) tax and capital gains tax;
- postal taxes;
- sales taxes;
- other indirect taxes regardless of whether they are included into the category of profit taxes, or other taxes levied in compliance with the law of foreign countries;
- tax paid on passive profit (such as dividends, interest, insurance payments, royalty).

19.4. Amounts of profit tax paid outside the customs border of Ukraine shall be deducted upon submission of a written confirmation from a foreign state tax body about the fact of payment of the tax, and provided there exists a respective international agreement of Ukraine on the avoiding of double taxation of incomes ratified by the Supreme Rada of Ukraine.

### **20. Responsibility of Tax-Payers**

20.1. Tax payers shall bear responsibility for correctness of calculation, timeliness of the payment of the tax, and observance of tax law.

20.2. Tax payers who fail to submit accounting reports and balance sheets, declarations and calculations related to the charge and payment of tax, for the respective

periods at the moment of examination by a tax body, shall pay a penalty in amount of 10 non-taxable individual incomes for the first violation. In case when during the next 12 tax months the tax-payer violates the law for the second time or more, he shall pay a penalty in amount of 10 non-taxable individual incomes multiplies by the number of violations. The above-mentioned 12 months shall count from the taxation period when the last violation occurred.

20.3. Tax payers who have failed to submit the calculations of income subject to tax and bank's confirmation of the transfer of tax to the tax body, or who have submitted them with a delay, shall pay a penalty in amount of 10 per cent of the amount of tax to be paid, for each case of violation.

If the documents have not been submitted or have been submitted with a delay through poor operation of post-offices, the tax-payer shall have the right to appeal against the application of financial sanctions in a court of law.

20.4. If the tax is hidden or understated, the tax payer shall pay the amount of tax recalculated by the respective tax body, penalty in amount set forth by the law, and penalty in amount of 120 per cent of discount rate of the National Bank of Ukraine on the date of payment charged on the total arrears of the whole period.

The penal sanctions stipulated by this Clause shall not apply to tax-payers who have revealed the understated taxable income prior to the examination and sent a written notification about this fact to the tax body, and paid arrears and a penalty in the amount of 120 per cent of discount rate of the National Bank of Ukraine on the date of payment charged on the total arrears of the whole period.

20.5. If in the course of examination the tax body detects mathematical mistakes or miswriting which resulted in the understatement of tax, but in amount no more than 5 per cent of the amount of total tax-payer's tax liabilities for the examined period, the head of the respective tax body may decide not to impose financial sanctions in the form of penalty. The decision of the head of the tax body shall be final and not subject to appeal. This decision shall not release the tax payer from his obligation to pay a penalty calculated according to Clause 20.4 of this Article.

20.6. Unpaid amounts of tax and penalties shall be paid by the tax-payer himself within the terms and according to the procedure set forth by the law.

20.7. Officials who are guilty of the violation of tax law shall be made responsible in compliance with the law.

## **Article 21. Other Provisions**

21.1. Amount of hidden (understated) tax and penalties shall be charged for the whole period of non-payment of the tax.

21.2. On the expiration of the term of payment of the tax to the budget, unpaid amount of tax shall be considered as arrears and charged together with the penalty in amount of 120 percent of discount rate of the National Bank of Ukraine on the date of payment calculated for the total arrears over the whole period.

21.3. Overpaid amount of tax received by the budget due to erroneous calculations or violation of the procedure of tax payment shall be subject either to return from the respective budget within 15 working days from the moment a respective tax body receives a relevant application from the tax-payer, or deduction from further tax liabilities, at the discretion of the tax-payer, provided that the period for submission of claims, set forth by the law, has not expired.

The submission of an application for the return of overpaid amount shall terminate the period for submission of claims.

21.4. Overpaid amount of tax received by the budget due to erroneous calculations (additional calculations) by a tax body shall be subject either to return from the respective budget together with the amount of financial sanctions, or deduction from further liabilities before this budget. For such reimbursement, the tax-payer shall submit an application to such tax body provided that the period for submission of claims, set forth by the law, has not expired. In such case, from the date when the above amounts were transferred to the budget, to the date when they were returned (deducted from future liabilities), the amount to be returned (deducted) shall be increased by 120 per cent of discount rate of the National Bank of Ukraine effective on the day of payment.

21.5. Acts of the central tax body issued in cases directly set forth by this Law and registered by the Ministry of Justice of Ukraine, shall be binding upon taxpayers.

## **Article 22. Final Provisions**

22.1. To put the Law of Ukraine "On Amendments and Additions to the Law of Ukraine "On Enterprise Profit Tax" into force on July 1, 1997.

22.2. The Law of Ukraine "On Amendments and Additions to the Law of Ukraine «On Enterprise Profit Tax" shall apply to payments to the state budget on profits and expenditures received or borne since July 1, 1997.

