

# Crucial Decisions

Following a recently established tradition, the UJBL continues to pick out the most notable initiatives suggested by Ukraine's lawmakers. This issue includes intently considering those newly-adopted documents related to public administration. This particularly concerns new functions of the Accounting Chamber of Ukraine, taxation, currency regulation and sanctions finally imposed by Ukraine. Drafting contains the views of experts on mediation, anti-corruption efforts and agriculture.



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**What new functions has the Accounting Chamber received in accordance with the new *On the Accounting Chamber Act of Ukraine of 2 July 2015, No.576-VIII*? How does it affect the role of the body in terms of efficacy and financial audit in public administration?**

Based on the analysis of the new *On the Accounting Chamber Act of Ukraine of 2 July 2015, No.576-VIII* (hereinafter — the Act), the Accounting Chamber is vested with a number of new powers, including, in particular, the conduct of efficacy audit and financial audit of revenues to the state budget of Ukraine and their use, as to management of state property objects in the part regarding the provision of contributions (payments) to the state budget of Ukraine of the funds received by the state as the owner of the objects, as to the

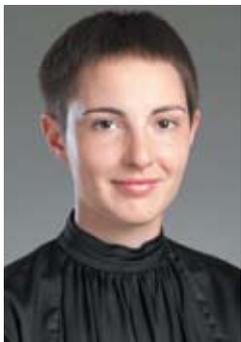
creation, maintenance and repayment of the state debt and others.

However, it is in the context of the new functions of the Accounting Chamber that the new Act does not meet the constitutional provisions on the legal status of the Accounting Chamber and is inconsistent with relevant current legislation in Ukraine.

According to the new Act, the Accounting Chamber carries out efficacy audits of internal control of state spending units, as well as internal audit of the Accounting

Chamber. However, according to the *Budget Code of Ukraine* and the *On Main Principles of State Financial Control in Ukraine Act* the function of monitoring the condition of internal control and internal audit of state spending units is assigned to the powers of a body of state financial control.

Thus, the legal conflict between the cited legal provisions leads to incomplete legal regulation of relations in the sphere of performance of efficacy audit and financial audit in public administration.



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**What possible abuses on the part of abusive taxpayers are possible according to the *Act of Ukraine On Amending the Tax Code of Ukraine regarding Taxation of Non-profitable Organizations of 17 July 2015, No.652-VIII*?**

In July 2015 the Ukrainian Parliament adopted one more Act amending the *Tax Code of Ukraine*. *Inter alia* this Act envisages corporate profit tax incentive for taxpayers providing funds and other resources (such as means of individual protection, drugs, food products, personal hygiene items, etc.) for the purposes of the antiterrorist operation carried out in East Ukraine.

Namely, under the newly adopted Act, until the end of antiterrorist operation, taxpayers providing funds and resources for the aforesaid purposes will not fall within the scope

of Para 140.5.9 of the *Tax Code of Ukraine*. This paragraph requires that taxpayers shall increase their corporate profit tax base by the amount of funds, price of goods, works, services donated to non-profitable organizations (in case such donations exceed 4% of taxable profit of the previous reporting year).

Yet this incentive may be seen as giving grounds for tax evasion through the use of non-profitable organizations. In particular, non-profitable organizations aimed at helping the antiterrorist operation may be used as interagents between abu-

sive taxpayers and unified taxpayers in cash-out chains. In contrast to usual cash-out models with direct payments to unified taxpayers, deductibility under which are often challenged by the tax authorities as fictitious, payments to non-profit organizations do not imply such risks for the taxpayer. In their turn, non-profit organizations are not subject to thorough tax inspections of their interactions with unified taxpayers, which allows them to purchase items for the antiterrorist operation under over-inflated prices with no or almost no tax risks.