

TaxAlert 2016

Issue 04/16

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.

2017 Fiscal Package as proposed by the Council of Ministers

On 11 November, the Council of Ministers has passed some draft laws providing for amendments to tax legislation (the "2017 Fiscal Package"). The Fiscal Package is now submitted to the Parliament for its review and approval.

These draft laws are proposed further to the changes introduced in the Law no. 9920/2008 on Tax Procedures, which have been published in the Official Gazette (*for further information on this topic, see our tax alert no. 03/2016*).

Income Tax (law no. 8438/1998 "On Income Tax")

Aiming to limit the financing of taxpayers through debt instead of equity, an additional thin capitalization rule is proposed.

Specifically, in case of loans and fundings from related-parties, the 'net interest expense' will be considered deductible up to 30% of EBITDA (Earnings Before Interest Tax Depreciation and Amortization). Net interest expense means the interest expense less the interest income, within the tax period.

The taxpayer has the right to carry forward the non-deducted part of the interest and claim its tax deductibility in the forthcoming periods, except when the taxpayer's ownership has changed by more than 50%.

The above thin capitalization rule does not apply to banks, credit financial institutions, insurance and financial leasing companies.

It will become effective as of 1st of January 2018 and shall apply to the interest expense that pertains to 2018 financial statements.

National Taxes (law no. 9975/2008 "On National Taxes in the Republic of Albania")

The most important amendments proposed to be introduced in the National Tax Law are the following:

- change of the definition of luxury vehicles in order to include vehicles having a value equal to or exceeding Leke 5 million (*currently vehicles having a value equal to or above Leke 7 million fall under the category of luxury vehicles*);
- biofuel becomes subject to circulation and carbon taxes. These taxes shall be paid for the diesel and petrol that is mixed in the biofuel (having customs code from 27102011 to 27102019, 27102090, and 38 26 00); the bio part of the biofuel will continue to be exempt;
- an exemption from circulation and carbon taxes is introduced for fuels (diesel and petrol) which are produced in Albania and are exported;
- royalty tax rate for the metallic minerals being part of a mineral byproduct is reduced to ½ of the rate of the mineral itself; in addition, metallic minerals to be processed within the country will be subject to a reduced royalty tax rate at ½ of the mineral rate;

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- the royalty tax for the pyro-bitumen is proposed to be significantly reduced (from Leke 2,173/ton to Leke 186/ton);
- the exemption from the circulation and carbon taxes for the fishing vessels shall be implemented through reimbursement instead of the upfront exemption applied so far.

Excise Tax (law no. 61/2012 “On Excise Tax”)

Changes in the excise rate

The Council of Ministers proposes to postpone the increase of excise rate for tobacco products, which was anticipated to take place as of 1st of January 2017.

In 2017, the excise tax for cigarettes will continue to be Leke 5,500 for 1,000 cigarettes. From 1st of January 2018 the excise tax is planned to be increased at Leke 5,750 for 1,000 cigarettes. It will continue to increase annually until it reaches Leke 6,500 for 1,000 cigarettes in 2021.

The tax rate for cigarillos and cigars will be increased in year 2017 from Leke 2,500/kg to Leke 4,400/kg.

For other manufactured tobacco, the tax rate will not change (as initially planned), but will remain the same i.e. Leke 4,400/kg. However, a reduced tax rate of Leke 2,500/kg shall apply for the tobacco manufactured from leafs grown in Albania.

Another rate proposed to be increased concerns liquid gas (GLN) used for combustion on vehicle motors. Currently, the excise rate is nil and Council of Ministers has proposed its increase to Leke 13/liter.

Other changes

Aligning with the changes in the National Tax Law and aiming to reduce a potential tax evasion from the tax exemptions in place, the exemption from excise tax on the fuel used in fishing vessels and biofuels will be carried out by way of reimbursement, rather than as an up-front exemption. This provision shall apply as of 1st of July 2017.

The draft law proposed by the Council of Ministers allows the importers to fix the excise stamps in customs warehouses. Currently, such process can be performed only in the excise warehouses.

The current Excise Law provides for different penalties for the same breach depending on the nature of the excise product. The new proposed amendment has changed this approach, setting penalties based on the type of the breach.

Customs Duties (law no. 9981/2008 “On Approval of Customs Tariff Rates”)

The proposed amendment provides for the reduction of customs tariffs to 0% for the following goods: (i) raw materials used in the inward processing industry, and (ii) imported pet coke (with customs code 27040010).

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