

Albanian Bulletin

APRIL 2013

Tax & Legal update **Tax & Legal amendments April 2013**

The Albanian Parliament has adopted a series of amendments to the existing fiscal legislation as well as introduced new laws in the attempt to support and improve the commercial and business activity in the country. The following Laws and Instructions have been amended or introduced as new:

- Decision no. 180 dated 13 February 2013 “On the list of the machineries and equipment which are directly related to the investment and on the relevant criteria and procedures”
- Law no. 107/2013 “On some changes in the Law no. 8438 dated 28 December 1998 “On income tax” as amended”
- Law no. 108/2013 dated 28 March 2013 “On Foreigners”

The purpose of this Bulletin is to summarize the above changes to tax legislation.

Please be advised that this summary is not intended to be exhaustive for its users but due to the high number of changes and also to the ongoing changes in the tax and related legislation you would find in this edition a series of new laws introduced and amended, which all need appropriate attention from your part.

1. Value Added Tax

- **Decion no. 180 dated 13 February 2013 “On the list of the machineries and equipment which are directly related to the investment and on the relevant criteria and procedures”**

(i) The VAT exempted supplies

Further to the decision to exempt certain machineries and equipment used for investment purposes, from VAT, this decision provides for:

- the list of these machineries and equipment which are exempted from VAT,
- The criteria to be met by the taxpayers who import these machinery and equipment in order to benefit from the VAT exemption
- The documentation to be submitted: The request and the necessary accompanying documentation to be submitted near the General Customs Directorate, in order to get the authorization for the VAT exemption.

2. Income tax

- **Law no. 107/2013 “On some changes in the Law no. 8438 dated 28 December 1998 “On income tax” as amended”**

(i) Deductible expenses for the annual integral personal income declaration

The taxpayers, who are not subject to the annual declaration of their integral personal income, but would like to complete such declaration and have gross annual income from all sources up to the amount of ALL 1 050 000 (one million fifty thousand Leke), can complete such declaration. In such case, for the purpose of the calculation of their taxable income, are considered as deductible expenses, also the expenses of the tax on the buildings.

(ii) Deductible expenses

Are not considered as deductible expenses for tax on profit purposes, the expenses incurred for technical, consulting and managerial services, invoiced to the taxpayer by third parties not required to be registered for tax purposes, in case the withholding tax is not paid for such services by the taxpayer within the fiscal period.

(iii) The personal income tax

The personal income from salaries and bonuses related to the actual work relationships, will be taxed as per the following table:

The taxable income (per month)	Percentage	
From (lekë)	to (lekë)	
0	30 000	Not taxable
30 001+		+10% on the gross salary

3. Residence and work permit of Foreigners in Albania

Object of the law

This law regulates the regime of entry, stay, employment and exit of foreigners into and from the Republic of Albania. The law stipulates the functions and competencies of the State authorities and other entities, be they public or private, Albanian or foreign, carrying out activities in the Republic of Albania which are related to foreigners who seek to enter, those who enter, stay and exit from the Republic of Albania. International agreements concluded with the government of other countries, ratified by law, may foresee special and more favorable provisions for the citizens of these countries, which shall apply with reciprocity.

Visa application

The foreigner shall lodge, with the diplomatic representation and/or consular posts of the Republic of Albania abroad, or with the respective representations of the 16 countries that are party to bilateral or multilateral agreements, the visa application not later than 90 days prior to the projected date of arrival to the Republic of Albania. The application form shall be determined by decision of the Council of Ministers.

The applicant when applying for a visa must appear in person before the consular post, at least when the application is lodged for the first time. Following the first application, if it is impossible for the applicant to appear in person, he/she shall be exempted from this obligation for a period of 59 months from the first application. In case of doubts, the applicant may be required to appear in person even before this time period.

The foreigner shall lodge the application with the diplomatic representation of the Republic of Albania in the country specified in a list approved by decision of the Council of Ministers if no Albanian diplomatic/consular representation is located in the country of the applicant or the country of his/her residence, or any neighboring countries. The foreigner must appear in person before the diplomatic representation and/or consular post where the application was made, in order to be provided with the visa.

The period of validity of the visa applied for shall be no longer than three months prior to the expiry of the passport validity.

The procedure of processing of the visa application shall be no longer than 15 days from the date of acceptance of the visa application. In exceptional cases this time limit may be extended up to 30 days.

Issue of the visa shall not guarantee entry of the foreigner into the Republic of Albania.

