

# Tax Alert

Albania • November 2015



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## *Decision amending the Law on Tax Procedures*

A new Law amending Law No. 9920 dated 19 May 2008 “On Tax Procedures in the Republic of Albania”, as amended, will become effective on **12 November 2015**. The new law introduces a series of changes, as detailed below:

### *WHT Penalties Amnesty*

For taxpayers that, as a result of the introduction of the new IT system, were assigned the responsibility of filing declarations that were not applicable for them and consequently penalised, all the resulting penalties and interest generated up to 31 August 2015 will be removed from the tax system.

### *CIT prepayments*

As of 12 November 2015, taxpayers will be fined for non-compliance with CIT instalment payment deadlines. Taxpayers not performing the prepayments for corporate income tax or simplified income tax within the deadlines established in the Corporate Income Tax Law will be fined 15% of the unpaid instalment liability.

### *Tax Certificates*

If a taxpayer’s financial statements and tax declarations are certified as compliant with the tax legislation by certified auditing companies, the tax administration will include this as a parameter in the taxpayer risk analysis for tax inspection purposes. The procedures, criteria and list of audit

companies eligible to provide tax certification will be defined through a separate Instruction of the Minister of Finance.

If during tax inspections the tax authorities conclude that the financial statements and tax declarations are not compliant with the fiscal legislation, the taxpayer will be liable for the full tax obligation, with the certifying company fined a tax penalty resulting from the tax obligation.

### *New Regulations*

Several new regulations have been introduced which affect both the internal procedures of the tax administration and a number of industries:

- Customer may refuse to perform the transaction for the value of goods or services offered, if they do not receive a corresponding fiscal invoice or fiscal coupon. The seller must display an announcement of this fact at the place of business.
- From the moment the new legislation is enacted until 31 March 2016, wholesale traders who sell to individuals with fiscal coupons need to ensure that these sales do not exceed 10% of the taxable value (net of VAT) of the goods sold in the same tax period of the previous year. From 1 April 2016, wholesale traders must not perform sales with fiscal coupons to individuals.
- Central and regional tax administration employees will no longer be allowed to own, or have relatives up to the second degree who own accounting or fiscal consulting offices. In such cases of conflict of interest, the employee is fired without the right to be reemployed.
- The General Tax Directorate will create a database for the IMEIs of all mobile phones imported into or sold in Albania. Mobile phone importers or sellers must upload the IMEI numbers of their products and follow-up this procedure for all the phones they release on the market. Within a month as of the entry into force of the Decision of the Council of Ministers, wholesale and retail taxpayers must upload into the database all the IMEI numbers of the mobile phones in their inventory. Any instance of incorrect upload or failure to upload the IMEIs will be penalised with a fine of ALL 30,000.

### *Debt Collection*

- In order to enforce the collection of unpaid taxes due, the tax authorities may monitor the activity of taxpayers at their premises and seize at least 50% of the realised daily turnover, up to no more than the outstanding tax obligation.
- Taxpayers cannot transfer money from their bank accounts when the tax administration has initiated the forced collection of their unpaid taxes. Moreover, taxpayers are not allowed to sell or transfer company assets unless their sale is aimed at generating funds to repay the entire outstanding debt value.
- As part of the procedures to collect unpaid taxes from taxpayers, the tax administration will also be entitled to request payment from third parties owing money to a taxpayer, in the form of a direct payment to the tax administration within 30 days as of its request.

## *Penalties for non-compliance with tax procedures*

<b>Item</b>	<b>Previous</b>	<b>New</b>
Taxpayer performs activity at an address undeclared to the NRC	NA	ALL 500,000 penalty
Unregistered employee*	ALL 100,000 / 50,000 penalty VAT businesses / others	ALL 500,000 penalty
Incorrect declaration of an employee's real wage*	N/A	ALL 500,000 penalty
Storage, use or transport of goods not accompanied by tax documents by a wholesale trade taxpayer*	seizure of all the goods	- ALL 10,000,000 penalty - seizure of all the goods - tax reassessment of revenues during last six months
Failure to issue a fiscal coupon* (where applicable)	ALL 200,000 / 100,000 penalty VAT businesses / others	- 100% of the tax liability & interest - ALL 500,000 penalty - tax reassessment of revenues during last six months
Failure to issue a fiscal invoice (retail trader)	100% of the tax liability & interest	100% of the tax liability & interest
Failure to issue a fiscal invoice (wholesale trader)*	100% of the tax liability & interest	- 100% of the tax liability & interest - ALL 10,000,000 penalty - tax reassessment of revenues during last six months
Fiscal invoice issued without a fiscal coupon (where applicable)	ALL 200,000 / 100,000 penalty VAT businesses / others	ALL 500,000 penalty
Pre-stamped coupons issued incorrectly (where applicable)	ALL 30,000 penalty	ALL 100,000 penalty
Does not display clearly announcement informing taxpayers that they can refuse to complete a transaction without receiving a fiscal coupon / invoice	N/A	ALL 500,000 penalty
Wholesale taxpayer selling goods to individuals with fiscal coupons	N/A	100% of the VAT tax liability & interest
Failure to affix pricelist	ALL 35,000 / 65,000 penalty small businesses / others	ALL 500,000 penalty

\*The penalties in the table for these violations are only applicable for the first instance detected, with further detections triggering the tax evasion proceedings described in detail below.

## *Tax Evasion*

The following infringements will be subject to criminal indictment for tax evasion by the tax administration:

- Second instance of storage, use or transport of goods not accompanied by tax documents by a wholesale trade taxpayer;
- Keeping or using fiscal devices not in accordance with the law (in addition to seizure of all the goods);
- Second instance of failure to issue a fiscal coupon;
- Second instance of failure to issue a fiscal invoice by a wholesale trader.

The number of instances of tax procedure non-compliance before tax evasion proceedings are triggered will start being counted only after these changes to the law become applicable.

The length and severity of the sentences for taxpayers convicted of tax evasion are currently under review by the Ministry of Finance.

## *Voluntary Disclosure*

In an attempt to encourage voluntary declarations and improve the tax system, the tax administration will not indict with criminal charges any taxpayer who self-corrects and declares a tax declaration, which might have been purposefully erroneously declared in prior periods.

This provision will be particularly valid for goods stored by taxpayers for which they do not possess a fiscal invoice. Such taxpayers will have the opportunity to issue reverse charge invoices (invoices issued by the buyer) until 31 December 2015 and not face further penalties or criminal indictments. The procedures for self-declaring goods will be defined through a separate instruction by the Minister of Finance.

*[Source: Law No. 99/2015 dated 23 September 2015, issued by the Minister of Finance, Official Gazette No. 187 published on 28 October 2015.]*

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