

Tax haven Ukraine?

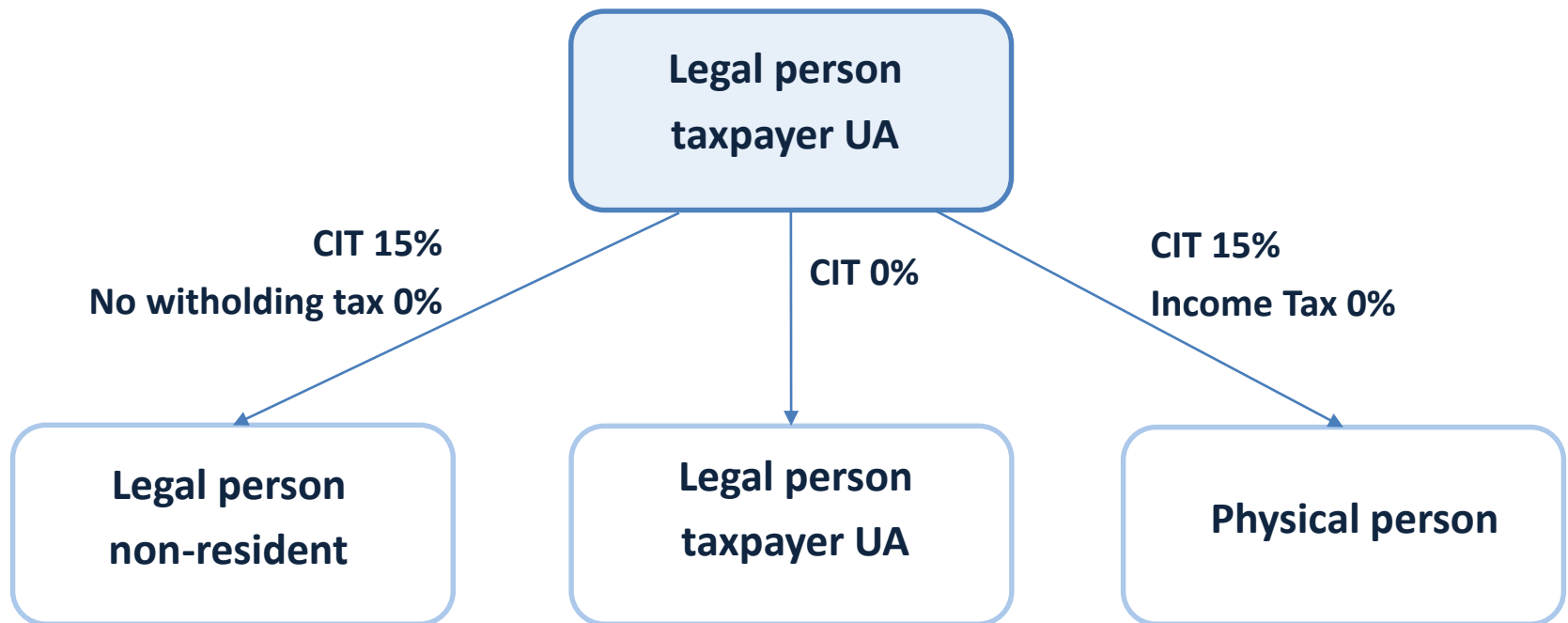
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