

# Tax Alert

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## Tax Procedures

Following the Constitutional Court's decision to repeal articles 5, 14, 15, 16/4, 17/1, 17/2, 18/2 and 20 of Law No. 99/2015 "On some amendments to law no. 9920, dated 19 May 2008, "On tax procedures in the Republic of Albania, as amended"<sup>1</sup>, the Ministry of Finance drafted a new Law reflecting that decision, especially those concerning the penalties introduced by the previous draft law.

The new legislation is aimed at increasing transparency in communications with taxpayers and promoting compliance with tax legislation by focussing its action plan against informality on the simplification of tax procedures and compulsory registration for CIT and VAT purposes, instead of higher penalties.

The new law "On some amendments to Law no. 9920, dated 19 May 2008, "On tax procedures in the Republic of Albania, as amended" was approved by the Albanian Parliament on 3 November 2016 and published in the Official Gazette No. 219 on 15 November 2016.

### Major general changes

- Taxpayers may submit a corrected declaration within 36 months from the submission of the initial declaration instead of the previous 12 months, provided that this declaration has not been previously inspected by the tax authorities;

<sup>1</sup> For more information: The Constitutional Court's decision to suspend some of the amendments of Law No. 99/2015 "On some amendments to law no. 9920, dated 19 May 2008 "On tax procedures in the Republic of Albania, as amended" was covered in our July 2016 tax alert issue (sent on 1 July 2016).

- The Tax Appeals Directorate is no longer part of the General Tax Directorate structure, but an independent structure within the Ministry of Finance, and the name has been amended to “The Commission for the examination of Tax Appeals”.
- A decision of the Tax Appeals Directorate or of the Commission for the Examination of Tax Appeals is compulsory for the tax authority (e.g. Regional Tax Directorate of Tirana) that performed the tax inspection, which has no right of appeal. Previously, the Regional Tax Directorates could appeal to the Administrative Court regarding Tax Appeals Directorate decisions.
- The General Tax Directorate may grant taxpayers permission to use electronic fiscal invoices upon request irrespective of the total number of transactions performed, provided their electronic accounting systems can issue invoices with unique numbers.
- New procedures for the negotiation of instalment payment agreements are detailed, including a deadline of 10 days for the tax authorities to approve a request and a down-payment by the taxpayer of 20% of the full obligation at the moment when the request is made.

### *Tax Inspection Timelines*

For the purposes of determining the beginning of the period for obtaining tax notifications, assessments, decisions and official communications, the calculation does not include the day on which they are received.

Tax inspection notifications have to fulfil the following criteria:

- Notification date of at least 30 days prior to a full scope tax inspection, unless the tax inspection is conducted at the taxpayer's request for tax reimbursement purposes;
- Notification date of at least 10 days prior to a limited scope tax inspection which covers only a specific tax;
- Tax inspection notifications should specify the start date, the end date, the daily start hour and end hour for the inspection;
- Tax inspection deadlines may be extended upon approval by the director of General Tax Directorate, but not by more than 15 business days;
- Upon notification of the tax inspection, the taxpayer is provided 30 calendar days to state any undeclared tax liability. This declaration is made to the Regional Tax Directorate through a form / questionnaire provided to the taxpayer along with the tax inspection assessment, before the start of an inspection. For the tax liability declared and paid before the start of a tax inspection, an administrative penalty of 50% of the tax liability is applied. Otherwise, for any tax liability observed during the tax inspection, the full administrative penalties are applied accordingly.
- For tax inspections triggered by a risk analysis due to a reimbursement request made by the taxpayer, the deadlines for the tax appeal procedures are limited to five calendar days and not according to standard deadlines (i.e. 15 calendar days).

