

LAW of UKRAINE

On Amendments to Certain Legislative Acts of Ukraine

As amended and supplemented by the Customs Code of Ukraine dated 11 July 2002 N 92-IV, the Commercial Code of Ukraine dated 16 January 2003 N 436-IV, Law of Ukraine dated 2 December 2010 N 2735-VI, the Tax Code of Ukraine dated 2 December 2010 N 2755-VI, Law of Ukraine dated 22 September 2011 N 3773-VI

In connection with the adoption of the Law of Ukraine "On Production-Sharing Agreements" ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1999, N 44, p. 391) the Verkhovna Rada of Ukraine **enacts the following:**

I. To introduce amendments to the following legislative acts of Ukraine:

1. To provide the following wording of Article 8 of the Labor Code of Ukraine ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1971, annex to N 50, p. 375; 1995, N 28, p. 204):

"Article 8. Regulation of labor relations of the individuals working outside their countries

Labor relations of the citizens of Ukraine who work outside Ukraine and labor relations of the foreigners who work in enterprises, institutions and organizations of Ukraine shall be regulated by the laws of the state in which the employees are employed (hired), as well as by the international treaties of Ukraine."

2. Clause 2 of section I became null and void (in connection with the nullification of the Customs Code of Ukraine dated 12.12.91 N 1970-XII pursuant to the Customs Code of Ukraine dated 11.07.2002 N 92-IV)

3. Clause 3 of section I became null and void (in connection with the nullification of Law of Ukraine dated 07.02.91 N 698-XII pursuant to the Commercial Code of Ukraine dated 16.01.2003 N 436-IV)

4. In part two of Article 8 of the Law of Ukraine "On Employment" ("Vidomosti Verkhovnoyi Rady URSR", 1991, N 14, p. 170; "Vidomosti Verkhovnoyi Rady Ukrayiny", 1998, N 11-12, p. 44):

to add in this part the words "except for the persons hired under a production-sharing agreement" after the words "stateless persons";

to add in this part the following sentence: "Foreigners hired by the investor within the scope and for the positions (specialities) stipulated by a production-sharing agreement shall be employed in Ukraine without employment permits".

5. To add the following new part in Article 16 of the Law of Ukraine "On Foreign-Economic Activity" ("Vidomosti Verkhovnoyi Rady URSR", 1991, N 29, p. 377; "Vidomosti Verkhovnoyi Rady Ukrayiny", 1992, N 31, p. 442; 1993, N 5, p. 33, N 17, p. 184; 1994, N 20, p. 120; 1999, N 7, p. 49, as amended pursuant to Law of Ukraine N 1595-III dated 23 March 2000) after part seven:

"The licensing and quotas shall not apply to exports and sales of the cost-recovery and profit production acquired into ownership by the investor on the conditions of a production-sharing agreement concluded in accordance with the requirements set forth in the Law of Ukraine "On Production-Sharing Agreements". It shall be prohibited to impose any restrictions, including quantity restrictions, with respect to exports and sales of such production, unless otherwise stipulated by the production-sharing agreement".

Parts eight – twenty-five shall be considered parts nine - twenty six accordingly.

6. In the Law of Ukraine "On Protection of the Natural Environment" ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1991, N 41, p. 546; 1996, N 15, p. 70; 1998, N 34, p. 230; 2000, N 5, p. 34):

1) To add the following new part to Article 20 after part two:

"The powers of the specially authorized central body of executive power in charge of environment and natural resources and of its local bodies, as stipulated by clause (h) of part one of this Article, shall not apply to the subjects of business activity (investors) that carry out their activity on the conditions of production-sharing agreements".

Parts three - thirteen shall be considered parts four - fourteen accordingly;

2) To add the following part in Article 69:

"Damage to environment resulting from the performance of a production-sharing agreement shall be reimbursed pursuant to the requirements set forth in Article 29 of the Law of Ukraine "On Production-Sharing Agreements".

7. To add the following clause "j)" in Article 19 of the Law of Ukraine "On the Single Customs Tariff" ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1992, N 19, p. 259; 1993, N 24, p. 270; 1996, N 41, p. 192; 1999, N 31, p. 253; 2000, N 3, p. 20, N 21, p. 163):

"j) goods and other material valuables, including any items, property, production, equipment, machinery, vehicles and other things of a property nature that are imported into the customs territory of Ukraine for the purposes of performing a production-sharing agreement, as well as the production which is exported by the investor from Ukraine pursuant to the Law of Ukraine "On Production-Sharing Agreements" and the production-sharing agreement.

