

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.

The Albanian Parliament has passed a package of amendments to the existing fiscal legislation in an attempt to support and improve commercial and business activities in the country. These provisions become effective on 14 January 2005.

Tax Procedures

*New amendments to Law no. 8560, dated 22 December 1999
“On Tax Procedures”*

General Tax Directorate

According to the amended Law, the General Tax Directorate is entitled to adopt general administrative regulations stating its official interpretation and clarifying the position of the tax authorities regarding issues raised with respect to the implementation of tax legislation.

Both tax authorities and taxpayers are subject to such regulations, unless they are stated as being in breach of the law by a court decision. Such liability arises upon the publication of administrative regulations. The publication procedure will be provided by an instruction from the Ministry of Finance.

Tax Police

The functions of the tax police department are now regulated under provisions of Law “On Tax Procedures”. Such provisions rule the general issues related to internal disciplines of the tax police and define their core rights and responsibilities. No key amendments have been made to the status of the tax police.

Appeal Procedure

The amended Law clarifies the categories of administrative acts against which the taxpayer may submit an appeal. The taxpayer has the right of appeal against the following:

- any tax assessment imposing tax obligations, interest or penalties to the taxpayer;
- any decision of the tax authorities concerning taxpayer's request for reimbursement or tax exemption;
- any official act issued by the tax authorities with regard to the assessment of tax obligations, as well as any action or abstention by the tax authorities;
- any executive tax decision for closure of activity or seizure of taxpayer's property.

In addition, the amended Law provides for a new hierarchy of appeal against all tax obligations including national and local taxes, VAT, tax on profit and personal income tax.

The tax appeal procedure applicable to all taxes is the following:

- The first level of administrative appeal is the General Tax Directorate (hence, the head of local tax offices has been replaced by the General Tax Directorate (GTD), and is no longer able to decide on taxpayers' appeals. In addition, the GTD, which according to the old

provisions, was previously authorized to decide only on appeals concerning VAT obligations, may currently examine appeals against all tax obligations).

- The second level of administrative appeal for all taxes is the Tax Appeal Commission (hence, the Commission is also authorized to decide on VAT appeals).
- The first instance court.

As per the previous law, the tax authorities should respond to a taxpayer's appeal within 30 days, otherwise failure to respond was deemed a decision in favor of the taxpayer. This provision of tacit approval has been removed. The amended Law now provides that failure by the tax authorities to respond to an appeal within the 30-day term is considered refusal of the appeal and the taxpayer is entitled to submit the appeal to the higher level.

Declaration

Tax authorities distribute unconditionally the declaration forms to taxpayers every six months. Tax authorities may not refuse to provide taxpayers with the tax declaration forms.

Certification on Tax Status

The amended Law provides for a three working day term within which, upon the taxpayer's request, tax authorities should issue certifications on his/her tax status.

Registration with the Tax Authorities

The amended Law provides that the taxpayer should register with the tax authorities only upon commencement of business activity. The Law makes exception for 2005, obliging small business entities to renew tax registration by 20 March.

Cancellation of Registration with Tax Authorities

According to the amended Law, the taxpayer may request the court to cancel registration, provided that the taxpayer has settled all outstanding tax obligations and submitted the closing balance sheet. The court should notify the tax authorities of the cancellation request presented by the taxpayer. The tax authority should perform all required actions (inspections included) in order to assess the taxpayer's tax obligations. In case the tax authorities reject the cancellation of registration within a 45-day period, the court may not decide in favor of the cancellation. The tax authorities may withdraw their opposition, if the taxpayer makes payments of all unpaid tax obligations.

The court may decide in favor of registration cancellation only upon tax authorities' approval. However, in case the tax authorities fail to respond within the aforementioned term from the notification day, approval shall be considered granted and therefore the court may proceed

with the cancellation of registration.

Limit Reduction to Cash Transactions

The maximum limit accepted for cash transactions has been decreased to Lek 300,000.

Reimbursement of Overpaid Taxes

The taxpayer may request the tax authorities to reimburse any tax amount, above the tax amount due. Tax authorities should decide to either reimburse the surplus to the taxpayer or notify refusal in writing within 60 days from the date of the taxpayer's submission. However, reimbursement should be effected within the above-mentioned 60 day period, except for VAT reimbursement, whose term is limited to a 30 day period.

In case the tax authorities fail to reimburse the tax amount within the 60-day term, interest on delayed payments is applicable. Such interest amounts to 2% for the first month and 1% for each subsequent month.

Interest on Delayed Payments

According to the amended Law, the taxpayer should pay interest on the unpaid tax amount, starting from the date such payment was due. Taxpayers that are subject to simplified tax (small registered businesses) are not required to pay interest on delayed payments.

