

# Albanian Bulletin

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May 2013

## **Tax & Legal update** **Tax & Legal amendments May 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:

- Law no. 126/2013, dated 24 April 2013 "On some amendments to Law no. 10 383, datë 24 February 2011 "On the obligatory health contribution in the Republic of Albania"
- Law no. 124/2013, dated 25 April 2013 "On some amendments on Law no. 8438, dated 28 December 1998 "On income tax", as amended
- Law no. 142/2013, dated 02 May 2013 "On the abrogation of Law no. 111/2013 "On some amendment on Law no. 7928, dated 27 April 1995 "On VAT", as amended
- Law no. 144/2013 dated 02 May 2013, "On some amendments to Law no. 7895 dated 27 January 1995 "On the criminal code of the Republic of Albania", as amended
- Law no.146/2013 "On the ratification of the OECD Convention for the mutual assistance on the fiscal matters"
- Regulation no. 2, dated 02 May 2013 "On the reevaluation of the immovable property"
- Instruction no. 1 dated 08.05.2013 "On the approval of the average buildings' construction cost from the National Building Entity

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. Health contributions

The new Law changes the basis of calculation of the health contribution and its percentage. The entry into force of such amendment is date 01 January 2014, commencing from when such basis is calculated as follows:

1. The contributions are calculated:

a) as percentage on salary:

- i) for the employed Albanian individuals;
- ii) for the foreigners employed in Albania;

b) at a fixed amount:

- i) for the self employed (Albanian or foreigners) and employers;
- ii) for the unpaid family employees;

c) at a fixed amount:

- i) for the part paid by the State Budget

2. The contribution as per point 1.a) above is 3.4% calculated on the gross salary based on the minimum and maximum salary defined by the Decision of the Council of Ministers for the purpose of calculation of the social and health contributions. The payment of such contribution is equally divided between the employee and the employer.

3. The contribution as per point 1.b) above is calculated as follows:

a) For the self employed, employers and the unpaid family employees in the city, is equal to 7% of the minimum salary as per the provisions of point 2 above,

b) For the self employed and the unpaid family employees in the village, the contribution is 5% of the minimum salary in the field area, and 3% of the minimum salary in the mountain area.

### • Income tax

As part of the personal income exempted from the personal income tax are added the income generated by a registered farmer from the sale of his agricultural land to another farmer or any juridical or physical person who carries out agricultural business activity. The Council of Ministers issues decisions on the conditions and procedure which guarantees the prohibition of altering the destination of the purchased land (from that of agricultural to a construction one).

### • Value Added Tax

This new amendment abrogates the recent new Law on VAT no. 111/2013 which exempted from VAT the supply of the animals used in agricultural as well as pesticides and other animal food, agricultural machinery, and other materials used in agricultural activity, as well as their import and the import of fishing nets.

- **Criminal Code**

New criminal offences are introduced in the field of taxation as follows:

- (i) Deceiving schemes related to the value added tax:  
Organization and application of the deceiving schemes with the aim of material profit for oneself or for third parties, through non - payment of VAT or benefiting the VAT reimbursement/credit, it is punished by imprisonment from three to ten years.
- (ii) Hiding of income – tax evasion:  
Tax evasion through non submission of documentation or non declaration of the necessary data, as required by the law in force, the submission of falsified documentation or false declaration or information, with the aim of generating material profit for oneself or for third parties, through incorrect calculation of the amount of the tax or contribution, is punished by penalty or imprisonment up to three years.  
In case such offence is done with the aim of hiding or evading the payment of a tax obligation with an amount higher than ALL 5 million, it is punished by imprisonment from two to five years.  
In case such offence is done with the aim of hiding or evading the payment of a tax obligation with a value higher than ALL 8 million, it is punished by imprisonment from four to eight years.

The provision as per point ii) above gives the right to the prosecutor to conduct its investigation without prior administrative investigation carried out by the tax authorities.

- (iii) Destruction of the blocking or suspension of the business activity's signs put by the tax authorities  
The destruction at will of the signs put by the tax authorities for the blocking or suspension of the business activity, or the carry out of the business activity even after receipt of notification by the tax authorities for the blocking or suspension of the activity, it is punished with a penalty or imprisonment up to one year.

- **Ratification of OECD Convention**

This Convention it is signed by the EU member countries and OECD member countries and currently it is ratified by the Republic of Albania.

Exchange of information

Parties provide each other with information on fiscal matters. This assistance might include the measures taken by the court proceedings, where applicable.

The administrative assistance includes as follows:

- a) The exchange of information, including simultaneous examinations and participation on fiscal examination abroad
- b) Assistance in tax compensations, including the custody measures,
- c) Submission of documentation

The Convention is applied to all type of personal and corporate income, including as well teh social and health contributions but excluding customs duties.

Parties exchange information especially as per the provisions of such Convention, and which is estimated as important for the administration or application of their internal laws and regulations in relation to the types of taxes covered by this Convention.

Each Party to this Convention, in accordance to its internal laws and requglations, may inform its fiscal resident/citizen, individual or juridical entity, before the transmission to the other Party of the data related to him.

- **On the reevaluation of the immovable property**

The right of the individuals to reevaluate their immovable property at market value, by paying only 1% personal income tax on the difference between the purchase price and the market price, is extended up to 31 October 2013.

- **Average cost of construction of buildings**

The average construction cost of the buildings approved by the Building Construction Unit, for year 2013, in Albania, is equal to ALL 37,806 per square meter.

The average construction cost and the average market cost of apartments, based on cities, is provided on the relevant tables attached to the Regulation. In case the city is not found on the tables than the cost of the city which is the most nearby is taken.

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