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ACCESSION OF UKRAINE

Summary of the Taxation Legislation of Ukraine

The Governmental Commission on Ukraine's Accession to the WTO has submitted the following summary of the taxation legislation of Ukraine with the request that it be circulated to members of the Working Party.

The taxation system in every country is a core of the economic system. From one hand it provides financial base of the State and from another - it is the main instrument in the implementation of the state economic policy.

The taxation system is a combination of the established country taxes, fees and payments which are interconnected between themselves and supplement each other but have different objectives.

Taxation is not only the method of ensuring incomes to the budget, but also an instrument of the State's influence at the different sides of the tax payers' activity.

Having determined its economic policy, the State determines the direction of the development and also strategy and tactics to achieve a defined objective. That is why the taxation system and taxation policy is strictly oriented to resolve specific problems and issues. Taxes in the State shall become the main key instrument of the State regulation of the economy, ensuring income to the budget, stimulating scientific and technical progress, withstanding increase of prices and inflation.

The taxation system shall ensure constant and stable incomes to the budget and provide possibilities to the State to influence all sides of the social and economic development of the society.

The taxation system shall include taxes providing stable financial conditions in the State without which the State would not be able to constantly finance its expenses. The best instruments for this purpose are indirect taxes (value added tax, excise duty, customs duty) and also such direct taxes as tax on profits of the enterprises, profit tax from citizens, payment for land.

Every legal or natural person is obliged to participate in financing State expenses by paying taxes, fees and other obligatory payments determined by the taxation legislation.

The basic principles of the taxation system of Ukraine were determined by the Law of Ukraine "On the Taxation System" adopted by the Supreme Rada of Ukraine on 18 February 1997. The taxation system consists of following principles:

- (i) stimulation of the entrepreneurial activity and investment activity;
- (ii) obligatory nature;
- (iii) social justice;

- (iv) proportionality and equal distribution;
- (v) equality and not allowance of any taxation discrimination;
- (vi) stability;
- (vii) economic validity;
- (viii) measured payment;
- (ix) competence;
- (x) unified approach to the development of the taxation legislation;
- (xi) flexibility;
- (xii) inflation neutrality;
- (xii) economic efficiency;
- (xiii) administrative facility;
- (xiv) availability and understanding of the taxation legislation norms to the tax payers.

Taxes are a special form of financial relations between the State and members of the society and are obligatory payments of the legal and natural persons to the budget.

According to the economic definition taxes are a certain type of financial relation between the State and tax payers with the purpose of establishing national centralized fund of the monetary resources essential for the state to fulfill its functions.

In financial terminology there are three terms which reflect payments - payment, allocation, and tax.

Payment: means relations of the payer with the State. Its amount depends upon the volume of the State owned resources utilized by the payer .

If the State loses its right of ownership of these resources, then it will lose the above mentioned payments.

Payment may be made both by including it into the cost and from the profit. This provision is determined by the current legislation of Ukraine.

Taxation system of Ukraine includes following payments:

- payment for land;
- payment for the trade patent for certain types of the entrepreneurial activity;
- rent payments.

Allocations: provide utilization of payments for special purposes. Utilization of these assets can be either full or partial in accordance with the purpose. For instance, fees for the geological exploration performed at the expense of the State budget have partial utilization for special purposes:

- fee for the special utilization of the natural resources;
- fee for the deterioration of the environment.

They are allocated into the State budget .The incomes loose its special utilization purposes, they become part of the budget.

Along with this, financing from the budget for the geological exploration and regeneration of the natural resources can be actually larger or smaller than initial allocations.

The example of the full utilization of assets for special purposes is allocation to the national funds.

National funds include:

- (i) fund on liquidation of the results of the Chernobyl disaster and social protection of the population;
- (ii) fund of the social protection of the population;
- (iii) pension fund;
- (iv) State innovation fund;
- (v) fund on assistance to the unemployed population.

Utilization of the assets of these funds not for special purposes is not allowed.

Allocations, in general, are included in to the cost, but can be also made from the profit.

Taxes and fees: are supporting State functions and financially ensure fulfillment of the State functions - governing, social and economic protection.

Taxes are collected by the State to finance the expenditure of the State as deemed by the government.

Taxes are payments of the society to the State for the fulfillment of its functions and allocation of the part of the value of the gross national product for the national needs. Without meeting these needs modern society cannot exist.

Simultaneously, it should be mentioned that if payment and allocations can be paid both to the State and legal or natural persons, than taxes are a priority of the State and that is why they are transferred only to the budget.

All taxes are subdivided into direct and indirect taxes.

Indirect taxes (value added tax, excise duty, customs duty) shall be included into the price of goods and finally paid by the buyer but not by the producer of goods.

Direct taxes - taxes on profits of natural and legal persons.

From the point of view of the influence at the economic development direct taxes are traditionally connected with their effect on the economic and entrepreneurial activity, indirect - with their influence on prices.

Incomes to the budget include a group of the non-tax payments. Difference between them and taxes is simple and arises from their functions.

Taxes are a fiscal instrument providing incomes to the budget and non-tax payments do not have such a function.

Thus, for instance, profits from the sale of the confiscated property have legal but not financial meaning.

Taxation terms and conditions provided by the Law of Ukraine "On taxation system" and current legislation of Ukraine concerning definite types of taxes and obligatory payments is a basis for incomes to the budgets of all levels.

Influence at the incomes to the Unified Budget of Ukraine for 1997 of the current taxation system, taking into account separate legislative acts adopted in the current year, can be estimated by the figures of the State Budget of Ukraine for 1997 adopted by the Supreme Rada of Ukraine on 27 June 1997.

Incomes to the Unified Budget of Ukraine in 1997 are determined based on the main forecasting macro indicators of the economic and social development of the country for this year. Measures on improving payment of taxes, fees and other obligatory payments are also taken into account.

On definite types of profits Laws of Ukraine and Resolutions of the Government, amendments to the current legislation and indexation of rates were also taken into account.

Incomes to the budgets included into the budget system of Ukraine in 1997 amount to 30429.3 million UHR which comes to 30.3 per cent of the value of the gross domestic product vs. 36.3 per cent provided in 1996 (excluding pension fund) and 28.6 per cent on final figures for this period.

STRUCTURE OF THE PROFITS OF THE CONSOLIDATED BUDGET OF UKRAINE FOR 1997

- customs duty - 2.2 per cent;
- payment (tax) for land - 3.1 per cent;
- excise duty - 3.5 per cent;
- allocations and fees for construction, reconstruction, repair and maintenance of the general automobile roads - 3.5 per cent;
- fees and other non-tax profits - 4.4 per cent;
- rent payment for oil and natural gas mined in Ukraine and difference in prices for natural gas - 5.1 per cent;
- fund on liquidation of the results of the Chernobyl disaster and social protection of the population - 8.3 per cent;
- allocation of assets from the State Committee on material reserves - 9.0 per cent;
- other - 9.2 per cent;
- profit tax from citizens - 11.4 per cent;
- tax on profits of the enterprises and payment for the trade patent for separate types of the entrepreneurial activity - 12.5 per cent;
- value added tax - 27.8 per cent.

INDIRECT TAXES

Value added tax - national tax which is one of the main sources of the income to the budget. The VAT percentage in the total amount of incomes dropped from 27.8 per cent in 1997 (with the tax rate equal to 20 per cent) to 34.7 per cent in 1993 (with the tax rate equal to 28 per cent). The absolute figure of the tax in the State budget for 1997 was confirmed in the amount of 8456.0 million UHR.

The percentage of the value added tax in the consolidated Budget of Ukraine for the number of years shows the stability of this source of incomes.

Value added tax in Ukraine was introduced from the 1 January 1992 and replaced the earlier existing turnover tax and sales tax which were levied based on the system of the planned and centralized prices.

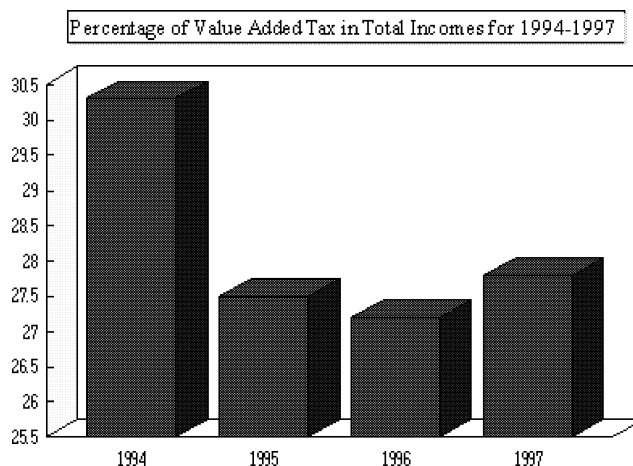
Introduction of the new types of indirect taxes (value added tax and excise duty) first of all is connected with the necessity to provide essential and stable incomes to the budget under conditions of the wide liberalization of prices and expanding inflation processes.

While existing taxes (on turnover) were generally based on the compulsory maintenance of the certain level of profitability and did not contradict with the mechanism of expenses and had limited taxation base (tax on sales), the value added tax is characterized as an essentially effective taxation instrument.

If we consider the value added tax system in other countries of the world as effective regarding stable incomes to the budget, neutrality, non-aggressiveness and self-government, then legislation of Ukraine on value added tax has positive features yet (quite wide taxation base and adequate to the market circumstances and inflation conditions which provides even in the economic recession stable incomes to the budget) requires substantial changes in present.

Percentage of the Value Added Tax in the Total Incomes for 1994-1997

1994 - 30.3 per cent; 1995 - 27.5 per cent; 1996 - 27.2 per cent; 1997 - 27.8 per cent.



That is why Ukraine, which intends to enter in the future European Community, has developed new ways of determining value added tax, on the basis of the main principles (sixth directive of the European Union) of this tax in the Western European countries which will give an opportunity to prevent mistakes which existed when introducing this tax in these countries.

New Law of Ukraine "On Value Added Tax" signed by the President of Ukraine in the month of May of the current year is a step forward in comparison with existing legislation of the State and the majority of the CIS countries.

According to this Law value added tax is a tax on the consumption of goods (works, services) in the customs territory of Ukraine and it shall be paid by every agent (either legal or natural person) who are consuming these goods (works, services) regardless of the origin of goods.

Moreover, consumers, when registered as payers of the tax, have the right to remunerate their expenses on paid tax at the expense of the tax, received from the buyer of the produced goods.

Such payment of tax provides that every seller allocates to the budget only the amount of tax calculated at the added (created) value in the course of production (turnover).

It is extremely important for the budget that when goods are moving through all stages of processing all consumers and processors shall pay taxes before the final consumer of goods (works, services).

In this situation the budget will always receive assets when fulfilling any sales and will timely and properly compensate amounts of the tax.

Value added tax is functioning effectively regularly mobilizing essential assets to the budget provided that tax is calculated and paid when goods are consumed. It means that taxation obligations are arising when goods are transferred to the consumer, but not when consumer actually paid for goods (works, services).

Under conditions of the current legislation consumers of the material resources who produce goods (works, services) and sell them are receiving tax from buyers and leave it in their disposal till the end of the taxation period under review.

Norms and procedures of the calculation and payment of the value added tax provided by the Law of Ukraine "On Value Added Tax" of 3 April 1997 differ substantially from the currently existing Decree of the Cabinet of Ministers of Ukraine of 26 December 1992 No. 14-92 "On Value Added Tax" both in the structure of the Law, style, terms and the procedure of the calculation, payment of the tax to the budget and budget allocations.

The Law consists of eleven articles which determine categories of the value added tax payers, subjects, taxation base and rates, list of nontaxable and exempted from the tax taxes export and import operations, procedure of the special registration of the value added tax payers, determination of the tax credit and tax obligations.

Specific Features of the Above Mentioned Law

1. According to the international norms of the collection of the value added tax, special registration of the value added tax payers in the State tax administration by the place of their location was introduced at the territory of Ukraine with the purpose of receiving registration certificate of the value added tax payer and personal identification number of the value added tax payer which will allow to establish unified data base of the tax payers.

Along with this, registered as a value added tax payer, person receives the right to calculate tax and execute tax note when selling goods, works, services regardless of their origin. Tax note issued by the seller to the buyer provided that they are registered as tax payers and have personal tax numbers is a document which gives the right to the payer to include into the tax credit expenses on tax payment.

2. Article 3 of the new Law provides a unified procedure for the calculation and payment of the value added tax for all categories of payers regardless of the currency of settlements (foreign or national), except specific features on commission trade, according to the decree of the Cabinet of Ministers of Ukraine, when the sale is made at the customs territory of Ukraine, a few subjects shall be used to tax with value added tax. Thus, according to the currently valid Decree, subject to taxes in producing enterprises is turnover on sold goods, fulfilled works and rendered services in trade, purchasing,

wholesale, supplying, selling and other enterprises which render intermediate services - difference between prices of the sold goods (works, services) and prices used for settlements with suppliers including amount of the value added tax. Persons involved in entrepreneurial activity without an established legal person for the calculation of the value added tax are using third type of the tax subjects, namely, the difference between the amount of the sales proceeds and material expenses including value added tax which were actually made to produce indicated goods (works, services).

