

### Issue 02/17

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.

#### **New Amnesty Law**

The Albanian Parliament passed on 30.03.2017 the Law no. 33/2017, dated 30.03.2017 "On Payment and Cancellation of Tax Obligations, Customs Obligations, and on the Procedure of Removal from Circulation of Vehicles after Cancellation of Tax Obligations" (the "Amnesty Law"). This Law is published in the Official Gazette no. 86, dated 21.04.2017, and entered into force on 06.05.2017.

The Amnesty Law provides for the payment and waiver of tax and customs obligations, as well as defines the procedure of removal from circulation of vehicles after cancellation of unpaid tax obligations.

It relieves the taxpayers from execution of unpaid obligations, by totally or partially cancelling such obligations.

#### *The beneficiaries*

The following taxpayers are subject to this law:

- taxpayers having tax obligations towards central and local tax administration including taxpayers with passive status or non-registered with the tax authorities;
- taxpayers having obligations towards the customs administration;
- taxpayers who own vehicles.

Taxpayers convicted upon a final court decision for criminal offences in the tax and/or customs areas, in accordance with the relevant legislation, do not benefit from the amnesty as set forth in the Amnesty Law.

#### **Tax obligations**

##### *Complete cancellation of tax obligations*

Under the Amnesty Law, obligations resulting from periods up to December 2010 are fully waived if consist of:

- unpaid tax obligations registered in the e-system of the tax authorities. Social and health insurance contributions are not covered from this provision.
- unpaid local taxes obligations as defined by law no. 9632, dated 30.10.2006 "On Local Taxes", as amended.
- administrative penalties and late payment interests for social and health insurance contributions reflected in the e-system of the tax authorities.

##### *Partial cancellation of tax obligations conditional to payment of the principal amount of the tax/fee/tariff/contribution*

Penalties and late payment interests related to tax obligations, social and health contributions and unpaid local fees/tariffs concerning the tax period 'January 2011 – December 2014' and reflected in the e-system of the tax administration are waived to the condition that the payment of the principal amount is effectuated within 31<sup>st</sup> of December 2017.

This provision is also applicable to the tax/fee/tariff/contribution paid before the entry into force of the Amnesty Law.

### *Cancellation of other tax obligations*

The following tax obligations are subject to cancellation, irrespective from the tax period they belong:

- tax obligations of sole entrepreneurs or legal persons already deregistered from the National Business Center by a court decision or deregistered from the tax administration before the entry into force of the Amnesty Law;
- tax administrative penalties for late declaration, imposed in accordance with article 113 of law no. 9920, dated 19.08.2008 "On Tax Procedures", as amended, until 31.12.2016, including those for late declaration of employees;
- administrative penalties for late filing of the decision on the destination of the profit and late filing of the financial statements, in accordance with law no. 8438, dated 28.12.1998 "On Income Tax", as amended;
- administrative penalties for late declaration of tax returns and for not filed tax returns, provided that the latter are filed until 30.06.2017;
- administrative penalties of the authorized companies in accordance with article 123 of law no. 9920, date 19.08.2008 "On Tax Procedures", reflected in the e-system until 31.12.2016;
- administrative penalties derived from the application of law no. 99/2015 "On Some Amendments to Law on Tax Procedures" repealed from the Constitutional Court;
- other obligations of some state owned entities as defined by the Amnesty Law.

### *Set-off of outstanding obligations with the tax credits*

Taxpayers with tax credits (VAT or any other tax) will benefit from the provisions of the Amnesty Law for cancellation of the tax obligations only after the unpaid tax is set off with the tax credit amount.

The set-off does not apply for the obligations related to social and health insurance contributions.

### **Customs obligations**

#### *Cancellation of customs obligations*

The following customs obligations already accounted as obligations in the system of the customs authorities are fully cancelled:

- customs obligations covering the periods until 31<sup>st</sup> of December 2010.
- customs obligations of individuals, in relation with the tobacco products, covering the periods until 31<sup>st</sup> of December 2010.
- deferred VAT on import of machineries and equipment, covering the periods until 31<sup>st</sup> of December 2010.

#### *Payment of the obligation and conditional cancellation of the obligations payable to the customs authorities*

Penalties and late payment interests related to customs obligations evidenced through the decisions of the customs authorities from 1<sup>st</sup> of January 2010 until 31<sup>st</sup> of December 2014 are cancelled provided that the principal amount is paid within 31<sup>st</sup> of December 2017.

Penalties and late payment interests related to customs obligations evidenced for breach of vehicles temporary regime upon decisions of the customs authorities are cancelled provided that the principal amount is paid within 31<sup>st</sup> of December 2017.

### **Other provisions**

#### *Tax and customs obligations under examination of an appeal procedure*

Taxpayers with tax/customs obligations under examination of an administrative appeal or judicial procedure will benefit from the Amnesty Law only in case the taxpayer withdraws its appeal.

The tax or customs administration should cease the enforcement procedures for tax/customs obligations subject to the Amnesty Law.

*The procedures for the removal from circulation of the vehicles not in use and the cancellation/ remission of the tax obligations for these vehicles*

All vehicles registered with the General Directorate of Road Transport Service, not in use from 31<sup>st</sup> of December 2011, are removed from circulation except when otherwise provided by the Amnesty Law.

*The term of application and the right of appeal*

The right of the taxpayers that benefit from the provisions of the Amnesty Law is exercised within 31<sup>st</sup> of December 2017.

The relevant administration has to issue an administrative act to notify the taxpayers on the application of the Amnesty Law.

The Minister of Finance issued Instruction no. 14, dated 03.05.2017 providing some additional clarifications on the implementation of the Amnesty Law.

# BOGA & ASSOCIATES

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