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The Minister of Economy Habeck with his delegation in Kyiv

"Ukraine must get a clear signal: we believe that it will win, that it will be rebuilt, that Ukraine will become a strong economic partner in the future", – said the Federal Minister for Economic Affairs and Climate Action, Dr. Robert Habeck, who came on April 2 with a two-day visit to Kyiv.

To confirm these words, R. Habeck was accompanied by a delegation consisting of seven persons – the representatives of companies and associations. The agenda of the visit presupposed participation in the conference organized by AHK Ukraine and a meeting with top officials, in particular, with the Minister for Communities, Territories and Infrastructure Development of Ukraine Oleksandr Kubrakov and the Minister for Energy Herman Halushchenko.

TOV Kreisel - Construction Materials, Fastiv, Kyiv Region

Along with that, the economic delegation visited the seed plant of Bayer company in Pochuyky, Zhytomyr region, and the construction materials manufacturing company of the Bavarian group Fixit in Fastiv. Both Bayer and Fixit invest in their Ukrainian locations, thus showing that Ukraine still remains the place of capital investment for German companies. In Lviv region, the Fixit group has used the investment guarantee tool while making new investments. Thanks to it, companies can provide insurance for their investment, in particular, against war-related damages.

One of the members of the delegation was the CEO of the Association of German Chambers of Commerce and Industry Martin Wansleben. He stressed the key role AHK Ukraine will play in the process

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Seed plant of Bayer company in Pochuyky, Zhytomyr

of small and medium-sized business development. "The visit of the Federal Minister Habeck comes as a signal and a proposal of the German economy concerning its involvement in the joint reconstruction of Ukraine", – says M. Wansleben.

It should also serve the purpose of identifying possible barriers. "We have to do our best to overcome the hurdles as soon as possible via negotiations with the Federal Government, insurance companies as well as European partner countries". The Government of Ukraine shows its openness to such improvement of investment conditions in the country. It has launched a number of projects, in particular, projects related to anti-corruption. Besides that, the negotiations on admission to the EU or preparation to accession encourage considerable improvements.

The capacity for enhanced cooperation is found by M. Wansleben and the German chambers of commerce and industry primarily in such sectors as construction, transport, municipal infrastructure, and energy.

Gerit Schultze | Berlin

Low demand for new cars in Ukraine

Blocked ports, national currency devaluation, and forced displacement of millions of residents abroad: the year of war – 2022 – became a really tough year for the Ukrainian car market

The full-scale Russian war has affected the car market of Ukraine more than other industries in the country. The sales of new motor vehicles shrank in 2022 by almost two thirds as compared to the previous year and made just 38,000 units. This figure was the lowest since the beginning of the 2000s. The sales of buses and trucks also shrank very substantially.

Cheap used cars resulting from exemption from duty payment

In spring the sales of new cars shrank not just because of Russia's invasion. Due to the fact that many transport facilities were damaged in wartime (Kyiv School of Economics reports on 195,000 units in 2022), the Government canceled the car import duty over the period from April to June. Due to that, the stock of vehicles was replenished again – with profitably imported cars. That rule was valid for new and used cars.

Still, exemption from duty payment caused a boom in used car import. According to the data of the Automotive Market Research Institute (Kyiv), 405,000 cars were imported to the country over the whole year. And this figure was still one fourth lower than the figure of the pre-war year. The customs cost of about 78 percent of transport facilities was $5,000 lower. Particularly popular were such brands as "Volkswagen" (77,000 units), "Renault" (35,000 units), and "Ford" (29,000 units).

Trading in new cars stabilized in the summer – after customs preferences were canceled. In December the sales of new transport facilities amounted to 3,860 units and reached the figures of the respective months before the war. The most popular brands among new cars in 2022 were "Toyota" (18-percent market share), "Renault" (10 percent), and "Skoda" (7 percent). Most German car brands in 2023 were subject to wealth tax payment.

Sales of transport facilities in Ukraine (units)

Category	2020	2021	2022	2022/2021, %
Motor vehicles	85,450	103,245	37,890	-63.3
Used transport facilities	11,578	15,846	6,857	-56.7
Buses	1,958	2,681	914	-65.9

It makes 25,000 UAH (some 620 EUR, with the average exchange rate of 2022: 1 EUR = 33.98 UAH) for cars that cost more than 2.25 mln. UAH (56,200 EUR).

Income is still very low

In any case, the potential for further development still remains limited. According to the estimates of the Automotive Market Research Institute, most households now can afford only cars within the price segment from $5,000 to $10,000. And the segment of new cars goes only from $15,000 upwards. If there are no credit programs or if the income of prospective buyers does not increase, their possibilities can hardly expand.

According to the data of the National Bank of Ukraine (NBU), the actual salary in 2022 reduced by one fourth, and in 2023 it will increase by 5 percent at the most. Thus, after the beginning of the war, there

occurred a considerable reduction in the purchasing capacity of residents, and that is related to high inflation and devaluation of the national monetary unit – hryvnia.

