

FLASH REPORT

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Value Added Tax – new Government Resolution

Following our recent Indirect Tax Newsletter and Flash reports regarding the actions of the Government and the President of Ukraine in respect of VAT the Cabinet of Ministers of Ukraine (CMU) has recently issued a Resolution (No.1120-p) cancelling paragraph 2 of Resolution No. 757-p and withdrawing Resolution No. 838-p.

- This Resolution confirms that companies are entitled to credit input VAT supported by VAT invoices issued in the previous periods for a period of up to 3 years (effectively) from the date of issue of the VAT invoice. However, if input VAT is credited later than the month in which the VAT invoice was received, the tax authorities have the right to conduct an unscheduled tax audit. The wording of the Resolution is unclear and, thus, subject to interpretation.

- The Resolution determines that the tax authorities can cancel the VAT registration of a taxpayer if this taxpayer issued VAT invoices but did not recognise the corresponding VAT liability. It appears that the amount of VAT liability does not matter in this case. The taxpayer may appeal the cancellation of VAT registration in the Interdepartmental Council and in the court.

Notwithstanding that the Resolution was published on 24 September, the tax authorities have declared that it should apply from the date of its adoption (i.e. 9 September 2009).

In our opinion, this Resolution is not fully compliant with VAT Law.

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