The interest to be paid in case of delayed payment of the tax obligation is 2% for the first month and 1% for each subsequent month.

Personal Income Tax

New amendments to Law no. 8438, dated 28 December 1998 "On Income Tax"

Personal Income Tax Declaration

Individuals, whose income is generated in the Republic of Albania, shall personally declare earned income to the tax authorities by the 30th of January of the subsequent year. The taxpayer makes the tax payment to the bank account of the tax authorities by presenting a payment order issued by the tax authorities. This provision does not apply to income that has been subject to withholding tax.

Integral Tax Declaration

Every individual should submit to the tax authorities, by the 28th of February of the subsequent year, an annual tax declaration for personal income generated from any source, irrespective of the fact whether such income is taxable or has already been levied.

Payment of Personal Income Tax

The employer withholds the personal income tax and transfers the respective amount to the tax authorities' account by the 20th of the subsequent month (instead of the 25th of the subsequent month).

Social Security Contributions Accounted for in Taxable Income

The amended Law abrogates the exemption from personal income tax for social security contributions. (Hence, personal income tax will be applied on the gross salary, also including the social security contributions to be paid).

Transfer of ownership title of agricultural land

A new tax on personal income, generated from the transfer of ownership title of agricultural land, is levied at a rate of 0.5% of its price. Such tax is applied to individuals only. In case of donation, the taxable amount comprises the market value of the agricultural land, duly appraised.

New Rates on Personal Income Tax

See **table 1** in appendix for the tax rates now applicable to gross salaries and compensation.

Tax on Profit

Tax on Profit Exemptions

The following entities are exempt from tax on profit:

- Foundations or non-bank financial institutions created or transferred upon a decision of the Council of Ministers, established to support development policies of the government through credit activities;
- Film studios of cinematographic productions, which are

licensed and funded by the National Cinematographic Center.

Non-Deductible Expenses

The amended law introduces the following non-deductible expenses:

- The interest paid in excess of the average 12 month credit interest rate applied in the inter-bank market, as determined by the Bank of Albania;
- Losses, damages, and waste during production, transition and storage, exceeding the respective rates determined in special legal provisions;
- The interest paid on outstanding loans and prepayments exceeding four times the amount of net assets (the latter replacing reference to share capital as stated in the previous law)

Tax rate

The rate of tax on profit has been decreased from 25% to 23% for 2005 and to 20% for subsequent years.

Simplified Income Tax

Tax Rates and Exemption from “Simplified” Income Tax

The rate of “simplified” income tax, payable by small registered businesses, has been decreased from 4% to 3%.

Withholding Tax

Withholding tax is applied to the following payments:

- Dividends/profit sharing
- Interest

- Payments of copyrights and royalties
- Payments of technical, management, financial and insurance services
- Payments to management and board members
- Payments of construction, installations, assembly, or respective supervisory work
- Rent payments
- Payments for performance of actors, or musicians, or athletic activities

Payment of withholding tax should be made to the bank account of the tax authorities no later than the 20th day of the subsequent month (instead of the 15th of the following month).

Tax on Dividends

The amended Law requires those taxpayers subject to tax on profit, to approve the financial accounts of the previous year, within the first six-months of the subsequent year.

Taxpayers should file with the tax authorities the decision of the company’s competent body concerning use of prior fiscal year net profit, no later than 31 July of the subsequent year.

The portion of net profit used to increase registered capital, establish/increase legal or statutory reserves and retained earnings, is not considered to be a dividend distribution. In case the filing is not made by 31 July, the net profit, adjusted for the legal reserves, is considered to be a dividend distributed for tax purposes and taxed at a rate of 10%. The company should

transfer the tax payment to the tax authorities by the 15th of August.

Reduction of capital, resulting from motives other than to cover losses, or not consisting of a return of shareholders’ initial *cash* contribution to the share capital, is considered a taxable dividend. In such a case, the company withholds the tax and transfers it to the tax authorities within 15 days from the resolution to reduce the capital.

Social Security Contributions

New provisions to law no. 9136, dated 11 September 2003 “On payment of social and health security contributions”

Individuals registered as small businesses should declare and make payments of social security contributions also for any unpaid family members, in addition to employees.

For social security purposes, administrators of legal entities are considered to be employees. The legal entity is required to calculate and pay the social security contributions for such individuals, according to the determined rates.

The new Law states that any employer should present a written declaration to the tax authorities regarding newly hired staff, one day prior to their commencement of work.

Also refer to *table 2* in appendix.

Value Added Tax (VAT)

The amended Law abrogates the obligatory registration for VAT purposes introduced in 2003, previously applied to all individuals/entities engaged in wholesale activities, even if their annual turnover does not exceed the limit of Lek 8 million.

