



Albanian Bulletin

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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 information is organised as a quick resource guide, reviewing the major legislative developments in the last few weeks. Great care has been taken to ensure the accuracy of the information at the date of publication. Please be advised, however, that the legal framework and the application thereof is prone to frequent changes and professional advice should be sought before making any specific decisions.

Tax and regulatory update

Amendments to the Fiscal Legislation

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 15 days following the publication of the Official Gazette, on 16 January 2003.

The purpose of this newsletter is to summarize the amendments introduced. A complete list of the new Laws passed is included in Annex A. Should you wish to discuss the possible impact to your organization of any of the issues described below please feel free to contact Ms. Loreta Peçi at +355 4 235532 or Ms. Alketa Uruçi at +355 4 251050

Key amendments

The amendments that we believe to have the greatest impact are:

- Tax procedures – statement of rules regarding registration of non-profit entities
- Income tax – withholding tax shall apply at a 10% rate irrespective of the category of income or status of the recipient
- Income tax –social security contributions are no longer subject to personal income tax
- Value Added Tax – additional supplies are exempted from VAT
- National Tax System – new taxes are introduced
- Excise Tax – amendments to excise tax rates
- Custom Duties – reduction of custom duties for certain goods

Tax procedures

New provisions to Law no. 8560, dated 22.12.1999 "On Tax Procedures"

Tax Appeal Commission

According to the new Law, 7 members compose the Tax Appeal Commission. The Minister of Finance appoints two members. One member is appointed by the Minister of Economy, two members by the Union of the Chamber of Industry and Commerce in consultation with the business organizations; one by the economic organizations, and another member by the Minister of Justice.

Tax Discipline Commission

The amended Law provides for the establishment of a new body called the "Tax Discipline Commission" within the General Tax Directorate. The Commission is vested with the authority to review the claims presented by taxpayers to the officers of the tax administration regarding violations of tax laws. The Tax Discipline Commission quantifies the violation and proposes to the General Tax Director the relevant penalty. Activity of this Commission will be subject to a forthcoming instruction of the Ministry of Finance.

Registration with the Tax Authorities

The new Law provides for the registration with the tax authorities of non-profit organizations although they do not conduct commercial activity. In addition, the new provisions recognize the implementation project unit as a taxable entity, which means that the project unit must be registered with the tax authorities.

The documentation required for registration consists of: articles of association, by-laws, court decision on incorporation and other data regarding management and business address.

Following registration, the non-profit organizations are held in a special register and considered for tax purposes as "passive taxpayers".

Reassessment of transactions

The tax authorities may reassess transactions when the taxpayer is deemed to have manipulated sales prices, such as when there is a difference between the declared price and respective payment, or when the declared sales price is significantly lower, for a significant period of time, than the respective market price.

Under such circumstances, the tax authorities base their reassessment on the real market price. Reassessment of transactions may be carried out only by a special order of the Head of the Tax Office, following a written proposal by the tax inspectors.

Collection enforcement procedures

Tax authorities should not execute collection enforcement procedures if the taxpayer has presented an appeal for the tax liability to the competent bodies and has simultaneously paid the tax liability amount (excluding penalties and interest), or has presented a valid guarantee for the amount of the tax liability.

Limit Reduction to Cash Transactions

The maximum limit accepted for transactions executed in cash has been reduced from Lek 1 million to Lek 500,000 for transactions effected during 2004, and to Lek 300,000 for any subsequent year, otherwise, both the buyer and the seller are subject to a penalty of 5% of the transaction value.

Failure to Respond to a Request/Appeal

Tax authorities should respond to a request/appeal of a taxpayer within 30 days, otherwise failure to respond is deemed as a decision in favour of the taxpayer.

Tax Audits

Tax authorities are obliged to deliver the Tax Payment Notification within 15 days from the day the tax audit is completed. A tax audit may not continue for more than 30 calendar days, except in those cases when the General Tax Director may decide to extend this term upon the request of the local tax office.

