

# Tax News

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## Fiscal Devices

As of 9 April 2015, some amendments apply to Instruction No.16 dated 3 May 2010, “On the administration and documentation of the procedures of fiscal devices”:

- Fuel dispensers (of oil and gas derivatives) must work only on an automated regime when connected to fiscal devices with a fully functioning system. If there is a technical problem with the fiscal devices, the fuel dispensers should not be used (should not pump liquid) until the issue is resolved by the respective authorised technician.

As of 11 May 2015, an amendment applies to Decision No. 781, dated 14 November 2007, issued by the Council of Ministers “On the technical and functional characteristics of fiscal devices, the integrated computerised system for periodic, automatic transfers of financial declarations, communication system, on the procedure and documentation for their approval and for the criteria concerning the equipment with authorisations of companies authorised to offer fiscal devices”, as amended.

- Vendors who sell fuel no longer have a three-day grace period during which they do not have to issue fiscal coupons in the case of defective fiscal devices. The principle “no coupon, no fuel” will now firmly apply at all times.

*[Source: Instruction No. 13 dated 9 April 2015, issued by the Ministry of Finance, Official Gazette No. 54 published on 9 April 2015; Decision No. 349 dated 29 April 2015, issued by the Ministry of Finance, Official Gazette No.72 published on 11 May 2015 ]*

## *Income Tax*

As of 27 May 2015, new norms have been defined on expected losses, losses and damaged goods during production, storage, transportation, etc., recognised for fiscal purposes. The new definitions of the norms supplement letter m, of item 1 of article 21 of Law No. 8438 dated 29 December 1998 “On Income Tax”. The norms by industry and tax domain are regulated as detailed below:

- Excise – Regulated by Decision No. 612, dated 5 September 2012, issued by the Council of Ministers “On the provisions of the Law “On Excise”, as amended”;
- Manufacturing Industry which utilises combustibles as raw materials in the production process - Regulated by Decision No. 612, dated 5 September 2012, issued by the Council of Ministers “On the provisions of the Law “On Excise”, as amended”;
- Tobacco – Decision No. 687, dated 18 June 2009, issued by the Council of Ministers “On defining the level of loss allowance during the operation of processing-manipulation of tobacco”;
- For all the losses during the production process for which there are no dedicated legal acts or bylaws, the amounts and values permissible will be calculated according to technological cards or schemes of the production process. The tax authority has the duty to analyse the respective schemes and processes during their check on the business premises and carry out verifications;
- No expected losses will be recognised for transportation or storage, with the exception of the instances of excise products defined by Decision No. 612, dated 5 September 2012, issued by the Council of Ministers “On the provisions of the Law “On Excise”, as amended”;
- Electric Energy – Loss during the distribution of energy will be considered the percentage of energy loss as per Decision No. 171, dated 25 February 2015, issued by the Council of Ministers “On the approval of the financial recovery plan of the electric energy sector.”

Furthermore the decision provides that:

- If the technological card defines amortisation norms of the machinery which are dependent on the completion of a certain number of hours of operation, then once this number of hours is completed as a result of the consumption or amortisation of the production line, the taxpayer must submit a request for a change in the permissible norm for the production losses. The request must be submitted to the institution responsible for the confirmation of technological cards.
- Within 45 days from the date this decision became effective, every taxpayer must submit to the Regional Tax Directorate the documentation for the approval of “expected losses”. This documentation must include:
  - the technological card;
  - detailed description of the production process;
  - equipment blueprints;
  - the norms for the consumption of raw materials and the hours of operation for each ready-made product unit (technological card), accompanied by the data for: the type of raw material used in the production process and the phases of the technological process in which the raw materials are utilised.
- The technological card must be confirmed / certified by a recognised institution which possesses the technical capability to confirm technological cards, such as: National Agency for Natural Resources (AKBN), National Food Authority (AKU), Institute of Construction Materials, General Standards Directorate, Patents and Trademarks

Directorate, respective State Inspectorate, National Agency of Medicaments and Medical Devices or any other institution which has the capabilities regarding the specific technological processes;

- The “expected losses” approved by the regional tax directorates in accordance with this decision will be recognised for tax purposes for periods no earlier than the official approval date from the regional tax directorates.

