

### Issue 03/15

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.

#### [Amendments to law no. 9920, dated 19.5.2008 “On Tax Procedures in the Republic of Albania”](#)

The Parliament has passed law no. 99/2015 “On some Amendments and Additions to Law no. 9920, dated 19.05.2008 ‘On Tax Procedures in the Republic of Albania’” (hereinafter the “New Law”), which is effective from 12 November 2015.

The New Law introduces a series of amendments that concern taxpayers’ registration, documentation and penalties applicable in case of tax legislation breach, aiming to strengthen the measures against informal economy.

#### *Tax Documentation of Transactions*

The new provisions entitle the buyer (natural person, sole entrepreneur or legal entity) to deny payment for goods acquired or services rendered if the seller does not issue a tax document (invoice or fiscal coupon) for the transaction. In addition, taxpayers are obliged to display in a visible place, at the place of business, a notification to the buyers in this regard (failure to comply with this requirement is subject to a penalty of Leke 500,000).

Further, the New Law introduces a restriction to taxpayers engaged in wholesale of goods, aiming to limit their retail activity. To this end, until 31 March 2016, all sales to individuals (who are non tax registered), documented by a fiscal coupon, should not exceed 10% of the value of goods sold in the same month of previous year (excluding VAT). Starting from 1 April 2016, taxpayers engaged in

wholesale activity should not sell any goods to individuals (who are non tax registered).

#### *IMEI Numbers (International Mobile Station Equipment Identity)*

The New Law assigns to the General Tax Directorate the duty to establish a database of mobile phones’ IMEI numbers. The database will be populated with information provided by importers of devices, individuals (for devices brought privately by them in Albania), wholesale and retail businesses for devices in their possession/storage.

#### *Auditors to Confirm Taxpayers Tax Declarations*

Under the New Law, if the taxpayer’s financial statements and tax declarations are certified by certain audit companies (to be determined by a forthcoming instruction of the Minister of Finance), stating that they are in compliance with the tax legislation, the tax administration includes this element in the taxpayer’s risk analysis. As a result, such taxpayers are less likely to be audited by the tax authorities as their risk will be lower. However, if the tax administration conclude that the said statement is not accurate and the taxpayer has undeclared tax obligations, the taxpayer shall be required to pay the tax obligation plus penalty and interest (as set forth in the law), while the auditor will have to pay a penalty which is equal to the taxpayer’s tax obligation.

## *New Method of Enforced Collection of Unpaid Tax Liabilities*

The New Law introduces a new method to collect unpaid tax liabilities. Tax administration may verify and monitor the taxpayer's business activity and seize, at the end of each day, an amount not less than 50% of the daily turnover. In addition, these taxpayers cannot make bank transfers from their accounts; neither can they sell/transfer assets, except when the proceeds will be used to pay the unpaid tax liability entirely.

## *Penalties*

The New Law provides for new penalties in the following cases:

- *Failure to pay on time profit tax and simplified profit tax installment* becomes subject to a fine amounting to 15% of the amount of the tax to be paid.
- *Failure to declare employees*, one calendar day before commencement of work, is subject to a penalty at the amount of Leke 500,000. Previously, small businesses were subject to a penalty of only Leke 50,000. If such action is repeated, the act shall be considered as tax evasion, thus the tax administration has the right to file a request for criminal charges with the prosecution office.
- *Failure to declare real wages*, in addition to the obligation for payment of the tax obligation and social security and health contributions and penalties, is subject to a penalty of Leke 500,000 (for the first violation). If such action is repeated, the act shall be considered as tax evasion, thus the tax administration has the right to file a request for criminal charges with the prosecution office.
- *Goods unaccompanied by tax documents:* The wholesaler that stores, uses, or transports goods without tax documentation is subject to a penalty of Leke 10,000,000; seizure of goods, and an income reassessment for a six months period. In case the violation is repeated, it shall be considered as tax evasion and the tax administration has the right to file a request for criminal charges with the prosecution office. However, taxpayers who voluntarily declare goods unaccompanied by tax documents within 31.12.2015 will not be subject to the above mentioned penalties.
- *Failure to issue fiscal coupon* is subject to a penalty at a fixed amount of Leke 500,000 and the reassessment of income for a six months period (in addition to the obligation for payment of the tax obligation; payment of 100% penalty and interests). If the taxpayer has issued the tax invoice but fails to issue the fiscal coupon, only the penalty of Leke 500,000 applies. Wholesalers that fail to issue tax invoices and fiscal coupons will be subject to a higher fixed-amount penalty, equal to Leke 10 million. In case the violation is repeated, it shall be considered as tax evasion, thus entitling the tax administration to file a request for criminal charges with the prosecution office.
- *Penalty for failing to upload/inaccurate upload of IMEI numbers to the Database* is subject to a fine of Leke 30,000 for every failure to upload or for uploading inaccurate ones.
- *Failure to display the price of products or services* is subject to a penalty of Leke 500,000 (previously, depending on the business category, the penalties varied from Leke 35,000 to Leke 65,000).
- *Failure to notify the secondary address:* Taxpayers that carry out economic activity in unregistered addresses but have accompanying fiscal documents for goods under storage or in transportation, are subject to a penalty of Leke 500,000 (previously a penalty from Leke 15,000 to Leke 25,000 was applicable depending on the category of the business, ie. small businesses or not).
- *Use of non compliant fiscal equipment:* The Law prohibits the use of fiscal devices, or flow of goods' monitoring system, different from those provided by the law. Failure to comply with this requirement is penalized through a decision for seizure of all goods.

## *Voluntary Declarations*

The New Law allows the taxpayers to voluntarily correct a tax declaration, which has been intentionally filled out erroneously, regardless of the fiscal period this declaration belongs to. If this right is exercised until 31 December 2015, the taxpayer will pay only the tax obligation and the interest for late payment.

If the correction will be made after 01.01.2016, the taxpayer shall be obliged to pay also the penalties that are due.

The tax administration shall not bring any claim for criminal charges against the taxpayers who correct the tax declaration.

## *Local Taxes Obligations*

The taxpayers that exercise their activity via intermediaries (duly registered), in the place of business of the latter, are not subject of payment of local taxes as long as the intermediary pays the local taxes obligations.

## *Other Provisions*

Taxpayers who are inaccurately registered for taxes they are not liable for, because of the implementation of the new IT system, will be released from all penalties and interest generated by the IT system until 31.08.2015.

# BOGA & ASSOCIATES

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## Boga & Associates

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