8. Clause 8 in section I became null and void (in connection with the nullification of Law of Ukraine dated 04.02.94 N 3929-XII pursuant to the Law of Ukraine dated 22.09.2011 N 3773-VI)

9. To add the following clause 7.17 in Article 7 of the Law of Ukraine "On Taxation of Profits of Enterprises" ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1995, N 4, p. 28; 1997, N 27, p. 181; 1998, N 2, p. 7, N 10, p. 35; 1999, N 2-3, p. 21, N 4, p. 33, N 32, p. 264, N 38, p. 338, N 39, p. 357; 2000, N 5, p. 34):

"7.17. Specifics of taxation of the profit obtained as a result of performing a production-sharing agreement

To establish that the profit obtained by a tax payer as a result of performing a production-sharing agreement shall be taxable subject to the specifics stipulated by the Law of Ukraine "On Production-Sharing Agreements".

10. To add the following clauses 31 and 32 in Article 6 of the Law of Ukraine "On Insurance" ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1996, N 18, p. 78; 1998, N 2, p. 4, N 11-12, p. 50; 1999, N 4, p. 35; 2000, N 19, p. 143, as amended pursuant to Law of Ukraine N 1642-III dated 6 April 2000):

31) insurance of the investor's civil liability, including for damage to the environment and human health under a production-sharing agreement, unless otherwise stipulated by the agreement";

32) insurance of property risks under a production-sharing agreement in the cases stipulated by the Law of Ukraine "On Production-Sharing Agreements".

11. In the Law of Ukraine "On Regime of Foreign Investment" ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1996, N 19, p. 80):

1) To add the following new paragraph in Article 3 after paragraph six:

"economic (business) activity under production-sharing agreements".

Paragraph seven shall be considered paragraph eight accordingly.

2) To add the following part in Article 8:

"The rights and responsibilities of the parties stipulated by a production-sharing agreement shall be governed during the period of its validity by the legislation of Ukraine effective at the time of its conclusion. Said guarantees shall not apply to the legislation changes concerning the matters of defense, national security, maintenance of public order, environment protection".

12. Clause 12 in section I became null and void (in connection with the nullification of Law of Ukraine dated 03.07.92 N 2535-XII pursuant to the Tax Code of Ukraine dated 02.12.2010 N 2755-VI)

13. Clause 13 in section I became null and void (in connection with the nullification of Law of Ukraine dated 03.04.97 N 168/97-VR pursuant to the Tax Code of Ukraine dated 02.12.2010 N 2755-VI)

14. In Article 11 of the Law of Ukraine "On State Control of the Extraction, Production and Use of Precious Metals and Gemstones and Control of Operations Therewith" ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1998, N 9, p. 34), to add the words "unless otherwise stipulated by the laws of Ukraine".

15. In Article 6 of the Law of Ukraine "On Accounting and Financial Reports in Ukraine" ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1999, N 40, p. 365), to add the following new part after part four:

"5. The procedure for keeping accounting records of the investor's financial and economic activities associated with the performance of the works (services) stipulated by a production-sharing agreement shall be set forth in the agreement in accordance with the requirements of the legislation of Ukraine".

Part five shall be considered part six accordingly.

16. To add the following part in Article 2 of the Mining Law of Ukraine ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1999, N 50, p. 433):

"Legal relations in the sphere of activities of mining enterprises that are implemented on the basis of a production-sharing agreement shall be governed by the Law of Ukraine "On Production-Sharing Agreements" and the agreement. The activities under the production-sharing agreement shall be governed by the provisions of this Law, unless otherwise stipulated by the law and the production-sharing agreement".

17. Clause 17 in section I became null and void (in connection with the nullification of Decree of the Cabinet of Ministers of Ukraine dated 26.12.92 N 18-92 pursuant to the Tax Code of Ukraine dated 02.12.2010 N 2755-VI)

18. Clause 18 in section I became null and void (in connection with the nullification of Decree of the Cabinet of Ministers of Ukraine dated 08.04.93 N 30-93 pursuant to the Law of Ukraine dated 02.12.2010 N 2735-VI)

II. This Law shall take effect on the day of publication.

President of Ukraine

L. KUCHMA

**Kiev
8 June 2000
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