E-cars are conquering the market

The year 2022 became a highly controversial year for e-car trade expansion. Right after the outbreak of the war in Ukraine, a problem arose with petrol and diesel fuel sales. The prices at car fueling stations increased, while electricity still remained accessible and cheap. According to the estimates made by Forbes, in the summer of 2022 a kilometer driven by an e-car cost 0.22 UAH, or 0.006 EUR, while a kilometer by a transport facility with a combustion engine cost 5.20 UAH (0.15 EUR). Due to this, the demand for e-cars increased. After the purposeful Russian strikes on the energy infrastructure, starting with October 2022, there were no more guarantees that cars could be charged with electricity, therefore, the growth in this market segment slowed down.

As a result, 13,600 new and used e-cars were sold in Ukraine over the year, which is 50 % more than in the year before. These include 2,300 new cars. The main brands were "Nissan", "Volkswagen", and "Tesla".

French cars with low weight capacity are the leaders

Trading in new and used vans for carrying small freight up to 3.5 tons in 2022 fell down by 33 percent and made up 46,734 units. 3,000 transport facilities out of these were new cars, and the sales leaders were "Renault Express", "Fiat Doblo", and "Renault Master". As compared to 2021, the sales of new cars shrank by more than 60 percent. These figures were published by the Automotive Market Research Institute (Kyiv).

19,900 trucks with overall acceptable weight exceeding 3.5 tons were sold. But only 1,472 of them were new trucks (635 imported and 837 produced or re-equipped in Ukraine). The most popular brands were "Scania", "Ford", "Mercedes-Benz", "Iveco", and "KAMAZ".

Bus sales shrinkage

Bus sales decreased in 2022. According to the data of the Automotive Market Research Institute, all in all, 6,000 new and used buses were sold. This category includes micro-buses of the following brands: "Ford Transit" or "Mercedes-Benz Sprinter". As compared to the previous year, the fall made 41 percent. Only 159 new buses were imported over the year. Along with that, 475 buses assembled in the country were registered. Particularly popular among the new transport facilities were brands like "Bohdan/Ataman", "BAZ", and "Ford Transit".

Niche sector car producers have re-launched production

"Pozhmashyna" plant in Chernihiv region, specializing in the manufacturing of fire-fighter trucks, re-launched production in October 2022. The chassis for transport facilities comes from the "Isuza" company, and assembly is performed locally. 60 percent of component parts come from Ukrainian producers, as informed by "Pozhmashyna".

And Chernihiv Car Plant has re-launched production of school buses in limited numbers.

Poor situation with domestic production

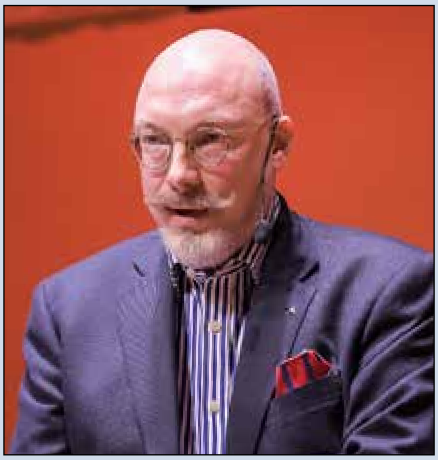
According to the data of the sectoral association Ukravtoprom, 1,756 motor vehicles were produced in Ukraine over the ten months of 2022. As compared to the previous year, the decrease constituted 37 percent. The only plant that re-launched motor car manufacturing was "Eurocar" in Zakarpattia. The company assembles "Skoda" of "Volkswagen" concern using the SKD (semi-knocked-down) method on contract terms.

Lutsk Car Plant which used to specialize in the production of buses intends to launch production of vans with e-engine for transportation of small freights. The cost of the basic model of such transport facilities is supposed to be $5,100. Along with that, the company has announced production of e-pickup with the historical name LuAZ. The plant is part of the "Bohdan" concern.

In November 2022 truck producer "AvtoKrAZ" was alienated by the state for the period of martial law under President Zelensky's Decree. The company also manufactures military transport vehicles, but recently it has faced some problems with payments. So far "AvtoKrAZ" is developing armored vehicle "Spartan".

We asked the CEOs of AHK member companies to comment on the topic of this article and briefly report on their own practical experience in Ukraine nowadays

Hakan Jyde, Scania Ukraine



1. How is business with new cars evolving in Ukraine?

Demand for new vehicles has been continuously high throughout the war as some of the transportation tasks that were previously carried out by sea have moved to roads, and logistics is immensely important in this situation. Everything needs to be transported, including critical goods such as fuel, medicines, and food products. Scania supports its customers throughout Ukraine, and 11 out of 12 workshops are operating after the Scania dealership in Kramatorsk was bombed at the end of last year.

2. How is the market of e-cars and hybrid models developing?

Electrification in Ukraine has yet not developed that much when it comes to heavy vehicles, partly because there is still some lack of recharging infrastructure. However, we expect rapid development in the coming years both in Western Europe and Ukraine.

