

Issue 01/15

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 VAT Law and Tax Procedures Law

On July 23rd 2015 the Parliament of Albania has passed the Law no. 90/2015 "On some amendments to Law no. 92/2014 'On VAT', as amended" and Law no. 91/2015 "On amending and supplementing Law no. 9920, dated 19.05.2008 'On Tax Procedures', as amended". Both laws are published in the Official Gazette no. 144, dated 07.08.2015.

Amendments to VAT Law

The amendments provide that the tax administration performs the reimbursement procedure within 60 days from the date of filing the request by the taxpayers, and within 30 days from the date of filing the request by the exporters, in accordance with the provisions of Tax Procedures Law.

Before processing a request for VAT reimbursement to a taxable person, the tax administration has the right to oblige the said person to prove that the aim of the economic activity is to carry out taxable supplies which enable the deduction of VAT.

Amendments to Tax Procedures Law

Subject to the amendments, a Directorate of VAT Reimbursement is established in the structure of the General Tax Directorate, and taxpayers have the right to file the requests for VAT reimbursement near the said directorate.

The new Directorate in collaboration with the Regional Tax Directorates will verify the requests within 60 days from their filing (30 days for exporters).

Tax authorities, if deemed necessary, have the right to perform an audit to the taxpayer based on the risk analysis.

Once approved, the payment of the VAT reimbursable amount is made within 5 days, through the treasury system. If such term is not respected, the taxable person shall be entitled for non-payment of other tax liabilities up to the amount of the VAT reimbursable amount.

Safety and Health Measures in the Workplace for New and Expectant Mothers

The Council of Ministers of Albania has recently enacted Decision no. 637, dated 14.07.2015 "On the Approval of the Regulation 'On Introducing Safety and Health Measures in the Workplace for New and Expectant Mothers" (the Regulation), and published in the Official Gazette no. 147, dated 13.08.2015.

The above decision supersedes Decision no. 397, dated 20.05.1996 "For the Special Protection of Pregnant Women and Maternity", as amended. The aim of this Regulation is to protect the safety and health of women in the workplace when expecting and women who are breastfeeding.

The Regulation also sets out employer's obligations in assessing specific risks from chemical, physical and biological agents, industrial processes or work conditions, based on their nature, degree and duration of exposure, in the enterprise and/or workplace. This risk assessment is carried out either by the employer himself, or by protective and preventive services as mentioned in article 7 of Law no. 10237, dated 18.02.2010 "For Safety and Health at Work", as amended.

Under the Regulation, the employer takes the necessary measures in case the assessment reveals a risk to the safety or health or an effect on pregnancy or breastfeeding of an employee. In cases when an employee cannot perform a job due to the risks it represents, the employer should assign her another task, and if the assignment is not possible, the employee shall be granted paid leave.

The employer shall take the necessary measures to ensure that employees subject to this Regulation are not obliged to perform night work during their pregnancy and for a period following childbirth, supported by a medical prescription stating that this is necessary for the safety or health of the employee.

The aforementioned measures must entail the possibility to transfer the employee to daytime work, or take paid leave from work or extension of maternity leave where such transfer is not technically and/or objectively feasible or cannot reasonably be required on duly substantiated grounds.

Pursuant to article 4 of the Regulation, employees may under no circumstances be obliged to perform duties for which assessment has revealed a risk of exposure, which would jeopardize safety or health, to the agents and working conditions as listed in Annex II of the Regulation.

The Regulation provides that employees are entitled to paid time-off of not less than 30 minutes for every three hours of continuous work during the day. In addition, they are entitled to paid time-off from work, in order to attend medical examinations, if such examinations have to take place during working hours.

Annex I of the Regulation provides for a non-exhaustive list of agents, processes and working conditions for which is conducted assessment of particular risks or work conditions under article 3. While Annex II sets out a non-exhaustive list of agents and working conditions for cases where exposure to risks is prohibited as referred to in article 4 of the Regulation.

[Amendments to Decision no. 1706, dated 29.12.2008 "On the Approval of the Regulation for the Registration of Trademarks of Goods and Services"](#)

On 18.06.2015 the Council of Ministers (CoM) enacted decision no. 1706 "On Some Amendments and Additions to Decision no. 1706, dated 29.12.2008 of CoM 'On Approval of the Regulation for the Registration of Trademarks of Goods and Services'".

The amended regulation contains many improvements in terms of specification of most of the already existing clauses, without any major changes.

Among the additions, the most notable novelties are: the list of the elements that can be considered as a trademark in the first section "*General Provisions*", and a new section added for "*Collective Trademarks*".

For the very first time, this regulation gives a general definition on what a collective trademark is by identifying the object that is protected by such trademark.

Together with the collective trademarks, a new clause in the same section has been added for the "*Certifying Trademarks*", defining them as the trademark which proves that goods and services have been certified by the trademark owner for their origin, material, preparation methods, quality etc.

The new regulation envisages that Law no. 9974, dated 07.07.2008 "*On Industrial Property*", as amended, applies to both collective trademarks and certifying trademarks in the same way as to ordinary trademarks.

[Cartel leniency draft program](#)

On 25.06.2015, the Albanian Competition Authority ("ACA") introduced a draft program concerning the cartel leniency. Pursuant to Law no. 9121, dated 28.07.2003 "On Competition Protection", as amended and Regulation "On fines and leniency", ACA introduced a detailed program on fines leniency that shall serve as a guideline with regards to the applicability of the regulation. Considering the difficulties of investigating a cartel agreement, this is seen as a major development and positive incentive that will encourage the participants of the cartel agreements to "blow the whistle".

The program begins with the introduction of the main concepts such as "agreement", "cartel", "applicant" etc.

Further, the program explains the different types of leniency which can be fully or partially granted to an applicant, depending on the position of the applicant in the agreement and the date in which the application is submitted. In addition, the specific requirements that the applicant should fulfill to enjoy the leniency have been introduced. Another important element to emphasize is the application form that the applicant shall fill when submitting its application, which can be downloaded from the official website of ACA <http://www.caa.gov.al/>.

ACA is currently implementing the consultation process with all the interested parties for the program and the final version is yet to be published.

If you wish to know more on issues highlighted in this newsletter, you may approach your usual contact at our firm or the following:

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The firm maintains its commitment to quality through the skills and determination of a team of attorneys and other professionals with a wide range of skills and experience. The extensive foreign language capabilities of the team help to ensure that its international clientele have easy access to the expanding Albanian and Kosovo business environment.

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