

## TAX LAW

Albania has conducted a major modernisation of its tax legislation. The process started in October 1997 with changes to the VAT which had been established in mid-1996, replacing the turnover tax. The initial tax rate of 12.5 percent was increased to 20 percent and most exemptions were abolished. In December 1998, a new law on personal income tax and profit tax has been introduced. New tax rates for personal income tax were established in December 2000. A modern system of collection of tax on profit and the withholding tax on dividends, interest, and certain services has been introduced.

In January 1999, a new Customs Code came into force. This code is simpler to apply and narrows the scope for individual interpretation. It has been designed to comply with the WTO requirements.

Recently the Albanian tax legislation continues to experience constant changes in order to adhere with international tax policies and EU standards.

### 1. CORPORATE TAXES

**Taxes on corporate income:** Corporations conducting business in Albania are subject to profit tax at a flat rate of 20% for the year 2007 and 10 % for the following years. Tax is levied on any domestic or foreign legal entity which has a permanent establishment in Albania. While residents pay tax on all taxable income sources, non-residents pay tax only on income generated within the territory of Albania.

**Permanent establishment, branch, and affiliate:** A permanent establishment can be an office, a mining place, a branch, a plant, a construction/installment work (lasting more than 9-12 months).

The income generated from the branch will be part of the income generated from the mother company, in its consolidated financial statements. The branch is fully taxed in Albania (at 10% beginning from year 2008) and can accept transfer of expenses from the mother company, based on some tax constraints.

There is no clear distinction between a branch and an affiliate. However an affiliate can be legally recognized as an independent entity from the mother company and is responsible only to the extent of its own capital and not to that of the mother company.

**Income determination:** Determination of taxable base starts with the profit shown on the profit and loss account of the corporate. For purposes of tax on profit calculation some expenses are not deductible (cost of fringe benefits, percentage of representative expenses, voluntary pension contributions, capital retribution, penalties, personnel allowance higher than the set rates, etc).

Taxpayers are obliged to declare the use of their annual profit for tax purposes, not later than July 1, of the subsequent year.

**Depreciation:** There are two methods of depreciation; the straight line method and the pooling system.

The pooling system is applied for computers, information systems, software products, back up systems (25%).

The straight line method is applied for costs of purchase or construction, costs of improvement, restoration, and reconstruction of buildings, long term fixtures and fitting and machinery and equipment at a rate of 5 percent; for intangible assets at a rate of 15 percent<sup>1</sup>; and for all other depreciable assets of the business at a rate of 20%.

Depreciation allowances are not granted on land, works of art, antiquaries, jewelers, precious metals and stones.

**Other income related issues:** Reserves are not allowable deductions for tax purposes; however banks and insurance companies are allowed to deduct reserves and provisions required by their regulatory bodies.

Losses may be carried forward for 3 years. However, this does not apply when there are changes of more than 25% in ownership titles.

**VAT:** Taxable persons are all individuals and legal entities registered, or required to be registered, for VAT: any person making taxable supplies and having an annual turnover in excess of Lek 8 million is required to register. For individuals and legal entities that operate in the import/export sector it is mandatory to be registered, notwithstanding annual turnover.

The rate of VAT is 20%. Exports of goods and services (in case the services are supplied outside the territory of Albania), and supplies relating to international transport are zero rated.

In contrast to a transaction involving an exempt supply, input VAT could be recovered in the case of a zero-rated supply.

There are some supplies exempted from VAT (lease and supply of land (with some exemptions), financial services, certain services from non profit organizations (only religious or philosophical organizations for spiritual welfare), diplomats, research and oil operations, medicines, supply of daily newspapers/magazines and books (only if printed and published in country and not imported), advertisements in the written and electronic media, import of goods under the transit/temporary/outward processing regime, renting and sale of apartments/offices, gaming industry services).

Importation of machineries and equipments to be invested from Albanian resident taxpayers, despite of their type of economic activity, can profit from the deferred payment system, under which system VAT on such machineries and equipments has not to be paid at the Customs Office at the moment of importation, but within 12 months from that moment.

The tax credit for a tax period is the total VAT in respect of all VAT supplies made to the taxable person, and all importations of goods made by the taxable person, during the tax period, where those supplies or importations were made for the purposes of VAT supplies made or to be made by the taxable person.

The tax credit cannot include the VAT on fuel/car purchase, on other car related services and on allowances and travel. This VAT cannot be recoverable and is disclosed as an expense for the company.