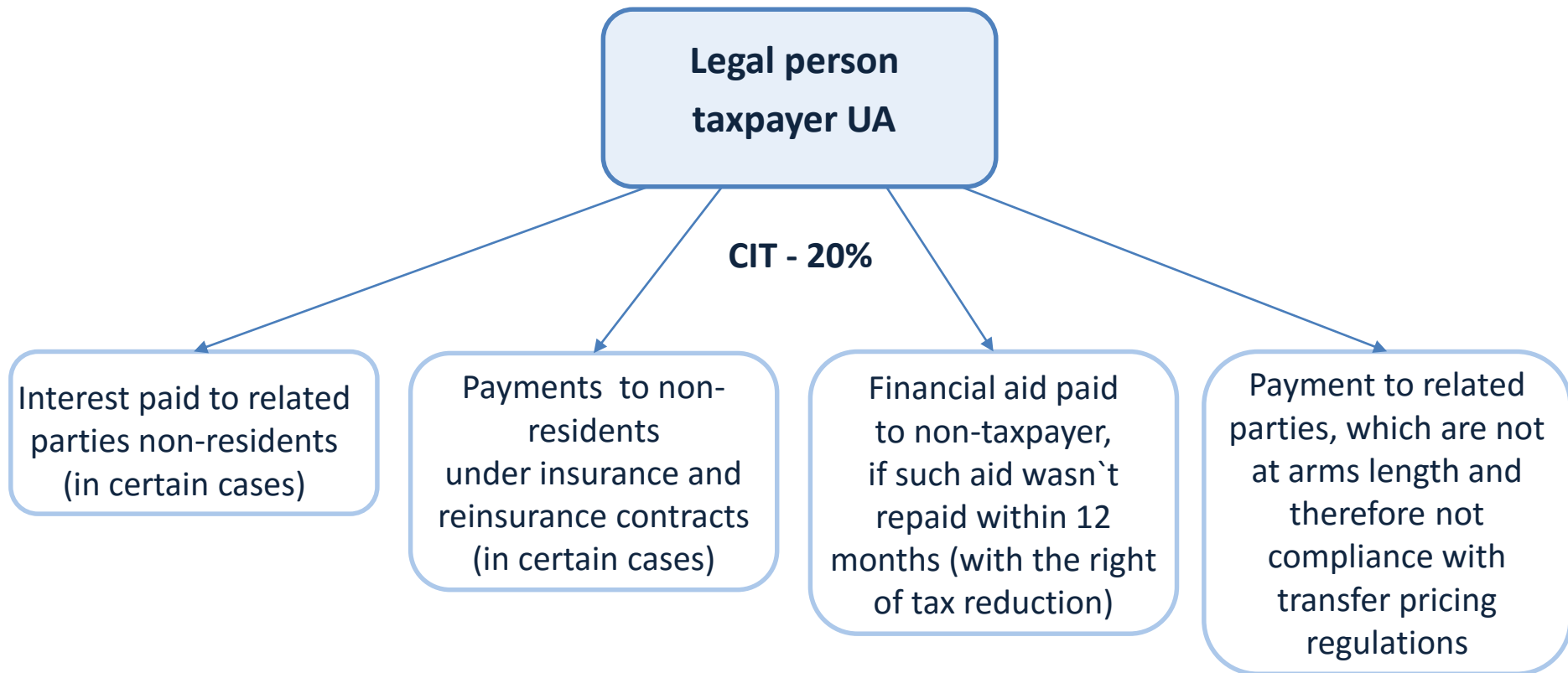
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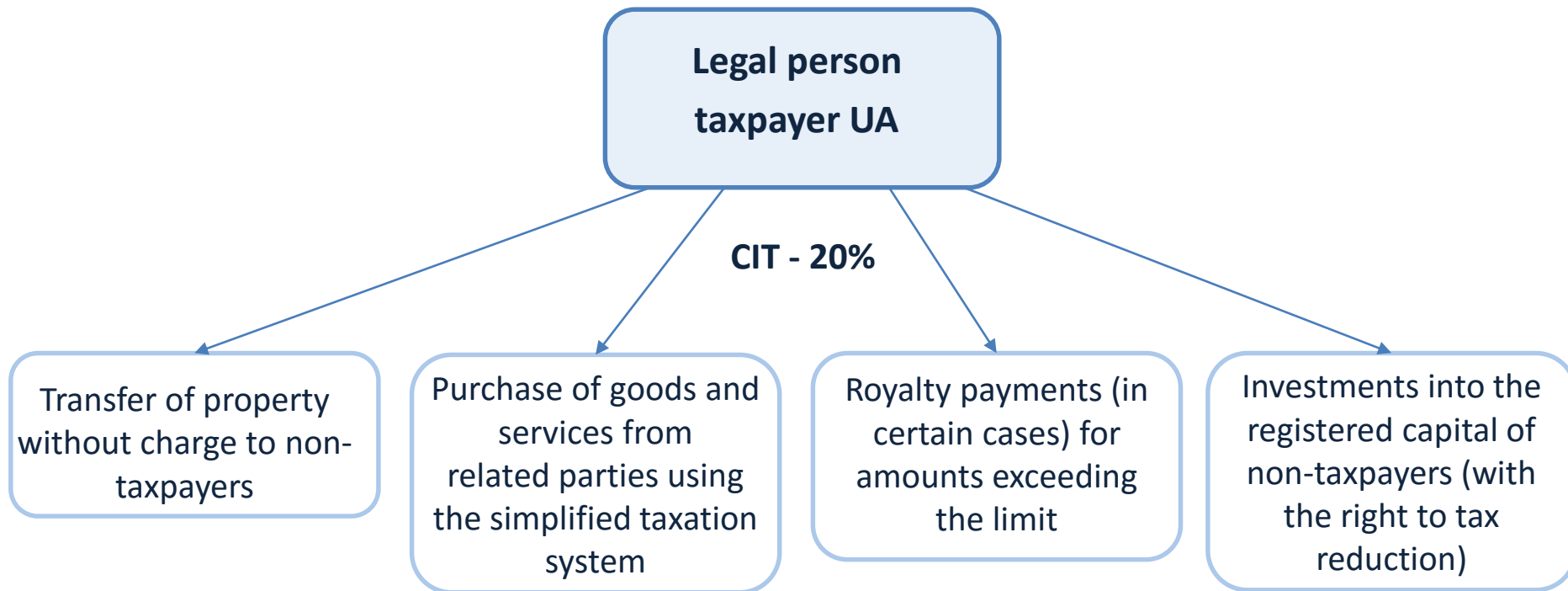
Tax haven Ukraine?



Payments treated as dividends



Payments treated as dividends



Corporate Income Tax – Computation

Tax base = EBIT according to IFRS or UA GAAP +/- tax adjustments *

Tax rate = 18%

Tax adjustments

Depreciation of non-current assets

Financial transactions

Changes in reserves

Other differences (differences derived from valuation of securities, property investments, biological assets)

*** Note:** For taxpayers with income < 20 mln UAH **Tax base = EBIT according to IFRS or UA GAAP**

Corporate Income Tax – Computation

Tax Reconciliation

Description	Amount, UAH
EBIT according to UA GAAP	100 000
Accounting depreciation	25 000
Tax depreciation	(20 000)
Impairment of non-current assets in accounting, included in the expenses for the period	3 000
Provisions for future expenses	15 000
Provisions used for current expenses	(10 000)
Price adjustment for goods, acquired not at arm's length	8 000
30% of the value of services provided by offshore company registered in Cyprus (no TPD)	6 000
Interests paid to mother company exceeding the limit	4 000
Tax loss of the previous periods	(45 000)
Taxable result	86 000
Tax rate	18%
Corporate Income Tax	15 480

Corporate Income Tax – 0%

Period: 01.01.2017 – 31.12.2021

Requirements

1. Income for previous year \leq 3 mln. UAH

AND

2. Each employee's monthly wage during previous year is not less than doubled minimum wages (\geq 6400 UAH)

AND

3. One of the following:

A. Newly established after 01.01.2017 (except established through reorganization, privatization and corporatization)

B. Operating company for 3 years (or less if new): + annual income \leq 3 mln. UAH + 5 - 20 employees average

C. Registered as single tax payer before 01.01.2017: + last year revenue \leq 3 mln.UAH + 5 - 50 employees average

General CIT rules (rate 18%) in the period of exceeding the limits and while dividends payment.