3. The new approach was established when determining categories of the value added tax payers which will allow to widely draw in all potential value added tax payers. Thus, the Law provides that the value added tax payer is not only an agent (both legal and natural) of entrepreneurial activity, but also another legal person, not agent of the entrepreneurial activity, provided that the volume of its taxable operations on the sale of goods (works, services) within any period from the last twelve calendar months exceeds 600 nontaxable minimums of the citizens incomes (at present it amounts to 10,200 UHR).

Such restrictions on the sales volumes of goods are not covering persons which are carrying out entrepreneurial activity at the customs territory of Ukraine and trading with cash.

An agent of the entrepreneurial activity who has not established legal entity (natural person) who trades for cash starting from 1 July 1997 will not pay value added tax provided that he the paid market fee according to the procedure determined by the legislation.

Besides, starting from 1 July of the current year, category of the value added tax payers will include entities which perform at the customs territory of Ukraine services connected with the transit of passengers or cargo through the customs territory of Ukraine.

When importing goods into the customs territory of Ukraine or receiving from non-residents services (works) to be used or consumed at the territory of Ukraine, any person importing (receiving) indicated goods, including citizens who import goods in taxable amounts, will be included into the category of the tax payers.

4. To calculate value added tax the Law provides two tax rates amounting to 20 per cent and zero rate.

Zero rate is used when calculating value added tax when goods (works, services) are sold for export (except sale of goods, works, services exempted from taxation according to the article 5), sale of the coal and concentrating it products, coal and peat briquettes and also when selling energy to the population. Zero rate means full remuneration of the value added tax paid by the supplier for products, works, services, material resources which were used to fulfill above indicated deliveries.

This law provides full remuneration of the tax amounts. Thus, if according to the results of the period under review difference between the total amount of the tax obligations arisen in connection with any sale of goods (works, services) and amount of the tax credit of the period under review is negative, than such amount shall be remunerated to the tax payer from the State budget within one month next to the month under review.

5. The charge method was introduced when determining tax obligations (according to the current legislation cash method is applied, i.e. turnover is determined when assets were placed to the settlement account of the tax payer) with simultaneous utilization of such method for the right of the payer to receive tax credit. Taxation of goods when assets are received cannot be considered as a correct mechanism since the State never interferes in the settlements between enterprises (it is a business of the enterprises and contractual norm), i.e. enterprises when concluding a contract for delivery of goods negotiate the term of settlements and if it was violated enterprise is legally responsible for covering

losses occurred due to the delay in payments. It also refers to the payments to the budget. If an enterprise is only producing goods and shipping them and the State is waiting for the taxes to be paid then it will lead to the depreciation of the budget assets and to the impossibility to timely provide financing for the State needs.

6. It is now for the first time in the territory of Ukraine that tax legislation introduced equal responsibility of the payers for the timely and proper settlements with the budget and Government of the State for the delay in the return of assets. That is why amounts which were not remunerated to the tax payer within the period under review are considered budget debt, and interests are calculated on these amounts at the level of 120 per cent of the discount rate of the National Bank of Ukraine.

7. As to the taxation procedure for the value added tax on imported products then, starting from 1 July 1997, when importing (sending) goods to the customs territory of Ukraine, value added tax on goods subject to the excise duty and goods included into the commodity groups 1-24 of the Harmonized system of the goods' description and codes, shall be obligatory paid.

As for other goods, value added tax payers, at their own discretion, can pay indicated tax by issuing to the customs bodies promissory note secured by the commercial bank's guarantee for the amount of the tax obligation. One copy of it shall be sent to the customs body, another shall be sent by the customs body to the taxation body by the place of the tax payer registration, and the third shall be sent to the tax payer.

Confirmation of the tax note by the commercial bank by its guarantee can be omitted only for enterprises which had during last 12 months a volume of the taxable operations on the sale of goods (works, services) exceeding 10 million UHR and did not have any debts before budget and did not have any claims in bankruptcy. Confirmation that the importer corresponds to such requirements is issued by the taxation body according to the procedure and terms which will be determined by the Cabinet of Ministers of Ukraine.

Along with this, payment of the note is made by including tax amount on the note into the tax obligation of the payer.

8. When the Law comes into force all tax payers shall fulfill a one-time calculation of the amounts of tax credit and amounts of tax obligations according to the rules of determining tax base provided by this Law. This is to ensure general payment procedure for all tax payers and take into account specific features in determining taxable turnover under conditions of the new Law.

Along with this, tax payers who perform trade and intermediary, wholesale and retail trade activity are obliged to fulfill entire inventory of the goods rests by 1 July 1997, i.e. when this Law comes into force. Purpose of this inventory is to determine the amount of the value added tax actually paid when purchasing such goods rests. Inventory shall be done under the control of the local bodies of the executive power. Results of the inventory shall be reported to the State tax administration by the place of the tax payer registration.

According to the results of the one-time calculation of the amounts of tax credit and tax obligations (in accordance with the rules of the tax base determination, provided by this Law,) tax payer may receive the right to remunerate amounts of the tax credit and than results of the calculation shall be taken into account when increasing tax credits in future periods by equal parts up to 1 January 1998. He may additionally transfer to the State budget an amount of the tax, and such an amount is discounted by increasing tax obligations of the appropriate periods under review by equal parts up to 1 January 1998.

9. It is necessary to mention that in comparison with the Decree, Law does not provide the number of privileges for goods (works, services) and simultaneously with this new privileges are introduced for a number of services rendered in medical and education institutions, employment services, archive establishments and in the areas of the social protection of children, elderly people and disabled persons and also people without inhabited places, etc.

Simultaneously, privileges for the sale of special goods for disabled persons, medicaments and products for medical purposes, passes to the sanatorium and resort treatment, services on delivery of the pensions and cash support and also works on the construction of the premises at the expense of the investor's assets for military men, veterans and members of the military men families which died on their official duties.

It should be noted that changes to the taxation procedure can be made only by amending this Law and cannot be governed by the norms of the international agreements except agreements ratified by the Supreme Rada of Ukraine before this Law came into force.

Introduction of the current Law will contribute to the improvement of the financial situation at the enterprises and will not immobilize working capital of the payers when purchasing taxable goods, works, services and will also give an opportunity to introduce on behalf of the tax administration bodies strict control over the payment of tax to the budget and allocations from the budget.

At the same moment, this Law insufficiently regulates issues on transformation of the payers to apply norms of this Law in comparison with existing, namely:

- on goods, works, services which were shipped, fulfilled, rendered before this Law was introduced but not paid at the moment of their introduction and which according to the current legislation were exempted from taxes. There is no opportunity to apply existing benefits when receiving assets (construction of the social objects and premises, research works and works connected with liquidation of the Chernobyl disaster results, etc.);
- allocations from the budget in substantial amounts require the increase of the term for their practical allocation.

Real circumstances taking place in Ukraine on the distribution of gas between population and budget organizations (prices are determined taking into account substantial amounts of the state subsidies and the fact that imported gas for production purposes of Ukraine is exempted from taxes) were also not taken into account.

Issue on responsibility of the payers for the timely registration, issuance of the tax note, tax accounting and determination of persons subject to registration (structural subdivisions, branches which are not independent legal persons) shall be also clarified.

Excise duty is also one of the indirect taxes. It shall be included into the price of goods and finally paid by the buyer but not by the producer of goods. Excise duty is a specific excise i.e. it is levied based on rates differentiated by separate groups of goods.

Excise duty was introduced in Ukraine in 1992. Consumer goods which, as a rule, are not essential goods and which profitability is quite high, are mainly subject to excise duty. The amount of income from excise tax is calculated based on expected amounts of goods produced subject to excise tax, real assessment of such income in this year and taking into consideration changes and amendments to the legislation on this matter.

The plan for proceedings from excise tax 1997 in the final state budget of Ukraine is 1069.6 million UHR, which accounts for 3,5 percent of general amount of proceedings, including for national products - 893.3 million UHR, for imported products - 276.3 million UHR 74.2 per cent and 25.8 per cent of overall amount respectively.

The 1.5 times increase in amount of proceedings from excise tax over 1996 figures is based on changes in the excise tax legislation on goods (products) and on measures of state regulation of production and distribution of alcohol beverages and tobacco products. In particular, in 1996 new rates of excise tax were implemented (in ECU per unit) for tobacco, and alcohol products, and motor vehicles, according to these laws of Ukraine: "On excise tax and import duty on tobacco products", "On excise tax and import duty on alcohol beverages", "On excise tax and import duty on some motor vehicles and tyres for them".

Law of Ukraine of 11 July 1996 "On excise tax and import duty on some goods (products)" amended the list of goods subject to excise tax: gasoline and diesel fuel became subject to excise tax. Proceeds from this tax according to the Law of Ukraine of 11 July 1996 "On amendments to Article 37 of the Law of Ukraine "On state budget of Ukraine for 1995" are determined to be the source for establishment of the Fund of development of fuel and energy industry which amounts to 104.7 million UHR.

Concerning distribution of proceeds from excise tax - percentage of proceeds from excise tax on alcohol and tobacco products is growing from expected 72.8 per cent in 1996 to 79.7 per cent in 1997. This is due to implementation of new rates of tax and also to expected positive results of measures implemented by the Government of Ukraine with respect to strengthening government control over production and distribution of spirits, alcohol beverages and tobacco products.

Excise tax is differentiated for various groups of commodities. Nowadays, two types of rates are applied: fixed in ECU and in percentage of value of goods.

Procedures for calculation and payment of excise tax is regulated by the following documents:

- Decree of the Cabinet of Ministers of Ukraine of 29 December 1992 No. 18-92 "On excise tax";
- Decree of the Cabinet of Ministers of Ukraine of 30 April 1993 "On changes and amendments to the Decrees of the Cabinet of Ministers of Ukraine concerning taxes";
- Law of Ukraine of 19 November 1993 "On changes and amendments to the Decrees of the Cabinet of Ministers of Ukraine "On value added tax" and "On excise tax";
- Law of Ukraine of 19 November 1993 "On changes and amendments to the Decree of the CMU "On excise tax".
- List of goods (products) subject to excise tax is determined by four laws, adopted by the Supreme Rada of Ukraine in 1996, in particular:
 - Law of Ukraine of 6 February 1996 No. 30/96-BP "On excise tax and import duty on tobacco products";
 - Law of Ukraine of 7 May 1996 No. 178/96-BP "On excise tax and import duty on ethylene spirits and alcohol beverages" with amendments;
 - Law of Ukraine of 24 May 1996 No. 216/96-BP "On excise tax and import duty on some motor vehicles and tyres therefor";
 - Law of Ukraine of 11 July 1996 No. 313/96-BP "On excise tax and import duty on some goods (products)".

Excise tax is paid by all business entities, which produce goods (products) subject to excise tax, and individuals, who import goods (products) subject to excise tax into the customs territory of Ukraine, and business entities distributing goods subject to excise tax, which were purchased before 1 January 1992.

In calculation of excise tax as a percentage of turnover of trade (transfer) of goods (products), the object of excise taxation is turnover from distribution of goods (products) subject to excise tax produced in Ukraine through, sales, exchanges for other goods (products, works, services), free or partially paid transfer thereof, for personal utilization, industrial processing (except for turnovers from distribution of production of goods subject to excise tax), and also for own employees, and for imported goods - it is customs (purchase) value taking into consideration the real amounts of customs duties, import duty and excise tax to the Customs committee.

In calculation of excise tax on fixed rates in ECU the object of taxation is the amount of distributed (transferred, imported in Ukraine) goods (products).

Excise tax on goods (products) imported in Ukraine, calculated in ECU, is paid in the currency of Ukraine based on the exchange rate of the National Bank of Ukraine, valid on the date of filing customs declaration.

Excise tax on goods (products), produced and distributed in Ukraine, calculated in ECU, is paid in the currency of Ukraine based on the exchange rate of the National Bank of Ukraine, valid on the first day of quarter, during which the goods (products) are distributed and stays unchanged during quarter.

About 85 per cent of all proceeds from excise tax to the State budget of Ukraine is from excise tax on spirits, alcohol beverages and tobacco products.