3. What is your assessment of further development of the market of new cars?

Scania is heavily engaged in providing transport solutions that secure and increase the resilience of Ukraine already now. We expect that demand for heavy trucks and buses will be even higher when full-scale rebuilding activities are launched, as well as further integration and alignment with the European Union and modernization of all local infrastructure go on.

Josef Graf, Porsche Ukraine

1. How is business with new cars evolving in Ukraine?

Last year business with new cars shrank considerably for well-known reasons (the market of motor cars shrank by some 65% against 2021), but in 2023 we could see some livening up. Certainly, we are still far from the pre-war level, but we have at least reached a more or less stable pace. If the situation keeps developing the way this has been happening over the recent period, we can expect to have a market of new motor cars with more than 50,000 units by the end of the year.

2. How is the market of e-cars and hybrid models developing?

The demand for cars with electric or hybrid drives is demonstrating a clear upward trend. But we can see that, unfortunately, there has appeared the "grey market" represented mainly by cars coming from China, maintenance of which in Ukraine is accompanied by certain problems. These cars have some technical deviations from the official models imported on a regular basis, and that may lead to their inadequate maintenance in the authorized centers. This means that while buying such cars consumers run absolutely serious risks.

3. What is your assessment of further development of the market of new cars?

Almost in all sectors of the economy of major importance is the further course and duration of active hostilities. So far we have faced mobilization activities in the scope that affects the capacity of our industry. Unfortunately, that partially refers to the main spectrum of our activity. Here we can see a serious threat of disbalancing our economic situation, due to which fact one of the important financial components of the state budget will decrease. All in all, we can see some good signs showing that Ukraine will become a winner, and the sooner peace comes, the more investment is due to arrive and the more dynamic recovery will take place. But it seems absolutely logical that at first almost all sectors of the economy will need quite a period of time for the running start, and this also refers to the car industry.

Energy transition in Ukraine in the conditions of added reality

Without our will thereto, one more tragic and life-changing date was introduced into the national calendar of Ukraine last year – February 24.

Several weeks ago, the Ukrainian people commemorated the anniversary of the heroic and dedicated resistance to the dark infernal powers that are trying to disrupt the process of European integration of Ukraine by all means and to keep it instead within the Moscow damp colonial basement. Rigid requirements of the new reality do not leave any time for ramp-up and demand decisive and consolidated action from top-level officials and the business community for the sake of the country's survival and quick adjustment to the breakneck changes. Each moment of delay may cost a lot, and the losses may be unmanageable for future generations.

The German-Ukrainian Chamber of Commerce and Industry, realizing the importance of the moment and its responsibility, is trying to effectively use all available tools and stay up to date with the events. Active and tedious work is being regularly done by the members of the committees. How have the accents changed in the new energy geo-policy over the recent year? How is the energy transition going on in Ukraine and is it really going on? The members of the Committee on Energy and Energy Transition were trying to find answers to these and other questions on March 14, 2023. The German view of the energy events in Ukraine and Europe was presented by Mrs. Iryna Nesterenko, a research fellow of the National Academy of Science and Engineering, Munich. The second reporter was Mr. Serhiy Datsiv from the law firm INTEGRITES, and he told the audience about the legislative amendments and the barriers on the way to the country's energy transformation. After that, the participants had a chance to brainstorm on the issues voiced and inform colleagues of the relevant situation in their companies as well as about activities for 2023.

To sum up, it may be stated that the European integration and energy transformation course of Ukraine is irreversible.

E-residency in Ukraine: legal and tax aspects

On 26 October 2022, the President signed the Law of Ukraine "On Amendments to the Tax Code of Ukraine and Certain Other Legislative Acts of Ukraine on Peculiarities of Taxation of Business Activities of Electronic Residents" (the "Law"). The Law will come into force on 1 April 2023.

Foreign individuals will be able to become "digital" residents of Ukraine (hereinafter referred to as "e-residents"), register as individual entrepreneurs (hereinafter referred to as "IEs") in Ukraine and pay the single tax (hereinafter referred to as "ST") under the simplified taxation system at the rate of 5% on income up to UAH 7,850,500 (approx. EUR 199,820).

All registration stages will be carried out online, even opening a bank account in Ukraine will be carried out remotely. Moreover, banks will act as tax agents for e-residents, meaning that they will be responsible for withholding and paying taxes.

Thus, e-residency has the advantage of being simple, transparent, and available online for individuals, primarily for IT professionals and consultants who want to pay taxes at a relatively low rate enjoyed by ordinary residents of Ukraine, while not actually being in Ukraine.

1. E-RESIDENT STATUS IN UKRAINE

1.1. Acquiring e-resident status in Ukraine

The Tax Code of Ukraine introduces the concept of an e-resident, which is defined as a foreigner who meets the following criteria:

- has reached the age of 18;
- is not a tax resident of Ukraine;
- has received appropriate qualified electronic trust services and
- is not mentioned in the E-Resident information system.

