



KINSTELLAR

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 ("the Law") as of 15 March 2022 (effective starting 17 March 2022).

COMMENCEMENT DATE AND PERIOD



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

Eligible taxpayers can effectively apply the temporary changes starting from 1 April 2022, subject to the submission of the relevant request before the end of March 2022.



How are taxes to be paid until 31 March 2022?

The administration of the single tax before 1 April 2022 is to be done according to general tax rules without taking into account the temporary changes.



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 be applied?

Temporary changes 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 companies and PEs in group III?

A taxpayer's revenue cannot exceed UAH 10 billion during the calendar year.



How is revenue calculated for group III single tax payers?

No specific changes are introduced by the Law. Therefore, existing rules will be applied for individuals and legal entities.



Are there restrictions as to the number of employees?

Single tax payers in III group may have an unrestricted number of employees.



What is the decreased single tax rate?

Single tax payers in group III apply 2% single tax to revenues.



What is the single tax reporting period?

The reporting period for single tax payers in group III is the calendar quarter. However, in the tax return they should provide a monthly breakdown of revenues received.



What are the single tax payment deadlines?

Single tax payers in group III must make single tax advance payment before the 15th day of each month, calculated based on the results of the previous month; final payment of the single tax should be calculated taking into account the advance payments made.

VAT ISSUES FOR GROUP III SINGLE TAX PAYERS

VAT

Will single tax payers in group III pay VAT?

Single tax payers in group III 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.



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

Such a conclusion does not automatically follow from the changes introduced. According to clarifications of the tax authorities, VAT registration will not be annulled.



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

According to the explanations of the tax authorities, upon switching to the 2% single tax system, VAT liabilities shall not be accrued. Tax liabilities on the basis of Art. 198.5 of the Tax Code must be accrued in the tax returns for the first reporting period after the cancellation of martial law/state of emergency on the cost of goods, services, and non-current assets that were used in transactions that are not subject to VAT (sold during the period of martial law/state of emergency) and with respect to which taxpayers have recognised VAT input before the date of switching to the 2% single tax system.



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

According to the position of the tax authorities, the right for accumulated tax credit shall be preserved if VAT registration is not canceled and goods, services, and non-current assets were not sold during the period of martial law.



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?

This issue requires clarification from the tax authorities.



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

This issue requires clarification from the tax authorities.



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 at the place of their tax location before the last day of the month preceding the period of transition to the single tax system.



Can a taxpayer switch to the 2% single tax system in the middle of the quarterly period and apply temporary changes starting from the following month?

The legislative changes introduced do not directly regulate this. The underlying application is submitted to the controlling authority before the last day of the month preceding the period of transition to the single tax system, at that, the reporting period is quarter. To avoid risks we recommend submitting the underlying application before 31 March 2022.



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

Newly registered companies are considered to be 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.

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 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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