Value Added Tax (VAT)

New provisions to Law no. 7928, dated 27.04.1995 "On Value Added Tax"

Obligatory Registration

All individuals/entities engaged in wholesale activities are required to register for VAT purposes even if their annual turnover does not exceed the necessary limit of Lek 8 million. The application for such registration should be submitted to the local tax office within 15 days from the day the law enters into force.

New VAT Exempt Supplies

Law no. 9126 provides for certain new supplies, being exempt from VAT. According to the law, the following supplies are considered VAT exempt:

- importation of live animals for breeding, which are donated by foreign individuals/entities;
- lease of buildings that are owned by central and/or local governmental bodies
- educational services rendered by private and public education institutions, pursuant to Law no. 7952, dated 21.06.1995 "On Pre-university Education System" and Law no. 8461, dated 25.02.1999 "On University Education System in Albania".

Consequently, all entities established as not-for profit organizations or commercial companies, which are engaged in educational activities, will not apply VAT on the value of their services. Additionally, such entities are not entitled to the right to credit the VAT amount paid on purchases made for their activity.

Calculation of the Taxable Value of Imported Goods

Based on the new Law, the taxable value of imported goods will include transportation costs, insurance costs, commissions and brokerage, packaging, as well as other related expenses, incurred up to the moment of their entrance into the territory of the Republic of Albania.

Standard Waste

Losses incurred during the transition, storage and fabrication of goods as determined by specific laws and by-laws are not subject to VAT (e.g. operating losses that result from manufacturing, packaging and storing process of excise goods. Law "On Excise Tax" provides the maximum rates of waste per excise goods accepted by the tax authorities).

Invoices

Regular invoices must contain these additional elements: name, address, fiscal code and VAT number of the transporter, the plate number of the vehicle and the time of the transport.

At the bottom of the invoice, the signature of the buyer and the transporter as well as the name, signature and seal of the seller must be evidenced.

Self-invoicing

Persons that operate in the field of milk, olive and grape processing as well as wheat grinding, upon authorization of the General Tax Directorate, may issue invoices to themselves (self-invoice) for the quantity of milk, olive, grape and wheat supplied by other persons which are not registered for VAT. The invoice is recorded simultaneously in the sales and purchases ledgers.

Income tax (or profit tax)

New Provisions to Law no. 8438, dated 28.12.1998 on "Income Tax".

Personal income tax

Introduction of a New Category of Taxable Personal Income

According to the new provisions, income generated from the selling of shares is also considered a taxable personal income. The applicable tax rate is 10%.

The taxable base is the difference between the selling and purchase price of the shares. It is implied that when the title on shares is transferred for the first time, the taxable base will be the difference between the selling price and the nominal value of the shares.

Personal Income Exempted from Tax

The following personal income are not subject to taxation:

- Income received from the scheme of social and health contributions (i.e. maternity leave, sick leave) and from economic assistance for individuals with low income;
- Scholarships;
- Income received in kind or in cash due to expropriation; and
- Social security contributions (hence, the personal income tax will be applied on the gross salary reduced by the social security contribution).

Violations and Penalties

For delayed payment of personal income tax withheld at source, the employer will be fined a penalty of 10% of the tax withheld at source, which in any case should not be less than Lek 10,000 for each month following the due date for the payment to be executed.

Profit tax (Corporate Income Tax)

Regular Invoices

Expenses incurred by a taxpayer are recognized as tax-deductible if supported by the following documents:

- invoice with VAT, pre-stamped by the tax authorities and issued by VAT-registered businesses (other than those cases when the General Tax Directorate has authorized the use of computerized invoices);
- simple fiscal invoice, pre-stamped by the tax authorities and issued by small businesses; and
- any other document compiled and issued according to the instructions of the Ministry of Finance.

Undeductible Expenses

Representative expenses are deductible to the amount of 0.3% of annual turnover instead of 2% of annual payroll that was previously recognized.

Expenses for technical, consulting and management services rendered by third parties but not paid within the taxable period by the taxpayer, will be considered as non deductible for tax purposes. We understand that expenses for services rendered in the current year, and not paid by 15 January of the following year, will be undeductible.

Withholding Tax

The withholding tax rate applicable to all categories of income earned in Albania, irrespective of the status of the recipient, is reduced from 15 % to 10%.