A foreigner has the right to acquire the status of an e-resident after the following stages:

- submitting an application for e-resident status through the E-Resident information system (currently under development), which is an integral part of the Unified State Web Portal of Electronic Services;
- identification;
- provision of qualified electronic trust services.

The Cabinet of Ministers of Ukraine determines:

- Procedure for acquiring and revoking the e-resident status, identification of persons applying for the e-resident status, and providing them with access to qualified electronic trust services;
- Procedure for the formation and maintenance of the E-Resident information system and access to it by tax authorities and tax agents of ST payers.

The list of states whose citizens or residents may acquire e-resident status is established by the Ministry of Digital Transformation (hereinafter referred to as the "MinDigital"), in coordination with the Ministry of Finance, in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

All of the above regulations are yet to be adopted.

1.2. Who is not eligible for e-residency of Ukraine

The following persons may not be e-residents:

- citizens of Ukraine;
- foreigners who have the right to permanent residence in Ukraine or are tax residents of Ukraine;
- stateless persons;
- persons receiving income originating in Ukraine for goods, works, services (except for passive income);
- persons who are citizens (subjects), residents or persons whose place of permanent residence (stay, registration) is in the countries (jurisdictions) not included in the List of countries whose citizens or residents may obtain e-resident status.

The List of countries whose citizens or residents may acquire the status of an e-resident may not include a country:

- recognized as an aggressor and/or occupying state in relation to Ukraine;
- included in the FATF "black/grey list";
- recognized by the European Commission as a country with weak regimes for preventing and combating money laundering, terrorism financing and financing the proliferation of weapons of mass destruction.

1.3. Revocation of e-resident status in Ukraine

The grounds for revoking the e-resident status are as follows:

a) submission by a foreigner of an application for revocation of the e-resident status upon his/her own request;
b) revocation of the e-resident status based on the decision of the MinDigital, in case of receipt of information about:

- a person's death or recognition as missing;
- restriction of a person's civil capacity or recognition of his/her incapacity;
- non-compliance of the person with the requirements listed in clause 1.2. above;

c) expiration of the document on the conformity of a qualified electronic signature or a positive expert opinion based on the results of a state examination in the field of cryptographic information protection of a qualified electronic signature used by an e-resident. The status will be revoked if the e-resident does not obtain a new document within 1 month from the date of expiration of the relevant document.

2. STATE REGISTRATION OF AN INDIVIDUAL ENTREPRENEUR

For state registration as a private entrepreneur, an e-resident shall submit an application in electronic form using the Unified State Web Portal of Electronic

Services. Signing the application with a qualified electronic signature is a mandatory prerequisite.

The application procedure is determined by the Ministry of Justice of Ukraine and the MinDigital.

The identity document of an e-resident is a passport or a document for traveling abroad.

3. TAXATION OF AN E-RESIDENT IN UKRAINE

3.1. Tax accounting of an e-resident

An e-resident is registered by a tax authority on the basis of information received from the E-Resident information system.

The registration of e-residents as payers of the 3rd group of the ST (which provides for a simplified taxation regime for individuals at a rate of 5% of annual income up to UAH 7,850,500 or approx. EUR 199,820) is carried out by the supervisory authority within 2 working days from the date of receipt of information from the state registrar on the registration of an e-resident as an individual entrepreneur.

E-residents registered as IEs in accordance with the established procedure are considered to be single tax payers from the date of their state registration without the need to submit an application for the simplified taxation system.

Correspondence between the tax authorities and taxpayers having acquired the e-resident status shall be carried out exclusively by means of electronic communication in electronic form in compliance with the requirements of the Laws of Ukraine "On Electronic Documents and Electronic Document Management" and "On Electronic Trust Services".

3.2. Simplified taxation system for e-residents

To be subject to the simplified taxation system of the 3rd group during a calendar year, e-residents having registered as IEs and running business such as providing services, manufacturing and/or selling goods exclusively to non-residents of Ukraine must meet all of the following criteria:

- not to use labour of hired persons who are citizens or residents of Ukraine;
- not to receive income originating from Ukraine, except for passive income;
- the amount of their income may not exceed 1,167 minimum wages established by law as of January 1 of the tax (reporting) year, which currently amounts to UAH 7,850,500 (approx. EUR 199 820).

The tax (reporting) period for the payers of the 3rd group of the ST and tax agents of the e-resident payers of the 3rd group of the ST is a calendar quarter.

3.3. Single tax rate for e-residents

For e-residents, the ST rate is set at 5% of income (including VAT).

In case of exceeding the specified income limit, the ST rate is 15%.

3.4. Withholding single tax from e-residents

For an e-resident payer of the 3rd group, the tax agent is the Ukrainian bank in which the e-resident has opened a current account.

The e-resident has the right to open a current account online, namely exclusively through the E-Resident information system in one independently selected Ukrainian bank available for selection in the E-Resident information system.

The bank is obliged to send a notice of opening or closing an account by an e-resident payer of the 3rd group to the supervisory authority where such e-resident is registered as a taxpayer on the day of opening/closing the account.

