



Strasbourg, 24 January 2018

CDL-REF(2018)004

Opinion No. 912 / 2018

Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

UKRAINE

**DRAFT LAW NO. 6675 ON INTRODUCING CHANGES TO THE TAX
CODE OF UKRAINE TO ENSURE PUBLIC TRANSPARENCY OF THE
FINANCING OF PUBLIC ASSOCIATIONS AND THE USE OF
INTERNATIONAL TECHNICAL ASSISTANCE**

Law of Ukraine

On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and the Use of International Technical Assistance¹

The Verkhovna Rada of Ukraine hereby resolves:

I. To amend the Tax Code of Ukraine (Bulletin of the Verkhovna Rada of Ukraine, No. 13-17 for 2011, p. 112, with later amendments) as follows:

1.1. In Clause 133.4 of Article 133:

1. 1) Subclause 133.4.4 should read as follows:

“133.4.4. The establishment by the supervisory authority, in accordance with the rules of this code, of the use by a non-profit organization of income (profit) for purposes other than those provided for in Subclause 133.4.2 of this Clause, and of the fact that public associations have not met the requirements set out in Subclause 133.4.8 of this Clause, shall be grounds for excluding such an organization from the register of non-profit institutions and organizations and for imposing the liability to pay the business profit tax, penalties and fine provided for by this Code. Tax liabilities, penalties and fine shall accrue from the first day of the month in which the violation concerning the use by the non-profit organization of income (profit) for purposes other than those provided for in Subclause (133.4.2 of this Clause) took place and throughout the entire reporting period for which the reports under Subclause 133.4.8 of this Clause were not submitted and/or made public;

2) This Clause should be supplemented by Subclause 133.4.8 as follows:

“133.4.8. Public associations whose total annual income exceeds 300 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year, shall make it public before April 1 of the year following the reporting one, on its own web site (if available), and submit for publication on the official web portal of the central executive authority responsible for the implementation of state tax and customs policy, in the form and manner approved by the Cabinet of Ministers of Ukraine, an annual financial report on their activities that contains information on:

the personal composition of the governing bodies of the public association;

the number of members of the public association, the amount of membership fees established for the reporting year, and their actual entry into the public association’s account;

the total amount of the public association’s income from natural persons, enterprises, institutions and organizations, including through the implementation in Ukraine of programs (projects) of international technical or other assistance, and a list of entities from which, in the course of the year, income was obtained in excess of 50 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year;

^{1 1} This translation was made possible by the support of the American people through the United States Agency for International Development (USAID). The contents are the sole responsibility of ICNL and do not necessarily reflect the views of USAID or the United States Government.

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the number of the public association's employees employed on a full-time and part-time basis, total expenditures on their labor remuneration, and the list of ten employees who were paid the largest amounts of wages in the reporting year;

the public association's total expenses for the benefit of other natural persons (including natural persons-entrepreneurs) and legal entities, a detailed list of such persons and entities and the total amounts of expenses made for their benefit if the annual expenses for the benefit of one such natural person or legal entity exceeds 50 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year; and

the participation of the public association's executives in the governing bodies of other public associations, as well as in other legal entities under private law.

In the event of failure to comply with the requirements of this Clause, the public association shall be excluded by the supervisory authority responsible for the register of non-profit institutions and organizations and shall be deemed, for tax purposes, payer of profit tax from the first day of the month following the one in which the violation took place."

2. After the first paragraph In Clause 177.11 of Article 177, a new paragraph shall be added reading as follows:

"Natural persons-entrepreneurs who have received income from donors of international technical assistance provided in accordance with Ukraine's international treaties shall indicate, in a separate annex to the tax declaration, the amount of such income, showing relevant donors and the amounts of payments made from such income to third parties, with a list of such third parties paid one-off payments in excess of three subsistence minimums for able-bodied persons, as determined by law as of January 1 of the reporting year, and the total amounts of payments made to them.

"Such an annex shall be published on the official web portal of the central executive authority responsible for the state tax and customs policy, in the form and manner established by the central executive authority which provides for the formulation and implementation of public financial policy."

In this connection, the second and third paragraphs shall read as the third and fourth.

3. Clause 291.5 of Article 291 shall be supplemented by Subclause 291.5.9 reading as follows:

"291.5.9. Taxpayers whom the relevant supervisory authority identified as failing to submit a separate annex to the tax declaration under Clause 296.7, Article 296 of this Code or submitting unreliable information in such a separate annex, less than one year ago on the date they applied for registration as a single tax payer."

4. After Clause 296.6, Article 296 shall be supplemented by a new paragraph as follows:

"296.7. Single tax payers of Categories 1-3 who have received income from donors of international technical assistance provided in accordance with Ukraine's international treaties shall reflect, in a separate annex to the tax declaration, the amount of such income, showing the relevant donors and the amount of payments made from such income to third parties, with a list of such third parties paid one-off payments in excess of three subsistence minimums for able-bodied persons, as determined by law as of January 1 of the reporting year, and the total amounts of payments made to such persons.

"Such an annex shall be published on the official web portal of the central executive authority responsible for the state tax and customs policy, in the form and manner established by the central executive authority which provides for the formulation and implementation of public financial policy."

In this connection, Clauses 296.7-296.10 shall read as Clauses 296.8-296.11.

5. Subclause 298.2.3 of Clause 298.2, Article 298 shall be supplemented by a new paragraph reading:

"10) in the event of the failure of single tax payers of Categories 1-3 that have received income from donors of international technical assistance provided in accordance with the international treaties of Ukraine to submit the separate annex to the tax declaration under Clause 296.7, Article 296, of this

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Code, or their submission in such a separate annex of unreliable information – from the first day of the month following the one in which the supervisory authority has identified such violation.”

6. In Section XX, “Transitional Provisions”:

1) Subsection 1 shall be supplemented by a new clause reading:

“10. For (tax) reporting period in which the Law of Ukraine On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and the Use of International Technical Assistance entered into force, natural persons-entrepreneurs shall submit data in the annex to the tax declaration provided for by the second paragraph of Clause 177.11, Article 177 of this Code, for the period from the date of the entry into force of the Law of Ukraine Act On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and the Use of International Technical Assistance up to the last day (inclusive) of the (tax) reporting period”;

2) Subsection 4 shall be supplemented by a new clause reading:

“49. Until April 1, 2018, public associations shall submit and/or make public the reports provided for by Subclause 133.4.8 of Clause 133.4, Article 133 of this Code, for the period from the date of the entry into force of the Law of Ukraine On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and the Use of International Technical Assistance and ending on December 31, 2017”;

(3) Subsection 8 shall be supplemented by a new clause reading:

“6. For the reporting (tax) period in which the Law of Ukraine On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and the Use of International Technical Assistance entered into force, single tax payers of Categories 1-3 shall submit data in the annex to the tax declaration provided for by Clause 296.7, Article 296, of this Code, for the period from the day of entry of the Law of Ukraine On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and the Use of International Technical Assistance into force and until the last day (inclusive) of the reporting (tax) period.”

II. Final Provisions

1. The law shall enter into force on the day following its publication.

2. Within one month from the publication date of this Law, the Cabinet of Ministers of Ukraine shall

bring its legislation into line with this Law;
bring the acts of ministries and other central executive authorities into line with this Law; and
ensure the drafting and introduction to the Verkhovna Rada of Ukraine of a bill on the mobilization, registration and monitoring of international technical assistance, as well as the introduction of reporting on its use.

Chairman of the Verkhovna Rada of Ukraine