Withholding tax is not applied to individuals/entities registered as small businesses (that are subject to the “simplified” income tax), to individuals/entities subject to personal income tax, and to non-resident individuals/entities engaged in international transport of goods/passengers.

Year-end Declaration

The profit and loss statement and the balance sheet submitted to the tax authorities by 31 March of the succeeding year must be approved by the tax authorities. Failure by the tax authorities to deliver such notification of approval within two months, i.e. by 31 May, is deemed as an approval.

All due amounts as per the profit and loss statement, should be settled by the taxpayer not later than the submission day of the year-end declaration by 31 March of the successive year. Any overpaid profit tax amount will be used as a credit for other or future taxpayer’s obligations, or, upon the taxpayer’s request, it shall be refunded. Reimbursement effected within 60 days following the day of the submission of the year-end declaration, shall not accrue any interest.

Simplified income tax

Tax Rates and Exemption from “Simplified” Income Tax

The rate of “simplified” income tax has been increased from 4% to 5% for freelance professionals and other services.

Exempted from “simplified” income tax are individuals that render services with an annual turnover less than Lek 3,000,000.

Social security contributions

New provisions to Law No. 9136, dated 11.09.2003 “On Payment of Social Security Contributions in the Republic of Albania”

Payment of Social Security Contributions

Monthly declarations and payment of social security contributions by employers should be made not later than the 25th day of the following month instead of at the end of the following month.

Entities/individuals registered as small businesses are required to submit the declaration and execute the payment by the 25th of the month following the quarterly term.

The declaration must include the name, social security number, amount of the contribution to be paid and the amount of the remuneration received. The declaration form will be specified in a forthcoming instruction of the Ministry of Finance and Ministry of Labour and Social Affairs.

National Tax System

New provisions to Law no. 9158, dated 18.12.2003 “On national Tax System in the Republic of Albania ”

Introduction of new national taxes

The following new national taxes are introduced by the law:

- Registration tax for entities engaged in gambling games, casinos and sport races in the hippodromes:
 - Lek 10,000,000 for gambling games;
 - Lek 30,000,000 for casinos; and
 - Lek 20,000,000 for sport races in the hippodromes.

- Tax on road circulation that substitutes the tax for the construction of the road Durres-Kukes, is paid by the owners of vehicles at the moment of technical control of vehicles. The tax amounts to:
 - Lek 7,000 for small vehicles with maximum (4+1) seats; or
 - Lek 15,000 for vehicles with more than (4+1) seats, as well as for all other vehicles, vans etc.

Some changes are effected to the amount of tax for the circulation of foreign vehicles in the Albanian territory and to taxes levied for radio-communication services.

Excise tax

New Provisions to Law no. 8976, as of 12.12.2002 “On Excise Tax”

Natural and mineral still/sparkling water without additional sweetening or aromatising substances (customs code no. 22 01) is no longer subject to excise tax.

Additionally, some of excise tax rates have been amended. Please refer to Annex B attached.

Customs Duties

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

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

ANNEX A

Laws introduced:

- Law no. 9160, dated 18.12.2003 “On some changes to Law no. 8560, dated 22.12.1999 “On Tax Procedures”
- Law no. 9163, dated 18.12.2003 “On some changes to Law no. 8976, dated 12.12.2002 “On Excise Tax”
- Law no. 9162, dated 18.12.2003 “On some changes to Law no. 7928, dated 27.04.1995 “On Value Added tax”
- Law no. 9161, dated 18 December 2003 “On some changes to Law no. 8438, dated 28.12.1998 “On Income Tax”
- Law no. 9164, dated 18 December 2003 “On some changes in Law no. 9136, dated 11.09.2003 “On payment of the obligatory social and health contributions in the Republic of Albania ”
- Law no. 9158, dated 18 December 2003 “On some changes in Law no. 8977 dated 12 December 2002 “On Tax System in the Republic of Albania ”
- Law no. 9159, dated 18.12.2003 “On some changes to Law no. 8981, dated 12.12.2002 “On Ratification of Custom Duties”