When crediting funds to the current account of such a payer, the Ukrainian bank – the tax agent of the e-resident – is obliged to withhold tax from the amount of crediting at the expense of such funds and transfer the tax to the state budget of Ukraine no later than the next 2 working days.

In case of crediting foreign currency to the current account of an e-resident, the respective tax shall be converted by the tax agent (Ukrainian bank) into UAH at the exchange rate. For the purposes of determining tax liabilities for the payment of taxes and fees, the official exchange rate of the Ukrainian currency to foreign currency set by the National Bank of Ukraine as of 0 am on the day of the occurrence (determination) of tax liabilities shall be applied.

3.5. Deregistration of e-residents of Ukraine

If the tax authority receives information about the loss of the e-resident status of a person, it automatically deregisters such person as an e-resident.

Olga Ianushevych, LL.M.
Associate, DLF

Are you waiting for renewed audits since July 1, 2023? But they are already "here" in many aspects

Do you expect renewed audits by tax officials and, probably, customs officers, since July 1, 2023, as announced? Legislative amendments have not yet been introduced. But many types of audits are already allowed and have been launched in practice.

1. Taxpayers have mainly already forgotten about any audits since over the recent years they have got used to living almost without them, but for some exceptions:

In March 2020, during COVID-19 quarantine (let me remind you that it is still there – by April 30, 2023, as yet, if it is not extended), the moratorium on documentary and actual audits was introduced, with the following exceptions (i) for documentary audits made upon the taxpayer's request, in case of company termination and in relation to budgetary refund and largely negative VAT value, and (ii) actual audits related to excise goods (spirit, alcohol, tobacco, fuel).

Then the list of exceptions started growing slowly. There were some attempts made to evade the ban on audits via Resolution of the Cabinet of Ministers of Ukraine No. 89 as of February 3, 2021 "On Reducing the Period of Limitation as Far as the Effect of the Moratorium on Certain Types of Audits Is Concerned". Thanks to courts that acknowledged this attempt to be illegal, and, following common court practice, including the practice of the Supreme Court, the results of such audits are considered to be null because of their illegal nature.

Then a new ground for the suspension of audits was the full-scale military invasion and the condition caused by it. Respective amendments were introduced to the legislation. Then they evolved from a complete ban up to the unblocking of certain types of audits. In fact, the most well-known of the ones "unblocked" in the summer of 2022 were, probably, audits of budgetary refund and negative VAT value.

2. And now we are facing another regular wave of "relaunch" of certain types of audits and related activities – both with the initial experience of conducting them, and the issues of principle importance that have started arising.

Thus, Law 2719-IX as of November 3, 2022 "On Amendments to the Tax Code of Ukraine and Some Other Laws of Ukraine on the Privatization of State and Municipal Property That Is in Tax Lien and Ensuring Administration of Tax Debt Repayment", introduced, in particular, the following amendments to the Tax Code ("TCU"):
Subparagraph four, p. 52^8, Sub-section 10 of the Transitional Provisions of the TCU has been set out in the following version:
52^8. On a temporary basis, for the period to the last calendar day of a month (inclusively), which ends quarantine established by the Cabinet of Ministers of Ukraine throughout Ukraine to prevent the spread of the coronavirus disease in Ukraine, there is suspended statute of limitations determined by:
...
articles 73 and 78 of the present Code on the provision of taxpayers' responses to the inquiries made by the controlling bodies (but for the inquiries made by the controlling bodies concerning the legitimacy of declaration of the value-added tax and/or negative value-added tax claimed for budgetary refund; those related to taxation of legal entities or other non-residents carrying out their economic activity via permanent representation in the Ukrainian territory, income obtained by non-residents when the source of its origin is Ukraine; tax control under transfer pricing; tax control of non-residents (representations of non-residents); currency control in terms of compliance with the deadlines for payments under commodity export and import operations) given to taxpayers up to the last calendar day of the month (inclusively), which ends quarantine established by the Cabinet of Ministers of Ukraine throughout Ukraine to prevent the spread of the coronavirus disease in Ukraine.

{1Subparagraph four, paragraph 52-8 of Sub-section 10, Section XX in the version of Law No. 2719-IX as of November 03, 2022}

The above amendments have considerably expanded the list of inquiries made by the controlling bodies, responses to which must be provided within the periods set by the TCU (that is for which the moratorium concerning deadlines is not valid), and the absence of a response by the set deadlines can respectively become the grounds for an unscheduled audit.

