

Tax code: amendments to the general part

The Law of the Republic of Belarus of December 30, 2015 No. 343-3 “On Amendments and Additions to Certain Laws of the Republic of Belarus on entrepreneurial activity and taxation issues” (hereinafter - the Law) has introduced significant amendments to the Tax Code of the Republic of Belarus (hereinafter - the TC). The amendments concern both the general taxation issues and specific taxation regimes.

By this material related to amendments in the general part of the TC, Revera begins a series of articles about the changes that have taken place in the TC in 2016. The information presented in this review does not cover all the changes, but only those that we considered the most important and relevant.

Analysis of the main amendments

1. Interdependent persons

The Law extends the range of interdependent persons, i.e. persons, whose relationship between each other has a direct impact on the conditions of their activities or the activities of the persons they represent. Since 2016 interdependent persons also include:

- organizations, if one person directly and (or) indirectly participates in these organizations, and the share of such participation in each of these organizations is not less than 20 per cent;

- organizations, the collegial executive body or the board of directors (supervisory board) of which include more than 50 per cent of the same individuals together with interdependent persons based on the criterion of proximity of blood or in-law relationship.

As a reminder, in the tax legislation interdependence influences several situations, in particular, the possibility of charging to the costs of certain types of the controlled debt (thin capitalization rules) and transfer pricing. Thus, extending the range of interdependent persons leads to the increase in the number of transactions that fall under the rules on transfer pricing and charging certain types of debt to the costs (thin capitalization rules).

2. Tax concessions

The right is enshrined that allows to use tax and dues (duties) benefits by legal entities arisen as a result of transformation (change of the legal form) of legal entities of one type into legal persons of other types.

3. The right to pay taxes in foreign currency is cancelled

In 2015, a payer could choose to pay taxes, dues (duties) either in Belarusian rubles or in foreign currency.

In 2016, payment of taxes in foreign currency is allowed only if provisions on a specific tax provide for such a possibility. For example, the TC provides for that **offshore due** shall be paid in foreign currency in which the payment is made, or in Belarusian rubles at the official rate set by the National Bank of the Republic of Belarus as on the date of its transfer. Paying **road tolls** is carried out in euros, U.S. dollars, Russian rubles or Belarusian rubles. Payers who are not tax residents of the Republic of Belarus and staying outside the Republic of Belarus, have the opportunity to pay a **state duty** in foreign currency.

4. Change of due dates for payment of taxes, dues (duties) on case-by-case basis

The general part of the TC is supplemented with a new chapter regarding changes in the payment time limits established by the legislation for paying taxes, dues (duties), penalties on case-by-case basis. Earlier, the possibility to change the due date for payment of taxes, dues (duties) was established by the Presidential Decree of 28.03.2006 No. 182 "On improvement of legal regulation of the order of state support to legal entities and individual entrepreneurs".

There are not many grounds for changing the due date to make obligatory payments. They include:

- 1) threat of economic insolvency (bankruptcy) in case of lump-sum payment of tax, dues (duties), interest debts;
- 2) delay of financing from the budget, including payment for a completed government order;
- 3) seasonal nature of production and (or) sale of goods (works, services);
- 4) damage resulting from a natural disaster, technological disaster or other force majeure circumstances.

Change of the due date for tax payment is made for the period up to 1 year based on the decision of the President, regional, Minsk city, district, City Council or on their behalf by local executive and administrative bodies.

It's better not to misuse the right to delay (extend the deadline) of performing the tax obligations, because when one gets the right to change the due date for payment of tax, dues (duties) on grounds 1 and 3 (threat of economic insolvency, seasonal nature of production and (or) sale), as well as in cases of receiving the tax credit, the payer will be obliged to pay interest.

At the same time interest for obtaining a delay (installments) is charged at a rate of not less than 1/4 of the interest rate, equal to 1/360 of the refinancing rate of the National Bank, valid on the date of making payments in discharge of the deferred repayments (installments) amounts owed for each day of the period of use of the delay (installments). For obtaining a tax credit - not less than 1/2 of the interest rate, equal to 1/360 of the refinancing rate of the National Bank, valid on the date of payment in discharge of taxes, dues (duties) amounts on which the tax credit is granted, for each day of the period of using such a credit.

5. Expansion of scope of electronic declaration

The average number of employees of the organization, when the payers are obliged to turn to filing tax returns in the form of an electronic document, has been reduced from 50 to 15. At the same time, it is directly provided for that if filing the declaration on paper, in cases when the payer is obliged to file a declaration in the form of an electronic document, the declaration is not considered to have been provided. Accordingly, in such a situation, the consequences of failure to submit a declaration in time will be applied to payers, i.e. bringing to administrative responsibility according to Art. 13.4 of the Administrative Offences Code.

Consequences of non-submission of an electronic declaration in monetary terms:

For individual entrepreneurs and legal entities:

in case of delay that is not more than three days - administrative fine in the amount of up to 2 base units for individual entrepreneurs, and up to 10 base units for legal entities;

in case of delay that is more than three days – administrative fine in the amount of 10% from the payable tax amount, due (duty) amount, but not less than 2 base units for individual entrepreneurs, and in the amount of 10% from the payable tax amount, due (duty) amount, but not less than 10 base units for legal entities.

For individuals:

in case there is payable tax, due (duty) amount and the delay is more than three business days or if there is no payable amount of tax, due (duty) and the delay is more than twelve months - administrative fine in the amount of 2 base units with its increase to five-tenths of a base unit for each complete month of the delay, but not more than 10 base units.

6. Disclosure of information about opening of electronic wallets

Starting from 2016, banks are required to provide information to tax bodies on the opening, closing, re-issuance of electronic (digital) wallets within one working day after, respectively, opening, closing, re-issuance. It is noteworthy that banks should provide information about opening of e-wallets to organizations, individual entrepreneurs and individuals.

Earlier, information about opening of e-wallets was provided only upon request of the controlling bodies and in exceptional cases.

7. Transfer pricing

The Law significantly extends the list of transactions that will be controlled by tax bodies in the part of correspondence between the tax base of the income tax and market prices; a new method of defining the tax base has been introduced; additional liabilities of payers have been established, etc. However, transfer pricing will be described in a more detailed way in our next material.

How we can help

Revera specialists are ready to consult you about these amendments and application of tax legislation in 2016.

Regarding the issues referred to above you may consult:



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