In 1997 a stable trend of decrease in production of spirits and alcohol beverages developed. In general, in Ukraine amounts of production of these goods decreased by more than 40 per cent. Amounts of alcohol products distribution are still unsatisfactory: for the first half of the year only 70 per cent of produced in 1997 production has been distributed, or 50 per cent of products in stock (taking into consideration rest of final products in stock at the enterprises-manufacturers as of 1 January 1997), with 35 per cent of those distributed without excise tax paid (for export or production of goods subject to excise tax). Debts of spirit and alcohol beverages buyers is continuing to grow. For example, for alcohol beverages, debts for the first half of 1997 increased by 84 per cent, for spirits - by 79.8 per cent.

However, despite negative influence of above mentioned reasons, proceeds from excise tax from spirits, alcohol beverages and tobacco products still increase. Significant part in this process is played by strengthened control from tax and law enforcement agencies over business entities by requirements of legislative and normative acts in this field. At the same time, it is necessary to note, that tax authorities in their activities in this direction are not always correctly understood by respective ministries and institutions.

During last year the amounts of "falsified exports" of goods subject to excise tax, in particular spirits and alcohol beverages, considerably increased, and also utilization of such "export" is one of the most significant sources of non-marked alcohol beverages in the home market of Ukraine. Taking this into consideration the State tax administration of Ukraine developed and filed for consideration draft resolution of the Cabinet of ministers of Ukraine which provides financial pledges by entities-non-residents of Ukraine when receiving spirits, alcohol beverages and tobacco products purchased with the purpose of further export for hard currency. the State tax administration of Ukraine

cannot understand the position of the State food production committee, the State gardening committee and the Ministry of Economy, which strongly oppose the adoption of such resolution. These entities believe that adopting such a norm will lead to decrease in exports of spirits and alcohol beverages, not taking into consideration the fact, that such decrease will take place only on account of products currently left in Ukraine against requirements of legislative acts.

What is especially amazing, is the fact that the State food industry committee and State gardening and wine industry committee of Ukraine are against this resolution, when they are supposed to be interested in liquidation of conditions for appearing of falsified alcohol beverages in Ukraine, because such products create unfavorable conditions for competition for products, produced by enterprises, operating in the systems of those institutions.

In performing their functions on control of business entities abiding by requirements of legislative and normative acts in the field of production and distribution of spirits, alcohol beverages and tobacco products, tax and law enforcement agencies often face problems connected with imperfectness of the legislation. For some types of material breaches in this field, for example, for breaches in procedures of distribution, transporting or storage of spirits and alcohol beverages, production of spirits and alcohol beverages without license no administrative or criminal responsibility for guilty persons is provided. As the result, tax and law enforcement agencies can only document breaches and have no efficient tools to punish the guilty and prevent such breaches in the future.

During first half of 1997, the State tax administration of Ukraine systematically filed proposals on amendments to existing legislation, which would help to collect additional revenues for the budget. In particular, the draft Law of Ukraine was developed and agreed upon which terminates all privileges temporarily granted to national producers of goods subject to excise tax. It was proposed to increase the rates of excise tax for some goods (products). At this time this draft has not been presented for consideration by the Supreme Rada of Ukraine.

It is the case that draft laws are not always agreed in the State tax administration of Ukraine. For example, on the proposal from the people's deputies and Ministry of Industry of Ukraine the Supreme Rada of Ukraine adopted the law, which provides for exemption from excise tax for car tyres. However, these proceeds from distribution of tyres in 1996 were 14.2 million UHR, and the State tax administration of Ukraine was only informed about decrease of income side of State budget.

Special features of calculation and payment of excise tax, paid on alcohol beverages and tobacco products produced in Ukraine or imported in its territory is determined by the Law of Ukraine of 15 September 1995 No. 329/95-BP "On excise tax on alcohol beverages and tobacco products".

The following persons are qualified as payers of excise tax on alcohol beverages and tobacco products:

- business entities;
- Ukrainian manufacturers of alcohol beverages and tobacco products, and also contractors, which order the production of such products on processing basis; -business entities, including enterprises with foreign investments, not depending on the date of their registration, and individuals, involved in business activities without establishing legal entity, importing alcohol beverages and tobacco products in the customs territory of Ukraine for personal as well as for industrial purposes for sale or commissioning or re-exporting;
- individuals, importing alcohol beverages and tobacco products into the customs territory of Ukraine in amounts, subject to import tax;

- legal entities and individuals, international organizations, their affiliates, departments and other separate divisions, which are involved in distribution of alcohol beverages and tobacco products in the customs territory of Ukraine, including operations of importing alcohol beverages and tobacco products in Ukraine, in case their distribution in the territory of Ukraine is done by the above mentioned entities through their permanent representative, situated in the territory of Ukraine.

The object of excise taxation on alcohol beverages and tobacco products is the following:

- (i) turnover of distribution of produced in the territory of Ukraine alcohol beverages and tobacco products through their sale, exchange and other products (goods, services and works), free transfer with partial payment, partially paid on commission and consignment;
- (ii) turnover from distribution (transfer) of alcohol beverages and tobacco products for personal consumption and industrial processing;
- (iii) value of alcohol beverages and tobacco products, produced by Ukrainian manufacturers on the basis of import for processing;
- (iv) customs value of alcohol beverages and tobacco products, imported in the territory of Ukraine, including those produced outside Ukraine on 'imported for processing' basis, re-imported, and customs value of products brought back to the customs territory of Ukraine from customs control zone (duty free shops), calculated in the currency of Ukraine basing on exchange rate of the National Bank of Ukraine, valid on the date of customs registration of goods (products), taking into consideration actually paid duties.

The following amounts are not subject to taxation:

- (i) customs value of imported and confiscated in the territory of Ukraine alcohol beverages and tobacco products, which do not clearly have owner, and also for those, inherited by the state;
- (ii) customs value of alcohol beverages and tobacco products, transit shipped through the territory of Ukraine;
- (iv) customs value of imported or turnover from distribution (transfer) of Ukrainian raw materials, imported or utilized for production of goods, subject to excise tax;
- (v) value of alcohol beverages and tobacco products, exported outside Ukraine for foreign currency, conditioned by receiving this currency on currency account of enterprise;
- (vi) customs value of alcohol beverages and tobacco products, imported (transacted) by individuals in the territory of Ukraine according to the norms of the legislation of Ukraine for duty free import of these goods;
- (vii) customs value of samples of alcohol beverages and tobacco products, imported in the territory of Ukraine for demonstration purposes, in case they are owned by foreign legal entities and they are utilized in the territory of Ukraine not for commercial purposes. Samples of alcohol beverages and tobacco products, imported in the territory of Ukraine and intended for demonstration at exhibitions, contests, meetings, workshops, fairs are allowed though customs border basing on the decision of customs authority in sufficient amounts, taking into consideration the purpose of import.

Rates of excise tax on alcohol beverages and tobacco products are established in ECU, they are uniform in all Ukraine and are established by the following legislative acts:

- Law of Ukraine of 7 May 1996 No. 178/96-BP "On excise tax and import duty on ethylene spirits and alcohol beverages", with amendments, made in the Law of Ukraine of 18 February 1997 No. 74/97-BP;
- Law of Ukraine "On amendments to the Law of Ukraine "On excise tax and import duty on ethylene spirits and alcohol beverages" of 18 February 1997 No. 74/97-BP;
- Law of Ukraine "On amendments to the Law of Ukraine "On excise tax and import duty on ethylene spirits and alcohol beverages" of 12 June 1997 No. 339/97-BP.

DIRECT TAXES

Income Tax

In 1997 it is expected that the share of enterprise income tax in the total amount of proceeds, compared to 1996, would decrease from 22.3 per cent to 12.5 per cent. This is related to the indexation of balance value of intangible assets and respective increase of depreciation payments, which, in its turn, would lead to increase of cost of goods (works, services) and decreased income.

Ministry of economy forecasts for this tax were preliminary based on the income of 16,707 million UHR, expected in 1997. However, due to the above mentioned reasons it decreased to 12,848 million UHR.

Proceeds from income tax of 3,815.8 million UHR in 1997 are calculated taking into consideration the implementation from 01 July 1997 of the new edition of the Law of Ukraine "On taxation of enterprise income tax". Share of income tax in GDP is 3.8 per cent compared 8.1 per cent last year.

Amount of income tax includes proceeds from payments for permits in retail trade, cash currency exchange, services in gambling industry totaling 211.6 million UHR.

Law of Ukraine "On amendments to the Law of Ukraine "On enterprise income tax" was enacted from 1 July 1997 and is implemented in transactions for budget payments starting from incomes and expenditures from 1 July 1997.

Changes and amendments, made to the Law of Ukraine "On enterprise income tax" have radically changed attitudes toward taxation of enterprise tax.

The Law provides for radically new approach to determination the basis of taxation. Instead of income, which is currently determined as a difference between revenues from distribution of products (works, services) and expenditures, included into the cost of distributed products, it is proposed to consider income of an enterprise, determined through decreasing the amount total income in the period concerned by amount of total expenditures of tax payer, adding the amount of depreciation payments.

The Law provides, first of all, for "General provisions" (Article 1), which include definition of terms, used in this draft law. The Law determines tax payers, defines procedures of determination of taxation basis, and provides for special features of taxation for special type transactions.

According to Article 2 of the Law, tax payers are business entities (including State budget and public institutions) which gain income from business activities, non-residents, affiliates, divisions and other separate branches, which have their separate bank account and/or make separate reports for results of their business activities.

The Law provides for special procedures for taxation of income for the following entities:

- penitentiary institutions and thereof enterprises, which utilize labor of prisoners. The above mentioned enterprises direct profits obtained from the activities, and determined by the Ministry of Internal Affairs, for financing of main activities of such institutions and enterprises, adding such profits to financing schedules of respective budgets;
- railroad enterprises. In particular, income tax, obtained from main activities of railroad enterprises, is paid by railroad departments, and for income, obtained from other activities - by railroad enterprises and their respective divisions. Profits are distributed between railroads according to the procedures, established by the Cabinet of Ministers of Ukraine.

The procedures of paying consolidated tax is established so that enterprises, which have separate divisions without status of legal entities, may pay consolidated tax, taking into consideration amount of tax, paid by separate divisions in their place of business. Application for payment of consolidated tax shall be filed before 1 July of the year, prior to the year, from the beginning of which tax payer is shifting towards consolidated tax.

In case the amount of tax, calculated for consolidated balance, is less than the amount of tax paid by separate divisions, such difference shall not be refunded.

Thus, the above mentioned provisions of the Law provide possibilities to take into consideration the aspects of calculating income of local budgets at the places of business of tax payers.

Total income (Article 4) includes overall income from distribution of goods (works, services), income from banking, insurance and other transactions of financial services nature, trade with currency funds, stocks, bonds, as well as income from other sources and from non-trade transactions (amount of financial aid and cost of free products (works, services), income from sale of material and volatile assets, amount of insurance reserves, utilized for non-agreed purposes, amount of penalties and/or fine according to voluntary decision of contracting parties or according to the decision of State appeal, court, arbitration court institutions).

For the purposes of taxation the following are excluded from total income:

- amount of excise tax, VAT;
- amount of funds or value of property, received as direct investment or re-investment in corporate rights, including monetary and property investments according to the contract on joint activities;
- amount of income of federal executive authorities, local authorities from rendering state services (issue of permits (licenses), certificates, registration forms, other services, which are obligatory purchased according to legislation), in case such income is included in respective budgets;
- dividends, obtained by tax payer from other tax payers;
- funds or property, received as an international technical assistance.

Differently from existing procedures, according to which production (distribution) spending, included in cost of products (works, services), are written off with distributed goods (works, services), the Law provides for total spending (article 5) of production and distribution as amount of any spending of tax payer in monetary, material or non-material form, connected with purchase (production) of goods

(works, services) for individual business needs, notwithstanding the period of utilization of such goods (works, services) in business activities of such tax payers.

Total spending in this draft Law are determined so that all spending can be divided in three groups:

- spending, to be included in total spending, total income of an enterprise is respectively decreased;
- spending, which cannot be included in production (distribution) costs (works, services);
- spending, which have double purpose, that is those spending, which, in one case, are accounted for decrease of tax liabilities, and in other - the above mentioned spending are not included in decrease of taxation basis, as those, that are not directly related to business activities of an enterprise.

Total gross income, corrected according to the amount of income, excluded from total gross income, decreased by amount of total spending, forms profit, which is subject to taxation.

The Law provides for the formation of additional pension payments (pension plans) at specially established pension accounts for depositors-workers, employed by tax payer.

Total spending of tax payer include amount of total payments of an employee to additional pension plans, but not more than 15 per cent of total income, received by such employee from tax payer during taxation period, when such payments were made.

Amount, paid to additional pension plan by tax payer on behalf of the employee, is not levied with personal income tax when it is transacted to such plan, but it is subject to such taxation (adding respective interest) when it is paid to the employee.

Rules of tax accounting, determined by the Law, are that the date of increase of total income of tax payer is (whatever comes first):

- whether the date of transaction of funds from buyer in payment of goods (works, services), subject to distribution (on bank accounts or registration of cash in cash register);
- whether the date of delivery of goods, and for works (services) - the date of finalization of document, certifying the fact of completion of such works (services) by tax payer.

