



bogalaw
LEGAL • TAX • ACCOUNTING

Latest Updates: News & Information

Tax Alert



Instruction no. 26, dated 08.09.2023 “On Income Tax”

The Ministry of Finance and Economy has issued Instruction no. 26, dated 08.09.2023 “*On Income Tax*” (the “**Instruction**”) which provides for clarifications on implementation of the provisions outlined in Law no. 29/2023 dated 30.03.2023 “*On Income Tax*”.

The Instruction was published in the Official Gazette on 20.09.2023 and shall be effective starting from 1 January 2024, same as the Law no. 29/2023 dated 30.03.2023 “*On Income Tax*”.

The new legislation provides for several changes compared to the existing one that must be taken into account by businesses and individuals while planning for their activities in the year 2024.

Draft Law “On Real Estate Tax”

On 03.08.2023, the Ministry of Finance and Economy submitted for public consultation the Draft Law “*On Real Estate Tax*” (the “**Draft Law**”).

The proposed draft aims to create a contemporary, effective, transparent, and sustainable system for levying taxes on real estate based on their market value with the goal of boosting the existing real estate tax revenue and simultaneously ensuring enhanced equity for taxpayers, while reducing administrative expenses related to tax management.

In order to accurately calculate the tax, the Draft Law presents a categorization of properties and a categorization of values. The latter is a subdivision under the property category and will be determined upon a decision of the Council of Ministers.

The properties are categorized as follow:

- a) Agricultural-Livestock Property;

- b) Woodland Property;
- c) Residential Property;
- d) Commercial Property;
- e) Industrial Property;
- f) State-Owned Property; and
- g) Religious Property.

According to the Draft Law, the local authority of the specific jurisdiction where the property is located shall determine tax rates for each property category as outlined below:

- I. The tax rate may vary within the range from 0.1% (zero-point one percent) to 0.2% (zero-point two percent) for all building units included in the category of residential properties;
- II. The tax rate may vary within the range from 0.15% (zero-point fifteen percent) to 0.25% (zero-point twenty-five percent) for all building units included in the category of agricultural-livestock properties, commercial properties, or industrial property;
- III. The tax rate may vary within the range from 0.1% (zero-point one percent) to 0.3% (zero-point three percent) for all parcels included in the category of agricultural-livestock property, woodland property, or residential property;
- IV. The tax rate may vary within the range from 0.15% (zero-point fifteen percent) to 0.3% (zero-point three percent) for all parcels included in the category of commercial property or industrial property;
- V. The tax rate for unfinished buildings is 30% (thirty percent) of the tax rate of the respective building category.

The taxable base of the tax shall be the market value of the property, to be calculated based on the methodology that will be determined by a forthcoming decision of Council of Ministers.

The Draft Law introduces the possibility of a deduction from the value of the first residence for all individuals, in an amount equal to 50% (fifty percent) of the value of the first residence, but in any case, not exceeding the maximum threshold of the deduction determined in this Draft Law.

In cases of co-ownership, the co-owner shall have the right to deduction for the first residence in proportion to its designated share.

Furthermore, an individual who owns or possesses 2 (two) or more residential units will have the right to deduction for the first residence for only one of these building units, regardless of the fact that the building units may be located in different municipalities.

The Draft Law stipulates that the tax is paid by the owner of the property. If the property is not registered with the cadaster office, the tax is paid by the possessor.

To ensure conformity with an equitable taxation system, the Draft Law provides for a number of properties that will be exempted from taxation, as listed below:

- a) State-owned properties (except for the properties that have been rented or used otherwise by private entities);
- b) Religious properties;
- c) Unfinished buildings, which as of November 30th prior to the tax year, are under construction in accordance with the designated construction period stated in the building permit;
- d) Accommodation structures "Four and Five-star Hotel/Resort, special status," as defined in the tourism sector legislation, which are holders of a registered and internationally recognized "*brand name*";
- e) Residential units of buildings utilized by tenants under non-liberalized leases;

- f) Residential units of buildings owned or possessed by a family head who receives financial assistance;
- g) Residential units of buildings, owned or possessed by a family head who receives elderly, disability, or social pension, live solely or with dependents who are incapable of work;
- h) Social housing units owned by local authorities;
- i) Units of buildings that are cultural heritage assets under temporary or permanent protection.

The responsible authority for tax administration is the municipality of the jurisdiction in which the property is located. Also, the Draft Law provides for the responsibilities of General Directorate of Real Estate Tax and the Fiscal Cadaster that will operate based on a decision of the Council of Ministers.

Tax Collection, Enforcement Measures and Penalties

The municipality generates property tax invoices based on the information received from the fiscal cadaster's information system, no later than January 31 of each tax year and sends them to taxpayers and/or debtors within 30 (thirty) calendar days from the last day of invoice generation.

The payment of the tax liability may include the amount of tax, fines, and late payment interest, and is paid in two equal installments, by June 30th and September 30th of the tax year.

In case of failure to pay, the municipal services are suspended as an enforcement measure until the tax liability is satisfied.

Additionally, the Draft Law stipulates that non-compliance with the obligation of self-declaration (for properties not registered with the cadaster), failure to pay the tax liability, or hindrance of on-site verification of real estate will result in a fine

from 10% to 50% (fifty percent) of the tax calculated in the subsequent year, but in any case, not less than 2,000 (two thousand) Leke up to 5,000 (five thousand) Leke, contingent upon the nature of the violation.

Appeal Process

According to the provisions of the Draft Law, the taxpayer who reasonably believes that tax assessment is incorrect, may submit an appeal accompanied with the relevant documentation within April 30 of the corresponding tax year to the local tax authority near the municipality. The taxpayer may appeal the decision of the local tax authority before the Local Tax Appeal Structure near the Municipality within thirty (30) calendar days from receipt of the decision.

Upon the conclusion of the aforementioned procedure, and if not in agreement with the decision of the Local Tax Appeal Structure near the Municipality, the taxpayer has the right to file a claim with the competent administrative court.

The appeal does not suspend the obligation to pay tax liabilities.

Finally, the Draft Law provides that the new tax based on market value for building units shall be implemented in 2026, while for parcels it shall be implemented in 2028 (although a 50% tax reduction is provided for the first two years of implementation).

New Reference Prices for Real Estate

The Decision of Council of Ministers no. 457, dated 26.07.2023 amending Decision no. 132, dated 07.03.2018 "*On the Methodology for Determining the Taxable Value of a Real Estate 'Building'*", the Tax Base for the Specific Categories, as well as the Criteria and Rules for Alternative Tax Assessment', as amended", (**the Decision**), was published in the Official Gazette on 28.07.2023.

The Decision introduces new reference prices/values for buildings used for residential purposes, as well as non-residential buildings.

The new reference prices that will be used to calculate property taxes have been raised, indicating an increase in the assessed value of the properties and are determined by taking into consideration the location of the properties. For the city of Tirana, the reference prices are categorized based on specific cadastral areas within the city.

According to the Decision, the value of residential buildings located in administrative units outside of cities is reduced by up to 35 (thirty-five) percent compared with the price of the nearest area (such reduction does not apply to a residential complex). In the areas included in the Municipality of Tirana, this reduction is up to 30 (thirty) percent compared to the price of the nearest area.

Additionally, for buildings that have undergone privatization through the law no. 7652, dated 23.12.1992, "*On the privatization of state housing*," as amended, the price per square meter is set at 70 (seventy) percent of the newly established reference price when they are sold for the first time.

Moreover, the average reference prices for non-residential buildings are outlined as follow:

- The value per square meter of construction area designated for economic activities, trade, and services is set at 1.5 times the new price of residential areas within the same city. However, this multiplier is elevated to 2 times higher for the Municipality of Tirana.
- The value of construction area designated for covered parking and basements is calculated at 70 percent of the value of residential apartment surfaces within the same area.

- The value of construction area for open parking facilities, open swimming pools, and open sports facilities is calculated at 30 (thirty) percent of the residential apartment surfaces within the same area.
- The value of construction area intended for industrial activity and those designated for non-public educational activities is calculated at 50 (fifty) percent of the residential apartment surfaces within the same area.
- The value of construction area used for agriculture and animal husbandry is calculated at 30 (thirty) percent of the value of residential apartment surfaces within the same area.
- The value of new constructions that are registered according to the usage permit in the State Agency of Cadaster, after the entry into force of this Decision will be 20 (twenty) percent higher than the value of residential apartment surfaces nearby for the initial 5-year period following the registration.



Follow us:

LinkedIn: <https://www.linkedin.com/company/boga-&-associates>

Facebook: <https://www.facebook.com/BogaAssociates>

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

info@bogalaw.com

Tirana Office

40/3 Ibrahim Rugova Str.

1019 Tirana

Albania

Tel +355 4 225 1050

Fax +355 4 225 1055

www.bogalaw.com

www.bogalawip.com

Pristina Office

50/3 Sylejman Vokshi Str.

10000 Pristina

Kosovo

Tel +383 38 223 152

Fax +383 38 223 153

www.bogalaw.com

**BOGA & ASSOCIATES
AWARDS AND RECOGNITION 2023**

IFLR1000 2023: Ranked **Tier 1** in Financial and Corporate

Chambers Global 2023: Ranked **Band 1** in Corporate/Commercial

Chambers Europe 2023: Ranked **Band 1** in 3 practice areas

The Legal 500 2023: Ranked **Tier 1**

ITR Tax Review 2023 – Top Ranked

Benchmark Litigation Europe 2022: Top Ranked in Dispute Resolution

WTR1000 2023: Top Ranked in Trademarks

The Tax Alert is an electronic publication edited and provided by Boga & Associates to its clients and business partners. The information contained in this publication is of a general nature and is not intended to address the circumstances of any particular individual or entity. The Tax Alert is not intended to be and should not be construed as providing legal and tax advice. Therefore, no one should act on such information without appropriate professional advice after a thorough examination of the particular situation. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. You can also consult the Tax Alert on the section “Library” of our website.

© 2023 Boga & Associates. All rights reserved.

This publication is copyrighted and is protected to the full extent of the law. Nevertheless, you are free to copy and redistribute it on the condition that full attribution is made to Boga & Associates. If you have not received this publication directly from us, you may obtain a copy of any past or future related publications from our marketing department (marketing@bogalaw.com) or consult them in our website (www.bogalaw.com). To unsubscribe from future publications of Tax Alert, please send “Unsubscribe” by replying to our email accompanying this edition.

Boga & Associates

Boga & Associates, established in 1993, has emerged as one of the premier law firms in **Albania** and **Kosovo**, earning a reputation for providing the highest quality of legal, tax and accounting services to its clients. From the year 1999 until May 2007, the firm was a member firm of KPMG International and the Senior Partner/Managing Partner, Mr. Genc Boga, was also the Senior Partner/Managing Partner of KPMG Albania.

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.