

Tax Newsletter

20 February 2017

In brief

The Ministry of Finance has introduced amendments to legislation relating to VAT, social and health contributions and excise tax, as well clarifications to the law regarding tax procedures. The most important changes include clarifications on the calculation and respective declarations of payroll related liabilities for the self-employed, the application of VAT to the sale of buildings and parts of buildings, the introduction of delivery notes for the transportation of goods between three entities, changes to excise reimbursement procedures and limitations and clarifications on changes to the gambling law.

Social and Health Contributions

In response to the legal vacuum created by Decision No.60/2016 of the Constitutional Court to repeal article No. 4 of Law no. 143/2015 "On some amendments to Law no. 9136, dated 11 September 2003 "On Social Security and Health Contributions in the Republic of Albania", the Council of Ministers issued a normative act that regulates the effects this decision had on the minimum wage on which social and health contributions are calculated for the self-employed. The changes, as well as some important modifications to declaration timelines, are outlined below:

- Social security contributions of the self-employed and their unpaid family members over 16 years old are calculated, based on their gross wage, in line with the calculations for all other employees. On the other hand, health

contributions are calculated on the basis of twice the minimum wage in Albania.

- The timeline for the submission of the list of employees, including the self-employed, any unpaid family members over 16 years old and all respective wages, is within two business days from an entity's registration at the National Business Centre (NBC) or Tax Administration.
- For self-employed natural persons with no employees and no unpaid family members over 16 years old who have registered at the NBC or tax authority, payroll submission must be performed at least three days before the deadline for the submission of the social and health contributions declaration. In any case, the calculation of the contributions starts from the day of registration.

This Normative Act entered into force immediately upon its publication in the Official Gazette.

[Source: Normative Act No. 1, dated 25.01.2017, issued by the Council of Ministers, Official Gazette No. 11, published in 27 January 2017.]

Tax Procedures

Following the approval of the law "On some amendments made to the Law No. 9920, dated 19 May 2008, "On Tax Procedures in the Republic of Albania", as amended" on 15 November 2016, the Ministry of Finance issued Instruction No. 7, dated 10.01.2017 "On some amendments on the Instruction No. 24, dated 2 September 2008 "On Tax Procedures in the Republic of Albania", as amended. The new instruction provides not only templates of the tax forms outlined in the law but also some important clarifications, as follows:

- A new delivery note is introduced for goods which are transported directly to a third party (the ultimate buyer) in cases when there is an agreement between a

seller and an intermediate buyer, which in turn has a separate contract with the ultimate buyer. The delivery note should accompany the goods during their transportation, together with the sales invoice issued by the intermediate buyer to the ultimate buyer. The template of the delivery note is attached to the instruction.

- The procedures and the list of documents that each transport vehicle transporting goods or passengers must carry for each trip, is outlined in the Instruction.
- It is clarified that a tax audit for transfer pricing purposes will not be considered a re-audit even though the taxpayer might have been previously audited for income tax purposes for the same period.
- It is determined that tax appeals, where the total reassessed value of the obligation amounts to at least ALL 20 million, will be examined by the Commission for the Review of Tax Appeals instead of the Tax Appeals Directorate.
- Laws and bylaws in the tax directorate's website will now also be published and updated in English.
- Procedures for the seizure of goods by the tax authorities and the tight deadlines that taxpayers have to comply with, in order to claim them back, are specified.
- A questionnaire template is published which enables the voluntary declaration of unreported transactions to the tax authorities before

the commencement of a tax audit.

- It is no longer necessary for any goods with a price tag affixed to be included in a separate price list. The same is true for services which do not have fixed prices, such as travel or transport agencies, which instead should publish hourly service rates.

[Source: Instruction No. 7, dated 10 January 2017, issued by the Ministry of Finance, Official Gazette No. 4, published on 19 January 2017.]

Value Added Tax

Some amendments have been made to Decision No. 953, dated 29 December 2014 of the Council of Ministers "On Implementing Provisions of Law No. 92/2014 "On Value Added Tax in the Republic of Albania", as amended".

In addition to the right to apply VAT on rentals of buildings, taxpayers can also choose to apply VAT on the sale of buildings or parts of buildings as long as their intended use is for economic activity or resale purposes. This right cannot be exercised when the taxable person supplies residential buildings or facilities, or when the buyer is an individual and not a registered taxpayer.