"Expansion" of the exclusion from the moratorium concerning deadlines, in particular, refers to inquiries related to:

- taxation of payments of non-residents' income when the source of its origin is Ukraine
- tax control over non-residents (permanent representations of non-residents)
- transfer pricing
- currency control in terms of timeliness of payments under export and import operations

And through these amendments, the possibility for documentary audits in these matters has been unblocked, since p. 69.2. of this subsection has been set out as follows:

“69.2. Tax audits are not launched, and audits launched are suspended, but for the following cases:
....
b) documentary unscheduled audits conducted upon the inquiry of the taxpayer and/or on the grounds determined by subparagraphs 78.1.2 (as far as control over transfer pricing is concerned), 78.1.5, 78.1.7, 78.1.8, 78.1.12, 78.1.14-78.1.16, 78.1.21 and 78.1.22 of paragraph 78.1, Article 78 of the Code, and/or documentary unscheduled audits of taxpayers for which tax information has been received on violations of currency legislation by the taxpayer as far as compliance with the deadlines for the arrival of goods under import operations and/or currency proceeds under export operations are concerned, and/or documentary unscheduled audits related to taxation of legal entities or other non-residents carrying out economic activity via their permanent representation in the Ukrainian territory, income obtained by non-residents when the source of its origin is Ukraine, and/or documentary unscheduled audits of non-residents (representations of non-residents);
{Subparagraph three of subclause 69.2, paragraph 69, Sub-section 10, Section XX in the version of Law No. 2719-IX as of 03.11.2022}

And the new year has already seen a real “burst” in the activity of tax officers in these matters: inquiries, audits.

So, something can already be said about audits, and not just about renewed audits that have already been announced but not yet voted on in general since July 1, but also about some issues arising from the process of “termination” of the moratoria.

3. Let us start with the issue of renewal of deadlines for responding to the inquiries. The law-maker has introduced changes into the COVID-19 provision the effect of which will anyway most probably finish soon.

But we still have the provisions of p. 69, Sub-section 10 of the Transitional Provisions of the TCU:
“69. To establish that on a temporary basis, for the period before the martial law is terminated or cancelled ...
...
69.9. For taxpayers and controlling bodies, there is suspended statute of limitations determined by the tax and other legislation control over compliance of which lies with the controlling bodies, but for: ...”.

And here the list of exceptions (“but”) does not include the above exceptions. So, it appears that the law-maker has removed the suspension of the deadlines for responding to inquiries under the list of exceptions (“but”) under c. 528, while no such exceptions are envisaged for suspension of statute of limitations under p. 69.9. of this very Sub-section 10 of the Transitional Provisions of the TCU. The fact that the suspension of the statute of limitations “set by the tax legislation” is also valid for the periods for responding to the tax audit’s inquiries does not evoke any doubts since the respective periods are determined by the tax legislation - the TCU, p. 73.3., Art. 73, c.c. 78.1.1., 78.1.4. Art. 78, in particular.

How to settle the collision when some “brakes” have been removed, while other “brakes” related to the deadlines for the same cases have been left there. There could be different ways to try and settle the issue applied, but the overall conceptual approaches do not provide any clear solution. Thus, for example, while the “unblocking” of COVID-19 limitations is a “fresher” solution (though they are anyway to “disappear” soon when the COVID-19 quarantine is over), blocking over the period of martial law is more special.

Well, for this the TCU, among the core principles of tax legislation, contains the provisions on how to settle such issues:
“4.1.4. presumption of legality of taxpayer’s decisions if the norm of the law or any other regulatory act issued under the law, or if the norms of different laws or different regulatory acts assume ambiguous (multiple) interpretation of the rights of taxpayers or controlling bodies, as the result of which it becomes possible to pass decisions in favor of both the taxpayer and the controlling body”.

That is why we have sufficient legal grounds to claim that the mandatory nature of the determined deadlines for responding to the respective tax audit's inquiries has not been re-established.

4. If we can leave an inquiry without any response so far, so does it mean that one can somehow get rid of the above audits? Are audits allowed to be conducted in a number of cases (see, for example, subparagraphs 78.1.1., 78.1.4., Art. 78 of the TCU) in case the taxpayer does not provide the adequate explanations and documents in response to the inquiry within the established period? So, if there is no response within the established period with the reference to the suspension of the statute of limitations, there is no audit?

Probably, everything is not exactly so, not everything is related to the inquiry: for audits related to transfer pricing (subparagraphs 78.1.2., 78.1.14. – 78.1.16.), preliminary inquiry does not constitute a precondition for appointing the audit, while as to the audits related to the compliance with the deadlines for payments under export and import operations, to taxation of non-residents' income, the wording of the unblocked audits is not related to specific subparagraphs of Art. 78 of the TCU, but are separated as a new, special category in the new revised version of paragraph 69.2, Sub-section 10 of the Transitional Provisions: "and/or documentary unscheduled audits of taxpayers for which tax information has been received on violations of currency legislation by the taxpayer as far as compliance with the deadlines for the arrival of goods under import operations and/or currency proceeds under export operations are concerned, and/or documentary unscheduled audits related to taxation of legal entities or other non-residents carrying out economic activity via their permanent representation in the Ukrainian territory, income obtained by non-residents when the source of its origin is Ukraine, and/or documentary unscheduled audits of non-residents (representations of non-residents)".

Does it mean that we will have to deal with some new, special category of audits not related to Art. 78 of the TCU? And then, what about Art. 78 of the TCU under which "Article 78. The procedure for conducting documentary unscheduled audits
78.1. Documentary unscheduled audit shall be carried out in case at least one of the following grounds is available: ....".

