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

New Law on Accounting and Financial Statements

The new Law no. 25/2018 "On Accounting and Financial Statements", effective from 01.01.2019, has replaced the existing Law no. 9228, dated 29.04.2004, and is partly harmonized with the new EU Accounting Directive 2013/34/EU.

Below is a summary of the changes introduced by the new law.

Broader Concepts

The new law brings not only a clearer and better definition of the basic concepts, but also extends the variety of the terms such as "public interest entities", "financial holding entities", "group of entities", "participating interest", "consolidated financial statements", "functional and presentation currency", etc.

Classification of the Economic Entities

The new Law classifies the economic entities in micro-economic, small, medium-sized and large entities based on three criteria: total of assets, revenues from economic activity and average number of employees. The same criteria apply for the categorization of the groups of entities.

Entities/group entities are classified or reclassified under one category if they meet two out of the three criteria.

The new Law also determines that the thresholds of the total of assets and revenues from economic activity will increase proportionally every three years, starting from the year 2028, to fully meet the criteria of the respective EU Directive. Once these criteria are met, the National Council of Accounting must revise every five years the thresholds, based on the fluctuation of the inflation.

The applicable requirements to each economic entity/group of entities depend on their classification.

Applicable Standards

Different from the existing law, the new Law underlines that International Accounting Standards and International Financial Reporting Standards (IAS/IFRS) may be applied on voluntary basis.

Retention of Accounting Documents and Reporting Period

The retention period for accounting documents under the new law remains 10 years, but differently from the existing law, such documents should be retained in the headquarters of the entity and/or the parent company.

Regarding the reporting period, as a general rule it remains 12 months, from January 1 to December 31. However, in case of initial or closing of the economic activity, the duration may be shorter or longer than 12 months, but in any case, it could not be less than 3 months or longer than 15 months. If the reporting period will be longer than 12 months, the moment of start/end cannot be earlier/later than the last/first quarter of the previous/successor period.

Language, Functional and Presentation Currency

The new Law allows entities to use functional currency other than the national currency (Leke). However, accounting books shall continue to be maintained in the Albanian language and financial statements should be presented in Albanian Leke.

Documents expressed in foreign language and/or in foreign currency unit, from/for foreign economic entities, shall be translated into Albanian language and the values should be expressed in functional currency.

Consolidated Financial Statements

The new Law introduces some clarifications on the consolidated financial statements to be prepared by economic group of entities. Small group of entities (as classified by the law) are not required to present consolidated financial statements, unless one of the entities of the group is considered as a public interest entity.

In addition, parent company and all related entities should be part of the consolidation, regardless of the place where they operate and despite the residency of their controlled entities.

Financial Statements Elements

Irrespective of the classification of the respective economic entities, the financial statements shall include Statement of Financial Position, Statement of Profit/Loss and Explanatory notes. However, for medium-sized, large and public interest entities as well as “holding” entities, additional statements are required, such as Statement of Comprehensive Income, Statement of cash flow and Statement of changes in equity.

The new Law sets forth certain restrictions in relation to the statement of financial position. Thus, in case the development costs are not being fully amortized, the profit distribution is not allowed if the total of reserves and retained earnings is not at least equal with the non-amortized value of the development costs. In addition, when the revenues from the controlling interest exceed the total of the received or receivable dividend, the difference amount is considered as a reserve and cannot be distributed to the shareholders.

Explanatory Notes

Medium sized, large and public interest entities must perform some important disclosure in the explanatory notes, such as: average number of employees for each category; detailed employee expenses; salary amount for the governing and executive bodies; information on the economic entities where it has participating interest or own shares such as the name, percentage of owned shares, amount of equity, reserves and profit/loss for the previous reporting period; information on the group entities that prepare the financial statements including their name, residency and the place where the copies of financial statements are available; auditor’s fees.

Additional Financial Reports

For medium sized, large and public interest entities there are some additional reports that should be presented along with the financial statements.