Types of residence permits

The authority responsible for border and migration shall issue one of the following types of residence permits to the foreigners intending to reside in the Republic of Albania for a period longer than 90 days within 180 days, following fulfillment of the requirements foreseen in this law:

- a) type "A" residence permit, which is not renewable, gives to the holder the right to reside in the Republic of Albania during the period for which the residence permit is issued;
- b) type "B" residence permit, renewable, issued for a defined time period, gives to the holder the right to enter, stay and exit the Republic of Albania within the period defined in the residence permit;
- c) type "C" residence is permanent permit and gives to the holder the right to enter, stay and exit the Republic of Albania;
- d) type "S" residence permit, renewable, after an interruption period of six months, which is issued to seasonal workers, gives to the holder the right to enter, stay and exit the Republic of Albania within the period of time defined in the residence permit;
- e) "AL Blue Card" residence permit, renewable, issued for a defined period only to the highly qualified workers, gives to the holder the right to enter, stay and exit the Republic of Albania within the period defined in the residence permit;
- f) "AL-C Blue Card" residence permit, is permanent and it is issued only to highly qualified workers and it gives to the holder the right to enter, stay and exit the Republic of Albania.

Residence permit for employment purposes

I. Temporary residence permit for employed persons

After the issue of the "residence permit for employed person" the holder is obliged to notify the competent authorities of any change of conditions for which the permit is issued and request for its approval if the change is related to:

- a) name and address of employer, and address of place of residence and place of work;
- b) valid employment contract;

The above required obligations do not apply to EU member state citizens and Schengen countries citizens.

II. Residence permit for self-employed persons

The residence permit for a self-employed person shall be issued limited to the exercise of the activity according to the specifications in the work permit for the purpose of intended employment, specific region where employment is authorized and time limits defined in the work permit.

After the issue of the "residence permit for self-employed persons" the holder is obliged to notify the competent authorities of any change of conditions for which the permit is issued and request for its approval if the change is related to:

- a) name and address of residence and place of work
- b) activities authorized for the self-employed person.

Again, the above required obligations do not apply to EU member state citizens and Shengen countries citizens.

Types of work permits

The foreigner, who will exercise an economic activity in the territory of the Republic of Albania, is provided with:

- a) Work permit type "A", for economic activities as an employee:
 - i) work permit type "A / P" for employees;
 - ii) work permit type "A / PS", for seasonal work;
 - iii) work permit type "A / TN" to the transferee within the enterprise;
 - iv) permit type "A / S", for students;
 - v) permit type "A / NK" cross-border employment;
 - vi) work permit type "A / FP" for vocational training;
 - vii) work permit type "A / SHV" persons who provide volunteer services;
 - viii) work permit type "A / AF" , for family members who come to the territory of the Republic of Albania, in the framework of family reunification;
 - ix) work permit of type "A / TK" for highly skilled workers;
 - x) the work permit of type "A / PS" for sports professionals;
 - xi) the work permit of type "A / RP" for domestic workers;
- b) Work permit type "B", for independent economic activity:
 - i) work permit type "B / E", for self-employed persons;
 - ii) work permit type "B / I" for investors;
- c) Work permit type "C" for special categories:
 - i) work permit type C / CS, for contractual services
- ç) work permit type "D" for foreigners to obtain permanent work permit.

Employment of foreigners

A foreigner may be employed in the Republic of Albania upon being provided with a work permit, or business registration certificate, except as otherwise provided in this law, international agreements recognized by the Republic of Albania, or unilateral position stated by decision of the Council of Ministers.

The preliminary actions for establishing a business activity or service are not considered as work.

The employer has the right to apply for a work permit for foreigners only after having published the job vacancy for 4 weeks and within the limits of the approved or categories set out in Article 83 of this Law.

The processing of the application and issuance of work permit when the criteria required in the legislation in force are satisfied is made within 30 days from the date of application.

An employer should not employ a foreigner who is staying irregularly in the Republic of Albania.

When the employer hires a foreigner, he / she must notify the relevant employment office and the regional structures responsible for border and migration within 8 days after the beginning of the work of the foreigner.

EU member state citizens and Schengen countries citizens are exempted from the obligation to obtain a work permit to work in Albania.

Further favorable provisions

The citizens of the United States of America shall be subject to a more favorable regime, based on which they shall reside in the Republic of Albania for a period of at least one year, without being provided with a residence permit and the initial residence permit for this category may be issued for a period of five years.

The citizens of the United States of America shall enjoy equal rights as the Albanian citizens as regards employment.

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(profit maximization, investment, financial planning, restructuring)

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