Corporate Income Tax – 0%

EXCEPTIONS

<ul style="list-style-type: none"> • foreign economic activities (except informatisation); 	<ul style="list-style-type: none"> • production and distribution of electricity, gas and water;
<ul style="list-style-type: none"> • wholesale trade and intermediary in wholesale trade; 	<ul style="list-style-type: none"> • production by tolling;
<ul style="list-style-type: none"> • financial and insurance activities (gr. 64 – 66 of CFEA); 	<ul style="list-style-type: none"> • security activity;
<ul style="list-style-type: none"> • legal services and accounting (gr. 69 of CFEA); 	<ul style="list-style-type: none"> • postal and courier activities (gr. 53 of CFEA);
<ul style="list-style-type: none"> • production, wholesale, export and import of excise goods; 	<ul style="list-style-type: none"> • services connected to television and broadcasting;
<ul style="list-style-type: none"> • Production and sale of fuels and lubricants; 	<ul style="list-style-type: none"> • mining and production of precious metals and precious stones;
<ul style="list-style-type: none"> • real estate business (gr. 68 of CFEA); 	<ul style="list-style-type: none"> • currency exchange;
<ul style="list-style-type: none"> • extraction and sale of mineral resources of national importance; 	<ul style="list-style-type: none"> • organization of auction for products of art, collectibles or antiques;
<ul style="list-style-type: none"> • engineering (gr. 71 of CFEA); 	<ul style="list-style-type: none"> • entertainments (billiards, bowling, video games, etc.)

VAT - Administration

Stop of tax invoices registration in the Electronic register since 01.04.2017

Tax authority has a right to stop registration of tax invoices (TI) in the Electronic register (ER) in case TI qualify for risk criterion.

Risk criterion will be determined by the Ministry of Finance (for the moment isn't determined).

Blocking does not apply to companies, which have paid more than 5 million taxes for 12 months.

In case of TI registration shutdown a taxpayer has a right to file a written explanation and documented proof of transaction under this TI to the tax authority within 365 days .

VAT - Administration

VAT Administration

General provisions

- Mandatory registration: volume of transactions for the previous 12 months > 1 Mln UAH
- Taxation base for goods and services \geq acquisition or production costs
- Taxation base for non-current assets \geq net book value

Electronic administration. Objective

- Prevention of illegal formation of a tax credit and VAT reimbursement

Electronic administration. Key points

- Mandatory electronic registration of all tax invoices within 15 days from the date of issue
 - The right for tax credit shall be retained for 365 days
 - Tax invoices registration is possible only provided that tax liabilities are covered by the tax credit from other counterparties or by money transferred to a special account
-

VAT - Administration

$$\sum_{Inv} = \sum_{InvCre} + \sum_{Cust} + \sum_{TransAcc} - \sum_{InvLia} - \sum_{Re} - \sum_{Excess}$$

where:

\sum_{Inv} – liabilities according to tax invoice;

\sum_{InvCre} – total amount of received tax credit;

\sum_{Cust} – total amount of tax paid at customs while importing the goods;

$\sum_{TransAcc}$ – amount transferred to a special account;

\sum_{InvLia} – total amount of tax liabilities;

\sum_{Re} – total tax amount for state budget reimbursement;

\sum_{Excess} – total excess amount of tax liabilities disclosed in tax declarations over tax liabilities in the registered tax invoices.

VAT - Administration

Example:

Tax invoice is to be registered, the VAT amount: 80 000 UAH

Input VAT: 20 000 UAH

VAT paid at customs while importing goods: 30 000 UAH

Tax liabilities according to tax invoices already registered: 10 000 UAH

Sum on a special account: 0 UAH

$$20\ 000 + 30\ 000 - 10\ 000 = 40\ 000$$

In order to register a tax invoices the amount of **40 000 UAH** must be transferred to a special account

$$80\ 000 = 20\ 000 + 30\ 000 + 40\ 000 - 10\ 000$$

VAT - Refund

VAT-

All VAT-payers shall be eligible for VAT refund.