Here you can find a short summary for each of them:

- *Annual report* provides information on main risks and uncertainties the entity is facing, including financial and nonfinancial performance indicators; future projects; research and development activities; branches of the entity; financial instrument use; financial risk management goals and policies; entity exposure towards price risk, credit risk, liquidity risk and monetary risk.
- *Non-financial (consolidated) report* is required by public interest entities with more than 500 employees, by providing information on their development, performance, position and their activity influence on environment, society, employment, human rights, and anticorruption. If an entity does not apply any policies on the above items, it should provide for a justification. In the case of group entities, this report is presented in the consolidated report of the parent company.
- *Management report* is required by public interest entities, to provide information on the internal management application of principles and rules, internal risk control and management, policies regarding age, gender and education of the chosen executive board members.
- *Report on payment made to governmental institutions* is required by large and public interest entities that operate in extractive industry or industrial forest exploitation, by providing information on the payments the entity has made toward governmental institutions on production permission, tax payments, royalty tax, dividends, licenses and concessions, infrastructure improvement etc. The group of entities present the consolidated report.

Submission and Publication of the Financial Statements

The entities should submit the financial statements with the National Business Center, within 7 months from the reporting date. The medium-sized, large, public interest entities and non-profit organizations with a total of assets or revenues exceeding ALL 30 million are required to publish these documents on their websites.

National Accounting Council

The new Law provides for a number of seven members of the National Accounting Council (instead of nine members that are currently) with the right to be proposed from certain entities/institutions and with appointments arranged by the Minister of Finance instead of Council of Ministers. The National Accounting Council is required to report its annual performance within the first quarter of the following year.

Proposal for Amendments to Tax Legislation

On 20 June 2018, the Council of Ministers proposed several amendments to the current tax legislation, as part of the 2019 fiscal package. The proposed amendments affect income tax, VAT and local taxes.

Income Tax

Profit tax rate

According to the draft law, taxpayers having a total annual income higher than 14,000,000 Leke will be subject to a profit tax rate of 15%, whereas the taxpayers having a total annual income between 5,000,000 Leke and

14,000,000 Leke will remain subject to the simplified profit tax at the rate of 5%.

Incentive for the agricultural cooperative companies

The draft law introduces an incentive for the agricultural cooperative companies by applying a profit tax rate of 5%.

Incentive for agritourism

Agritourism is another industry that the draft law incentivizes. It provides for the application of a reduced profit tax of 5% for the entities that will be classified as *"certified agritourism entity"* within December 2021, according to the respective legislation. The reduced rate shall be applied starting from the subsequent year, following the classification as *"certified agritourism entity"*, and it shall be applicable for a period of 10 years.

Effective date

The above amendments are proposed to be effective as of 1 January 2019.

Taxation of the investor in construction activity

Under the draft law, the construction company that enters into an agreement with the owner of the land, which provides for the exchange of ownership of the land with a part of the premises in the new building, shall no longer include in its taxable income the value of the building that pertains to the land owner, and as an expense the cost of the land. Instead, the land owner shall be responsible for payment of the capital gain deriving from the transaction. The land owner will be required to pay the capital gain upon sale of the part of building registered in his/her ownership.

This amendment is proposed to be applicable within 15 days from publication of the new law in the Official Gazette.

Penalty for not filing the shareholder decision for approval of financial statements

The draft law proposes the application of a fixed penalty of 10,000 Leke for failure to file the shareholder decision for the approval of financial statements and destination of profit. Unlike the current provision (which provides for application of the said penalty for each month), the penalty will be applied only once.

In addition, the new provisions introduce the exemption of sole entrepreneurs (physical persons) from filing the decision for the approval of financial statements and destination of profit.

This amendment is proposed to be applicable within 15 days from publication of the new law in the Official Gazette.

Local Taxes

The draft law exempts from the tax on impact in infrastructure from new constructions (infrastructure tax) the entities classified as *"certified agritourism subject"* in accordance with the applicable law.

The new provision is proposed to be effective as of 1 January 2019.

VAT Rate

A reduced VAT rate of 6% will be introduced for the supplies of accommodation and restaurant services, save for the supply of beverages, when provided by entities certified as *"agritourism"*, according to the applicable law.

The new provision is proposed to be effective as of 1 January 2019.

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

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Chambers Europe 2018: Top Ranked in 5 practice areas

The Legal 500 2018: Ranked in Tier 1 in Legal Market Overview

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Boga & Associates

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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 also 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.