

**Tax update**

**Fiscal changes for year 2009 - II**

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. 522 dated 13 May 2009 "On the minimum national salary, with financial effects from date 01 May 2009;
- Decision no. 700 dated 18 June 2009 "For some changes in decision no. 114 dated 30 July 2008 of the Council of Ministers";
- Law no. 10070 dated 05 February 2009 "For some changes in Law no. 7703 dated 11 May 1993 "On social contributions in the Republic of Albania" (as amended);
- Instruction no. 26 dated 16 April 2009 "On the obligatory collection of the social and health contributions";
- Law no. 10068 dated 02 February 2009 "For some changes in Law no. 7928 dated 27 April 1995 "On value added tax" (as amended);
- Law no. 10144 dated 28 September 2009 "For some changes in Law no. 7928 dated 27 April 1995 "On VAT" (as amended);
- Instruction no. 30 dated 12 May 2009 "On some changes in Instruction no. 17 dated 13 May 2008 "On value added tax" (as amended);
- Law no. 10072 dated 09 February 2009 "For some changes in Law no. 8438 dated 28 December 1998 "On income tax" (as amended);
- Instruction no. 17 dated 19 February 2009 "On the format of the personal income tax declaration and payment form for the small business"

- Law no. 10094 dated 12 March 2009, for the ratification of the "Agreement between the Council of Ministers of the Republic of Albania and of the Government of Luxemburg for the avoidance of the double taxation and the prevention of the tax evasion, for the personal income tax and capital";
- Law no. 10148 dated 28 September 2009 for an amendment to law no. 9920 dated 19 May 2008 "On the tax procedures in the Republic of Albania";
- Law no. 10073 for an amendment to Law no. 9632 dated 20 October 2006 "On local taxes system" (as amended);
- Law no. 10131 dated 11 May 2009 for some changes in Law no. 9975 dated 28 July 2008 "On national taxes" (as amended);
- Law no. 10098 dated 19 March 2009 "For a change in Law no. 9981 dated 08 September 2008 "For the approval of the customs tariffs" (as amended);
- Decision no. 307 dated 25 March 2009 „For some changes in decision no. 205 dated 13 April 1999 of the Council of Ministers „On the approval of the implementing dispositions of the customs code of the Republic of Albania“ (as amended)“;
- Instruction no. 21 dated 26 February 2009 "On some changes in Instruction no. 9 dated 26 February 2008 "On the taxation of the transfer of the immovable property";
- Law no. 10067 dated 02 February 2009 "For some changes in Law no. 8976 dated 12 December 2002 "On excise taxes"
- Instruction no. 31 dated 26 May 2009 "On some changes and additions in Instruction no. 7 dated 16 June 2003
- Instruction no. 22 dated 02 March 2009 "For some changes in Instruction no. 7 dated 16 June 2003

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. SOCIAL AND HEALTH CONTRIBUTIONS

- **Decision on. 522 dated 13 May 2009 “On the minimum national salary”**

The basic national minimum salary for the employees, obligatory to be applied from any juridical or natural person, foreigner or local, is equal to 18,000 ALL.

The above minimum salary is paid for duration of 174 working hours per month, used during the normal working hours;

This decision begins its financial effects since 01 May 2009.

- **Decision no. 700 dated 18 June 2009 on some changes in decision no. 1114 dated 30 July 2008 of the Council of Ministers**

This decision specifies the levels of the minimum and maximum salary and the relevant percentages for the purposes of social and health contributions; payable from the employer and the employee, as follows:

The minimum monthly salary, for the purposes of the calculation of social and health contributions for the employees, commencing from date 01 May 2009 and on, will not be less than 16,120 ALL, whereas the maximum salary for the employees will be 80,600 ALL.