Respectively, the date of increase of total spending of tax payer is:

- whether the date of writing off funds from taxpayer bank accounts for payment of goods (works, services), and in case they are purchased for cash - the day cash is handed out at the cash registry of tax payer;
- whether the date the goods are registered by tax payer, and for works (services) - the date of finalization of document, certifying the fact that tax payer received such goods (works, services).

Article 10 determines uniform rate of income tax of 30 percent, including for enterprises, established on property of one natural entity.

Besides tax payers, which pay out to natural or legal entity its lottery, casino or other gambling price, are obliged to withheld and pay to State budget 30 per cent of such price.

There is also special procedure of taxation of transactions of special type (Article 7).

(ii) For insurance activities (item 7.2):

Income from insurance activities (except for life insurance) are levied on the rate of 3 per cent of total income, that is from amount of received insurance payments, insurance payments insurance bonuses on insurance and re-insurance policies and in the territory of Ukraine and abroad.

Income, obtained according to life insurance and re-insurance contracts, are levied on the rate of 10 per cent on account of such payments.

Income of insurers from other sources are levied on common tax rate.

(ii) Taxation of dividends (item 7.8):

The Law provides for payment of tax on dividends by tax payer, who distributes dividends, on the rate of 30 per cent of amount of dividends due on account. Such tax is paid to the budget before or along with payment of dividends. At the same time, the amount of tax due by tax payer is decreased respectively by the amount of paid tax on dividends. And for tax payer receiving dividends the amount of dividends is excluded for taxation purposes from its total income.

In case, when amount of tax on dividends paid is more than tax payer's obligations on income tax for the period concerned, such difference is compensated by decrease of income tax obligations of such tax payer in future taxation periods.

(iii) Taxation of joint activities without establishment of legal entity (item 7.7):

Joint activities without establishment of legal entity are conducted on the basis of contract on joint activities, which provides for pooling of funds and property of the parties with the purpose of reaching common business objectives and separate accounting of results of business activities. Taxation of income from the above mentioned activities is done according to the procedures, determined for taxation of dividends.

(iv) Special procedures are provided for taxation of income on long-term contracts for construction, production (or installation) of equipment, as well as for bond transactions.

(v) For non-profit organizations (item 7.11)

The Law provides the list of institutions and organizations, which are qualified as non-profit organizations:

- State and local authorities, as well as institutions and organizations established by them, operating on account of funds from respect budgets;
- charity funds and organizations (including public organizations);
- pension funds;
- credit unions;
- religious organizations;
- other, whose activities do not provide for income.

Income of the above mentioned non-profit organizations, received in funds or property, received free or as non-repayable financial assistance or voluntary payments, passive income, as well as funds and property, received by such non-profit organizations as compensation for received State services, are exempted from taxation.

For education, health, archive and library institutions, financed by State budget, there is a procedure, which provides, that income received by them from any paid services, rendered according to existing legislation, is directed to respective budgets; and in case of insufficient state budget finacing

of such institutions, such income is added to special account and is utilized exclusively for financing of such institutions, to the extent they are not financed from State budget.

The Law implements new forms of depreciation payments and new procedures of calculation of depreciation schedule (Article 8), which, in particular, provides for decrease of taxation basis by spending on purchase, production or improvement of fixed assets through adding depreciation payments from the moment such spending were made, and not from the beginning of utilization of such fixed assets, as it is provided in existing procedures.

Fixed assets are divided in three groups:

group 1: buildings, edifices, their structural elements and transmission equipment, including residential housing and elements thereof (apartments and public places);

group 2: motor vehicles, furniture, electronic, optical, electric home tools and appliances, including electronic computing machines, and office equipment;

group 3: any other fixed assets, not included in groups 1 and 2.

Balance sheet value of fixed assets of group 1 is registered for every separate building, edifice or structural element. Balance sheet value of fixed assets of groups 2 and 3 is registered as total balance sheet value of respective group of fixed assets, not depending on the moment of beginning of utilization of such fixed assets.

Depreciation norms are determined as percentage of balance sheet value of every group of fixed assets at the end of reported period according to the following schedule (annually):

group 1: 5 per cent;

group 2: 25 per cent;

group 3: 15 per cent.

Tax payer may solely decide to implement fast depreciation of fixed assets according to established norms.

Tax payers have the right to include in total spending some part of actual spending for any kind of repair (current and capital) and other types of improvement of fixed assets in amount, not exceeding 5 per cent of total balance sheet value of groups of fixed assets at the beginning of current year. Spending, which exceed the above mentioned amount are included in increase of balance sheet value of fixed assets and are subject to depreciation according to established procedures.

The Law (Article 9) provides for new norm, according to which spending on extraction of fossils are refunded through special group of fixed assets, through adding depreciation payments. The above mentioned spending decrease total income of tax payer.

Privileges with respect to income tax (item 7.13, Article7), are provided in the Law.

The following amount is exempt from income tax:

- income, gained by enterprises from distribution of self-produced special children nutrition products, under condition, that funds freed from tax are directed to increase the amount of production and decrease retail prices for such products;
- amount, directed for investment of housing of military men.

There is still a privilege for income tax for income, gained by enterprises of public organizations of disabled persons from distribution of products, manufactured by them (excluding goods, subject to excise tax, income from agent activities, gambling business), under condition, that the number of disabled, working there is not less than 50 per cent of all employed and wage fund for such disabled persons for the period concerned is not less than 25 per cent of amount of total spending on labor.

Besides, total spending include:

- amount of funds and value of property voluntarily transacted to state or local budget, to non-profit organizations, but not more than 4 percent of taxable income for the period concerned;
- amount of funds, transacted by enterprises of Ukrainian unions of persons, who suffered from Chernobyl disaster, where the number of such persons is not less than 75 per cent, to such unions for their charity purposes, but not more than 10 per cent of taxable income in the period concerned.

The Law of Ukraine (Article 12) implements a new norm, according to which any bank or non-banking financial institution (except for insurance companies) have the right to establish insurance reserve to refund losses on delinquent loans on principle amount (without interest and commission) for all credits and other active transactions. The amount of such reserve is included in total spending of tax payer.

Establishment of such insurance reserve is done by financial institution solely, in amount, sufficient to cover delinquent loans.

For taxation purposes, the amount of insurance reserve is limited:

- for commercial banks - 20 per cent of loans due;
- for non-banking financial institutions - the amount is established by respective legislation, not more than 30 of loans due.

The methodology for determining delinquency of loans is developed: for banks - by the National Bank of Ukraine, for non-banking institutions - by respective state regulation authority.

The Law of Ukraine determines special features for taxation of non-residents. It is provided, that non-residents conduct business activities in the territory of Ukraine through their representative office.

Representative office of non-resident is also any Ukrainian legal entity, which implement agent (representative) functions for nonresidents of their founders.

Income of non-residents, gained in the territory of Ukraine from business activities, is levied on common grounds on the rate of 30 per cent.

Passive income of non-residents, gained from sources in the territory of Ukraine, is subject to taxation on the rate of 15 per cent in case such income is paid or transacted on account of such payments. That is, tax on non-resident shall be levied not on the moment of repatriation of income out Ukraine, but at the moment of paying the income due to non-resident, which gives an opportunity to avoid tax evasion from non-residents.

Differently from existing procedures of taxation, income of non-residents, gained in the territory of Ukraine as dividends, from insurance and advertising transactions are levied at 30 per cent rate on account of such payments.

Incomes from re-insurance in the territory of Ukraine are supposed to be levied on 10 per cent rate on account of such payments.

Income of non-residents from freight in international shipment is still levied on 6 per cent rate.

The Law (Article 14) canceled privileges on taxation of income, gained by enterprises of agricultural industry from production and distribution of agricultural products. At the same time, it is provided, that enterprises of agricultural industry shall pay income tax basing on results of reported tax year.

It is also provided, that total income and spending of enterprises-manufacturers of agricultural products shall be indexed based on official inflation rate.

Enterprises-manufacturers of agricultural products have the right to decrease the amount of income tax by amount of tax on land, utilized in agricultural production, and all other tax payers include tax on land to total spending.

The Law provides for changes in procedures of calculation and payment of income tax (Article 16).

Tax payers solely determine amount of tax due and pay it not later than 20th day of month, coming after reported quarter.

Income declaration for reported quarter and calculation of amount of tax due are filed by tax payer to tax administration not later than 25th day of month, coming after reported quarter.

Filing of accounting report is required only for results of tax payer's annual activities, not later than 15 February of the year, coming after the reported one. In cases, provided for in the legislation, annual accounting report shall be approved by results of audit examination.

Enterprises-manufacturers of agricultural products file income declaration, calculation of tax due and pay such tax along with annual accounting report.

During quarter tax payers, excluding non-residents and manufacturers of agricultural products, make advance accumulative tax payments from the beginning of the year to State budget for the first and second months of quarter, basing on income subject to taxation taking into consideration the value of trade permits.

Calculation of advance payments for the first and second month of the quarter shall be made by a payer independently and shall be effectuated accordingly before the twentieth day of the second and third month of the quarter.

Non-residents that conduct their activity in Ukraine through a permanent representative office, contrary to current legislation, should calculate income tax amount independently and pay according to the results of the reporting period.

The Ukrainian Law (Article 20) shall establish liability of payers for non-observance of tax obligations.

Tax-payers that at the moment of the state tax administration's check-up do not have accounting reports and balance sheets, declarations and documents related to calculation and payment of tax for appropriate periods shall pay penalty in the amount of ten non-taxed minimums of individuals' income for a single infringement.

If within next twelve months a tax-payer makes the second or more of such infringements, such tax-payer shall pay penalty in the amount of ten non-taxed minimums of individuals' income multiplied on the number of such infringements. The beginning to count the above-mentioned twelve months shall be the tax period when last infringement occurred.

Tax-payers that have not submitted to the State tax administration or have submitted in untimely manner the declaration on income, calculation of income tax and payment order to transfer tax to the budget if there are funds on the account shall pay penalty in the amount of 10 per cent of the calculated tax amount for each case of infringement.

In case of well-hiding or lowering of tax amounts, tax-payer shall pay sums to tax calculated by the State tax administration, penalty in the amount established by legislation and fine calculated proceeding from 120 per cent of the National Bank of Ukraine base rate effective at the moment of payment and calculated (fine) for total amount in arrears (penalties are not taking into account) for the whole period for the amount in arrears.

Penalty sanctions provided by this paragraph shall not apply to tax-payers which founded the fact of taxed income lowering prior to the state tax administration's check-up, notified this to the tax administration in written and paid the amount in arrears as well as fine proceeding from 120 per cent of the National Bank of Ukraine base rate effective at the moment of payment and calculated (*fine*) for total amount in arrears for the whole period for the amount in arrears.

The law has introduced a new norm under which the head of appropriate tax body can make a decision on non-application of financial sanctions to a tax-payer if according to consequences of the state tax administration's check-up cases of arithmetical errors and incorrect notes were found that have led to lowering of tax amount, but not more than 5 per cent of payer's total obligations amount on payment of tax for the period checked.

The draft Ukrainian Law "On Making Changes and Supplements to the Law of Ukraine "On Patenting Some Types of Entrepreneurial Activity" was prepared pursuant to the Cabinet of Ministers of Ukraine instructions No. 20951/4, dated 28 October 1996, and the Verkhovna (Supreme) Rada of Ukraine Committee on Economic Policy and National Economy Management, No. 06-8/14-146 of 18 October 1996.

Introducing in Ukraine the procedure of patenting activity in the field of retail trade, foreign currency trade as well as providing with services in the field of playing business that are conducted by agents of economic activity according to the Ukrainian Law No. 98/96-VR "On Patenting Some Types of Entrepreneurial Activity" of 23 March 1996 (with changes and supplements made by the Ukrainian Law No. 324/96-VR, dated 12 July 1997) has given a possibility for the first time in fact to attract to taxation income of mentioned agents of business activity from those kinds of activity where there are significant difficulties in determining true amount of income.

Experience in introduction of this Ukrainian Law showed that some of its norms required improvements. For example, establishing cost of trade patent for retail trade is limited only by maximum limit. Such treatment in determining cost of trade patent leads to the situation when bodies of self-government approach subjectively to establishing payment for trade patent, establishing in some cases conditional cost of trade patent.

The draft Law proposes to establish also the lowest limit for trade patents in order to decrease the budget's losses from subjective treatment in establishing amount of such payment.