A Single register of VAT amounts subject to refund is introduced. *(Before there were 2 registers: of the 1st priority - for exporters and the 2nd – for all the rest taxpayers)*

- single register of budgetary refund, which made an application for refund in chronological order;
- cameral tax audit within 30 days;
- the amount of refund is agreed within 30 days regardless of whether a tax authority carried cameral tax audit;
- transfer to the current account of the taxpayer within 5 days after agreement;
- refund is carried out within funds available on the Single treasury account.

In fact, refund can be obtained up to 6 months.

VAT - Agriculture

Changes for agricultural producers

Special regime of VAT taxation for agricultural producers, which allowed them to keep a part of VAT at their disposal not paying it to the budget, is **canceled since 01.01.2017**. This leads to the following:

- All agricultural producers will be registered by tax authorities as VAT payers on general conditions;
- Special VAT accounts in the system of electronic administration should be closed after dead-line for tax payment for the last period of 2016 (31.01.2017 for monthly taxation period and 20.02.2017 for quarterly taxation period);
- Transfer of negative difference between tax liabilities and tax credit into VAT tax return for the 1st tax period of 2017.
- Agricultural enterprises received the right for the budget grant (for the moment amount and procedure are not set).

Simplified taxation

Amendments for single taxpayers

Group	Taxation	2017	2016
1 st group	Single tax	Max 10 % of the minimum living wages $10\% * 1600 \text{ UAH} = 160 \text{ UAH}$	Max 10% of the minimum wages $10\% * 1378 \text{ UAH} = 138 \text{ UAH}$
	Single social contribution	Min 50% of generally set rate – 22% $50\% * 22\% * 3200 = 352 \text{ UAH}$	22% of the minimum wages $22\% * 1378 \text{ UAH} = 303,16 \text{ UAH}$
2 nd group	Single tax	Max 20 % of the minimum wages $20\% * 3200 \text{ UAH} = 640 \text{ UAH}$	Max 20% of the minimum wages $20\% * 1378 \text{ UAH} = 275,60 \text{ UAH}$
	Single social contribution	Min 22% of the minimum wages $22\% * 3200 = 704 \text{ UAH}$	22% of the minimum wages $22\% * 1378 \text{ UAH} = 303,16 \text{ UAH}$
3 rd group	Single tax	3% of income (for VAT-payers) 5% of income (for non-VAT-payers)	3% of income (for VAT-payers) 5% of income (for non-VAT-payers)
	Single social contribution	Min 22% of the minimum wages $22\% * 3200 = 704 \text{ UAH}$	22% of the minimum wages $22\% * 1378 \text{ UAH} = 303,16 \text{ UAH}$

Physical person – entrepreneurs subject to general taxation must pay minimum SSC amounted **704 UAH** (22% of the minimum wages) regardless of their income or its absence.

Simplified taxation - Agricultural

Amendments for agricultural producers - single taxpayers (4th group)

Agricultural producers, whose share of agricultural commodity production for the previous tax (reporting) year equals or exceeds 75%

Land type	2017
	Tax rate based on the normative and monetary land evaluation of 1 ha, %
Tillage, hayfields and pasture fields	0,95
Tillage, hayfields and pasture fields in mountain and forest areas	0,57
Perennial plantings	0,57
Perennial plantings in mountain and forest areas	0,19
Water resources	2,43
Tillage, hayfields and pasture fields for breeding and processing on protected ground	6,33

Currency regulations

Regulations	2017
Obligatory sale of foreign currency	50%
Maturity of receivables in foreign currency for goods, works, transport and insurance services	180 days
Pre-schedule repayment of a loan	forbidden
Distribution of dividends to owners	for 2014 - 2016 within the limit of 5 Mln USD per month
Set-off or counter-claims according to export contracts	forbidden
The payment to non- residents for the sale of corporate rights (except sale of shares), reduction of registered capital	within the limit of 5 Mln USD per month

Transfer Pricing

Legislation changes

Criteria for definition of comparable legal persons

A comparable legal person:

- Performs activity, comparable to activity of a taxpayer, and carries out comparable functions.
- Bears no loss according to the financial statement for more than one period among the periods of calculation.
- Legal person neither owns directly or indirectly more than 20% of the corporate rights of another legal person nor has any legal entity that holds directly or indirectly more than 20% of its corporate rights.

