

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 Joint Instruction “On Tax on Transfer of Ownership Title on Immovable Properties”.

The new Joint Instruction of the Minister of Finance and Minister of Justice “On Tax on Transfer of Ownership Title on Immovable Properties” no. 29, dated 30.07.2018 (the “Instruction”) replaces the existing Instruction no. 9, dated 26.02.2008. It regulates the payment of the tax on transfer of ownership title for the individuals according to the Law “On National Taxes”.

This Tax Alert provides a summary of the amendments introduced by the new Instruction that would affect the operation of your business in Albania.

Much more examples

With the purpose of making the taxation of transfer of ownership rights clearer and more understandable, the new Instruction provides more examples to explain different cases that can be encountered in dealing with the transfer of immovable properties.

Taxation of registered with tax investors

The new Instruction introduces specific provisions applicable to tax registered “investors” engaged in the construction and sale of immovable properties. According to the Instruction in case such investors are registered as legal persons, they will be subject only to the tax on transfer of ownership of the immovable property based on Local Tax Law (i.e. fixed amount for square meter for buildings and 2% of the value for other properties).

Instead, in case the investor will be registered as a sole entrepreneur (“person fizik tregtar”), the transfer of ownership of the immovable properties will be subject to both local and national taxes. The sole entrepreneur should pay the local taxes mentioned in the above paragraph and the national tax as per this Instruction.

New subcategories of buildings

According to the Instruction, in case the value of the sale contract is lower than the values indicated in the Instruction of the Council of Ministers on reference prices of immovable

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properties, the latest shall prevail for purposes of calculation of the taxation value.

The Council of Ministers instruction provides only for the values of the buildings used for dwelling purposes and values of other than dwelling purposes is calculated as a percentage of it.

The Instruction provides for the values of three additional categories of immovable properties as follows:

- the value per square meter for buildings used for industrial activities (production, manufacture, and storage of industrial products) is 50% of the value of the dwellings of the respective location;
- the value per square meter for buildings used in agriculture and raising livestock is 30% of the value of dwellings in the respective zone (the said rate is not used for food proceeding);
- the value per square meter for administrative units (formerly identified as communes) that are jointed to the cities is reduced by 35% (exceptionally for Tirana the reduction is set to 30%).

“Purchase” value of immovable properties from inheritance

As a rule, the tax on transfer of immovable properties is applied on the difference between the sale value and the purchase value of the immovable property, subject to certain adjustments as indicated above. In case of inherited immovable properties, the new Instruction determines that the “purchase value” shall be the purchase price indicated in the initial purchase contract (as a notary deed)

and/or the price resulting from any revaluation if such prices are recorded in the Real Estate Registration Office. If such recording did not occur, the purchase value will be set at the reference price determined in sublegal acts indexed to the year of inheritance deed. The previous instruction did take into consideration only the reference prices.

Exchange of properties

The main change compared with the previous instruction is related to the taxation in case of exchange of properties. With the new Instruction, the exchange of properties is subject to taxation. Although no capital gain will result from the exchange, the owner of the property as individual will be subject to payment of the tax on the transfer of ownership. The tax base will be the difference between the reference prices of the exchanged properties.

Division of properties

Division of properties owned from co-owners becomes subject to the tax on transfer of immovable properties. The taxable value shall be the difference between the value of the divided property with the value of the corresponding part in the co-owned property according to the Instruction.

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