

### Issue 03/08

To keep you up-to-date with the latest economic and financial developments, this bulletin provides information that may affect the operation of your business in Albania.

#### **New Instruction On VAT**

The Minister of Finance has approved a new Instruction On Value Added Tax (no. 17, dated May 13, 2008). The Instruction is published in the Official Gazette on May 16, 2008. It replaces the former Instruction no. 3, dated 30.01.2006 On VAT, and entered into force upon its publication.

#### **Amendments to Law On Local Taxes**

Council of Ministers proposed to Parliament amendments to Law "On Local Taxes".

The most important changes introduced by the New Instruction on VAT are presented here below.

#### **I. Place of supply of services**

The New Instruction On VAT contains clarifications of article 15 of Law no. 7928, dated 27.04.1995 On VAT, regarding the determination of place of supply of services.

According to article 15/1 of the VAT Law, the place of supply of services is where the services are rendered/performed. Such rule applies to all kind of supplies of services, apart from services related to immovable property and transport services. Exceptionally, the place of supply services related to immovable property is considered the place where the property is situated, while the place of transport services is considered the place, where the transport is performed (paragraph 2 and 3 of article 15).

Under article 15/5 of the VAT Law, if taxable services are supplied by a supplier that does not have a place of business activity in Albania, and the services do not fall under categories of services included in paragraph 2 and 3 of article 15, as indicated above, the customer (beneficiary of the services) is considered to have supplied the services to itself, in the course of its business activity.

This provision applies to import of services, and in such cases, the customer is required to apply the reverse charge system.

For those not familiar with the reverse charge system, it is applied as follows:

- The supplier does not charge VAT on the supply, if the services are to be used by the customer for business purposes;
- The customer has to account for output VAT on the value of the services purchased and pay the VAT due to the tax authorities;
- The customer can reclaim this VAT by including it as a VAT credit for the month in which the purchase of services occur, subject to the normal rules (i.e. that the VAT is used for taxable business activities).

The net effect of the application of reverse charge is that the customers should be in the same position as if they had purchased the services and paid VAT to the supplier.

In the contrary, when the place of supply of services is deemed to be in Albania, the reverse charge does not apply and the supplier must be registered with the tax authorities.

Further, the new Instruction indicates some services which are considered as related to immovable property. The list (which is not comprehensive) includes: design, construction, maintenance, reconstruction and auxiliaries works; supervision, valuation services and real estate agency services.

## II. Reimbursement of VAT

Claims for reimbursement of VAT for amounts less than ALL 2 million will be automatically accepted, if certain conditions provided in Instruction are met. For amounts exceeding the above limit, the tax authorities will verify the correctness of amount claimed by auditing the taxpayer records.

## III. VAT Books

Under new Instruction, the submission of purchase and sale ledgers and selling price book in local tax office is no longer required. However, taxpayers are required to create and maintain the books in their record file in the form and content as described by the said Instruction.

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### **Council of Ministers proposed to Parliament Amendments to Law “On Local Taxes”.**

The most important changes are presented here below.

#### **I. Tax on Real Estate to Apply on Construction Land**

Currently, tax on real estate is levied on buildings and agriculture land, only. New amendments proposed from the Council of Ministers impose the tax on real estate to land to be used for construction purposes.

#### **II. New Rates of the Tax for the Impact in the Infrastructure from New Constructions**

According to current Law “On Local Taxes” the rates of above mentioned tax are from 1% to 3% (except for municipality of Tirana where the tax rate varies from 2% to 4%) of the value of investment.

According to the draft law proposed from the Council of Ministers, the tax rate will be increased to 6% of the value of investment for Tirana municipality and 4% for other municipalities. The tax is paid from the investor before issuance of the construction permit.

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# BOGA & ASSOCIATES

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