22.3 To establish that during the period from July 1, 1997 till January 1, 2002 additional tax in amount of 1.5 percent of the profit tax shall be transferred to a special account of local budgets for the purposes of financing construction of housing for the military, participants of warfare in Afghanistan and war conflicts in foreign countries, and family members of the military who died during the discharge of their official duties.

22.4. Depreciation rates set forth in Article 8 of this Law, in 1997 shall be multiplied by the coefficient of 0.7, and since January 1, 1998 they shall be applied without any reducing coefficient.

22.5. To establish that taxation of profit of enterprises registered in the Sivash experimental economic zone shall be made in compliance with the Law of Ukraine "On Some Issues of Monetary Regulation and Taxation of Entities Registered in the Sivash Experimental Economic Zone". Other legislative acts shall apply insofar as they do not contradict with this Law until they are brought in compliance with the Law of Ukraine "On Amendments and Additions to the Law of Ukraine "On Enterprise Profit Tax".

22.6. To recommend that the President of Ukraine should bring effective normative acts, issued by the President of Ukraine, in compliance with this Law.

22.7. Sanctions which may be applied to tax-payers due to violations of normative acts of the Cabinet of Ministers of Ukraine or the central tax body, adopted within the time set forth by this Article, and in cases directly specified by this Law, shall apply to such tax-payers for the tax period following the tax period during which the above-mentioned acts were promulgated.

22.8. Book value of capital assets, which in compliance with Article 8 of this Law fall into definitions of groups 1, 2 and 3, and which were put into operation before this Law comes into effect, shall be determined as their residual value for the moment this Law comes into effect.

22.9. Book value of intangible assets which were put into operation before this Law comes into effect, shall be determined at their initial book value for the moment this Law comes into effect.

22.10. Book value of expenditures related to extraction of minerals, which fall into the definition given in Article 9 of this Law, and included into the tax-payer's balance sheet before this Law comes into effect, shall be determined as their residual book value for the moment this Law comes into effect.

22.11. For natural deposits partially extracted for the moment this Law comes into effect, the total rated volume of extraction shall be determined as the residual resources of the deposit for the moment this Law comes into effect.

22.12. Provisions of Clause 12.1 of this Law shall not apply to debts which occurred due to delays of payment for goods (works, services) sold (shipped, performed, rendered) before this Law comes into effect.

22.13. For the transitional period, the following normatives for the insurance reserve in terms of banks' total debt claims shall be prescribed according to Clause 12.2.3 of this Article: 40 per cent till December 31, 1999 inclusive; 30 per cent till December 31, 2001 inclusive; 20 per cent since January 1, 2002.

22.14. The date for increasing gross incomes of a tax payer on goods (works, services) sold (performed, rendered) before this Law comes into effect, for which the

buyer did not pay, shall be the date when payment for such goods (works, services) is credited to the account of the tax-payer. The exception shall be made for those tax-payers who use the procedure, according to which proceeds from sales of products (works, services) are determined on the basis of the value of products (works, services) specified in invoices.

22.15. The date for increasing gross incomes and gross expenditures on financial loans granted by banking institutions before this Law comes into effect, shall be the date of payment of interest on such loans by the borrower.

22.16. Taxation of incomes received on sovereign securities shall be applied to incomes received on sovereign securities purchased after this Law comes into effect.

22.17. Article 14 of this Law concerning manufacturers of agricultural products shall be applied to incomes starting from 1998.

22.18. Provisions of Clauses 5.7, 5.8 and 7.14 of this Law shall become effective after the adoption of relevant laws.

22.19. Exchange rate differences accrued during the reported periods preceding the date when this Law comes into effect, shall be written off and shall not be considered when determining incomes and expenditures in compliance with this Law.

The procedure for writing off the accrued exchange rate differences for banks shall be set forth by the National Bank of Ukraine, for other business entities - by the Cabinet of Ministers of Ukraine.

22.20. Due to the introduction of compulsory registration of non-residents' permanent representative offices as tax-payers, the state registration of such permanent representative offices of non-residents shall not be exercised from the moment this Law comes into effect.

22.21. The Cabinet of Ministers of Ukraine shall:

consider proposals concerning the taxation of innovation activities, and submit relevant proposals on this issue to the Supreme Rada of Ukraine by October 1, 1997;

within one month adopt relevant decisions for the purpose of enforcing this Law, within the scope directly determined by this Law;

submit to the Supreme Rada of Ukraine proposals on bringing legislative acts of Ukraine into compliance with this Law;

within one month bring acts of the Government into compliance with this Law.»

President of Ukraine

L. KUCHMA

Kyiv, May 22, 1997  
№ 283/97-VR