Making changes and supplements to the Ukrainian Law "On Patenting Some Types of Entrepreneurial Activity" provides for improvements of the patenting procedure in the field of small retail trade and public catering as well as operations on providing with consumer services (like hair-dressing, dry-cleaning, etc.). Amount of payment for trade patent on mentioned kinds of activity is proposed to establish at the level of existing, i. e. cost of trade patent for a calendar month cannot be less or exceed the following limiting levels:

- in the city of Kyiv and oblast centers - in the amount from 80 to 160 ECU;
- in the city of Sevastopol, cities of oblast subordination (except oblast centers) and rayon (district) centers - in the amount from 40 to 80 ECU;
- in other populated areas - in the amount from 20 to 40 ECU.

With approval of mentioned changes and supplements, responsibility of some agents of business activity to the State for compulsory payments to the budget shall be strengthened and shall have significant importance for stabilization of financial system.

It is proposed to extend the list of goods for trade with which agents of business activity or their independent units shall obtain trade patent free of charge. These are operations on retail trade with seeds of vegetables, melon-plantation crops, food root plants and potato (regardless the country of their origin).

Obtaining free trade patent is also allowed by agents of economic activity that conduct operations in trade and production field (public catering) at enterprises, in institutions, organizations and educational institutions if they are on books of the mentioned enterprises, institutions and organizations.

Penalties provided for violations of effective Law should be paid by an infringer within 5 days and are effectuated under the procedure established by the Ukrainian Law "On State Tax Service in Ukraine".

The draft Law provides for making editorial changes in connection with liquidation of the Main State Tax Inspectorate of Ukraine and establishing the State Tax Administration of Ukraine.

Individuals' Income Tax

Pursuant to current legislation revenues of individuals' income tax are 3,459.6 million UHR. It depends on volume of labor payment fund and numbers of people involved in national economy in the amount of 20 million and 500 thousand persons.

Regarding the role and place of individuals' income tax in ensuring the Ukrainian state budget filling, revenues of the consolidated budget of Ukraine for the first half of 1997 were 1,468,241 thousand-UHR or 15.2 per cent in total amount of taxes and other payments revenues to the budget.

Decree of the Ukrainian Cabinet of Ministers shall determine income tax-payers, objects of taxation, tax rates, the list of non-taxed income and amounts for which taxed income is reduced; peculiarities of taxation for some categories of payers as well as shall establish liability of payers.

In particular, Section I of the Decree determines that income tax-payers are Ukrainian citizens, foreign citizens and stateless persons including those who have and who do not have permanent residence in Ukraine.

Ukrainian citizens, foreign citizens and stateless persons residing in Ukraine not less than 183 days per a calendar year are included to persons with permanent residence in Ukraine.

Object of taxation for individuals who have permanent residence in Ukraine is aggregate taxed income in the calendar year that includes sources both in Ukraine and abroad.

Object of taxation for individuals who do not have permanent residence in Ukraine is income obtained from different sources in Ukraine.

Aggregate taxed income shall include income obtained in the form of money and in-kind (national or foreign currency). Income obtained in-kind shall be included to aggregate taxed income according to free (market) prices, except income obtained from agricultural enterprises that are determined according to products' sale prices to the State.

Payment of income tax obtained in foreign currency shall be effectuated in Ukrainian Hryvnias. Income obtained in foreign currency shall be transferred into Hryvnias under the exchange rate established by the National Bank of Ukraine at the date of receiving income.

The same Section contains the list of income types that are not included in aggregate taxed income obtained by individuals and for which aggregate taxed income shall be reduced. This is, in particular, assistance on the governmental social insurance and governmental social provision (except assistance on temporary invalidism), compensation payments within norms provided by current legislation, amounts of money provision for servicemen in connection with fulfillment of their duties, individuals' income obtained as a result of small private farms' plant-growing and animal (both alive animals and products of initial processing), etc. products sale and other types of income.

Aggregate taxed income shall be reduced, in particular, for the amount that does not exceed the amount of non-taxed minimum of individuals' income established by legislation for each complete month within which income was obtained. Non-taxed minimum is included to the scale of taxation rates. Aggregate taxed income shall be reduced additionally for the amount that does not exceed the amount of non-taxed minimum established by legislation for each month for one of parents per each child under 16 years if aggregate taxed income of this father (mother) does not exceed 10 non-taxed minimums per month.

This Section of the Decree also establishes the list of individuals' categories for whom taxed income is reduced by appropriate number of non-taxed income, for example, by fifteen non-taxed minimums for individuals included to war participants and veterans under current laws, by 10 - for individuals suffered from Chernobyl accident and included to I and II categories and by 5 non-taxed minimums for, in particular, invalids of 1 and 2 groups from the childhood and individuals suffered from Chernobyl accident and included to III and IV categories.

Pursuant to Article VI of this Decree the Cabinet of Ministers of Ukraine can provide additional privileges regarding income tax; and self-government authorities of basic level, taking into account financial conditions, shall have the right to reduce aggregate taxed income of some individuals or to free them from payment of tax in the calendar year.

Article 7 establishes tax rates.

Currently, non-taxed minimum of individuals' income is in the amount of 17 Hryvnias.

Income tax of an individual's aggregate monthly taxed income in the place of main job (service, education) shall be calculated under the following rates:

Amount of a Month Aggregate Taxed Income	Tax Rates
less than one non-taxed minimum (less than 17 UHR)	Non-taxed
from 18 to 85 UHR (from 1 to 5 non-taxed minimums)	10 per cent of income amount that exceeds one non-taxed minimum
from 86 to 170 UHR (from 5 to 10 non-taxed minimums)	6 UHR and 80 copiyoks plus 15 per cent of the amount that exceeds 85 Hryvnias
from 171 to 1 020 UHR (from 10 to 60 non-taxed minimums)	19 UHR and 55 copiyoks plus 20 per cent of the amount that exceeds 170 UHR
from 1 021 to 1700 UHR (from 60 to 100 non-taxed minimums)	189 UHR and 55 copiyoks plus 30 per cent of the amount that exceeds 1020 UHR
1701 UHR and more (more than 100 non-taxed minimums)	393 UHR and 55 copiyoks plus 40 per cent of the amount that exceeds 1700 UHR

From income amounts obtained by individuals not in the place of the main job and by individuals who do not have permanent residence in Ukraine, tax to sources of payment shall be calculated under the rate 20 per cent.

From income amounts obtained in the form of stocks' dividends by individuals who are founders and participants of enterprises, and as a result of such enterprises' income allocation, tax to sources of payment shall be calculated from aggregate taxed income under the rate 20 per cent.

Since object of taxation for individuals who have permanent residence in Ukraine is aggregate taxed income from different sources, the Decree establishes some peculiarities to tax individuals within the calendar year.

Section II of the Decree establishes that income tax in the place of individuals' main job shall be collected monthly under the above-mentioned scale of rates with further recalculation at the end of the year.

Section III of the Decree regulates collection of tax in the place other than the main job. Enterprises, institutions and organizations that conduct such payments within the year shall collect income tax under the rate 20 per cent.

After the year end, individuals, except those who had income only in the place of the main job, shall be liable before 1 March of the succeeding year to submit a declaration to tax authorities in the place of their residence regarding the amount of aggregate income obtained both in the place of the main job and in the place that is other than the main job.

Tax authorities shall use this information to check declaration submitted by individuals and to calculate aggregate annual tax amount.

Section IV of the Decree establishes peculiarities of income taxation for entrepreneurial activity and other types of income. Pursuant to this Section, individuals' income obtained within the calendar year in the course of entrepreneurial activity without creation of legal entity shall be taxed, as well as other individuals' income not provided by Section II and III of this Decree as objects of taxation. Taxed income for such individuals shall be considered aggregate net income, i.e. difference between gross income (proceeds in the form of money and in-kind) and costs confirmed by documents and directly related to receiving income.

Tax authorities in the place of entrepreneur's residence shall calculate tax for actual annual income. Tax payment within the year shall be effectuated through advanced payments proceeding from estimated income or calculated income under fixed amount of income tax.

Entrepreneurs and individuals that have other income shall be liable to submit declarations on income quarterly before the fifteenth day of the succeeding month, and after the year end - final annual before 1 February of the succeeding year.

Section VII of the Decree establishes requirements regarding observance of this Decree. This Section establishes obligations of individuals, enterprises, institutions, organizations and natural persons who are agents of business activity, in particular, accounting, submission of information on income, etc.

The same Section establishes liability of individuals, enterprises, institutions, organizations and natural persons who are agents of business activity for violations of this Decree, in particular, for untimely submission of the declaration, for involving in entrepreneurial activity without state registration, hiding income from taxation, for non-collection and non-transferring of income tax to the budget, etc. These measures shall be applied according to the Ukrainian Law "On State Tax Service in Ukraine".

Trade Tax

Taxation with tax trade is regulated by the Decree No. 24-93 of the Cabinet of Ministers of Ukraine "On Trade Tax", dated 17 March 1993, with appropriate changes and supplements.

Trade tax-payers are Ukrainian citizens, foreign citizens and stateless persons if they are not registered as agents of business activity and are involved in non-systematic, not more than four times within the calendar year, sale of manufactured, processed and purchased products, things and goods.

Object of taxation is a total cost of goods under market prices that are declared by an individual in the submission to the state tax authorities of the district (town) in the place of his/her residence; and by individual who does not have permanent residence in Ukraine - in the place of sale.

Sale of products grown in small private farms as well as sale of vehicles that are the property of individuals and are sold once a year shall not be declared.

Trade tax rate is established in the amount of 10 per cent of goods' cost mentioned in the declaration that should be sold within three days, but total amount of this tax cannot be less than one non-taxed individuals' income. If term of sale extends up to seven days, tax rate shall be duplicated.

Trade tax is paid through purchase of one-time patent for trade. Cost of this patent shall be established on the basis of total cost of goods mentioned by a payer and tax rate. Tax amount for unused patent shall not be recovered. Minimal validity term of one-time patent is three days and maximal term is seven days.

Trade tax is included to local budgets in the place of patents' purchase.

Individuals who sell goods should show one-time patents at the demand of State tax authorities and internal affairs authorities officials.

Heads of state tax authorities and their deputies shall levy administrative penalties in the amount of one up to ten non-taxed individuals' income per month on individuals who sell goods without purchase of one-time patents or with violations of their validity term or sell goods not mentioned in the declaration. For the same actions made repeatedly within a year after levying administrative penalty fine shall be in the amount of ten up to twenty non-taxed individuals' income per month.

Documents on administrative violations shall be prepared by state tax authorities officials.

Executive committees of people's Deputies Councils shall inform population on the procedure of selling goods under one-time patents, shall establish places and shall create appropriate conditions of sale.

State tax authorities and internal affairs authorities shall be liable for control over the Decree's observance.

State Tax

Tax collection shall be effectuated according to the Decree of the Cabinet of Ministers of Ukraine "On the State Tax".

Individuals and legal entities are payers of the state tax for actions made on their behalf and giving documents that have legal status by duly authorized authorities.

The state tax shall be levied for the following:

- (i) appeal applications, applications for prior negotiations disputes, applications (complaints) in cases of individual implementation and complaints on decisions made with regard to religious organizations; a writ of appeal on courts' decisions and complaints on decisions enforced as well as for giving copies by courts;
- (ii) appeal applications and creditors' applications in cases on bankruptcy that are submitted to courts of arbitration; and application on check-up of decisions, enactment and resolutions for control as well as their reconsideration under newly found circumstances;
- (iii) effectuating notary actions by notaries public and by executive committees of rural, small town and town people's Deputies Councils as well as issue of documents' duplicates certified by notary;
- (iv) registration of individuals' status as well as issue of duplicates on registration of individuals' status, and issue of certificates in connection with change, additions, corrections and completion of individuals' status;

- (v) issue of documents with the right to go abroad and on invitation of persons from other countries to Ukraine, prolongation of these documents validity and making changes to these documents; registration of national passports of foreign citizens or documents that substitute them; issue or prolongation of certificates for residing; issue of entry or exit visa to Ukraine as well as application on entering Ukrainian citizenship;
- (vi) issue of the Ukrainian passport, issue of international passport or prolongation of its validity for Ukrainian citizens;
- (vii) individuals' place of residence registration;
- (viii) issue of license for fishing and hunting;
- (ix) operations with securities;
- (x) operations conducted on goods, raw materials and other exchanges, currency exchange;
- (xi) conducting auction;
- (xii) actions related to obtaining guarding documents for objects of industrial property, maintaining their validity and transferring rights of their owners.

The state tax rates are established in two ways. They are as follows:

- (i) per cent to the cost of appeal, agreement amount and property value, etc.;
- (ii) non-taxed minimums of individuals' income proceeding from the amount of the mentioned non-taxed minimum effective at the moment of tax payment.

The State tax is paid prior the application submission or prior effectuating actions for which it is paid and in appropriate cases - in the course of documents' issue.

The State tax is paid through credit organizations in cash or through transfer from payer's account to a credit organization.