Controlled transaction value criteria

Annual revenue of a company >150 mln UAH (>50 mln UAN – 2016)

AND

Amount of the company's transactions with one counterparty >10 mln UAH (>5 mln UAH – 2016)

Reporting deadlines

TP report - by October 1 (May 1 – 2016).

TP documentation – within 30 days upon tax authority request.

Transfer Pricing

Example:

Company	Annual revenue, mln UAH	Amount of business transactions with one counterparty, mln UAH	Obligation/Transfer pricing documentation
A	140	10	No obligation
B	155	8	No obligation
C	160	14	Obligated to submit a report and transfer pricing documentation

Transfer Pricing

Penalties

- Non-submission of a report – 300 minimum living wages ($1\,600 \times 300 = 480\,000$)
- Controlled transactions, not disclosed in a report – 1 % of the transaction value, but not over 300 minimum living wages
- Non-submission of documentation – 3% of the transaction value, but not over 200 minimum living wages ($1\,600 \times 200 = 320\,000$)
- Non-submission of a report /documentation for more than 30 days after dead-line – 5 minimum living wages per day of delay ($1\,600 \times 5 = 6\,400$)
- Late report submission – 1 minimum living wage (1 600) per day of delay, but not over 300 minimum living wages
- Late controlled transactions disclosure – 1 minimum living wage (1 600) per day of delay, but not over 300 living wages
- Late documentation submission – 2 minimum living wages ($1\,600 \times 2 = 3\,200$) per day of delay, but not over 200 minimum living wages

Liberalization of currency regulations

Regulations	2017	Beginning of 2016
Obligatory sale of foreign currency	65%	75%
Maturity of receivables in foreign currency for goods, works, transport and insurance services	180 days	90 days
Maturity of receivables in foreign currency for services	Canceled	180 days
Pre-schedule repayment of a loan	permitted, if the creditor is a bank, for others – forbidden	forbidden
Distribution of dividends to owners	allowed for 2014 - 2016*	forbidden
Set-off or counter-claims according to export contracts	forbidden	forbidden
The payment to non- residents for the sale of corporate rights (except sale of shares), reduction of registered capital	canceled	forbidden
Confirmation of price for imported service (reference of Derzhsovnishinform)	canceled	> 50 000,00 Euro
Pension tax from currency purchase in cash	canceled	2%

* not more than 5 Mln USD per month

Taxpayers' Concerns

Taxpayers' Concerns

- Tax legislation changes in the last days of December 2014, 2015 and 2016
 - As of 01.07.2017 Cabinet of Ministers had to draft a law introducing a new tax regime
 - Still VAT refund problems
 - Tax administration issues:
 - poor quality of tax inspections -> illegal fines
 - careless records of tax payments ("taxpayers' cards") -> illegal fines
 - formalist approach to taxpayers' claims -> rule of law is at danger
 - Debt-to-equity swap – forbidden by the Civil Code
 - Some currency restrictions remain (e.g. dividend payment prohibition)
 - Complex transfer pricing documentation
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Taxpayers' Concerns

New changes into the Tax Code = new mistakes in Tax legislation, e.g.:

- Tax police is outlaw from January 1, 2017 (respective section was excluded from the Tax code).
 - Agricultural producers cannot pay taxes for 2016 because their special VAT accounts are closed from January 5, 2017 (tax authorities made a mistake contrary to the law, Ministry of Finance tries to resolve the situation)
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