Reimbursement of VAT is allowed if the excess tax credit is carried forward for three successive months and the claimed reimbursement exceeds 400.000 lek.

Exporters have the right to claim Vat refunding if their VAT credit exceeds 400.000 Lek and the Tax authorities are obliged to make the refunding within 30 days from the date of the taxpayer's written request.

**Small business tax:** Starting from January 2008, physical/juridical persons whose annual turnover is less than Lek 8,000,000 but higher than Lek 2,000,000 are subject of 10% simple profit tax (under the same regulations governing the corporate income tax) and those taxpayers whose annual turnover is up to Lek 2,000,000 are subject of lump sum (fixed amount) tax. They are also obliged to pay the annual local tax which varies based on the type of business and the city where its economic activity is carried out.

#### Tax administration:

- *Returns:* If there is a tax credit, a return can be applied (for profit tax, VAT, simple profit tax, social security contributions),
- *Payment of tax:* Profit tax is prepaid following an evaluation scheme, in monthly installments and the final calculations are settled down in March 31 of each year, on submission of the year end financial statements. VAT is paid on monthly basis, each day 14 of the subsequent month, whereas simple profit tax is paid in four installments during the year.

**Capital Tax:** The Capital tax is only known as tax on capital gains and is applicable when the shareholder/owner decides to sell shares or stocks or during liquidation of the company, on the difference between the nominal (or the purchase) value of the shares/stocks and their selling value. The income for investment is taxed as any other income generated from the normal economic activity of the taxpayer.

**Transfer tax:** The transfer tax is applicable on the transfer (selling or donating) of the immovable property and is fixed per square meter of the type of the building sold and 2% of the transaction value for other kind of immovable property, whereas for the individuals such tax is at 10% of the selling value of the immovable property. The tax on the transfer of agricultural land is equal to 0,5% of the value of the transaction.

Table 1

Selling price	Tax payable	
Over (leke)	To (leke)	Percentage
0	2 000 000	0,5 % of the selling price
2 000 000 +	4 000 000	1 % of the selling price
4 000 000 +	6 000 000	2 % of the selling price
6 000 000 +	And up	3 % of the selling price

When the taxable person decides to transfer all his economic activity to the third party, this transfer is VAT exempted (in case the taxable person is VAT subject), but it is subject of profit tax.

#### Property Tax

This tax is levied separately on agricultural land (twice a year, in August and November), and on buildings. Exempted from this tax are: persons affected by natural disasters such as floods, buildings let at controlled rents and the property of international organisations. The state pays in full the respective liability for low income families receiving social assistance.

**Excise Tax:** Excise tax is applied on a limited number of goods such as tobacco, cigarettes, alcoholic drinks, soft and fresh drinks, derivatives of petroleum, coffee and cosmetic articles, and perfumery. For goods produced in Albania, the excise tax is calculated on the basis of the value of each group of goods sold. For imported goods this tax is calculated on the customs value including import duty. Excise tax is not applied when goods are exported. Also exempted from this tax is the liquid gas used for household consumption.

Tax is levied as a percentage rate (only for perfumery) or per unit stamp duty.

**Customs Duties:** Imports are charged duty according to their classification in the 6-digit Harmonised System. For many imported items minimum custom values are applied. Major exemptions are applicable for goods imported under government agreements, certain imports for contractors in oil exploration; humanitarian aid, imports of personal living goods. The tariff nomenclature contains four tariff rates (0, 5, 10, and 15).

**Other National and Local Taxes:** There are a variety of national and local taxes and fees. These include port charges, consular fees, TV and telephone licenses, driving licence fees, hotel tax (for foreigners), airport arrival and departure tax, business registration tax, environmental tax, advertising tax.

**Double taxation treaties:** Income taxes paid abroad by residents, whether individuals or entities, are credited to tax amounts due in Albania in accordance with the provisions of tax law. The income generated from services rendered by non-residents in Albania exempted from direct taxes (profit tax, withholding tax) based on the tax treaties in force, entered into between Albania and other countries.