*[Source: Decision No. 434 dated 20 May 2015, issued by the Council of Ministers, Official Gazette No. 86 published on 27 May 2015.]*

## Customs Code

As of 15 May 2015, some amendments apply to Decision No. 205, dated 13 April 1999 “On the provisions of the Customs Code”:

- Clearance conducted in the premises of an economic operator, also referred to as local clearance, is now possible and applicable to imports, exports and other customs regimes such as warehousing regime, active processing regime, the regime of processing goods under customs control and the temporary import regime. Anyone can apply for an authorisation to benefit from this practice, subject to the fulfilment of a number of procedural, legal and technical requirements detailed in the new section of the law and its respective annexes.
- The director of the General Customs Directorate is entitled to issue an instruction regarding the practical application of local clearance.

*[Source: Decision No. 366 dated 30 April 2015, issued by the Council of Ministers, Official Gazette No. 76 published on 15 May 2015.]*

## Sale of Medicaments

On 8 April 2015, a new regulation was approved which covers both how authorisations for sale of medicaments will be granted and the manner in which medicaments will be classified. This regulation supplements item 5 of article 11 and item 3 of article 12 of Law No. 105/2014 “On medicaments and pharmaceutical services”. The decision specifies the procedures that potential sellers and the National Agency of Medicaments and Medical Devices need to follow in order to ensure compliance. A comprehensive list of documents and forms that need to be submitted to the agency to apply for the authorisation is also provided in the decision.

Furthermore, the Instruction “On some additions and amendments to Instruction No.6, dated 30 January 2015 “On Value Added Tax in the Republic of Albania”, as amended” effective as of 9 June 2015 adds dental implants to the list of VAT exempt supplies.

*[Source: Decision No. 299, dated 8 April 2015, issued by the Council of Ministers, Official Gazette No. 61 published on 22 April 2015; Instruction No. 6/8, dated 5 June 2015, issued by the Ministry of Finance, Official Gazette No. 94 published on 9 June 2015.]*

## Tax Procedures

On 25 May 2015, a new instruction “On the definition of the procedures for the provision of information by individuals in accordance with the dispositions of international tax agreements” was approved which defines the obligation of individuals to provide to the General Tax Directorate, upon request, information which is requested indirectly by foreign tax authorities in accordance with international agreements.

*[Source: Instruction No. 15, dated 18 May 2015, issued by the Ministry of Finance, Official Gazette No. 83 published on 25 May 2015.]*

### Minimum rent reference prices

On 3 June 2015, a new instruction was issued “On the determination of the minimum value charged on rented buildings for tax purposes” which complements item (ç) of article 72 of the Law on Tax Procedures concerning alternative valuation methods. The instruction further stresses that notarised rental agreements need to have the monthly rent amount clearly stated as well as the exact address of the dwelling and the surface area in m<sup>2</sup>.

The minimum monthly value per metre square of a rented building is equal to 0.3% of its sale price, as defined in the instruction of the Council of Ministers “On the approval of the average building construction costs, by the National Housing Agency”, which is published on an annual basis.

The Instruction further provides a detailed list of minimum reference prices for non-residential building rents for Tirana and the rest of the country, as a percentage of the minimum monthly value identified above.

Type of non-residential building	Buildings in Tirana (Minimum rent price expressed as a % of the minimum value per m <sup>2</sup> of residential buildings)	Rest of the country (Minimum rent price expressed as a % of the minimum value per m <sup>2</sup> of residential buildings)
Shop selling goods and / or services	200%	150%
Indoor garage	70%	70%
Office or warehouse	Same	Same
Outdoor parking lot	30%	30%
Basement	70%	70%
Building privatised according to Law No. 7652 “On the privatisation of state buildings”	70%	70%

All notaries are obliged to send to the respective regional tax directorate by 15 July 2015 the list of all rental agreements in force, irrespective of their status. Subsequently all notaries have to report on a monthly basis by the fifth of each following month the list of new rental agreements.

*[Source: Decision No. 469, dated 3 June 2015, issued by the Council of Ministers, Official Gazette No. 98 published on 15 June 2015.]*

## *Withholding Tax (Penalty Waiver)*

The General Tax Directorate has issued a clarification through a technical decision concerning the penalties and tax obligations communicated to taxpayers electronically regarding withholding tax.

As at 15 May 2015, the Regional Tax Directorates had identified and provided a list of the entities registered wrongly for withholding tax for the months of January and February 2015. Based on the confirmed list, the Directorate of Taxpayer Service and Registration and Project Office removed the responsibility of these taxpayers to declare withholding tax.