For appeal application submitted to the court or to the court of arbitration in foreign currency as well as for actions and operations in foreign currency, the state tax shall be paid in foreign currency.

The State tax is paid in the place of documents consideration and registration and is included to the budget of local self-government, except tax paid for appeal applications submitted to the court of arbitration and for application on checking decisions, enactment and resolutions of the court of arbitration as well as for actions related to obtaining patents for plants varieties and maintaining their validity. This tax is included to the State budget of Ukraine.

Pursuant to the Resolution No. 4048-XII, dated 25 February 1994, of the Verkhovna Rada of Ukraine "On the Procedure to Enforce the Ukrainian Law "On Making Changes and Supplements to the Decree "On the State Tax" tax for issue of the Ukrainian passport, for issue of international passport for Ukrainian citizens or prolongation of this passport validity and for re-registration of common international passport, etc. in 1994-1998 shall be included to the state budget, and these funds are directed at the process of passports' exchange for population.

State tax authorities and financial authorities of Ukraine shall be liable for collection of the State tax.

Real Estate Tax

Real estate tax amounts (this tax is planned to be introduced by the Ukrainian Law "On Real Estate Tax" the draft of which was approved by the Verkhovna Rada after the first hearing) shall also be included to budget of territorial associations in the place of a tax-payer location.

It will ensure gains to local budget of significant income amounts which will be used to finance activity of local self-government authorities on effectuating power of executive power bodies delegated by the State.

According to its economic sense, real estate tax is a form of allocation and re-allocation of national income and is used as additional source of balancing revenues and expenses of consolidated budget of Ukraine.

As common practice in the world this tax is levied, not at results of financial and business activity, but object and, accordingly, tax has a fixed character.

Cost of real estate permanently located on the territory of local self-government authorities is planned to be the objects of taxation. Particularly, these are buildings (inhabited and not inhabited), apartments, dachas, garden houses, garages, administrative premises and premises (not inhabited buildings used for placing fixed assets).

According to the draft law, the valuation of taxed assets for legal persons shall be made on the basis of their book value with due regard to depreciation. However, in this case depreciation for taxation purposes may not be less than 50 per cent of the initial value of an asset. Therefore, the most beneficial situation is created for those persons who have acquired buildings and constructions at lower book value.

However, valuation of real estate owned by physical persons which is subject to taxation shall be made on the basis of the average price for one square meter of total space to be determined by local authorities.

It is planned that taxation of real estate shall be made at the rate of 1 to 3 per cent of the annual taxation base to be determined on the basis of average current value of one square meter of the total area of the building, as well as on the basis of book value of a building and other real estate.

The draft law provides for social benefits for physical persons connected with the payment of the tax, which actually exempts from the tax absolute majority of population owing a building or an apartment. The tax margin will be equal to 21 square meters per one family member plus 10 additional square meters for the family. According to the calculations made by authors of the draft law, it means that if a family of three members resides in a three-room apartment, it will not have to pay the real estate tax. For houses located outside cities the tax margin will be 60 square meters.

The draft law provides that the periodicity of payment of the tax both by physical persons and legal entities will be once a year.

For legal entities, the amount of enterprise profit tax will be reduced by the amount of real estate tax. Therefore, if the real estate tax exceeds the enterprise profit tax, the latter will not be applied. For enterprises with large fixed production assets this provision may be useful.

Tax on Owners of Vehicles

Tax on owners of vehicles and other self-propelled machines and mechanisms will be applied on the basis of the Law of Ukraine of 18 February 1997 "On the Tax on Owners of Vehicles and Other Self-propelled Machines and Mechanisms". It is expected that budget revenues from this tax will amount to 140 million UHR.

This Law has introduced the tax on owners of some land and water vehicles, and self-propelled machines and mechanisms as a source of funding of construction, reconstruction, repairs and maintenance of common use motorways, as well as nature protection measures on water reservoirs.

The tax is transferred to local budgets (budgets of villages, settlements, towns and cities). 90 per cent of these funds are used to cover expenses on the use and maintenance of motorways and for nature protection measures on water reservoirs, and 10 per cent - for improvement of the material and technical base of authorities which exercise registration, re-registration and technical examination of these vehicles.

Payers of the tax on owners of vehicles and other self-propelled machines and mechanisms include enterprises, institutions and organizations who are legal entities, foreign legal entities, as well as citizens of Ukraine, foreign citizens and persons without citizenship who own vehicles registered in Ukraine in compliance with the law in force.

Taxation objects are vehicles falling into the respective code of the Harmonized Commodity Description and Coding System, and, in particular, wheel tractors, vehicles for no less than 10 persons including driver, personal cars, trucks, special vehicles besides those used for transportation of passengers and cargoes, motorcycles (including motorbikes) and engine-powered bicycles besides those with the volume of the engine less than 50 cm³, yachts and sailers with auxiliary engine or without such (besides those used for sporting purposes), motor boats and cutters besides boats with suspended engines (besides those used for sporting purposes), other boats (besides those used for sporting purposes).

The following will not be objects of taxation: caterpillar tractors, motorcycles (including motorbikes) and engine-powered bicycles with the volume of the engine no more than 50 cm³, special vehicles for ambulance and fire trucks, vehicles used on factories, warehouses, in ports and airports for transportation of cargoes within short distances, machines and mechanisms for agricultural works, machines and mechanisms for gathering and thrashing of agricultural crops, machines for cleaning, sorting and rejection of eggs, fruit and other agricultural products, yachts, sailers and boats used for sporting purposes.

Tax rates provide for taxation of vehicles depending on engine volume, engine power in kilowatts, or 1 cm of the length of the body instead of applying tax on the power measured in horse powers.

Tax on owners of vehicles and other self-propelled machines and mechanisms shall be calculated by legal entities on the basis of official accounting reports specifying the number of vehicles and other automotive machines and mechanisms as of 1 January of a respective year. Calculation of the tax on owners of land vehicles shall be made on the basis of the engine volume or engine power, and the make of vehicles. Tax on owners of water vehicles shall be made on the basis of the length of the body of the vehicle at rates set forth by the Law. The tax shall be paid in the Ukrainian currency and calculated at the exchange rate of the National Bank of Ukraine for the first day of a quarter during which the tax is paid.

According to the procedure and within time set forth by tax authorities, legal entities submit to their local State tax administrations (no later than 15 March of the year following the reported year),

calculations of the amount of tax in the form approved by the State Tax Administration of Ukraine made on the basis of the accounting report (balance sheet).

Tax on owners of vehicles and other self-propelled machines and mechanisms shall be paid prior to registration, re-registration or technical examination of vehicles. Tax is paid for the period till the next technical examination.

The following entities shall be exempt from the tax:

- (i) public transportation enterprises - for vehicles used for transportation of passengers, when fare, fixed by the law, is collected in these vehicles;
- (ii) institutions and organizations funded from the State Budget of Ukraine, namely: institutions and organizations of the Ministry of Defense, National Guard, Frontier Forces, Civil Defense, Security Service, Ministry of Home Affairs, Public Prosecutor's Office provided that these vehicles are used for official purposes and their number is within the limits fixed by relevant acts;
- (iii) persons specified in paragraphs 1 and 2, Article 14 of the Law of Ukraine "On the Status and Social Protection of Citizens Who Suffered from the Chernobyl Accident", Articles 4-11 of the Law of Ukraine "On the Status of Veterans of War, and Guarantees of Their Social Protection", Article 8 of the Law of Ukraine "On the Basic Principles of Social Protection of Veterans of Labor and Other Elderly People in Ukraine", for one car with engine volume no more than 2,200 cm³ (GAZ-24 - 2,500 cm³), as well as handicapped of the 1st and the 2nd groups - for one hand-driven car;
- (iv) persons specified in paragraphs 3 and 4, Article 14 of the Law of Ukraine "On the Status and Social Protection of Citizens Who Suffered from the Chernobyl Accident" - for one car with engine volume no more than 2,200 cm³ (GAZ-24 - 2,500 cm³) before their resettlement, and during three years after resettlement from the zone of guaranteed voluntary resettlement, and the zone of enforced radioecological control;
- (v) by 50 per cent - agricultural enterprises which produce goods - for wheel tractors, buses and special vehicles for transportation of people with no less than 10 seats.

Local Taxes and Fees

The Decree of the Cabinet of Ministers of Ukraine of 20 May 1993 "On Local Taxes and Fees" determines the types of local taxes and fees, their margins, taxation objects and sources of payment. Peculiarity of this Decree is that it provides for the introduction of local taxes and fees by a decision of the local authority. For each tax or fee to be paid, local authorities draft and approve resolutions prescribing the procedure of payment and transfer of taxes and fees to local budgets, in compliance with the list and margins set forth by the aforesaid Decree.

Local authorities, within their jurisdiction, may introduce preferential tax rates, cancel all local taxes and fees, or exempt certain categories of tax-payers from payment thereof, as well as allow to postpone payment of local taxes and fees.

Hotel Fee: Payers of this fee include persons living in hotels. The maximum amount of the fee must not exceed 20 per cent of the cost of living in the hotel (without additional services). The hotel fee is collected and transferred to the local budget by hotel management.

Parking Fee: Payers of this fee include legal entities and physical persons who park vehicles in places specially equipped or allocated for parking. The rate of this fee is fixed for 1 hour of parking. Its maximum must not exceed 3 per cent of the minimum non-taxed income in specially equipped places, and 1 per cent - places allocated for parking. Parking fee is paid by drivers at the place of parking.

Market Fee: The market fee is the fee charged for sales places in markets. It is paid by legal entities and physical persons who sell agricultural and industrial products, and other goods. Market fee is collected per day. Its maximum must not exceed 20 per cent of the minimum non-taxed income for physical persons, and three minimum non-taxed incomes for legal entities. Market fee is collected by the staff of the market before sales.

Fee for Issuance of Authorization to Occupy Apartment: This fee is paid for services connected with issuance of a document authorizing to occupy an apartment. The maximum of the fee must not exceed 30 per cent of minimum non-taxed income. The fee is paid through banking institutions prior to issuance of the authorization.

Resort Fee: Payers of this fee include citizens who come to recreation areas (resorts). Its maximum may not exceed 10 per cent of minimum non-taxed income. The resort fee is collected: by hotel management and other lodging establishments during the check-in of guests; by organizations dealing in rent of apartments - when guests are sent to houses or apartments owned by individuals. Persons who independently stay in houses or apartments owned by individuals pay the fee according to the procedure set forth by Councils of People's Deputies which establish this fee.

Fee for Participation in Horse Races: This fee is charged on legal entities and physical persons who bring their horses for commercial competitions. The maximum of the fee for participation in horse races, for each horse, must not exceed three minimum non-taxed incomes. The fee is collected by hippodrome management before races.

Fee for Prize at Horse Races: This fee is collected by hippodrome management from persons who won in the hippodrome totalizator, at the time of payment of such prize. The maximum of the fee must not exceed 6 per cent of the amount of prize.

Fee for Participation in Hippodrome Totalizator: This fee is collected in the form of a fixed percentage of the payment charged for participation in totalizator. Its maximum must not exceed 5 per cent of such payment. This fee is collected by hippodrome management during the sales of tickets for participation in totalizator.

Advertising Tax: Object of taxation is the cost services connected with installation and placement of advertising. The tax is applied to all types of advertising and messages which are presented for commercial purposes through mass media, displayed on posters, display boards, other equipment, on streets, motorways, playgrounds, houses, vehicles and other places. The maximum of the tax must not exceed 0.1 per cent of the cost of services for single advertising, and 0.5 per cent - for placement of multiple advertising. The tax is paid during the payment for services connected with installation and placement of advertising.

Fee for the Right to Use Local Symbols: This fee is charged on legal entities and physical persons who use these symbols for commercial purposes. Permits to use local symbols (coat of arms of a city, name or picture of architectural or historical monuments) is issued by relevant divisions of local authorities. The maximum of the fee for legal entities must not exceed 0.1 per cent of the value of products manufactured or services rendered with the use of local symbols, and for individuals exercising business activities - five minimum non-taxed incomes.

Fee for the Right to Cinema and Television Shooting: This fee is paid by cinema and television enterprises which make shootings that require special measures to be taken by local authorities (commissioning of police units, encirclement of the area where shooting is performed, etc.). The maximum of the fee must not exceed actual expenses on such measures.

Fee for the Right to Organize Local Auctions and Lotteries: Payers of this fee include legal entities and physical persons who have the permit to organize auctions and lotteries. Object of taxation is the starting value of items brought for local auctions, or the total sum of lottery. The fee is collected three days prior to the auction, or at the moment of issuance of permit to organize a lottery. Its maximum must not exceed 0.1 per cent of the value of items brought for auction, or of the total sum of a lottery.

Communal Tax: Communal tax is charged on legal entities, except for organizations funded from the State budget, organizations funded by donations and agricultural enterprises. Its maximum must not exceed 10 per cent of the yearly wage fund calculated on the basis of minimum non-taxed income.