In order to apply VAT, taxpayers must submit a written declaration, sale contract and notary contract where it is clearly specified that the building will be treated as a taxable supply.

[Source: Decision No. 8, dated 11 January 2017,

issued by the Council of Ministers, Official Gazette No. 2, published on 16 January 2017.]

Excise

Several important amendments have been introduced to Decision No. 612, dated 5 September 2012, "On the implementing provision of the Law "On Excise", as amended".

The technological card for industrial and agro-industrial products must now be certified solely by the Customs authorities instead of the respective government agency for the industry. Excise tax reimbursement rates have been substituted by the respective rates contained in the technological card.

The value of excise reimbursement, instead of being fixed at 50%, will be based on the provisions of the technological card but must not exceed the aforementioned 50%. One exception applies to solar oil and mazut which will be reimbursed up to 100% as long as the actual utilisation does not exceed the technological card specifications. In addition, the deadline for submitting excise reimbursement requests is extended to the tenth day of the month following the quarter in which the purchases were made.

With regard to fiscal stamps, their application in the fiscal and custom warehouses can be performed at any time upon an operator's request instead of being limited to twice per month. Also, if video monitoring systems are in place, Customs

authorities can monitor the application of fiscal stamps without their physical presence and review the video registration of the process.

Entities engaged in the trade of gaseous fuel for motor vehicles will have to submit their inventory balance as at 31 December 2016 to the General Customs Directorate and Regional Customs Directorate by 31 January 2017... Wholesale traders of gaseous fuel will also be obliged to submit the previous month's sales register containing data on buyers and quantities sold to the Regional Customs Directorate before the tenth day of the following month. Gaseous fuels have also been added to the list of imported fuels that must be placed in a fiscal storage warehouse.

Finally, reimbursement of excise paid will also become applicable for biological products that have up to 5% of biofuels in their makeup.

[Source: Decision No. 28, dated 18 January 2017, issued by the Council of Ministers, Official Gazette No. 4, published on 19 January 2017.]

Gambling

The Ministry of Finance has issued a series of instructions and by-laws setting the stage for the effective implementation of Law No. 155/2015 "On Gambling in the Republic of Albania" which entered into force in February 2016. The bylaws tackle the following issues:

- Customs clearance procedures for gambling devices and spare parts.
- Outline of the legal relationship between the Gambling Supervisory Authority and Customs agencies.
- Procedures and documentation required for receiving the authorisation from the Gambling Supervisory Authority.
- Procedures for the disposal of gambling devices.
- Determination of the licence fees and the payment deadline for each category of gambling entity.
- Conditions and standards that must be met by secondary betting sites.
- Methodology for the calculation of the distance between gambling entities and educational and religious institutions.

In order to provide sufficient time for gambling business operators and the respective government agencies to implement these changes, the deadline for the application of the new rules regarding the location of gambling sites has been extended from 31 December 2016 to 31 December 2018.

[Source: Law No. 140/2016, dated 22 December 2016, issued by the Council of Ministers, Official Gazette No. 271, published on 20 January 2017; Instructions 1 to 6, dated 9 January 2017, issued by the Ministry of Finance, Official Gazette No. 4, published on 19 January 2017.]

Miscellaneous changes

- On 28 December 2016, the National Housing Agency approved the nationwide average cost of construction for 2016 and published the average construction costs and value of apartments.
- The protocol signed on 9 September 2015 between the Government of Albania and the Swiss Federal Council, which amends the Convention dated 12 November 1999 regarding the avoidance of double taxation relating to taxes on income and capital, entered into force on 1 December 2016.
- Starting from 1 February 2017, taxpayers and citizens can receive free assistance and information through the Call Centre offered by the General Tax Directorate. By calling at 0800 00 02, taxpayers and citizens will receive real-time assistance from the experts and specialists of the Tax Administration without the need to be present at the service counters of taxpayers.

[Source: Instruction No. 3, dated 28 December 2016, issued by the Council of Ministers, Official Gazette No. 260, published on 9 January 2017; Notice No. 820, dated 20 January 2017, issued by the Ministry of Foreign Affairs, Official Gazette No. 13, published on 1 February 2017; Notice issued by the General Tax Directorate, published on 12 January 2017 at www.tatime.gov.al]

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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