

Issue 05/13

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.

New Tax Treaties signed

UK – Albania Treaty

The Albanian Government approved on 25th of October 2013 the agreement with the government of United Kingdom of Great Britain and Northern Ireland, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (“UK – Albania Treaty”). The Treaty will be submitted to the Albanian Parliament for ratification.

Below you will find a summary of the UK – Albania Treaty provisions.

Permanent Establishment. UK businesses having a permanent establishment in Albania will be taxed in Albania for the income resulting from that permanent establishment. UK – Albania Treaty follows the OECD model of tax treaties on the definition of the permanent establishment (e.g. an office, a branch, a place of management etc), and contains as particularity the requirement of a duration of more than 6 (six) months for a building site or construction or installation project to constitute a permanent establishment.

Dividends. As to the taxation of dividends, they may be taxed in the country of residence of the company paying the dividends. The tax so charged shall not exceed:

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends or is a pension scheme;
- b) subject to subparagraph a), 15 per cent of the gross amount of the dividends where those dividends are paid out of income (including gains) derived directly or indirectly from immovable property (as defined in article 6 of UK – Albania Treaty) by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax;
- c) 10 per cent of the gross amount of the dividends in all other cases.

Interest. Interest is taxed at the country of residence of the recipient. However, such interest may also be taxed in the state in which it arises, but if the beneficial owner of the interests is a resident of the other state, the tax so charged shall not exceed 6 per cent of the gross amount.

Notwithstanding the above, the interest shall be taxable only in the country of residence of the recipient provided that the recipient is a financial institution or a pension scheme or if the interest is paid with respect to indebtedness arising as a consequence of the sale on credit of any equipment, merchandise or services.

Royalties. According to article 12 of the UK – Albania Treaty, royalties shall be taxable only in the country of residence of the recipient.

Capital gains from alienation of immovable property. As a rule, said capital gains may be taxed in the state where the property is situated. The same for the shares of a commercial company that derive more than 50 per cent of their value directly or indirectly from immovable property, except for shares in which there are substantial and regular trading on a Stock Exchange, or comparable interests.

Entry into force. Both countries shall notify each other in writing, through diplomatic channels, of the completion of the procedures required by the respective laws for the entry into force of the Treaty. The provisions of the Treaty shall have effect in Albania, in respect of income derived or capital owned on or after the 1st of January of the calendar year following the year in which the Agreement enters into force.

India – Albania Treaty

The Albanian Parliament ratified on 31st of October 2013 the agreement between Albania and India for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (“India – Albania Treaty”).

India – Albania Treaty is mainly based on the OECD tax model. Most important provisions include the following:

Permanent establishment. According to the India – Albania Treaty a building site or construction, installation or assembly project or supervisory activities in connection therewith lasting more than six months shall be considered as a permanent establishment.

In addition, the furnishing of services, including consultancy services through employees or other personnel within the country for a period or periods aggregating more than six months within any twelve-month period, shall be deemed as creating a permanent establishment.

Dividends. Dividends may be taxed in the country of residence of the company paying the dividends, but the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

Interest. Interest is taxed at the country of residence of the recipient. However, such interest may also be taxed in the state in which it arises, but if the beneficial owner of the interests is a resident of the other state, the tax so charged shall not exceed 10 per cent of the gross amount.

Royalties and fees for technical services. According to the India – Albania Treaty, royalties or fees for technical services may be taxed in the state in which they arise (and according to the laws of that state), but if their beneficial owner is a resident of the other state, the tax so charged shall not exceed 10 per cent of the gross amount.

Capital gains. Gains from alienation of immovable property may be taxed in the country where the property is situated. Different from other existing tax treaties, capital gains from the alienation of shares in a company may be taxed also in the country of residence of such company.

Limitation of benefits. Benefits granted under India – Albania Treaty to the residents of either states shall apply provided that certain conditions are met.

Entry into force. The same rules as for the UK – Albania Treaty apply to the entry into force of the India – Albania Treaty.

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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.

With its diverse capabilities and experience, the firm acts for leading businesses in most major industries, including banks and financial institutions, as well as companies working 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 sectors.