

Tax News

January 2017

In this issue:

I. Normative Act of the Council of Ministers on social and health insurance contributions

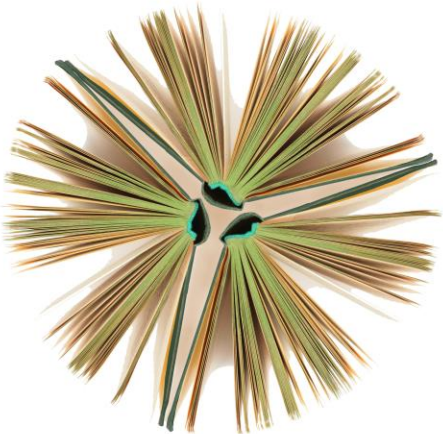
II. Decision of the Council of Ministers “On determining the operating procedures of the Commission for Assessment of Tax Appeals”

III. Additions and amendments to the Decision of the Council of Ministers “On the taxpayer’s advocate”

IV. Additions and amendments to the Decision of the Council of Ministers “On implementing provisions of the Law “On VAT””

V. Additions and amendments to the Instruction of the Minister of Finance “On tax procedures”

VI. Instructions of the Minister of Finance on implementation the Law no. 155/2015 “On gambling in the Republic of Albania”



I. Normative Act of the Council of Ministers on social and health insurance contributions

Following the Decision of the Constitutional Court no. 60/2016 (refer to our [Tax News of September 2016](#) and [Legal News of September 2016](#)) which repealed the base salaries for purposes of calculation of social and health insurance contributions for certain categories of taxpayers, the Council of Ministers has approved the Normative Act no. 1, dated 25.01.2017, published in the Official Gazette [no. 11, dated 27.01.2017](#) bringing certain changes to the law no. 9136/2003.

The Normative Act brings these important provisions:

- It abolishes the exemption from social and health contributions provided earlier for the self-employed retirees who receive a pension and at the same time perform on their own a professional activity;
- The base salary for the calculation of social and health insurance contributions for the category of self-employed and non-paid members of the family is provided to be the following.

For social insurance contributions:

- For self-employed: the gross salary, not less than the minimum allowed wage (currently ALL 22,000) and not higher than the maximum wage for social contribution purposes (currently ALL 97,030);
- For non-paid members of the family: the minimum allowed wage (currently ALL 22,000).

For health insurance contributions:

- For self-employed and non-paid members of the family: twice the minimum allowed (hence, currently ALL 44,000).

II. Decision of the Council of Ministers “On determining the operating procedures of the Commission for Assessment of Tax Appeals”

Law no. 112/2016 “On some additions and amendments to the Law no. 9920, date 10.05.2008 “On tax procedures in Republic of Albania”” (included in our [Special Tax News](#)) provided that a Decision of the Council of Ministers would further determine the composition, chairmanship, secretariat, substitution of members, their remuneration, as well as the procedures for evaluation and decision-taking over tax appeals. This Decision would also determine the threshold value object of tax appeals which should be reviewed by the Commission for Assessment of Tax Appeals (following referred to as CTA). For this reason the Council of Ministers approved Decision no. 11, dated 11.01.2017, published in the Official Gazette [no. 6, dated 24.01.2017](#), entered into force on 25.01.2017.

We have presented below the most important provisions of this Decision.

- CTA is composed of 7 members, of which 3 representatives of the Ministry of Finance, 2 representatives of the General Tax Directorate, the director of the Tax Appeal Directorate and 1 representative from the State Advocate. All members are appointed through an order of the Minister of Finance. Members are appointed for a mandate of 2 years with the right to be reappointed for up to 2 mandates. The Decision determines also the criteria to select candidates as members of CTA.
- CTA reviews all administrative tax appeals involving ‘values object of appeal’ over ALL 20,000,000. ‘Values object of appeal’ include tax liabilities re-assessed, tax credits reduced, tax losses reduced as well as tax reimbursement requests rejected – that are object of appeal.
- Administrative appeals are submitted to the Ministry of Finance and handled over by the Director of the Tax Appeal Directorate. The latter reviews within 3 days the ‘values object of appeal’ and forwards the case to CTA or keeps it for the Tax Appeal Directorate as the case may be. CTA reviews the administrative appeal within 30 days from the date of submission and notifies the decision to the concerned taxpayer and the respective Regional Tax Directorate within the deadlines settled by the Law “On tax procedures”.
- Meetings take place with the presence of at least 4 members. Decisions are taken during meetings with at least 4 equal votes.

- The secretariat of CTA has the obligation to notify the concerned taxpayer on the time and place of the meeting, through one of the forms provided by the Administrative Procedures Code. CTA has the obligation to hear the taxpayer or the taxpayer’s appointed representative during the meeting notified as above.

III. Additions and amendments to the Decision of the Council of Ministers “On the taxpayer’s advocate”

The Decision of Council of Ministers no. 10, dated 11.01.2017 “On some additions and amendments to the Decision no. 648, dated 28.07.2010 “On the taxpayer’s advocate” published in the Official Gazette [no. 3, dated 17.01.2017](#), has reflected the amendments introduced by the Law no. 112/2016 (included in our [Special Tax News](#)) which aims to increase the role of the Taxpayer’s Advocate to the tax appeal process, but not limited to it.