The obligatory contribution for the social and health contributions for the employee commencing from date 01 May and on, will be equal to 27.9% of the above minimum and maximum salary, according to the monthly payroll, from which the employer share is 16.7% and the employee share is 11.2%, divided as follows:

	Social contribution	Health contribution
Employer:	15%	1.7%
Employee	9.5%	1.7%

The self employed, the employed in a partnership, the self employed who hires another person (with exception of the self employed in the agricultural activities), commencing from date 01 May 2009 and on, will pay for himself an obligatory contribution for the social and health contributions, equal to 30% (23% social contributions and 7% health contribution) of the minimum monthly salary.

- **Law no. 10070, dated 05 February 2009 “On some changes in law no. 7703 dated 11 May 1993 “For the social and health contributions in Albania” (as amended)”**

This law specifies in details the obligations of the employer and of the self employed to meet the following requirements:

- a) to register in the annual register all its employees;

- b) to notify all the changes and movements of its employees to the tax authorities, according to the procedures defined by law;
- c) to register the employee for the purposes of social and health contributions, since his first day of work;
- ç) to submit to the tax authorities the documentation, where it is evidenced the salary and the contribution for each of the employees, as per the format and the deadlines set by law.

- ***Instruction no. 26 dated 16 April 2009 "On obligatory collection of social and health contributions"***

#### Registration near the tax office

The Juridical person should submit to the tax office the list with all its employees and their relevant salaries, within two working days, after its registration near the National Registration Center;

The physical person, should submit to the tax office the list with all its employees and their relevant salaries, and also the list of the unpaid family employees with whom he works and lives, within two working days, after its registration near the National Registration Center;

The juridical and physical personas are obliged to declare in writing near the relevant tax office, the newly hired employees at least 48 hours before commencement of their working relations, and the dismissed employees within 10 days after their dismissal.

## **2. THE VALUE ADDED TAX (VAT)**

- ***Law no. 10068 dated 02 February 2009 "On some changes in Law no. 7928 dated 27 April 1995 "On Value Added Tax" (as amended)***

This law states some new VAT exempted supplies as follows:

- a) the final import of all goods from a taxpayer, when their supply in all circumstances, within the country, is a VAT exempt supply. This exemption is not applicable in case of the import of books and publications of any kind;
- b) the import of goods placed under the transit regime;
- c) the import of goods declared to be under the temporary regime and that of the inward processing regime;
- ç) the import of goods and services related to the realization of the research and development phasis related to fuel industry, carried out from contractors or subcontractors engaged in these operations;
- d) the import of race live animals donated from different doners;
- dh) the import of goods from NATO and its entities, in view of operations based on international agreements;
- e) the import of military materials for the Armed Forces, donated from the countries of the NATO Alliance and from the partner countries;
- ë) the import of means, which facilitate the integration in the everyday life of the paraplegic invalids, including here also cars adapted to their usage needs;
- f) the import of ships, according to the headings 8901 20, 8901 30, 8901 90, 8902 00 of the

Goods Combined Nomenclature.

- **Law no. 10144 dated 28 September 2009 "For some changes in Law no. 7928 dated 27 April 1995 "On value added tax" (As amended);**

#### The registration of the taxpayer

1. The person who asks for registration, is obliged to follow the requirements set by law no. 9723 dated 03 May 2008 "On the National Registration Center" (as amended) and law no. 9920 dated 19 May 2008 "On the tax procedures in the Republic of Albania".
2. The tax administration, according to the procedures specified in Law no. 9920, dated 19 May 2008 "On the tax procedures in the Republic of Albania" has the right to register a taxpayer even in the case when the later has not asked for registration.

#### Cases of tax evaluation

The tax administration has the right to make a tax evaluation in relation to the amount of VAT, in the following cases:

- a) the taxpayer has not made the decalation in compliance with the declaration or within the time specified by this law;
- b) the person asks for a change in the amount of VAT calculated in a VAT declaration, due to any mistakes or omissions;
- c) it estimates that the amount of the VAT resulting as payable on a VAT declaration submitted from a taxpayer is lower than the amount that should have been resulted as payable;
- ç) the taxpayer has been not active personi ka qenë i çregjistruar, për shkaqet e përcaktuara në nenin 7 të këtij ligji, me efekte nga data në të cilën ishte regjistruar;
- d) the taxpayer should have cashed in an amount of VAT related to an invoice, in compliance with point 6 of article 36 of this Law;
- dh) it evaluates that for any reason the amount of VAT, even if it is due, has not been paid yet.