Financial lease transaction

According to the new Law, when commodities are transferred through a contract providing for their lease or *title retention sale*, the VAT obligation is applied on the whole value of the commodities and is calculated on each installment, irrespective of the moment of ownership transfer.

Sale of Buildings

The Law introduces new provisions regarding the application of VAT on the sale of buildings and land. Depending on the year when the transaction will take place, VAT is charged as follows:

- *Year 2005*

Sale of buildings and land (including the land where such a building is located) is not subject to VAT, whilst the lease of a building is subject to VAT. Exception is made on those leases of buildings that are owned by central and/or local governmental entities which are not subject to VAT. Leases over land are exempt from VAT.

- *Commencing from 1 January 2006*

The first sale of new residential buildings and land on which the building is situated, will be subject to VAT. Leases of residential buildings, on whose sale VAT is formerly applied, are exempt from VAT, whilst leases of all other buildings will remain subject to VAT.

Other supplies exempted from VAT

The provision of services relevant to the processing of non-Albanian work-in-process intended for export by sub-contractors to their contractors, duly authorized pursuant to Customs Code provisions, is VAT exempt.

Supply of goods and services related to international transport of goods or passengers, except for air navigation services rendered in the territory of the Republic of Albania, is VAT exempt.

Reimbursement

The amended Law changes the terms of reimbursement related to the period in which the VAT credit amount should be carried forward. Instead of the former six month term, according to the old law, the taxpayer should now carry forward the VAT credit for three consecutive months.

National Tax System

New provisions to Law no. 8977, dated 12.12.2002 "On National Tax System in the Republic of Albania"

Air Transport Taxes

According to the new Law, the following air transport taxes have been abolished:

- The tax for landing and parking of airplanes.
- The tax for flights passing over territory of Republic of Albania.

Local Taxes

New provisions to Law no. 8982, dated 12.December2002 "On Local Tax System in the Republic of Albania"

Tax on transfer of ownership title on immovable property

The tax on transfer of ownership title on immovable property calculated in Lek per square meter has been abolished. This provision will become effective on 1 January 2006. Therefore, the transaction is taxable until the end of 2005.

Excise tax

New provisions to Law no. 8976, dated 12 December2002 "On Excise Tax".

Some excise tax rates have been amended. Refer to **table 3** in appendix.

Customs Duties

New Provisions to Law no. 8981 "On Ratification of Customs Duties"

According to the amended law, customs duties payable on the importation of certain goods have been reduced or abolished.

Appendix

Table 1

Threshold (monthly compensation in Lek)		Personal Income Tax	
	14,000		0%
14,001	40,000		5% of the amount over 14,000
40,001	90,000	Lek 1,300 plus 10% of the amount over 40,000	
90,001	200,000	Lek 6,300 plus 15% of the amount over 90,000	
200,001	500,000	Lek 22,800 plus 25% of the amount over 200,000	
500,001	and up	Lek 97,800 plus 30% of the amount over 500,000	

Table 2

Taxpayer	Final date for payment of social contributions	Final date for payment of social contributions
	Previously	Now
VAT registered business	25 th of the following month	20 th of the following month
Small business	25 th of the last month of each quarter	10 th of the first month following each quarter

Table 3

Nomenclature Customs Code	Description	Excise tax
<i>II</i>	<i>FRUIT JUICE, WATER AND REFRESHMENTS</i>	
20 09	Fruit juices and non fermented vegetable juices, regardless if they contain sweet substances	Lek 2/lit (instead of Lek 3)
22 01	Natural or mineral still and sparkling water without additional sweetening or aromatizing substances	Lek 1/lit
22 02	Mineral still or sparkling water, with additional sweetening or aromatizing substances, non alcoholic refreshments, with the exception of fruit juices	Lek 2/lit (instead of Lek 3)
<i>III</i>	<i>BEER, WINE, ALCOHOL AND ALCOHOLIC DRINKS</i>	
22 07 20 00	Not denaturalized Ethylic alcohol of an alcoholic force of 80% or more	Lek 200/lit (instead of Lek 100)
22 08	Alcoholic drinks of an alcoholic force over 12%; Alcoholic drinks of an alcoholic force up to 12%	Lek 130/lit Lek 30/lit
<i>V</i>	<i>PETROLEUM BY-PRODUCTS</i>	
27 10 19 31 to 27 10 19 49	Heavy oils (gas oil)	65 per cent, but not more than Lek 27/lit and not less than Lek 13/lit
27 14 90 00	Tar, asphalt, natural, tar schist or petroleum schist and tar sand	Lek 5/kg
<i>VI</i>	<i>COSMETIC ARTICLES, PERFUMERY</i>	
33 03 00 10	Perfumes	60 per cent
33 03 00 90	Eau d' toilette	60 per cent
33 07 20 00	Deodorants	60 per cent (instead of 50 per cent)

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