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## Questions and answers about the special single tax system during the martial law on the territory of Ukraine

Special single tax system rules have been introduced by Law of Ukraine No. 2120-IX as of 15 March 2022 (effective starting 17 March 2022) and by Law of Ukraine No. 2142-IX as of 24 March 2022 (effective starting 5 April 2022).

# COMMENCEMENT DATE AND PERIOD



## What is the starting date for applying of the special single tax system rules?

Eligible taxpayers can effectively apply the special single tax system rules starting from 1 April 2022, subject to the submission of the relevant request to the tax authorities.

## How is single tax to be paid before starting the application of the special single tax system rules?

The administration of the single tax is to be done according to general tax rules without taking into account the special rules.



## Who can apply for the 2% single tax system?

Most companies and private entrepreneurs (PEs) may switch to the 2% single tax system. Expediency of the transition should be assessed individually, taking into account specifics of the business and its performance indicators. This option should be considered carefully for companies with low profitability or companies with accumulated losses.



## Are temporary changes binding for existing payers of the single tax?

All single tax payers in groups I, II and III may choose to apply the changes voluntary. The changes are not binding.



## During which period can the special single tax system rules be applied?

Special rules may be applied until the termination or cancellation of martial law on the territory of Ukraine.

According to Presidential Decree №133/2022 issued 14 March 2022, martial law on the territory of Ukraine has been extended until 25 April 2022.

# CHANGES INTRODUCED FOR SINGLE TAX PAYERS IN GROUPS I AND II



## Are PEs in groups I and II exempt from the payment of the single tax?

The temporary changes introduce the optional payment of the single tax for PEs in groups I and II. They have the right not to pay the single tax. Payment of the single tax is not an obligation but a right and thus remains at the discretion of the eligible entrepreneur.



### What are the reporting requirements for PEs in groups I and II if they choose not to pay the single tax?

PEs in groups I and II do not submit a single tax return for the period in which the single tax was not paid.



### Can PEs in group I or II continue to pay the single tax?

By default, PEs may continue to apply the general rules regulating the single tax payment system and pay the single tax.

## CHANGES INTRODUCED FOR GROUP III OF SINGLE TAX PAYERS



### Who may join the 2% single tax system?

Most entities and PEs may join group III of single taxpayers and apply the temporary changes, subject to certain restrictions (annual volume of revenues, prohibited activities).

The company or PE may use the 2% single tax system if it meets the following criteria: (i) the company or PE is already registered as a group III single taxpayer or applies for such registration; (ii) the company or PE chooses to apply the temporary changes introduced for group III.



### What is the maximum allowed annual turnover for 2% single tax payers?

The revenue cannot exceed UAH 10 billion during the calendar year.



### How is revenue calculated for 2% single tax payers?

The revenue shall be determined in accordance with Article 292 of Chapter 1 of Section XIV of the Tax Code of Ukraine (TCU).



### Are there restrictions as to the number of employees?

2% single tax payers may have an unrestricted number of employees.



### What is the single tax rate?

Special rules foresee applying by single taxpayers in group III 2% single tax to revenues.



### What is the reporting period for 2% single tax payers?

The reporting period for 2% single tax payers is calendar month.



### What are the 2% single tax payment deadlines?

Tax liability shall be paid within 10 calendar days following the deadline for the submission of the tax return.



### What are the reporting features for corporate tax payers with the annual revenue not exceeding UAH 40 mio for the previous year?

In case of transition or exit from the 2% single tax system, taxpayers submit a corporate profit tax return for periods during the calendar year in which the corporate profit tax was paid.

## VAT ISSUES FOR GROUP III SINGLE TAX PAYERS

VAT

### Will 2% single tax payers pay VAT?

2% single tax payers are exempt from the obligation to accrue, pay and report on VAT with respect to operations on the supply of goods, works and services in the customs territory of Ukraine and upon importing goods into the customs territory of Ukraine.



### Which transactions are not covered by VAT exemption?

VAT exemption does not apply to the operations of import and supply in the customs territory of Ukraine of goods originated in or imported from the territory of the country - the occupier / aggressor or from the occupied territory of Ukraine.



### What is the status of VAT registration of companies and PEs switching to the 2% single tax system?

Vat payer registration is suspended.