Country	Dividends	Interests	Royalties
Norway	5% dir.div if > 25% ownership; 15% (other cases)	10% (with some exemptions)	10%
Sweden	5% dir.div if > 25% ownership; 15% (other cases)	5%	5%
Belgium	5% dir.div if > 25% ownership; 15% (other cases)	5%	5%
France	5% dir.div if > 25% ownership; 15% (other cases)	10% (with some exemptions)	5%
Switzerland	5% dir.div if > 25% ownership; 15% (other cases)	5%	5%
Italy	10% all cases	5%	5%
Malta	5% dir.div if > 25% ownership; 15% (other cases)	5%	5%
Greece	5% all	5%	5%
Croatia	10% all	10% (with some exemptions)	10%
Czech Republic	5% dir.div if > 25% ownership; 15% (other cases)	5%	10%
Poland	5% dir.div if > 25% ownership; 10% (other cases)	10%	5%
Turkey	5% dir.div if > 25% ownership; 15% (other cases)	10% (with some exemptions)	10%
Rumania	10% dir.div if > 25% ownership; 15% (other cases)	10%	10%; Technical fees 10%
Hungary	5% dir.div if > 25% ownership; 10% (other cases)	0%	5%
Malaysia	5% dir.div if > 25% ownership; 15% (other cases)	10% (with some exemptions)	10%
Russia	10% all cases	10%	10%
Macedonia	10% all cases	10%	10%
Bulgaria	5% dir.div if > 25% ownership; 15% (other cases)	10%	10%
China *	10% all	10%	10%
Holland*	0% dir.div if > 50% ownership; 5% dir.div. if > 25% ownership; 15% (other cases)	10% (with some exemptions)	5%
Egypt*	10% all cases	10%	10%
Serbia and Montenegro*	5% dir.div if > 25% ownership; 15% (other cases)	10%	10%
Moldavia*	5% dir. Div if > 25% ownership; 15% (other cases)	5%	10%

\* These treaties have been recently entered in force, on January 1, 2006.

With Kosovo and Austria the double taxation treaties are signed but not yet in force, whereas with Ukraine the double taxation treaty is negotiated and initialed (parafied) in technical level but not yet signed.

#### Withholding taxes

From:	To:	Rate
<b>Dividends</b>		
Resident Company	Resident Individual	10% (final)
Resident Company	Resident Company	10%*
Resident Company	Non-resident ind./comp.	10% (or less as per tax treaties in force)
<b>Profit Sharing</b>		
Resident Partnership	Resident Individuals	10% (final)
Resident Partnership	Other	10%
<b>Interest</b>		
	Resident individuals	10%
	Non – resident indi/comp.	10% (or less as per tax treaties in force)

\* No withholding tax is imposed on dividends distributed to a resident company that owns more than 25% of stocks in the other resident company paying these dividends.

**Other Payments:** For other payments defined in the tax law, such as payment for technical and management services, artistic performances, royalties, construction and installation services, rent services on buildings owned by an individual or non resident companies etc., there is a 10% withholding tax.

## 2. INDIVIDUAL TAXES:

Under the Albanian law, all individuals are liable to income tax. While residents pay tax on all taxable income sources, non-residents pay tax only on income generated within the territory of Albania. Residents are considered to be persons who stay in Albania, in aggregate, for a period or periods exceeding 183 days in a tax year.

Each individual who generates income from any source which is subject of taxation on personal income, and for which the withholding tax has not been withheld, must declare this income near the tax office no later than January 30 of the next year.

### Taxable categories of income:

- Wages, salaries and other compensations derived from labour relations;
- Dividends;
- Interest from bank deposits and other interest bearing securities;
- Income from copyrights and royalties;
- Income from loans and leasing, excluding cases when this income is generated through commercial activity, which is subject to commercial legislation;
- Income from sale of real estate.

### Exemptions

- Income subject to small business tax law (income from self-employment and from trade and service activities of individuals);
- Income of individuals who enjoy diplomatic status;
- State unemployment benefits, pensions and other transfers;

Gross salaries and compensations for employees will be taxed as follow:

The taxable income (on monthly basis)	Personal income tax		
	Until (Lek)	Lek	Percentage
Over (Lek)			
0	10,000		0%
10.000 +	30.000		10% of sum over 10,000 Lek
30.000 +			10% of sum over 0 Lek

**Social security taxes:** The Public Institute of Social Welfare manages the Albanian social welfare system. The Institute operates under the jurisdiction of the Council of Ministers. The tax authorities are collecting and enforcing collection of social contributions procedures for the account of the said Institution since April 2004. The company contribution includes (i) contributions to work accident indemnities, and (ii) unemployment fund. Employees are liable to a percentage for both health and social insurance contributions. Only a portion of the gross monthly salary, between ALL 14,000 and a ceiling of ALL 65,700 per month is subject to contribution at the following rates:

	<b>Social security</b>	<b>Health insurance</b>	<b>Total</b>
Paid by the company	20%	1.7%	21.7%
Paid by the employee	9.5%	1.7%	11.2%

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