Taxpayers who believe they have been unjustly registered to file withholding taxes need to contact their respective regional tax directorate, instead of the Directorate of Appeals. All penalties charged to taxpayers erroneously registered for withholding tax have been retroactively waived, or reimbursed in cases where the taxpayers have paid such liabilities.

*[Source: Technical Decision with Prot. No. 14114 dated 24 April 2015, issued by the General Tax Directorate – Legal Department, published on the official General Tax Directorate webpage [www.tatime.gov.al](http://www.tatime.gov.al) on 29 April 2015.]*

## *New Legislation*

### *Electric Energy*

Based on a Council of Ministers' proposal, a new Law has been issued "On the Electrical Energy Sector". The new law's purpose is to guarantee a stable and safe supply of electrical energy to customers, through the creation of a functional and competitive electrical energy market, taking into account customer interests, the safety and quality of the electrical energy supply and environmental protection.

*[Source: Law No. 43/2015 dated 30 April 2015, issued by the Council of Ministers, Official Gazette No. 87 published on 28 May 2015.]*

### *Postal Services*

Based on a Council of Ministers' proposal, a new Law has been issued "On Postal Services in the Republic of Albania". The new law's purpose is to define the rules for offering and securing postal services and the universal postal system, as well as the pre-conditions for accessing the postal market in the Republic of Albania. Furthermore, this law defines the institutions responsible for the regulation of the postal service, as well as the rights and obligations of suppliers and users of postal services in the Republic of Albania.

*[Source: Law No. 46/2015 dated 7 May 2015, issued by the Council of Ministers, Official Gazette No. 85 published on 26 May 2015.]*

### *Hydrocarbons Industry*

A new instruction affecting the hydrocarbons industry has been issued "On the definition of the list of goods and services that are used in the realisation of the exploration phase of hydrocarbon operations by hydrocarbon exploration companies, which are exempted from the payment of VAT, as well as the exemption procedures". The instruction supplements item k of article

53 and item 39 of article 56 of Law No. 92/2014 dated 24 July 2014 “On Value Added Tax in the Republic of Albania” by providing a list of goods and services which are exempt from VAT and import taxes.

The list of goods and services for which this Instruction is applicable includes: geological and geophysical studies, various methods of geophysical work, digging wells for oil and gas exploration as well as other technical projects and studies. The instruction further details the list of documents that the taxpayer has to provide to the respective regional tax directorate, National Agency for Natural Resources and Customs Directorate, as well as the procedures that each stakeholder has to follow in order to benefit from tax relief and ensure that VAT is correctly applied.

*[Source: Instruction No. 17 dated 12 June 2015, jointly issued by Ministry of Finance and Ministry of Energy and Industry, Official Gazette No. 103 published on 22 June 2015.]*

## *Economic Zones*

Law No. 54/2015 “On some changes and additions to Law no. 9789, dated 19 July 2007, “On the creation and operation of economic zones””. Based on this new law, the terms and definitions of “economic zone”, “free zone” and “industrial park” are substituted by “technology and economic development zone”. The new term is broadly meant to encompass both the features of a free zone and an industrial park.

These zones will continue to benefit from existing tax relief as well as exploit additional supporting measures:

- Developers and users will be exempt from paying 50% of their corporate income tax for the first five years of their activity in the zone;
- Developers and users will be able to allocate as deductible expenses 20% of their yearly capital expenses, irrespective of amortisation levels, for a period of two years from the beginning of their activity;
- The developer’s project is not subject to the tax on infrastructure impact;
- Buildings in the zone are exempt from immovable property tax for a five-year period;
- For the purposes of income tax calculation, during the first year of activity social and health contributions are recognised at 150% of their value. During subsequent years, any additional wage expenses (higher than the preceding year) are considered recognised expenses at 150% of their value from an income tax perspective;
- Employee training costs are considered deductible expenses at twice their value for 10 years from the beginning of the economic activity;
- Scientific research and development costs are considered deductible expenses at twice their value for 10 years from the beginning of the economic activity.

Furthermore, the new legislation emphasises that the transfer of an existing business activity in the field of technology and economic development in the Republic of Albania to such a zone solely for tax relief is strictly forbidden. The provisions of the new law are valid only for the technology and economic development zones established after it comes into force.

*[Source: Law No. 54/2015 dated 28 May 2015, issued by the Council of Ministers, Official Gazette No. 105 published on 23 June 2015.]*