And then comes an exhaustive list. So, if there is a new case not related to Art. 78, the issue of legitimacy of a documentary unscheduled audit arises in case it is conducted in the absence of the grounds envisaged by Art. 78.
And under Art. 78, for the above cases there is rather the need for making a preliminary inquiry, for example:
"78.1.1. tax information confirming violation of the currency, tax legislation by the taxpayer is obtained ..., control over compliance of which lies with the controlling bodies, in case the taxpayer does not provide any explanations and their documentary confirmation in response to the written inquiry of the controlling body, which mentions violations of the respective currency, tax and other legislation not regulated by the present Code control over compliance of which lies with the controlling bodies, within 15 business days from the day following the date the inquiry arrives".

This means that the inquiry is still required in the issues under consideration, while one may be responding to the inquiry over an indefinite period of time (the statute of limitations has been suspended), and thus the audit can be postponed.

5. The law-maker has really made the situation with deadlines absolutely confusing. It is difficult to get clear about this chaos.

Statute of limitations is not just about the deadlines for responding to the inquiries. Let us remind ourselves that under p. 69.9., Sub-section 10 of the Transitional Provisions of the TCU:
"69.9. For taxpayers and controlling bodies, there is suspended statute of limitations determined by the tax and other legislation control over compliance of which lies with the controlling bodies...".

Control over compliance of currency legislation (as well as other legislation) as to the deadlines for making payments under export and import operations is the duty of the controlling (tax) bodies. The deadlines have been set by currency legislation. Thus, p. 69.9. also suspends this statute of limitations for the completion of payments under export and import operations? Why not.

6. Deadlines, deadlines ... Suspension of the statute of limitations ...

We also have p. 102.9. of the TCU:
"102.9. Over the period of validity of the legal regime of martial law, state of emergency introduced in Ukraine, the statute of limitations established by the present Code, other legislation control over compliance of which lies with the controlling bodies is suspended, but for cases envisaged by the present Code."

As far as this provision is concerned, the suspension is limited by the designation of Art. 102 "Limitation of action and its application". But why do we then need the mention of the statute of limitations established not just by the TCU, but by other legislation control over compliance of which lies with the controlling bodies in p. 102.9?

7. As we can see, even such limited analysis of just one "section" of the currency stage of termination of the audit moratorium can identify a number of non-correspondences that put to doubt current expansion of the controlling and examination measures taken by the tax inspection and may protect taxpayers. And the issue is not limited to the discrepancies considered above.

And what shall we have in case of full-scale renewal of audits, as promised since July 1? Not much time is left by that date, while the law on renewal of audits has not been adopted yet. From the considered partial renewal, we can see the "quality" of the legislator's work. There are hardly any grounds to expect any drastic improvements in the quality of legislator's work. That is why, in case audits are renewed in full scale by the indicated deadlines, we are in for many issues and aspects, and there will probably be disputes related to many procedural matters.

Oleksandr Minin
Senior partner
"KM Partners/
WTS Consulting".

Carbon Management workshop by AHK Ukraine

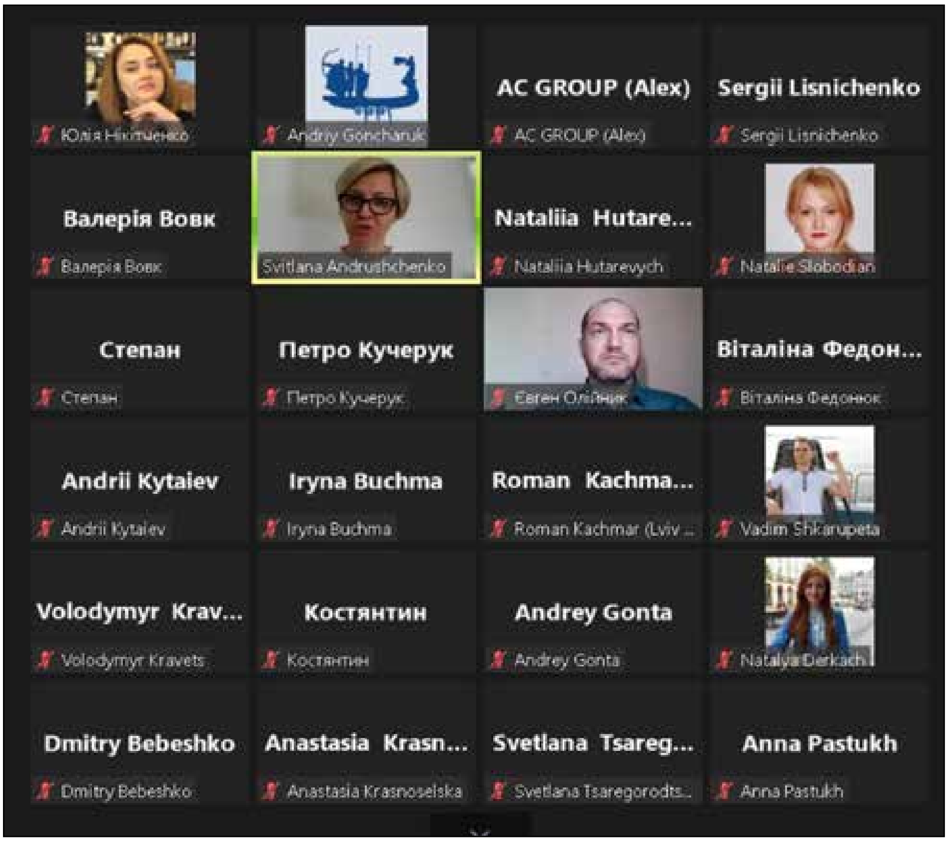
According to the observations made within the European Monitoring for Environment and Security Program "Copernicus" (GMES), the year 2022 became the fifth warmest year since the beginning of the records made starting with the 19^{th} century. So far, the hottest years globally were 2016, 2017, 2019, and 2020. In Kyiv 2022 was the seventh warmest year for almost half a century.

