

Issue 03/16

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 “On Tax Procedures”

On 3rd of November 2016, the Albanian Parliament approved Law no. 112/2016 on some amendments and additions to law no. 9920/2008 “On Tax Procedures in the Republic of Albania” (“New Law”).

The New Law shall enter into force 15 days upon its publication in the Official Gazette (ie. from 30 November 2016), except for the provisions amending the Tax Appeal bodies and Taxpayers’ Ombudsman that will enter into force as of 1st of January 2017.

Below we are presenting a summary of the most important changes introduced by the New Law.

Amendments aiming increase of transparency

Several provisions of the New Law aim to increase the transparency of the tax administration. To this end, the General Tax Directorate (GTD) is required to prepare twice a year commentaries on its technical decisions and to publish them in the GTD website. In addition, GTD should publish in its website, every six months, information on decisions issued by the Administrative Appeal Court, the Supreme Court, and the Constitutional Court on tax matters, in order to ensure that the taxpayers and the tax administration follow the courts’ reasoning.

GTD is required also to publish the interest rate applicable by tax administration for the late payment of tax obligations and the late reimbursement of taxes.

Another new provision that aims the transparency increase in the relations between tax administration and taxpayers relates to the obligation of

the administration to make available to the taxpayer a copy of the order issued by the Tax General Director allowing the re-audit of the taxpayer (*becoming aware of the grounds of the re-audit, the taxpayer would be in a better position to challenge the re-audit decision before the court*). Moreover, the taxpayer will receive copies of all communications between National Business Center and tax administration in the course of the liquidation process.

Changes to the appeal process

Under the provisions of the New Law, starting from 1st of January 2017 the Tax Appeal Directorate will become part of the organizational structure of the Ministry of Finance. This provision aims to increase the independence of the administrative appeal body (*up to now, the director of the Tax Appeal Directorate was appointed by the Minister of Finance, but the officers of the Directorate were part of GTD structure*).

The competencies of the Tax Appeal Directorate have been limited. The said directorate will be entitled to review tax appeals against tax assessment for obligations up to a certain amount (to be determined by a forthcoming decision of the Council of Ministers).

The tax assessments imposing higher tax obligations shall be reviewed by a newly introduced appeal body, called the Commission of Examination of Tax Appeals (“Tax Commission”).

The Tax Commission shall have 7 (seven) members, out of which three members from the Ministry of Finance and two members from the tax administration. The director of the Tax Appeal Directorate and a representative of the taxpayers' ombudsman shall be members of the Tax Commission as well.

The most important change in relation to the appealing procedures is that under the New Law, the decisions of the Tax Appeal Directorate or the Tax Commission shall be binding for the tax administration. Tax administration will no longer have the right to initiate court proceedings against the appeal decisions, avoiding thus many court cases initiated so far by the tax administration against the decisions of the Tax Appeal Directorate.

Changes to tax audit procedures

According to the New Law, tax audits will be notified 30 calendar days prior to their commencement (10 calendar days for the tax visits). In addition, the notification shall indicate the commencement date of the audit and its last date. The audit period may be extended by an order of General Tax Director up to a maximum of 15 working days.

Based on the New Law provisions, taxpayers have the right to correct their tax returns after receiving the audit notification but before the commencement of the audit. In such cases, the taxpayer should pay immediately the tax obligation, interest and 50% penalty (should the penalties provided in the law be less than 50%, then the lower penalty will apply).

Provisions reducing tax penalties

The New Law abolishes the application of the penalty of 0.06 percent per each day in case of decrease of tax credit balance. Upon entry into force of the New Law, the decrease of credit balance will be subject only to penalty for failure to declare the correct tax amount.

Late filing of tax returns by taxpayers that are not subject to VAT (ie. small business) has been reduced from Leke 10,000 to Leke 5,000 per each return.

The penalty introduced by the end of year 2015 for failure to pay in time the profit tax installments is now reduced from 15% to 10% of the unpaid obligation.

The penalties for failure to declare newly hired employees and/or real wage becomes subject to Leke 200,000 for the taxpayers registered for VAT and Leke 50,000 for the other taxpayers.

The penalties for not publishing the price list are also reduced to Leke 100,000 for taxpayers registered for VAT and Leke 50,000 for the other taxpayers.

Other important amendments

Under the New Law, the taxpayers may obtain from GTD the authorization to use computerized invoices (instead of the pre-printed invoice filled in by handwriting) if the taxpayers show that their computerized system is able to generate invoices with unique serial number, irrespective of the number of invoices issued during the month (*up to now only taxpayers having a significant number of clients could obtain such authorization*).

The time limit for self correction of tax returns is now extended to 36 months (*instead of the current period of 12 months*). It is yet not clear whether the taxpayer may correct a tax return more than once. No adjustment may be performed if the tax period has already been audited by the tax administration, unless the corrected tax return will increase the tax liability of the taxpayer for that period.

The New Law clarifies that payments performed through e-money institutions licensed from Bank of Albania or through bank cards shall not be considered as cash payments (*which are subject to a penalty of 10% of the transaction value*).

The taxpayers that enter into an agreement with the tax administration for payment of tax obligations through installments should prepay at the date of signature of the agreement 20 percent of the tax obligation. Interest on late payment of tax obligations shall continue to incur until the total payment of the obligation (principal), while the penalty for late payment shall not apply.

The filing with the National Business Center for opening new places of business activity (secondary addresses) should be made before the commencement of activity in the new address.

The New Law provides for new extended competencies of the Taxpayers' Ombudsman, who becomes part of the organizational structure of the Ministry of Finance.

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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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