

Legal Alert – 19 March 2012

**UKRAINIAN CUSTOMS ANNOUNCE MASSIVE
AUDIT AND ENFORCEMENT CAMPAIGN**



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The State Customs Service of Ukraine (“**SCS**”) in its Letter “On Increasing Payments to the Budget”¹ (the “**Letter**”) announced as of 1 April 2012 massive audit and enforcement campaign, and called taxpayers to voluntarily comply with customs payments before this date. Failure to comply will result in individual audits and sanctions, in particular for the failure to declare the specific elements that must be included in the customs value of goods (including royalty, freight, engineering, insurance costs, etc.).

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SCS sent the Letter to the heads of regional Customs, instructing them to work with businesses and ensure proper compliance with customs regulations and payments, which in practice may slow down customs clearance procedures.

In the Letter the SCS warns that it possesses full information about every taxpayer (“*subject of foreign-economic activities*”), which evades taxes. The collection of unpaid customs payments and taxes, as well as penalties will be retroactive – for the period of past three years.

Special attention must be paid to calculating and adding royalties to the customs value of imported goods. This issue was raised by the Customs several years ago and since then many companies, including major foreign investors, were subject to significant (including retroactive) penalties for failure to include royalties in the customs value and thus underdeclaring and underpaying customs payments and taxes. There has been extensive and controversial court practice on this subject and the taxpayers must take into account not only the customs regulations, but also tax rules and intellectual property legislation while dealing with this issue.

Following a meeting at the Kiev Regional Customs with the business community, its Chief, Vladimir Grigoriev, reminded that voluntary discovery and payment of customs payments and taxes by taxpayers will result in penalties at the rate of 3%, whereas penalty rates based on audit results will be 25% - 75%.

Disclaimer

The content of this Legal Alert is not legal advice, but a general informational summary of the law. Resource to qualified legal counsel is always required for legal advice. Failure to make timely inquiries of legal counsel may cause important legal deadlines to be missed.

¹ Letter of the State Customs Service of Ukraine “On Increasing Payments to the Budget” dated 23.02.2012 No. 11.1/2-20/1949-EP