The concentration of two main greenhouse gases causing global warming in the air (carbon dioxide and methane) has hit its record over the recent years and keeps growing, with no signs of slowing down. For instance, the volume of CO2 increased to reach 417 ppm — the highest figure for more than two million years. The level of methane has reached 1,894 particles per billion – the highest over 800 thousand years.

The UN keeps warning that over the coming decade, the yield rate for agricultural crops may go down by some 30 % due to climate change, but, at the same time, the demand for foodstuffs will increase by 50%.

Due to this, the countries that are the leaders in the democratic world are undertaking the responsibility and adopting stricter laws designated to directly affect the activity of companies and reduce carbon emissions. All the participants of the economic chain, from producer to supplier, regardless of the jurisdiction, have to adapt to new climate goals and new rules of doing business. Ukraine is no exception in this respect. If Ukrainian exporters intend to further trade with Europe and other parts of the world, they have to start acting here and now: raise the qualifications of their staff members in decarbonization matters and introduce modern approaches to carbon management at their enterprises.

Due to the above, on April 24, the German-Ukrainian Chamber of Commerce and Industry launched an online course "Carbon Management". This event marks the result of cooperation between three foreign economic representative offices of Germany within the Carbon Management project implemented over 2022-2023 with the financial support of the German Agency for International Cooperation (GIZ GmbH) and the German Federal Ministry for Economic Cooperation and Development (BMZ). Peter Hirsch (GIZ Germany), Alexander Markus (CEO, AHK Serbia), Reiner Perau (CEO, AHK Ukraine), and Desirèe Bertoli (AHK Brazil) were the first to welcome numerous representatives from Ukraine and Europe. In particular, for two weeks the team of experienced trainers consisting of both theoreticians, academicians, and practitioners will be raising the level of participants' awareness of the issues related to modern carbon management approaches at enterprises. Besides that, they will master the strategies and tools of accounting, verification, and reporting of greenhouse gas emissions as well as will get an opportunity to develop a practical model of decarbonization activities for their own company.



After successful test passing, each participant will receive their certificate from AHK Ukraine, along with considerable advantages in the labor market.

AHK Ukraine Committee Meetings & Events 2023

The dates of all our events and committees' sessions you may find on http://ukraine.ahk.de/

Topic/Organiser	Date & Time	Location
Online session of the Banks & Financial Services Committee German-Ukrainian Chamber of Industry and Commerce	May 4, 2023 4.00 p.m. (EEST)	MS Teams
Online session of the Taxes & Accounting Committee German-Ukrainian Chamber of Industry and Commerce	May 9, 2023 10.00 a.m. (EEST)	MS Teams
Online session of the Agriculture & Food Committee German-Ukrainian Chamber of Industry and Commerce	May 16, 2023 12.00 a.m. (EEST)	MS Teams
Online session of the Logistics & Transport Committee German-Ukrainian Chamber of Industry and Commerce	May 16, 2023 2.30 p.m. (EEST)	Zoom
Online session of the HR Committee German-Ukrainian Chamber of Industry and Commerce	May 17, 2023 3.00 p.m. (EEST)	Zoom
Online session of the Energy & Energy Transition Committee German-Ukrainian Chamber of Industry and Commerce	March 14, 2023 1.00 p.m. (EET)	MS Teams
Online session of the Law Committee German-Ukrainian Chamber of Industry and Commerce	May 24, 2023 11.00 a.m. (EEST)	Zoom
Online session of the IT & Cyber Security Committee German-Ukrainian Chamber of Industry and Commerce	May 25, 2023 2.00 p.m. (EEST)	Zoom
Online session of the Construction industry and Energy efficiency Committee German-Ukrainian Chamber of Industry and Commerce	May 25, 2023 2.00 p.m. (EEST)	Zoom
Summer evening 2023 German-Polish Chamber of Industry and Commerce, German-Ukrainian Chamber of Industry and Commerce	June 2, 2023 7.00 p.m. (EEST)	Forteca Kręgliccy, Zakroczymska 12, Warsaw

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