

## TaxAlert

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To keep you up-to-date with the latest economic and financial developments, this bulletin provides information that may affect the operation of your business in Albania.

### **Amendments to Albanian fiscal legislation**

- **Amendments to requirements to be met for examination of appeals against tax liabilities providing for the payment of entire tax obligations before the initiation of the administrative appeal and 15% of both penalties and interests before initiation of the court proceedings;**
- **Taxation of income arising from transfer of ownership title over real estate at 10% rate on net income;**
- **The value of the land will be considered as “an expense” for tax purposes by entities engaged in construction activities.**

For details explore the following text.

Currently, the Laws mentioned here below are approved by the Parliament and their promulgation by the President of the Republic is still pending.

#### ***Tax Procedures***

*New amendments to Law no. 8560, dated 22.12.1999 "On Tax Procedures"*

#### **Appeal Procedure**

The new Law approved by the Parliament amends the requirements to be met prior to the examination of administrative and judiciary appeal procedures against tax liabilities imposed to taxpayers.

Such new Law requires the taxpayers to pay the tax obligation determined in the tax liabilities assessment, not including respective interests and penalties; otherwise the appeal shall not be examined in the administrative level. The possibility to provide a guarantee for the tax obligation in the context of a tax appeal as it was determined by the previous legal provisions is now abrogated.

On the other hand, the taxpayers will be required to pay 15% of both penalties and interests imposed by the tax authorities when claiming their cancellation before the courts; whilst such requirement does not apply in the context of the administrative appeal.

The new Law states also that the judiciary examination should be performed through an accelerated procedure lasting not more than 60 days, and that the tax administration shall be obliged to enforce the court decisions;

otherwise the bailiff's office will execute them immediately.

#### **Penalties related with non registration with tax authorities**

According to the new Law, tax authorities are entitled to block the activity of taxpayers conducting business activity without being registered with tax authorities (in transport activities this implies the seizure of the circulation permit corresponding to the vehicle not registered) until the tax registration takes place. Should the taxpayer continue to conduct its activity although the blocking measures are in place, the tax authorities will seize the properties of the taxpayer located in the premises where the business is conducted. The same penalties apply in case the taxpayer changes the location of its activity and fails to notify such change to the tax authorities.

Goods safeguarded, used and transported without required documentation will be immediately seized.

#### **Other provisions**

The new Law establishes that the tax obligation resulting from a tax declaration or assessment amounting to less than 1,000 Lek (one thousand) is considered being zero.

The above amendments will enter in force 15 days after their publication on the Official Gazette.

#### ***Income Tax***

*New amendments to Law no. 8438, dated 28.12.1998 "On Income Tax"*

#### **Source of income**

The income of non resident persons generated from service carried out physically within the Albanian territory is considered as Albanian sourced income and subject to taxation. Such provision will be effective from 1<sup>st</sup> July 2007.

#### **Failure to file the declaration and payment form of tax on employment income**

In case the employer fails to file the form of declaration and payment of its employees' tax on employment income within the legal terms, a penalty of 10% of the tax amount but no less than 10,000 (ten thousand) Lek will be imposed. Such provision will be effective from 1<sup>st</sup> July 2007.

#### **Tax on personal income resulting from transfer of ownership title over real estate**

Taxation of personal income of individuals resulting from the transfer of ownership title over real estate is changed. Now, the tax on such transfer will be 10% of the capital profit realized. We understand that the term "capital profit realized" means the difference between the sale and purchase price of the real estate.

According to the new Law, this tax applies to transfer of land and buildings. The new Law opts for a unique tax rate (i.e. 10%) over the net income instead of differentiated tax rates (between 0.5% up to 3%) of the sale price.

In cases when the ownership of the land is exchanged with ownership of part of the building to be constructed over such land, the taxable income consists of the

difference between the value of that part of the building and value of the land. The value of both land and building is approved by the Council of Ministers and is based on the construction minimum fiscal cost.

These provisions will enter into force on 1<sup>st</sup> January 2008.

**New category of tax deductible expenses of entities engaged in construction activities**

The new Law includes as tax deductible expenses of entities engaged in construction activities (i.e. investor), the value of the land made available by the owner of the land to the constructor in exchange of the ownership over part of the building.

The taxable income of the investor includes also those incomes corresponding to the value of building, object of the exchange ownership contract.

The value of the land and that of the building is approved by the Council of Ministers and is based on the construction minimum fiscal cost. These provisions will enter into force on 1<sup>st</sup> January 2008.

These amendments will enter in force 15 days after their publication on the Official Gazette.

***Excise Tax***

*New provisions to Law no. 8976, dated 12 December 2002 “On Excise Tax”*

The new Law provides a new category of goods subject to excise tax (please see Table 1).

***Value Added Tax (VAT)***

The Law introduces a new exemption from VAT for the lease of buildings. However, an exception from this VAT exemption is foreseen when the lease duration is no more than 2 months. Accommodation in hotels and vacancy residences remain VAT taxable.

These amendments will enter in force 15 days after their publication on the Official Gazette.

**Table 1**

Customs Nomenclature Code	Description	Excise tax
V	Oil by-products	
34 03 19 91 34 03 99 10	Preparation for machinery, equipment and vehicle lubrication	40 Lek/kg

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