IV. Additions and amendments to the Decision of the Council of Ministers “On implementing provisions of the Law “On VAT””

The Decision of Council of Ministers no. 8, dated 11.01.2017 “On some additions and amendments to the Decision of Council of Ministers no. 953/2014 “On implementing provisions of the Law no. 92/2014 “On VAT”, published in the Official Gazette [no. 2, dated 16.01.2017](#), brings the two following main amendments:

The supply of buildings

Based on paragraph 2 of article 54 of the Law “On VAT”, the Decision has introduced the right of the taxpayer to exercise the option of considering the supply of a building or part thereof as a taxable supply at the standard rate of 20%.

This right does not apply to the supply of buildings or parts thereof where the buyer is an individual, nor to the supply of residential buildings or apartments.

These types of supply will continue to be considered as exempt supplies for VAT purposes.

In addition, the Decision details the procedure for exercising the right to opt for VAT taxability and the right to deduct the input VAT.

Investment contracts with a value over ALL 50 million

The Decision has determined the list of machineries and equipment which get exempted from VAT on import if imported for the implementation of investment contracts with a value over ALL 50 million. *(Previously, there was no exhaustive list of machineries and equipment which benefited from VAT exemption on import for the implementation of these contracts)*

V. Additions and amendments to the Instruction of the Minister of Finance “On tax procedures”

The Official Gazette [no. 4, dated 19 January 2017](#) published the Instruction of Minister of Finance no. 7, dated 10.01.2017 “On some additions and amendments on the Instruction no. 24, dated 02.09.2008 “On tax procedures in Republic of Albania” on the implementation on the Law no. 112/2016 (refer to our [Special Tax News](#) for further information related to the Law).

The provisions of this Instruction reflect the amendments brought by the above mentioned law. For convenience, below we have presented some of the most important provisions of this Instruction:

Secondary addresses

If a taxpayer carries out economic activity in various but interconnected premises/sites, the entirety of these premises/sites will be considered as a single business address for purposes of obtaining the tax identification number.

Vehicles designated for transportation of goods or passengers on behalf of the taxpayer or third parties, should be equipped with a specific identification document issued by the respective Regional Tax Directorate in all the cases as specified by the Instruction.

Whereas, vehicles used for door to door sales will continue to be considered as separate secondary business addresses.

Invoices accompanying goods

The instruction adds two specific cases for using the invoice accompanying good and the respective procedure:

- The case when a taxable person sells goods to another taxable person and the latter sells those goods to a final consumer, but the goods are delivered directly from the first seller to final consumer;
- The case of sale of goods a buyer-reseller and delivery of the goods to another taxable person, different from the buyer-reseller.

Computerized invoices

The request for approval of usage of computerized invoices is submitted to the Director of the General Tax Directorate, which should reply within 15 days. In each case, the entire procedure including the approval and the determination of the available serial numbers of invoices should not take longer than 30 calendar days from the submission of the request. *(Previously, the request for using computerized invoices was submitted to the competent Regional*

Tax Directorate, which had no deadline for forwarding the request to the General Director. Whereas, the latter had to reply within 30 calendar days from the date of receiving the request from the Regional Tax Directorate by either approving or refusing the request).

Certification of tax returns

The Instruction has detailed the procedure to apply in order to be included in the list of auditing companies that will be entitled to perform tax certification of tax returns.

VI. Instructions of the Minister of Finance on implementation the Law no. 155/2015 “On gambling in the Republic of Albania”

Based on the Law no. 155/2015, published in the Official Gazette no. 251, dated 20.01.2016 (included in our [Tax News of January 2016](#)), the Minister of Finance has approved the following Instructions, which were all published in the Official Gazette [no. 4, dated 19.01.2017](#) and entered into force on 20.01.2017:

- Instruction no. 1, dated 09.01.2017 “On determining the customs clearance procedures of gambling equipment and their spare parts, as well as the method of collaboration between the Gambling Monitoring Authority and the General Customs Directorate”
- Instruction no. 2, dated 09.01.2017 “On determining the procedures and the relevant documentation for obtaining approval by the Gambling Monitoring Authority for the sale, pledging, donation or any other methods of disposing of shares, assets, property or machineries of the gambling licensed organizer”
- Instruction no. 3, dated 09.01.2017 “On methods and deadlines for payment of the licensing fee for each gambling category”
- Instruction no. 4, dated 09.01.2017 “On determining the conditions and minimal standards that should be met by secondary addresses of betting companies”.
- Instruction no. 5 dated 09.01. 2017 “On the method of calculation of the distance of licensed gambling companies between each

other and between religious and educational institutions”

- Instruction no. 6, dated 09.01.2017 “On determining the deadlines and methods of payment of legal liabilities of gambling companies on account of the Gambling Monitoring Authority.

Deloitte Contacts

Olindo Shehu, CPA

Partner | Tax & Legal Services

Deloitte Albania sh.p.k

Rr. "Elbasanit", Pallati prane Fakultetit Gjeologji Miniera

Tirana | Albania

Mob: +355 68 60 33 116

E-mail: oshehu@deloitteCE.com

Disclaimer:

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL" or "Deloitte Global"), its network of member firms, and their related entities (collectively, the "Deloitte Network"). DTTL and each of its member firms are legally separate and independent entities. DTTL does not provide services to clients. Please see <http://www2.deloitte.com/al/about> information on your country site for a more detailed description of DTTL and its member firms.

Deloitte provides audit, tax, consulting, financial advisory and legal services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's approximately 225,000 professionals are committed to making an impact that matters.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.