#### The administrative tax appeal

Every taxpayer, against whom has been carried out a VAT evaluation procedure, in compliance with article 41 of this Law, and as a consequence, the tax authority has issued a tax notification related to that evaluation, has the right to present an appeal near the Tax Appeal Directorate, according to the deadlines set by point 3 of article 106 of Law no. 9920 dated 19 May 2008 "On tax procedures in the Republic of Albania", and also to follow the procedures of appeal in compliance with the this law.

#### Reimbursements resulting from an administrative tax appeal

In case a tax evaluation is removed or chaged, as a result of an administrative tax appeal, the tax authorities reimburse the taxpayer, against whom the tax evaluation has been carried out, for all the overpaid VAT amount, according to the rules and procedures specified in article 110 of Law no. 9920 dated 19 May 2008 "On tax procedures in Albania".

- ***Instruction no. 30 dated 12 May 2009 "On some changes in Instruction no. 17 dated 13 May 2008 "On value added tax" (as amended)"***

#### *The lease of buildings*

The taxpayer has the right, as per his own request addressed to the tax authorities, to ask for a VAT chargeable treatment for the suppl of the lease of the buildings and not to consider it a VAT exempt supply. The request submitted from the taxpayer, for this purpose, should specify also general data about the Lessee (s) (name, tax ID, address).

#### *Interests on delayed reimbursements*

The tax authorities do not maeke Organet tatimore nuk bëjnë rimbursimin e TVSH-së për një person, brenda 30 ditëve kalendarike nga data e paraqitjes së kërkesës, si dhe në një nga format e përcaktuara në nenin 75 të ligjit nr.9920, datë 19.5.2008 "Për procedurat tatimore në RSH". Në këtë rast ato detyrohen të paguajnë interesa siç përcaktohet në nenin 76 të ligjit nr.9920, datë 19.5.2008 "Për procedurat tatimore në RSH

### **3. INCOME TAX**

- ***Law no 10072 dated 09 February 2009 On some changes and additions to Law no. 8438 dated 28 December 1998 "On Income tax" (as amended)***

#### *The participation (shareholding) exempted from the tax on profit*

For purposes of calculation of the taxable profit for an Albanian tax resident, are exempted as income the income received by this tax resident as dividends and profit distributions, when these dividends or profit distributions are coming from resident companies or partnerships, in spite of its shareholding, in value or in number of the share capital or of the voting rights in these resident companies or partnerships.

- ***Instruction no. 17 dated 19 February 2009 "On the format of the personal income tax declaration form for the small business"***

This instruction approves the format of the personal income tax declaration form for the small business

### **4. DOUBLE TAXATION TREATIES**

*Law no. 10 094, dated 12 March 2009, for the ratification of the "Agreement between the Council of Ministers of the Republic of Albania and the Government of Grand Dukat of Luxemburg for the avoidance of the double taxation and prevention of tax evasion, on income tax and capital".*

It is ratified the Agreement between the Council of Ministers of the Republic of Albania and the Government of the Grand Dukat of Luxemburg for the avoidance of the double taxation and the prevention of the tax evasion, on income tax and capital.

## 5. TAX PROCEDURES

- ***Law no. 10148 dated 28 September 2009 "For an addition to the law no. 9920 dated 09 May 2008 "On tax procedures in the Republic of Albania"***

### Reimbursement of VAT and compensation of the tax obligations

In case the taxpayer registered for VAT has a VAT on credit position, they can present near the regional tax directorate their request for reimbursement of the accumulated VAT on credit (upon meeting the two conditions set by law). The tax authorities verify within a period of 30 days the validity of the request for the VAT reimbursement presented from the taxpayer notifies the taxpayer and performs the reimbursement when the conditions as set by law are met.