Fee for Passing of Vehicles Going Abroad through Territories of Borderland Regions: This fee is charged on legal entities and citizens of Ukraine in amount of 0.5 per cent of non-taxed minimum income regardless of the make and power of a vehicle, and on legal entities and citizens of other countries, including former USSR republics - in amount of US\$5-50.

The fee is not applied:

- to vehicles carrying abroad cargoes under state orders and State contracts;
- to Ukrainian citizens going on business-trips;
- sportsmen going to international competitions;
- citizens traveling on cultural exchange programs, and for medical treatment or rehabilitation.

Fee for Issuance of Permits for Placement of Trade Outlets: This is a payment for issuance of permits for trade in specially allocated places. The fee is collected by authorized organizations from legal entities and physical persons who sell agricultural and industrial products, and other goods. The maximum of the fee must not exceed 20 minimum non-taxed incomes for persons permanently trading in specially allocated places, or one minimum non-taxed income per day.

In compliance with the law in force, responsibility for correct calculation and timely payment of local taxes and fees to local budgets is on tax-payers.

Payment for Use of Resources

Payment for Special Use of Water Resources

The procedure for collection of fees for special use of water resources is approved in the Resolution of the Cabinet of Ministers of Ukraine of 8 February 1994, No.75 "On the Approval of the Procedure for Collection of Payment for Special Use of Fresh Water Resources, and Provisional Rates for Special Use Thereof", as amended.

It has been forecast by the State Committee for Water Management that total budget revenues from this payment in 1997 will be 341 million UHR. It is 4.7 times more than current revenues, while by the Resolution of the Cabinet of Ministers of Ukraine of 8 February 1997, No.164 payment rates were increased only by 2.5 times for surface waters, and by 2 times for underground waters. Besides, the calculation of expected figures was made proceeding from the presumption that water consumption (and, consequently, payment for the consumption) will grow, despite that in reality there is decline of production which results in the reduction of water consumption.

Even if we take into account the maximum increase in rates by 2.5 times, budget revenues will amount to 190.8 million UHR.

Payment for special use of water resources is transferred by all business entities besides those using water exclusively for satisfaction of own drinking and sanitary needs, and by hydropower and water transport enterprises which use river ways.

Amount of payments for special use of water resources, except in the case of hydropower enterprises and water transport, is calculated according to rates of payment (approved by the Resolution of the Cabinet of Ministers of Ukraine), water consumption, and consumption limits.

For the period till 1999 the following coefficients will apply to the rates of payment for special use of water resources:

- for pond and lake farms (breeding of fish for sale) - 0.1;
- for agricultural producers including those using irrigation and melioration systems (for growing of agricultural products and irrigation of land) - 0.2;
- for thermal and nuclear power plants (generation of heat and electricity) - 0.5;
- for housing and communal enterprises, including those owned by organizations - 0.1.

For usage of water resources above limits, the payment is increased five-fold.

The above payments are recorded as production expenses if the consumption was within limits, and payment for consumption above the limit will be deducted from the profit after tax.

80 per cent of payment for special use of water resources of national importance is transferred to the State Budget, and 20 per cent - to the budget of the Republic of Crimea, or respective local budgets.

Payment for special use of water resources of local importance is fully transferred to local budgets.

Payment for Special Use of Forestry Resources

Payment for special use of forestry resources has been introduced by the Forestry Code of Ukraine approved by the Resolution of the Supreme Rada of Ukraine of 21 January 1994, No. 4853-XII.

Calculations of payment of special use of forestry resources are based on the proposal of the Ministry of Forestry to reduce the volume of timber-cutting. Such reduction is reasoned by the fact that sites allocated for timber-cutting are not used completely. Taking into account that payment for special use of water resources in 1997 was increased by 2 times, the total revenues will amount to 39.4 million UHR, which equals 0.1 per cent of total budget revenues.

Payers of this payment are all forestry users which exercise special use of forestry resources.

The object of collection of such payment is timber (which is sold live, in soil), soft resin, secondary timber materials (stumps, bast, crust, leaves etc.), secondary usage of forests.

Rates for timber (which is sold live, in soil), and for soft resin are approved by the Resolution of the Cabinet of Ministers of Ukraine, and rates of payment for secondary timber materials are set forth by the Council of Ministers of the Autonomous Republic of the Crimea, as well as oblast, Kyiv and Sevastopol State Administrations.

80 per cent of payment for special use of forestry resources of national importance is transferred to the State Budget, and 20 per cent to respective local budgets.

Payment for special use of forestry resources of local importance is fully transferred to local budgets.

Payment for Special Use of Entrails for Extraction of Minerals

Payment for special use of entrails for extraction of minerals has been introduced by the Resolution of the Cabinet of Ministers of Ukraine of 8 February 1994, No. 85 "On the Approval of Provisional Procedure of Collection of Payment for Special Use of Entrails for Extraction of Minerals".

The payment is charged for special use of entrails for extraction of minerals of national and local importance.

Division of minerals into those of national and local importance is determined by the Resolution of the Cabinet of Ministers of Ukraine of 12 December 1994, No. 827 "On the Approval of Lists of Minerals of National and Local Importance".

Payers of this payment include all entrails-users, regardless of the form of ownership, including enterprises with foreign investment, which exercise extraction of minerals.

Land owners and land users, who exercise extraction of minerals of local importance for own needs, and within limits of land transferred into their ownership or use, are exempt from payment for special use of entrails for extraction of minerals.

The object of collection of this payment is the volume of extracted minerals (oil, condensate, gas, peat and hydromineral resources).

40 per cent of payment for special use of entrails for extraction of minerals of national importance are transferred to the State Budget, and 60 per cent to respective local budgets.

Payment of special use of entrails for extraction of minerals of local importance is fully transferred to the local budget.

Allocations for the Geological Survey Performed at the Expense of the State Budget

Allocations for the geological survey performed at the expense of the State budget introduced by the Resolution of the Cabinet of Ministers of Ukraine of 11 August 1995 No. 645 "On Confirming Procedure of establishing normative allocations for geological surveys performed at the expense of the State budget and their payment" on the base of the Code of Ukraine on resources of 27 July 1994.

Payers of the allocations for the geological surveys performed at the expense of the State budget are users of the resources of all types of ownership including enterprises with foreign investments which are extracting minerals (including underground fresh and mineral waters) at the fields discovered at the expense of the State budget assets.

Owners and users of land which mine local minerals according to the established procedure for own purposes or utilize minerals for economic and domestic needs at the plots granted to them are exempted from paying allocations for geological surveys.

The amount of the allocations for the geological surveys is the cost of extracted mineral raw materials or products of its processing. When extracting underground fresh and mineral waters volume of their extraction is a subject for calculation of the allocations for geological surveys.

Substantial amount of allocations shall be paid directly to the State budget.

Payments of the Oil and Gas Complex

These payments include both rent and payment for oil and natural gas extracted in Ukraine. Spread of prices for natural gas, allocations for the transit of the natural gas by the pipe lines through the territory of Ukraine in total were planned in the budget for 1997 in amount of 1561.1 million UHR including:

- rent payment - 337.1 million UHR
- spread in prices - 594.0 million UHR
- allocations for the transit - 630.0 million UHR

Rent Payment for the Oil and Natural Gas Extracted in Ukraine

Rent payment for the oil and natural gas extracted in Ukraine was introduced by the Order of the President of Ukraine of 21 December 1994 No. "On Introducing Rent Payment for Oil and Gas extracted in Ukraine".

Payers of the rent payment are oil and gas extracting enterprises.

Rates of the rent payment are determined by the orders of the Ministry of Economics of Ukraine on the base of the Order of the President of Ukraine.

According to the Law of Ukraine "On State budget of Ukraine for 1997" starting from the 1 July 1997 oil and gas extracting enterprises (except government-owned production enterprise "Chornomornaftogas") shall pay to the State budget rent payment for natural gas in amount equal to US\$9.59 per 1000 cubic meters (or 70 per cent of the determined rent payment rate for natural gas).

Spread in Prices for Natural Gas

Payment to the State budget of the spread of prices for natural gas extracted at the territory of Ukraine is determined by the Law of Ukraine "On State budget for 1996-1997".

Payers of the spread in prices for natural gas extracted in the territory of Ukraine are gas extracting enterprises of the joint stock venture "Ukrigasprom" and oil and gas extracting enterprises of the joint stock venture "Ukrnafta" and also other oil and gas extracting enterprises for which wholesale prices for the natural gas extracted in the territory of Ukraine are determined by the Ministry of Economics.

Spread of prices for natural gas is the difference between confirmed by the Ministry of Economics marginal wholesale and sale price for natural gas for Ukrainian consumers (not taking into account expenses of the shipping enterprises and transport expenses of the extracting enterprises) and the cost of extraction, taking into account value added tax.

Allocations for the Transit of Natural Gas Through the Territory of Ukraine

Allocations for the transit of natural gas in pipe lines through the territory of Ukraine are determined by the Laws of Ukraine "On State Budget for 1996-1997".

According to the indicated Laws these allocations shall be paid by the Joint Stock Venture "Ukrghaprom" which transfers to the state budget indicated allocations proceeding from the volume of the transited gas in amount equivalent to US\$0.37 (starting from the 1 July 1997 - US\$0.20) per 1000 cubic meters of natural gas per every 100 kilometers.

Allocations from the Assets Received from Privatization of the Property of the State-owned Enterprises

Allocation to the budget of the assets received from privatization of the property of the state owned enterprises is determined by the Laws of Ukraine "On State Budget of Ukraine for 1993-1997".

Privatization bodies shall pay these indicated amounts.

Payment for Land

From the 1 January 1997 the Law of Ukraine "On Making Amendments to the Law of Ukraine "On Payment for Land" of 19 September 1996 No. 378/96-BP was introduced. According to the indicated Law utilization of land is not free of charge in Ukraine. Payment for land is made in the form of tax for land or rent payment which is determined depending upon the quality and location of the land plot proceeding from the cadastre evaluation of land.

Payment for land is determined according to the Law of Ukraine "On Payment for Land" and indexation of the rates of payment for land in 1997 proportionally to the index of increase of wholesale prices in 1.81 times, due to this amount, payment for land comes to 934.5 million UHR.

In this sum share of the payment for the agricultural land will amount to 192 million UHR or 20.5 per cent of the total amount, population will pay 15 million UHR or 1.6 per cent. Payment for the land involved in national economy will amount to 713 million UHR or 76.3 per cent.

Owners of the land and persons which are using it shall pay land tax.

Rented land plots given shall be charged with rent payment.

Payment for land is introduced for the purpose of establishing source of assets to finance measures on rational utilization and protection of the lands, increase of their fertility, compensation of expenses of the owners of land and people who are renting it and carrying out economic activity at the land of the worse quality and keeping land cadastres.

According to their purposes all lands of Ukraine can be classified as:

- (i) lands for agricultural purposes;
- (ii) lands of the populated areas (cities, villages of the city type and small villages);
- (iii) industrial, transport, connection, defense lands and lands for other purposes;
- (iv) lands of the forestry fund;
- (v) lands of the water fund;
- (vi) reserve lands.

According to this classification the Law of Ukraine "On Payment for Land" determines average rates of the land tax which can be verified while changing cadastre evaluation of lands.

Object of the payment for land is a land plot which is being owned, utilized including rent terms and conditions.

Owner of the land and the person who is using it or leasing shall pay for it.

Amount of the land tax does not depend upon the results of economic activity of the plot's owners or people who are using land and shall be established in the form of payments per one unit of land square calculated at one year.

Indicated Law provides a number of preferences on paying land tax.

Besides, Supreme Rada of the Republic of Crimea, regional, Kyiv and Sevastipil local Radas can also provide privileges on the payment for land: partial exemption for a certain period of time, reduction of the rate of the land tax only at the expense of assets which are transferred to the special budget accounts of the appropriate budgets.

Legal persons shall independently calculate the amount of the land tax according to the form, determined by the State tax administration of Ukraine and annually not later than the 1 February shall submit data to the appropriate state tax administration.

Calculation of the land tax to the citizens shall be done by the State tax administrations which issue to the payer before 15 July of the current year payment instruction to pay the tax.

Payments for the land shall be transferred to special budget accounts of rural, small town and town councils on the territory of which plots of the land are located.

For centralized fulfillment of works provided by the Law, 30 per cent of funds paid for the land and received on special budget accounts of basic level councils shall be centralized on special budget account of the State Committee of Ukraine on Land Resources and 10 per cent - on special budget accounts of the Crimean Autonomous Republic and oblasts.

Funds paid for the land shall be used to finance measures on rational use and protection of lands, maintaining the land-survey, conducting land reform, economic stimulation of the land's owners and other measures.

