

Tax Alert

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Draft Law on Fiscal Amnesty

A new draft law foreseeing the full and partial amnesty of most national and local tax liabilities, customs liabilities, as well as tax obligations in connection to transport vehicles and their deregistration, is circulating among interested parties. As per this draft law, the amnesty for tax periods until December 2011 will be unconditional, whereas for later periods it will be contingent on the payment of a portion of the obligations.

Taxpayers who have tax/customs liabilities and penalties in conjunction with which they have been convicted through a final court decision on legal counts of tax evasion, customs evasion or smuggling, will not benefit from this law.

With regard to tax and customs obligations, amnesties will apply to taxpayers in both the active and passive tax administration register, as well as deregistered taxpayers. Whereas for automobiles and other transport vehicles, the amnesty and new deregistration provisions will apply to all vehicle owners.

Tax Liabilities

The following tax liabilities will be waived unconditionally:

- National and local taxes which have not been paid and concern tax periods until December 2011, irrespective of the date when they were detected;
- Penalties for Social and Health Contributions for tax periods until December 2011; excluding the tax liabilities and late payment interest;

- All obligations related to entities deregistered from the National Business Centre, through a court order, or deregistered from the tax administration;
- Late tax declaration penalties, as long as the respective declarations are submitted until 31 December 2016 or automatically for declarations which had been previously submitted.

Tax liabilities, penalties and late payment interests for the same cases described above but concerning tax periods from January 2012 and onwards until the law comes into force will be forgiven conditionally. In addition to the local and national taxes described above, the conditional amnesty will also include all administrative penalties made with respect to contraventions not linked to a tax payment as specified in chapter 14 of the Law on Tax Procedures i.e. failure to register a taxpayer, late submission of transfer pricing annual notice, incorrect maintenance of accounting books etc.

The conditions contingent on which taxpayers will be able to benefit from an amnesty are:

- Payment of 70% of the respective tax liability and late payment interests;
- Payment within 31 March 2017;
- Late tax declaration penalties must have been evidenced or registered in the taxpayer's accounts until 31 July 2016.

Customs Liabilities

With regard to Customs, similarly to other national and local tax obligations, all payable obligations incurred for periods until 31 December 2011 will be unconditionally waived. Whereas for liabilities arising in later periods, as long as 70% of the payable liabilities is settled until 31 March 2017, the remaining unpaid amounts and respective penalties will be also waived.

Penalties/fines for vehicles which have entered Customs in an illicit manner under the temporary regime will be waived, on condition that the import obligations and related interests are paid within 31 March 2017.

Taxpayers currently appealing such obligations will benefit as long as they renounce the claim/legal case, or administrative recourse and subject themselves to the provisions of this law.

Automobiles and other transport vehicles

With regard to transport vehicles, the law foresees the deregistration of all automobiles and other transport vehicles registered with the General Road Transport Service Directorate (GRTSD), and which have not performed any action after 31 December 2011. All unpaid obligations including the yearly automobile registration tax, used automobile tax, luxury car tax as well as any related penalties for failure to settle these obligations will also be waived.

The GRTSD will perform the deregistration procedure at no charge unless the respective taxpayer or individual requests within 31 March 2017 to maintain the automobile vehicle active. In the latter instance, all obligations and penalties accrued up to 31 December 2011 will be waived, however for later periods the taxpayer will have to pay the related tax liabilities, penalties and late payment interests.

Please note that the above amendments have not yet been implemented and, as such, they remain at the status of draft laws, expected to change before final approval by the Albanian Parliament.

Customs

Excise Tax – Fiscal Stamps

Several additions and amendments have been applied to Instruction No.19, dated 1 September 2011, “On the methods of applying excise stamps and fiscal stamps in tobacco, beer and alcohol products”.

The most important changes are:

- The requirement for importers to submit to the Customs authorities a financial guarantee for excise tax liabilities in proportion to the quantity of products ordered or expected to be ordered;
- The circumstances under which the Customs authorities may elect to reject an order for fiscal stamps now include:
 - Failure to provide the aforementioned financial guarantee;
 - The entity ordering the stamps is a debtor or has been issued a final court decision. In this circumstance, a prepayment of the excise tax liability will be necessary;
- The designation of the formal procedures for destroying unused / damaged / defective fiscal stamps;
- New deadlines and procedures for returning unused fiscal stamps;
- Fiscal stamps for cider have been officially introduced, together with the respective requirements for applying the fiscal stamps;
- Fiscal stamps on cans can be now placed on the sides, in addition to the bottom.

Immaterial Value Foreign Deliveries

Amendments have been made to Council of Ministers Decision No.919, dated 29 December 2014, “On the approval of the implementing provisions of Law No.102/2014, dated 31 July 2014, “The Customs Code of the Republic of Albania”. The value limits for goods to be considered of immaterial value and, therefore, exempt from import taxes have been decreased and the deliveries of such goods from abroad have been split into two separate categories.

The thresholds are the ALL equivalents of the values in EUR below. These came into effect on 3 August 2016.

Category	Previous	New
Goods ordered via internet and delivered via mail	EUR 150	EUR 22
Goods delivered from an individual outside the territory of the Republic of Albania for an individual located in Albania which are of a casual nature and are for the personal or family use of the recipient	EUR 150	EUR 45

[Sources: Instruction No. 15 dated 19 July 2016, issued by the Ministry of Finance, Official Gazette No. 139 published on 27 July 2016; Decision No. 542 dated 27 July 2016, issued by the Council of Ministers, Official Gazette No. 145 published on 3 August 2016.]

Immovable Property

A new law has been introduced offering both individuals and juridical persons the opportunity to reassess the value of their immovable property, whether in their ownership or currently in the process of being registered. The new law came into effect on 20 August 2016. The deadline for reassessment of immovable property and the opportunity to benefit from the provisions of this law is 28 February 2017.

Individuals

Reassessments of immovable property can be performed by licensed reassessment experts, the respective institutions or local immovable property registration offices.

Individuals can choose how to determine the new reassessment value by:

- using a licensed expert's act of evaluation (which cannot be lower than the minimum fiscal prices);
- requesting the immovable property registration offices to use the minimum fiscal prices for the property;
- in cases where there is no sales agreement, using the minimum fiscal prices at the time of the immovable property's registration.

The tax paid for the registration of this reassessment is 2% of the taxable value. Income tax on the change of ownership will also be applicable at the respective income tax rate.

Juridical persons

The law can also be used by juridical persons who have registered in their financial statements immovable property at a value lower than the market value who gain the right to purchase the additional reassessment of these properties at market value. For juridical persons, the reassessment can be only performed by independent licensed experts for reassessments.

The difference between the accounting value registered in the financial statements and the value resulting from the reassessment must be reflected in the financial statements for 2016.

Juridical persons pay 3% of the difference between the reassessment value and the accounting value registered for the immovable property. For the purposes of the application of this law, the juridical person must hold a file for the immovable property evidencing the respective value of the immovable property from the moment of the initial recognition of the asset and the respective tax paid in accordance with the legislation in force.

[Source: Law No. 81/2016, dated 25 July 2016, issued by the Council of Ministers, Official Gazette No. 146 published on 5 August 2016.]