In contrary case (i.e. in case the reimbursement is acknowledged to the taxpayer but it has not been done) the taxpayer has the right of non payment of other tax obligations equal to the amount of VAT requested for reimbursement.

## 6. THE LOCAL TAXES

- ***Law no. 10073 for some additions on Law no. 9632 dated 30 October 2006 "On local taxes system" (as amended)***

As an exemption to the general rule, for the infrastructure projects related to the construction of the national roads, harbors, airports, tunnels, energy infrastructure, including the machinery and equipment invested in these projects; the tax for the impact on the infrastructure of the new constructions is 0.1 per cent of the value of the investment, but not less than the cost for the rehabilitation of the damaged infrastructure.

## 7. THE NATIONAL TAXES

- ***Law no. 10131 dated 11 May 2009 "On some changes in law no. 9975 dated 28 July 2008 "On national taxes" (as amended)***

The national tax for carrying out business activity in the gaming industry for sporting bets, for horse racing bets, national lottery, traditional bingo and for television bingo is equal to 2,000,000 leke/year, whereas for electronic casinos is 1,000,000 leke/year.

## 8. CUSTOMS CODE

- ***Law no. 10098 dated "For a change in law no. 9981 dated 08 September 2008 "On the approval of the customs tariffs" (as amended)***

The customs tariff of the Combined Nomenclature coded 27160000, with description "Electricity power" changes from "2 per cent" to "zero".

- ***Decision no. 307 dated 25 March 2008 „For some changes and additions on Decision no. 205 dated 13 April 1999 of the Council of Ministers „ On the approval of the implementing dispositions of the customs code of the Republic of Albania“.***

The entities who request to apply for a license of customs warehouse of type C, Duty Free shop, should submit a written request to the Customs Office where the customs warehouse is planned to be located. In case of approval the validity of the authorization is 5 years with the right for renewal.

## 9. REAL ESTATE

- ***Instruction no. 21, dated 26 February 2009 For some additions and changes in Instruction no. 9 dated 26 February 2008 " For the tax on transferring the right of ownership of the real estate"***

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### *The calculation of the purchase value of the real property*

In case the previous sales purchase contract is in foreign currency the exchange is done in ALL with the exchange rate of the date of the purchase. In case the property is purchased with a loan in foreign currency at the moment of its sale the average exchanged purchase price of the payments of the loan installments with the exchange rate of the dates in which the installments are paid, will be taken into account.

### *The taxation of the transfer of the ownership right on the land*

For the purposes of the tax calculation as a minimum selling price will be taken the price defined in the Decision of the Council of Ministers no. 555 dated 29 August 2007, Decision no. 653 dated 29 September 2007 and Decision no. 139 dated 13 February 2008 and Decision no. 1620 dated 26 November 2008; whereas as a minimum purchase price would be the price calculated in accordance with the indexation of the price of the land with the inflation rate.



## 10. EXISE TAX

- **Law no. 10067 dated 02 February 2009 “For some changes in Law no. 8976 dated 12 December 2022 “On excise taxes”**

This law introduces new excise rates for goods subject to excise tax.

- **Instruction no. 22 dated 02 March 2009 “For some changes in Instruction no. 7 dated 16 June 2003**

### Excise stamps

The tax authorities are responsible to issue, control and distribution of the excise stamps in the Republic of Albania for all goods subject of excise tax.

- **Instruction no. 31 dated 26 May 2009 “On some changes and additions in Instruction no. 7 dated 16 June 2003**

The taxpayers subject of excise tax can ask for reimbursement of the excise Mund te kerkohet rimbursimi i tatimit te akcizes kur sasia e pullave te terhequra per importimin dhe prodhimin e pijeve alkolike, nuk eshte ngjitur ne njesine e ambalazhimit (te paperdorura), per arsye te falimentimit, mbylljes se aktivitetit apo prishjes se kontrates.

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