Currency Control

This section on currency control provides information on the extent of foreign business activity and the degree of currency violation apprehended by the currency control department.

According to data of currency control departments of the state tax administrations in the Crimean Autonomous Republic, oblasts, cities of Kyiv and Sevastopol, 1,464,816 agents of business activity including 603,710 legal entities and 861,106 individuals were registered as of 1 January 1997. 55,739 legal entities and 729 individuals are involved in foreign economic activity, i.e. 56,468 agents of business activity.

One of the main directions of activity for currency control departments is control over observance of payment terms on foreign economic operations by agents of business activity. In comparison with 1995 the number of controlled agents of economic activity has increased more than twice (17,363 agents were controlled in 1995). It is related to enforcement of new legal acts (in particular, regarding regulation of barter (goods exchange) operations and operations with give-and-take raw materials in the field of foreign economic relations). These acts provide for liability of agents and give the right to tax authorities to apply financial sanctions against a violator. They also provide for introduction of a new scheme of currency control beginning 1 January 1996 which stipulates compulsory exchange of information regarding payments on foreign economic operations between the National Bank of Ukraine, the State Customs Committee of Ukraine, the State Tax Administration of Ukraine, the Ministry of Foreign Economic Relations and Trade of Ukraine and the Ministry of Statistics of Ukraine according to the Resolution No. 1044 of the Cabinet of Ministers of Ukraine and the National Bank of Ukraine "On Measures Regarding Ensuring Currency Control" dated 26 December 1995. Analysis shows that the number of controlled agents has been increased significantly, particularly, in Dnipropetrovsk, Zhytomyr, Kharkiv and Kherson oblasts - by four times, in the Crimean Autonomous Republic, Lviv, Mykolaiv, Poltava and Sumy oblasts - by three times and in Zaporizhiya, Ivano-Frankivsk, Kyiv, Cherkassy and Chernigiv oblasts - twice.

11,437 agents of business activity made violations, i.e. each third of controlled ones. The number of agents of business activity made violations in terms of payments on foreign economic operations in the context of oblasts in 1995 and 1996.

Analysis of found violations shows that the largest specific weight, i.e. 52 per cent of total violations is untimely return of currency proceeds and goods from abroad while effectuating import and export operations. Such violations were found in 7,928 cases.

6,822 cases of untimely receipt of goods under barter agreement were found in the course of control. This is 45 per cent of total number of found violations.

Control also shows unsatisfactory status of payments while conducting operations with give-and-take raw materials in foreign economic relations. Violations of the Ukrainian Law "On Operations with Give-and-Take Raw Materials in Foreign Economic Relations" were found in 425 cases.

The main means to influence violators of payments' terms on foreign economic operations established by laws are application of financial sanctions to them in the form of fine. In 1996 tax authorities calculated fine in the amount of 208,5 million UHR (83,9 million UHR in 1995).

In 1996 the State Tax Administration of Ukraine made petitions to apply special sanctions according to Article 37 of the Ukrainian Law "On Foreign Economic Activity" to 2,984 violating enterprises. The Ministry of Foreign Economic Relations and Trade of Ukraine applied special sanctions to 4,387 enterprises within 1995, 1996 and the first quarter of 1997. Thanks to that, Ukraine has received currency valued in the amount of US\$114 million.

Moreover, in order to apply appropriate measures, tax administrations in 1996 submitted materials to law-enforcement agencies and offices of public prosecutors on 3,611 enterprises which within long period of time did not return currency values or goods from abroad and were under investigation.

Controlling entrepreneurial entities' compliance with the requirements set forth by Resolution of President "On Urgent Measures Aimed to Return to Ukraine the Hard Currency Assets Unlawfully Kept Abroad" No. 319/94 of 18 June 1994, constitutes another important activity of local currency control departments.

It should be pointed out that entrepreneurial entities declare their currency assets on the quarterly basis. Thus, over the fourth quarter of 1996, 375,186 business entities filed declarations on their hard currency assets, incomes and property kept outside of Ukraine. This number accounts for 80 per cent of all businesses that are required to file hard currency declarations.

14,972 enterprises have reported holding hard currency assets, incomes or property abroad. In comparison with the fourth quarter of 1995, the number of such enterprises have risen more than twice. This increase can be attributed to the fact that simultaneously with the introduction on 1 January 1996 of the new form of currency declaration it was established that business entities that fail to respect effective declaration procedures, timely submit information on their hard currency assets, conceal or distort such information, shall be held responsible and necessary sanctions shall be applied to delinquent entities.

Analyses of declared currency assets, incomes and property held abroad showed that the largest part of such (78 per cent) is constituted by property and goods.

Presently, the value of assets held outside Ukraine in the form of property, goods, and including accounts payable under foreign trade transactions, amounts to 7.5 billion UHR, the larger part (80 per cent) of which consists of property and goods contributed to authorized capitals of foreign companies operating in other countries. Limited liability companies, stock companies and small businesses account for the larger part of entities holding their property and goods outside Ukraine.

Financial investment of Ukrainian enterprises amount to 2.1 million UHR. The breakdown of this investment shows that 33 per cent of this money was paid for foreign companies' valuable papers, while 29 per cent was paid for import goods that have not been actually imported within the specified by law period of time. The largest investments abroad were posted by State enterprises and enterprises with foreign investments (42 and 24 per cent, respectively), as well as by business entities of other forms of ownership.

The total sum of declared currency assets, incomes and property, may be presented as consisting of long-term investments and current transactions. It is noteworthy that the share of long-term investments is on the rise, which is a positive development with respect to legalizing currency assets unlawfully transferred and held abroad.

The larger part of such investments (75 per cent) consists of assets contributed to statutory funds of foreign enterprises operating abroad.

Analyses of the structure of current transactions shows that the largest share of such consists of exports and imports (27 and 39 per cent, respectively) with overdue payments for them. The share of imported goods that are not provided within the legally established term under trade barter transactions accounted for 19 per cent.

Over 1996 the tax administrations examined declarations on hard currency assets, incomes and property of 212,576 entrepreneurial entities. The number of entities whose declarations were examined fell by 27 per cent compared to that in 1995, which is due to the fact that while in 1995 such examinations were carried out by all units of tax organs, in 1996 the examinations were performed only by currency control departments, whose total staff in Ukraine amounts to 3,156. That means that every tax organ employee is to examine 191 business entities quarterly.

At 3,815 enterprises were revealed cases of concealment or underreporting of currency assets held abroad, with the latter amounting to US\$142 million, f. 1.3 million, 13.9 million UHR, Rub 306.7 billion (Russian Federation) and Rbl 9.9 (Belarus), etc. Based on the revealed facts involving

violations related to declaring currency assets and unlawful transfer of currency assets, incomes and property outside Ukraine, the tax organs have submitted evidence containing materials on 2,528 enterprises to the law enforcing bodies, prosecutors departments and branches of the National Bank of Ukraine so that the latter could take necessary actions.

In addition to that, the local currency control departments, in accordance with the plan of economic and control measures for 1996, have examined enterprises subordinated to Derzhkharchoprom (Food Industry Ministry), Minprom (Industry Ministry), Ministry of Culture, Ukrainian Concern of Artistic Works and Ministry of Agriculture and Foodstuff. In the context of the program for fighting corruption and organized crime, the units have conducted investigation of business entities that were carrying on foreign trade transactions involving trade in mineral fertilizers, sugar, alcohol, ferrous and non-ferrous metals, oil, raw hide.

Departments of currency control continue their work aimed at ensuring business entities' compliance with requirements of effective laws of Ukraine.

ON THE AMOUNTS OF TAX EXEMPTIONS AND PRIVILEGES BY SPECIFIC TAXES AND EXEMPTIONS AS OF 1 JULY 1997

By 1 January 1997 there were registered 627,543 tax payers (based on the data of the report 2-P "On the results of controlling measures carried out by state tax administrations", code 300), of which 389,929 tax payers (62.3 per cent of all registered taxpayers) filed returns on amounts in tax privileges granted to them.

In first half of 1997 88,882 taxpayers (22.8 per cent of the taxpayers that have filed returns) were enjoying tax privileges, while 301,047 payers (77.2 per cent) reported that they were not using tax privileges.

Over the first half of 1997 156,599 tax privileges were granted, which amounts on average to 1.8 tax privilege per one taxpayer of those who have filed a return.

The amount of taxes not paid due to tax privileges in the first half a year amounted to 8,844,345,000 UHR, which accounts for 91.2 per cent of the amount of actual revenues (based on the data of the report 1-P "On the amounts of actual revenues of the budget of Ukraine from taxes and non-tax payments", code 09990).

By oblasts:

Dnipropetrovsk	-	192.2 per cent
Zaporizhia	-	161.9 per cent
Rivne	-	141.7 per cent
Kyiv city	-	138.8 per cent
Donetsk	-	123.3 per cent
Chernivetsk	-	25.5per cent
Volyn	-	26.2 per cent
Zakarpatska	-	28.6 per cent
Chernihiv	-	28.9 per cent
Ivano-Frankivsk	-	29.5 per cent

The average amount of tax privileges per one payer amounted to 100,000 UHR, with the breakdown by individual oblasts as follows:

Dnipropetrovsk	-	192,000 UHR
Zaporizhia	-	226,000 UHR
Rivne	-	80,000 UHR
Kyiv city	-	285,000 UHR
Donetsk	-	171,000 UHR
Ivano-Frankivsk	-	40,000 UHR
Chernihiv	-	28,000 UHR
Zakarpacie	-	23,000 UHR
Volyn	-	16,000 UHR
Chernivetsk	-	18,000 UHR.

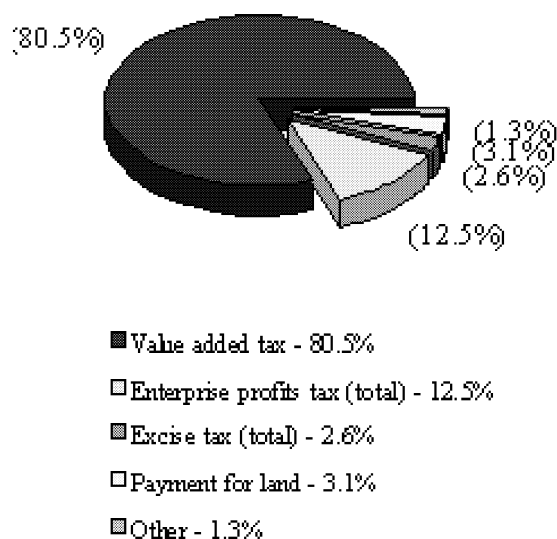
Information on the sums of received tax privileges by taxes and privileges (exemptions) for every kind of taxes is provided in Annex 1.

ANNEX 1

Information on the Sums of Tax Privileges Received by 1 July 1997 By Categories of Taxes and Fees

Section		Number of entities granted tax privileges	Number of privileges	Revenues uncollected due to tax privileges		
Code				Total	State Budget	Local Budget
1	2	3	4			
002	Enterprise Profits Tax (Total)	38276	61606	1 106 218.047	324 117.758	782 100.289
003	Value Added Tax	42 295	50 998	7 117 279.007	4 319 076.739	2 798 202.268
004	Excise Tax-Total	157	186	226 085.081	179 563.765	46 521.316
008	Incomes from Foreign Economic Activity	90	91	6 461.364	6 461.364	0.000
011	State Duty	14	14	285.932	285.932	0.000
012	Fees and other nontaxable profits	2	2	18.424	18.424	0.000
013	Payment for special use of water resources	10208	10462	73 128.654	50 361.171	22 767.483
014	Fees established by local councils of People's deputies	7 436	7 453	12 175.431	0.000	12 175.431
016	Payment for special use / extraction of mineral deposits	1	1	0.014	0.000	0.014
018	Tax on cars and other self-propelled machines owners	9 487	9 750	8 405.225	0.000	8 405.225
027	Geological prospecting	1	1	0.013	0.013	0.000
037	Payment for land	14 505	15 696	275 853.895	82 684.213	193 169.682
888	Unspecified payments that must be included in revenues	320	339	18 433.840	3 531.050	14 902.790
	Total			8 844 344.927	4 966 100.429	3 878 244.498

Total number of entities granted tax privilege: 88,882 (each entity is counted once, regardless of number of privileges)
Number of tax payers not granted tax privileges: 30,1047 (taxpayers that have field returns)



Structure on the amount of privileges by taxes:

- Enterprise/Organizations Profit Tax (Total) - 39.3 per cent
- Value Added Tax - 32.6 per cent
- Payment for Special Use of Water Resources - 6.7 per cent
- Fees Established by Local Radas of People's Deputies - 4.8 per cent
- Tax on Owners of Vehicles and Other Self Propelled Machines and Mechanisms - 6.2 per cent
- Payment for Land - 10.0 per cent
- Other - 0.4 per cent