ANNEX B EXCISE RATES

Customs Code	Description	Excise tax
<i>I</i>	<i>COFFEE</i>	
09 01 11 00 09 01 12 00	Non roasted coffee, decaffeinated or not	Lek 40/kg
09 01 21 00 09 01 22 00	Roasted coffee, decaffeinated or not	Lek 80/kg
09 01 90	Crust of coffee Replacements of coffee which contains coffee	Lek 40/kg
21 01 11 21 01 12	Extracts, essences of coffee and other generated preparations (Nescafe, etc)	Lek 250/kg
<i>II</i>	<i>FRUIT JUICE, WATER AND REFRESHMENTS</i>	
20 09	Fruit juices and non fermented vegetables' juices, which contain or do not contain sweeteners	Lek 3/lit
22 02	Mineral still or sparkling water, with additional sweetening or aromatizing substances, non alcoholic refreshments, with the exception of fruit juices	Lek 3/lit
<i>III</i>	<i>BEER, WINE, ALCOHOL AND ALCOHOLIC DRINKS</i>	
22 03	Beer produced from maltose	Lek 30/lit
22 04	Wine and sparkling wine, champagne, fermented grape juice	Lek 20/lit
22 05	Vermouth and other wines prepared from plants or other aromatizing substances	Lek 20/lit
22 06	Other fermented drinks (ex. cider, pear, hydromel); mixers of fermented drinks and non - alcoholic drinks not mentioned anywhere else.	Lek 20/lit
22 07 20 00	Not denaturalized ethylic alcohol of an alcoholic force 80% or more	Lek 100/lit
22 07 20 00	Denaturalized ethylic alcohol	0
22 08	Not denaturalized ethylic alcohol of an alcoholic force up to 80%, alcoholic drinks, liqueurs and other alcohols	Lek 100/lit
22 08 20 29	Grappa (raki)	Lek 80/lit
<i>IV</i>	<i>TOBACCO AND ITS BY-PRODUCTS</i>	
24 02 10 00	Cigar and cigarillos containing tobacco	Lek 2,240/kg
24 02 20	Cigarettes containing tobacco	Lek 20/packet
24 02 90	Cigars, cigarillos and cigarettes containing other substitute tobacco substances	Lek 2,240/kg
24 03	Other types of processed tobacco and substitutes of tobacco, homogenized tobacco, tobacco extracts and essences	Lek 1,500/kg

Customs Code	Description	Excise tax
V	<i>PETROLEUM BY-PRODUCTS</i>	
27 10 11 41 27 19 11 45 27 10 11 49	Light oils (benzene and benzol) Benzene and benzol without lead, with lead content not more than 0.013 g/lit - less than 95 octane - 95-98 octane - 98 octane or more	Lek 33/lit
27 10 11 51 27 10 11 59	Benzene with lead content more than 0.013 g/lit - less than 98 octane - 98 octane or more	Lek 38/lit
27 10 19 11 to 27 10 19 29	Kerosene	Lek 20/lit
27 10 19 21	Jet fuel, kerosene tip	0
27 10 19 31 to 27 10 19 49	Heavy oils (gas oil)	65 per cent
27 10 19 51 to 27 10 19 69	Heavy oils like combustibles (combustible, solar, mazut)	Lek 1/kg
27 10 19 71 to 27 10 19 99	Lubricant oils and other oils	Lek 40/kg
27 13 11 00 27 13 12 00	Petroleum coke with or without calcium	Lek 1/kg
27 13 20 00	Tar petroleum	Lek 5/kg
27 13 90	Petroleum grease and tar minerals residues (bitumen)	Lek 5/kg
27 14	Tar and asphalt, natural, tar schist or petroleum schist and tar sand; asphalts and asphalt stones	Lek 5/kg
27 15	Tar mixture based on natural asphalt, on petroleum tar, on mineral coal-tar or on the turpentine of mineral coal-tar	Lek 5/kg
29 01 29 02	Cyclic or non cyclic hydrocarbons	Lek 5/kg
VI	<i>COSMETIC ARTICLES, PERFUMERY AND MAKE-UP</i>	
33 03 00 10 33 03 00 90 33 07 20 00	Perfumes Eau d' toilette Deodorants	50 per cent 50 per cent 50 per cent

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