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I. REGULATORY

Court Fees Increase

Effective 1 September 2015, court fees are increased and differentiated depending on the type of applicant. State bodies, including but not limited to tax authorities, prosecution authorities, bodies of Ukraine's Antimonopoly Committee, must now pay the court fees.

The court fee for filing a property-related claim by a legal entity is increased to 1.5% of the claim amount, but not to be less than one minimum wage (as of 1 September – UAH 1,218, equivalent to approximately US\$55).

The court fees for filing applications for interim relief, for issuance of enforcement documents on the basis of foreign court decisions, or for explanation of court decision are also increased. The new rate is 0.5 minimum wage (as of 1 September – UAH 609, equivalent to approximately US\$28).

The following rates are significantly increased: for filing an appellate claim – 110%, for filing a cassation appeal – 120%, for review of court decision by the Supreme Court of Ukraine – 130% of respective rates for filing initial claims.¹

NBU Interest Discount Rate Decreases to 27% Per Annum

Effective 28 August 2015, the NBU interest discount rate is decreased from 30% to 27% per annum.²

New Customs Registration Procedure for Persons Performing Transactions with Goods

Effective 30 August 2015, the procedure for registration of persons performing transactions with goods with the State Fiscal Service (SFS) customs offices is simplified³. A respective decree was approved by Ukraine's Ministry of Finance on 15 June 2015. Thus, registration is performed in any respective customs office upon such person's application (including by electronic means) by filing the standard-form application only. Filing constituent and state registration documents is no longer required. Customs registration is to be done no later than on the following business day after receiving the application. Deregistration is done at the respective customs office in charge for the territorial district where such person has its registered address. Notably, persons performing transactions with goods registered as such before the enactment of the decree are not subject to repeat registration.

¹ Law of Ukraine on Amendments to Certain Ukrainian Legislative Acts Regarding Payment of Court Fees No. 484-VIII dated 22 May 2015.

² NBU Board Regulation No. 557 dated 27 August 2015 on Monetary Market Regulation.

³ Decree of the Ministry of Finance of Ukraine on Approving the Registration Procedure with Respect to Persons Performing Transactions with Goods, No. 552, dated 15 June 2015.

State Registration of Interests in Real Property in the Construction and Agricultural Production Areas

On 27 July 2015, Ukraine's Ministry of Justice launched a pilot project providing for filing applications, for state registration of interests in real property and for state registration of their encumbrances, in electronic form⁴. Such pilot project is implemented in the Kyiv, Volyn, Poltava, Rivne and Odesa Regions and will be effective for the following applicants:

- construction owners; members of housing, dacha, garage or other cooperatives; persons that have raised funds for construction projects from individuals or legal entities;
- agricultural producers and representatives of agribusiness whose main type of activity is growing and processing agricultural products.

The above mentioned persons may file applications in electronic form for preliminary consideration to bodies of state registration of interests in real property or to persons with state registrar authorities (local bodies officials, notaries, administrators of administrative service centers). Applications and documents may be filed by means of software compatible with the software of the State Register of Interests in Real Property through executing an agreement with the National Information Systems State Enterprise.

II. CORPORATE LAW AND SECURITIES

Signs of Fraudulent Securities Issuers

Ukraine's National Securities and Stock Market Commission (Commission) identified the signs of fraudulent securities issuers and the procedure for entering/removing such issuers to/from a respective list; it also stipulated the consequences for such issuers on the list⁵.

The Commission may now enter issuers to the List of Issuers with Signs of Fraud if (i) at least four of the signs indicated below are true for an issuer; or (ii) signs in sections (a) and (b) are simultaneously true for an issuer. Following inclusion of the issuer into the List of Issuers with Signs of Fraud, the Commission may decide to stop circulation of issuer's securities (other than transactions related to securities redemption, inheritance or assignment; and deeds executed to enforce court decisions) until the signs of fraud are rectified. They do not apply to banks, non-banking financial institutions, international financial institutions and certain state and municipal bodies and companies.

The signs of fraudulent securities issuers are listed below:

- (a) establishing fact of issuer's absence at its registered address;
- (b) issuer's failure to file regular annual information or regular quarterly information to the Commission for two consecutive quarters;

⁴ Decree of the Ministry of Justice of Ukraine on Implementing a Pilot Project in the Area of State Registration of Interests in Real Property and Their Encumbrances with Respect to the Preliminary Applications Filing, No. 1159/5, dated 7 July 2015.

