

# BOGA & ASSOCIATES

## TAX ALERT

*To keep you up to date with the latest legal and economic developments, this tax alert prepared by our Team provides information that may affect the operation of your business in Albania.*

### ***2023 Fiscal Package***



## Amendments to Tax Legislation

On 24.11.2022 the Albanian Parliament approved several laws amending the tax legislation (the “**2023 Fiscal Package**”). The new laws will become effective on 1 January 2023.

Below is a summary of the changes introduced by the 2023 Fiscal Package.

### Excise Tax Law (Law no. 61/2012)

Upon law no. 81/2022, the following amendments have been introduced to Excise Tax Law (Law no. 61/2012):

- The excise tax for beer (having an alcoholic strength by volume exceeding 0,5%) is applied at the rate of Leke 710/HL/alcoholic strength, irrespective of whether it is produced by independent small breweries with yearly production of up to 200,000 HL or not (removing thus the excise reduced rate of Leke 360/HL/alcoholic strength applied so far for small breweries).
- The excise tax for spirituous beverages is applied at the rate of Leke 84,500/HL. The reduced rate of Leke 65,000/HL for small distilleries having an annual production of 20,000 HL has been removed.
- Increase of excise tax on cigarettes and other tobacco products (as per the scheduled increase for the period 2022 - 2026) to Leke 7,000 for one thousand sticks instead of Leke 6,750 and Leke 7,000 per kg for other tobacco products. Heated tobacco will be taxed at Leke 7,250 per kg.
- The excise tax for electrical accumulators has been removed.

### Value Added Tax Law (Law no. 92/2014)

The following changes have been introduced to the VAT Law by law no. 82/2022.

- Import and supply of fuel wood (under the customs nomenclature 4401) are exempt from VAT for the period until 31 December 2023.
- VAT is not payable on import of goods and supply of goods/services intended for the implementation of projects financed by grants based on a donation/grant agreement between Albania and foreign donators if the agreement stipulates that the funds shall not be used to pay taxes. These supplies will be treated as supplies similar to export.

Under the new law, a special VAT regime shall apply to the Albanian Electricity Exchange, as follows:

- (i) the import and supply of electricity destined to be sold through the exchange, is exempt from VAT.
- (ii) for the supply of electricity traded through the exchange, VAT shall be paid by the purchaser of electricity through the reverse charge mechanism (valid until 31 December 2026).

A forthcoming decision of the Council of Ministers will provide for further details on the procedures for implementation of this special regime and its commencement date.

### Tax Procedures Law (Law no. 9920/2008)

Amendments to the Law on Tax Procedures have been introduced by law no. 83/2022.

The law provides for a new definition of the taxpayer being the person subject to profit tax, local taxes and fees, social and health

contributions, or a withholding tax agent. New definitions have also been provided for related persons for tax purposes, self-employed individuals, and sole entrepreneurs.

Criteria for tax residency have been abolished. The criteria set forth in the Income Tax Law (law no. 8438/1998) shall apply to determine the tax residence of the taxpayers.

The new law has also provided for the following novelties:

1. *Restrictions on the balance of excess cash.* Taxpayers are obliged to deposit their excess cash in a bank account opened with banks or other financial institutions. The maximum amount that is allowed to be kept in cash is determined according to the annual turnover of the previous year, as follows:
  - For taxpayers with an annual turnover up to Leke 2 million, the maximum cash amount is Leke 150,000.
  - For taxpayers with an annual turnover more than Leke 2 million up to Leke 10 million, the maximum cash amount is Leke 500,000.
  - For taxpayers with an annual turnover more than Leke 10 million, the maximum cash amount is Leke 500,000 or 5% of the annual turnover of the previous year, whichever is the highest.
  - When the taxpayer has started the business activity in the current year, the maximum cash amount is determined based on its estimation of the turnover for the year.
  - The taxpayer will decide for the maximum amount kept in cash in each place of activity.
  - The amount of cash available must be declared to the tax authorities every morning before performing the first supply.

2. Regarding the obligation of third parties to provide information to tax authorities, the Ministry of Finance and Economy shall through an Instruction determine the procedure, time, and form of information.
3. *Changes have also been made to the structure of tax administration.* Certain departments of the General Tax Directorate shall be entitled to perform tax assessments and issue tax assessment notices directly to the taxpayers, same as the tax assessments currently performed from regional tax directorates.
4. *A new anti-avoidance clause has been introduced.* Under this clause, for the purposes of calculating the profit tax liability, the tax authorities might ignore an arrangement or a series of arrangements between taxpayers which have been put into place for the main purpose or one of the main purposes of obtaining a tax advantage. These arrangements shall be assessed for tax purposes under the principle of "substance over form". The law provides for certain criteria based on which the tax authorities shall determine whether an arrangement or a series thereof shall be regarded as non-genuine (i.e., not put into place for valid commercial reasons which reflect economic reality).
5. *Changes to the penalty amounts:*
  - Penalty to individual taxpayers Leke 3,000 instead of Leke 5,000 for failure to file the annual tax return.
  - Failure to pay on time the income tax prepayment instalments shall be subject to interest for late payment, in addition to the current fine of 10%.

- Failure to maintain the tax records as required under the tax legislation is subject to a penalty of Leke 10,000 for sole entrepreneurs and Leke 50,000 for legal persons.
- Obstruction of tax audit is subject to a penalty of Leke 100,000 and Leke 1,000,000 for sole entrepreneurs and legal entities, respectively.
- Failure to declare the correct salary of employees shall be subject to a penalty equal to 200% of the amount of non-declared obligation, when the employer is a legal entity and 100% in other cases.
- Taxpayers that are registered for profit tax and that keep, use or transport goods not accompanied with tax documentation, shall be subject to a penalty of Leke 750,000 but not less than the undeclared VAT amount.
- Failure to issue the invoice for the second time within a year shall be subject to a penalty of Leke 500,000 instead of Leke 150,000 for taxpayers registered for profit tax and VAT.

### **Changes to law on Mandatory Healthcare Insurance in Republic of Albania” (Law no. 10383/2011)**

Parliament has approved changes to the law on Mandatory Healthcare Insurance (no. 10383/2011). It is expected that the new law will be published in the Official Gazette and enter into force on 1 January 2023.

According to the new law, unemployed women who cumulatively meet the following criteria, shall benefit from the mandatory healthcare insurance:

- Have three or more children up to 18 years old.
- One of the children is under the age of 5 years old.
- The family has an income of less than Leke 100,000 per month for during the period the child is less than 5 years.



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**BOGA & ASSOCIATES  
TOP TIER ACHIEVEMENTS 2022**

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**IFLR1000 2022:** Ranked in Tier 1 in Financial and Corporate

**Chambers Global 2022:** Ranked in Band 1 in Corporate/Commercial

**Chambers Europe 2022:** Top Ranked in 3 practice areas

**The Legal 500 2022:** Top Ranked in Legal Market Overview

**Benchmark Litigation Europe 2022:** Top Ranked in Dispute Resolution

**WTR1000 2022:** Top Ranked in Trademarks

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The firm's particularity is linked to the multidisciplinary services it provides to its clients, through an uncompromising commitment to excellence. Apart from the widely consolidated legal practice, the firm offers the highest standards of expertise in tax and accounting services, with keen sensitivity to the rapid changes in the Albanian and Kosovo business environment. The firm delivers services to leading clients in major industries, banks and financial institutions, as well as to companies engaged in insurance, construction, energy and utilities, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods.