

Issue 01/17

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

The Council of Ministers of the Republic of Albania passed in the meeting of 11 January 2017 three decisions having a tax impact. Below we are presenting a summary of these decisions.

[Decision of the Council of Ministers "On some amendments to the Decision no. 953, dated 29.12.2014 "On VAT"](#)

The Council of Ministers approved some amendments to the "right of choice in application of VAT".

Under Decision no. 953/2014, a taxable person had the option to treat as a VAT taxable supply only the rent of buildings. With the new Decision, such choice is extended to sale of buildings or parts of them. Hence, a taxable person may opt to apply VAT at the rate of 20% on the sale of buildings or parts thereon.

However, such option is available if the buyer will use the property for conducting a business activity or for resale. This means that the sale of buildings for dwelling purposes cannot be treated as VAT taxable supply. The supply of residence buildings will continue to be VAT exempt.

Notification to tax administration

The taxable person must submit to the Regional Tax Directorate a written statement, declaring that the sale of buildings will be subject to VAT. This statement must contain information on the building, the buyer/taxable person (name, identification number, address, etc) as well as data on the construction permit and the purpose of use of the building.

The seller may opt for this choice during the period of construction of the building if buyers are interested to buy at that moment.

It is necessary that the parties enter into an agreement before a notary, which provides for the right of application of VAT. The agreement must clearly identify the type, nature and purpose of use of the building and the buyer (name, identifying number, address, etc). This agreement must be provided by the seller to the tax authorities, upon their request.

VAT deduction

The right of deduction of VAT is applied in conformity with the VAT legislation. However, the VAT should be accounted for separately for each building or group of buildings, depending whether their transfer will be subject to VAT or not. In addition, the taxpayer conducting taxable and non-taxable activities has to evidence separately the purchases for each type of activity.

[Decision of Council of Ministers "On the definition of the procedures of functioning of the Commission for the Review of Tax Appeals"](#)

Further to the introduction of a new appeal body, the Commission of Examination of Tax Appeals (the "Commission") effective as of 1st of January 2017, the Council of Ministers approved now the rules of functioning, procedures of review of appeals and the thresholds subject to the Commission review process.

The Commission shall review the appeals against tax obligations exceeding Leke 20,000,000 (twenty million). Appeals against tax assessments equal or lower than this amount remain subject to the review and decision-making of the Tax Appeal Directorate.

The tax obligation shall include not only the principal, interest and penalties but the reduction of a tax credit or a tax loss and the refusal of a request for reimbursement as well.

The Commission is composed from 7 (seven) members, including the chairman, and is supported from the technical secretariat of the Commission.

The members are appointed for a period of 2 years, renewable up to two terms. They should have an experience in tax sector not less than 3 years, except for the representative of the State Attorney, for whom a minimum experience of 2 years is foreseen.

Procedure of review of the appeals

The appeal addressed to the Commission is delivered to the Ministry of Finance and registered in the register of appeals held by the Ministry.

The secretariat of the Commission reviews the appeal request and the supporting documentation and prepares an explanatory report for the Commission.

The report is submitted to the Commission' members within 20 calendar days from receipt of the appeal. The Secretariat notifies the members of the Commission and the authorized representatives of the taxpayer, on the date and time of the Commission meeting.

The meeting of the Commission can be held only if the majority of all members is present (i.e. at least 4 (four) members).

In the course of the appeal review, the Commission may require additional documents from the taxpayer or from the tax administration, if necessary.

The Decision is taken only if an absolute majority of the commission members agree (i.e. in any case should be 4 (four) votes for a decision to be taken).

Decision of the Council of Ministers "On some amendments to the Decision of the Council of Ministers no. 648, dated 28.07.2010 "On taxpayers' advocate"

Based on the recent changes to the Tax Procedures Law, the Council of Ministers approved the Decision "On some amendments to the Decision of the Council of Ministers no. 648, dated 28.07.2010 "On taxpayers' advocate" to define the powers of the taxpayers' advocate.

Those powers are now increased and wider than before and include the following:

- review the complaints of taxpayers and if necessary propose to the Minister of Finance the initiation of procedures for amendment of the existing legislation;
- monitor the procedures followed by tax administration in providing information and assistance to taxpayers;
- monitor the procedures followed by tax administration to ensure the right of fair, professional and ethical treatment of the taxpayers from the tax administration, the implementation of the right of the taxpayers for confidentiality of the tax and financial data administered from the tax administration, or third parties, the implementation of the right of information of the taxpayer, the right for reasonable audits and audits in conformity with the law provisions, procedures and terms for the performance of the tax audits, periodicity for the performance of the audits, place, time and duration, in accordance with the provisions of the law;
- request information from the tax administration for any taxpayer or group of taxpayers, as required for the activity of the taxpayers' advocate;
- recommend to the General Tax Director to issue technical decisions;
- issue general recommendations to the Tax Appeal Directorate and the Commission of Review of Tax Appeals on tax issues.

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Boga & Associates

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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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