### Will the VAT registration of companies and PEs switching to the 2% single tax system be annulled?

VAT registration will not be annulled.



## What are the consequences of suspension of VAT registration?

- The rights and obligations of the VAT payer are suspended, including the formation of a tax credit.
- Indicators of electronic VAT administration system (defined by Article 200<sup>1</sup> of TCU) are not calculated anymore.



## What is the VAT status of transactions carried out by payers using a 2% single tax system?

These transactions are considered not to be subject to VAT.



## Will VAT payers lose their accumulated VAT credit upon switching to the 2% single tax system?

This issue requires more detailed clarification from the tax authorities. The right for accumulated tax credit shall be preserved if goods, services, and non-current assets acquired with VAT were not sold during the period of using 2% single tax system.



## Under what transactions should payers at the 2% single tax system accrue VAT liabilities?

Tax liabilities on the basis of Art. 198.5 of the TCU must be accrued no later than the last day of the reporting period in which the VAT payer resumed registration on the cost of goods, services, and non-current assets that were used in transactions that are not subject to VAT and with respect to which taxpayer has recognized VAT input before the date of switching to the 2% single tax system.

The tax base for non-current assets is determined based on their carrying (residual) value or their usual price, and for goods and services – based on their cost.



## Do VAT payers switching to the 2% single tax system accrue VAT liabilities on the balance/market value of their noncurrent assets?

This issue requires more detailed clarification from the tax authorities. According to the current position of the tax authorities, VAT liabilities shall be accrued depending on the proportion of usage of such assets in VATable transactions.



## What are the peculiarities of issuing VAT invoices for buyers applying the 2% single tax system?

This issue requires clarification from the tax authorities.



Can taxpayers applying the 2% single tax system recognise input VAT with respect to goods, works and services acquired, but not sold, during the period of martial law/state of emergency?

Upon transition to 2% single tax system the rights and obligations of the VAT payer are suspended, including the right for the formation of a VAT input. Thus, taxpayers cannot recognize VAT input under the operations on purchase of goods, works and services.



Should taxpayers applying the 2% single tax system issue tax invoices for transactions on the sale of goods or services with the place of supply in the customs territory of Ukraine?

According to the explanations of the tax authorities, tax invoices upon such transactions are not issued.

## REGISTRATION AND EXIT ISSUES



What is the procedure to apply for the special single tax system?

Companies and PEs may choose or switch to the single tax system and apply changes by submitting an application to the controlling authority.



From what date is an entity considered a 2% single tax payer in group III?

From April 1, 2022 – in case of submission of an application by April 1, 2022; from the next working day after the applying - in case of submission of the application after April 1, 2022.



When can a newly registered business start applying the 2% single tax system?

Newly registered companies are considered to be 2% single tax payers in group III starting from the date of their state registration, if they elect to be such, within 10 days from the date of their state registration.



How do taxpayers stop applying the special single tax system?

Taxpayers have the right to exit from the special single tax system from the first day of the month following the month in which such a decision was made.



## What tax rules are to be used by taxpayers after exiting from the special single tax system?

Such taxpayers will automatically revert to the previously applied tax system from the first day of the month following the month of termination or cancellation of martial law or after taking the relevant decision on exit.

## RESTRICTIONS



### Who cannot apply for the 2% single tax system?

The following entities cannot apply for the 2% single tax system:

- business entities carrying out gambling activities, lotteries (except for the distribution of lotteries), betting;
- business entities providing foreign currency exchange services;
- business entities engaged in the production, export, import, or sale of excisable goods (except for the retail sale of fuel and lubricants in containers up to 20 liters, import of cars, bodies to them, trailers and semitrailers, motorcycles, vehicles intended for the transportation of 10 people or more, cargo transport and activities of individuals related to the retail sale of beer, cider, perry (without the addition of alcohol) and table wines);
- business entities engaged in the extraction or sale of minerals;
- insurance (reinsurance) brokers, banks, credit unions, pawnshops, leasing companies, trust companies, insurance companies, institutions of accumulative pension provision, investment funds and companies;
- financial institutions; securities registrars;
- representative offices, branches, branches and other separate subdivisions of a legal entity that is not a single tax payer;
- non-residents.

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