The penalties for non-compliance with tax procedures introduced in the new law are as follows:

<b><i>Item</i></b>	<b><i>Previous</i></b>	<b><i>Current</i></b>
Perform economic and commercial activities without being registered at the National Business Centre	- Termination of business activity; - Seizure of all goods.	- Seizure of all goods; - Obligation to register for VAT; - Suspension of activity until the moment of registration.
Failure to declare tax liabilities within the deadline	ALL 10,000 for each declaration	- ALL 10,000 for taxpayers subject to income tax; - ALL 5,000 for all other taxpayers.
Non-compliance with CIT Instalment payment deadlines	15% of the unpaid instalment liability	10% of the unpaid instalment liability
Unregistered employee	- ALL 500,000 for taxpayers subject to VAT and CIT; - ALL 50,000 for all other taxpayers.	- ALL 200,000 for taxpayers subject to VAT and CIT; - ALL 50,000 for all other taxpayers.
Incorrect declaration of an employee's real wage	N/A	100% of the total tax liability and social and health contributions liability of the period.
Failure to install fiscal device	Seizure of all goods	Suspension of business activity for 15 days.
Failure to display pricelist	- ALL 35,000 for small businesses; ALL 65,000 for other taxpayers.	- ALL 100,000 for taxpayers subject to CIT; ALL 50,000 for other taxpayers.
Failure to issue fiscal coupon	- First detection: ALL 200,000 for taxpayers registered for VAT; ALL 50,000 for other taxpayers; - Second detection: ALL 300,000 for the taxpayers registered for VAT; ALL 100,000 for other taxpayers. - Repeated cases: after the above administrative penalties have been applied, the tax authorities have the right to file charges for tax evasion and the taxpayer is penalised accordingly.	- First detection: ALL 50,000 as well as tax assessment of revenues during previous three months for taxpayers registered for VAT; - Second detection: application of the above penalty as well as suspension of business activity for 30 days; - Repeated cases: after the administrative penalty described in the first detection has been applied, the tax authorities have the right to file charges for tax evasion and the taxpayer is penalised accordingly.
Pre-stamped coupons issued incorrectly (where applicable)	ALL 30,000	ALL 50,000

Does not clearly display an announcement informing buyers of their obligation to request a fiscal coupon	ALL 20,000	ALL 50,000
Does not clearly display an announcement informing taxpayers that they can refuse to complete a transaction without obtaining a fiscal coupon / invoice	N/A	ALL 50,000
Failure to issue a fiscal invoice	- 100% of the tax liability as well as interest and fines	- First detection: 100% of tax liability; - Second detection: For non-VAT registered taxpayers: 100% of tax liability, registration for VAT purposes; For VAT but non-CIT registered taxpayers: 100% of tax liability, registration for CIT purposes; CIT registered taxpayers are included in the list of high-risk taxpayers for the purpose of risk assessment.

- In addition, for the storage, use or transport of goods not accompanied by tax documents, the following penalties apply:
  - For the purpose of ascertaining the failure to document the goods, taxpayers registered for VAT purposes are obliged to issue a fiscal invoice, in order to document the goods and relevant penalties to be applied;
  - Taxpayers which are subject to the simplified income tax regime are immediately registered for VAT purposes, follow the procedures of invoice issuance and the aforementioned penalties are applied.
- With regard to the withholding tax liabilities and / or other taxes and tariffs, instead of a penalty equal to 50% of the tax liability, the withholding tax, tax or tariffs, the agent responsible for the withholding of the tax has to pay a fine as follows:
  - 0.06% of the full tax liability per day, if the agent withholds, calculates and declares the tax liability or tariff, but does not settle the obligation;
  - 50% of the full tax liability, if the agent does not withhold the tax or tariff, or does not collect it;
  - 100% of the full tax liability, if the agent withholds, but does not declare and pay the collected withholding tax, tax or tariff.

### *Taxpayer Information and Transparency*

The new draft law is aimed at increasing transparency in relationships between the tax administration and taxpayers. For this purpose the General Tax Directorate will:

- prepare commentaries with summaries of technical decisions regarding the tax treatment of specific cases, by grouping them according to their nature. The commentaries will be published on a semi-annual basis on the General Tax Directorate webpage;
- publish and update on the official website the interest rate used for the calculation of late-payment interest;
- send official tax authority communications addressed to taxpayers both electronically and via the postal service.

This law enters into force 15 days after being published in the Official Gazette, except for articles 4, 6 and 37 related to the organisational structure of the central tax administration, Tax Appeals Directorate and Taxpayers Advocate, which enter into force on 1 January 2017.

*[Source: Law No. 112/2016, dated 3 November 2016, “On some amendments to Law No. 9920, dated 19 May 2008 “On Tax Procedures in the Republic of Albania”, as amended”, Official Gazette No. 219, published on 15 November 2016.]*

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