⁵ Regulation on Identifying Signs of Fraudulent Securities Issuers and Entering Such Issuers to the List of Issuers with Signs of Fraud, approved by Resolution of Ukraine's National Securities and Stock Market Commission No. 980 dated 10 July 2015 (effective from 28 July 2015).

- (c) joint stock company's failure to hold general shareholders meeting for two consecutive years and/or failure to form its governing bodies within one year from the date the Commission registers the report on private share placement;
- (d) ratio between issuer's capitalization and income from sales is more than threefold according to the financial accounts (for public joint stock companies);
- (e) ratio between issuer's capitalization and its net assets value is more than threefold according to financial accounts (for shares of public joint stock companies);
- (f) financial investments and/or receivables, and/or bills of exchange form a prevailing part of issuer's assets (over 80%) according to financial accounts;
- (g) number of issuer's employees as of the end of the reporting period is less than ten individuals according to financial accounts (for public joint stock companies);
- (h) issuer's average monthly payroll expenses per employee are less than triple minimum wage set forth by law as of the date of issuer's financial accounts;
- (i) registration of issuer's registered office in residential properties;
- (j) as of the end of fiscal year, low (less than 3% of issuer's assets) or no income from sales with respect to the main type of business.

The Commission decisions are published on its website and in one of its printed publications.

III.FINANCE AND TAXES

Using Cash Registers

Effective 23 July 2015, the requirements for using cash registers are simplified⁶:

- individual entrepreneurs of the second and third fixed tax payer groups are exempt from using cash registers, notwithstanding type of their business activity, if such individual entrepreneur's income is not in excess of UAH 1 million. If fixed tax payer's income is in excess of such threshold of UAH 1 million, such payer must use cash register from the first day of the first month of the quarter following occurrence of such excess and throughout the following tax periods during the effect of its fixed tax payer certificate;
- all business subjects owning cash registers are no longer required to keep printed receipts in their payment ledgers;
- business subjects may use cash registers, which have been duly put into operation, until the end of their period of service, provided that manufacturer (supplier) warrants performance of such cash register.

⁶ Law of Ukraine on Amendments to the Tax Code of Ukraine to Certain Ukrainian Laws Regarding the Use of Cash Registers No. 569-VIII dated 01.07.2015.

Taxation of Non-Profit Organizations

Effective 13 August 2015, the list of non-profits that are exempt from income tax is extended, due to enactment of amendments to the Tax Code of Ukraine with regard to taxation of non-profit organizations.⁷ Such organizations must simultaneously meet the following criteria to qualify as non-profits:

- organization is duly incorporated as a non-profit organization of relevant type;
- organization's constituent documents disallow distribution of any part of income (profit) to its founders, members, employees, members of governing bodies or any other related individuals;
- in case of organization termination (liquidation, merger, division or reorganization), its constituent documents provide for transferring its assets to one or more non-profit organizations or transferring such assets to the public budget;
- organization is entered in the Register of Non-Profit Organizations by a regulator.

IV. ANTICORRUPTION EFFORTS

Declaring Construction-In-Progress Facilities

Anticorruption declaration is now to include more information.⁸ National and local government officials' declarations must contain information on each of the facilities which is under construction; has not been commissioned; or ownership to which has not been duly registered, - and is either:

- duly owned by an individual filing a declaration or by his/her family members; or
- located on a land parcel that is duly owned by an individual filing a declaration or by his/her family members; or
- in full or in part built with materials provided by or at the expense of an individual filing a declaration or his/her family members.

National and local government officials must file their annual declarations for a previous year by 1 April of the following year. Thus, 2015 declarations to be filed by 1 April 2016 should contain information on construction-in-progress projects.

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⁷ Law of Ukraine on Amendments to the Tax Code of Ukraine Regarding Taxation of Non-Profit Organizations No. 652-VIII dated 17 July 2015.

⁸ Law of Ukraine No. 631-VIII dated 16 July 2015 on Amendments to Article 46 of the Law of Ukraine on Corruption Prevention.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations nor should they be considered a substitute for taking legal advice.

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