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I. Court Decisions on tax matters

In light of the amendments to the Law no. 9920, dated 19.05.2008 "On tax procedures", the General Tax Directorate has started the publication in its official website of the final decisions of the Administrative Court of Appeal, Supreme Court and the Constitutional Court on tax matters. We have summarized below the topics addressed in the first 5 published decisions.

[Tax re-assessment carried out from the tax office, without performing a tax audit \(Decision no. 62, dated on 21.01.2015\)](#)

The Regional Tax Directorate of Korca has reassessed the Corporate Income Tax liability of a taxpayer based on the difference between the revenues presented in the financial statements submitted by the taxpayer (0 ALL) and the annual turnover resulting on the taxpayer's account in the tax system (16,862,576 ALL).

The turnover in the tax system was the result of a VAT re-assessment performed by the tax authorities at the end of a tax audit conducted earlier and covering a part of the same year. This re-assessment was subject to an on-going court appeal (initiated by the taxpayer) at the time of preparation of the financial statements. Therefore, the taxpayer considered the re-assessed turnover as "pending" (up to a binding court decision) and the CIT re-assessment carried out from the tax office as an act issued "in excess of the relevant powers".

The Administrative Court of Appeal ruled against the taxpayer, by considering the re-assessments as two separate and independent acts. It concluded that the CIT-re-assessment carried out by the Regional Tax Directorate of Korca is not a "re-audit" (as claimed by the taxpayer), but a regular and legitimate "re-assessment carried out from the tax office".



[Bankruptcy request for a taxpayer resulted with negative net equity for three consecutive years \(Decision no. 235, dated on 12.02.2015\)](#)

The Regional Tax Directorate of Shkodra has filed a request for initiation of bankruptcy procedures for a taxpayer that has resulted with a negative net equity for three consecutive years (2008, 2009 and 2010) and has been in a constant state of insolvency.

Shkodra District Court accepted such request, based on the Law no. 9920, dated 20.05.2008 "On tax procedures" and the Law no. 8901, dated 23.05.2002 "On bankruptcy", by appointing a bankruptcy administrator and determining the dates and procedures for the process.

[Applicability of tax amnesty \(Decision no. 91, dated on 17.02.2015\)](#)

A taxpayer has been subject to a penalty for late filing of the Personal Income Tax Declaration (with zero liability for payment) for three months (June 2009, September 2009 and March 2010). The taxpayer has claimed that the respective penalty amounting to 30,000 ALL should have been subject to the tax amnesty granted by the provisions of Law no. 10 418, dated on 21.04.2011 "On capital legalization and amnesty on one part of the tax and customs liabilities". According to it, the amnesty was approved only upon request by taxpayers submitted within 31.12.2011 and related to tax liabilities assessed by tax authorities within 31.12.2010.

The Administrative District Court of Korca ruled against the claim of the taxpayer, considering that the penalties concerned were not registered in the tax informatics system of the tax authorities before 31.12.2010 and the amnesty was not claimed by the taxpayer within 31.12.2011.

[Penalties for non-installation of electronic cash register \(Decision no. 393, dated on 03.03.2015\)](#)

The Regional Tax Directorate of Berat has imposed to a taxpayer a penalty amounting to 100,000 ALL due to the non-installation of the electronic cash register (in 2010).

Based on the Law no. 9920, dated 19.05.2008 "On tax procedures" (as of 2010), the tax authorities should grant a 10 business days period before applying the penalty when identifying for the first time the non-installation of the electronic cash register at the taxpayer.

The Administrative Court of Appeal ruled in favor of the taxpayer by emphasizing the non-compliance of the tax authorities with the condition of granting the 10 business day's period before applying a penalty.

[Application of the amendments to a law before their entry into force \(Decision no. 1399, dated on 18.03.2015\)](#)

A taxpayer, with an annual turnover lower than 2 million ALL, registered for Simplified Corporate Income Tax, has

been subject of a penalty of 50,000 ALL for not providing to the tax authorities information on the financial statements for 2013. The taxpayer has claimed that he was not liable to submit financial statements for 2013, in line with the provisions in force at the time of the Instruction no. 32, dated on 31.12.2013 "On simplified corporate income tax".

The Administrative District Court of Tirana ruled in favor of the taxpayer by emphasizing that the period under assessment by the tax authorities (year ending 31.12.2013) was earlier than the time of entry into force of the amendments to this Instruction, according to which taxpayers with an annual turnover between 0 and 2 million ALL are also required to submit financial statements with the tax authorities.

[II. New Framework Agreement between Albania and the European Commission under the Instrument for Pre-Accession \(IPA II\).](#)

The new Framework Agreement under IPA II has been approved by Law no. 37/2015, dated 09.04.2015, published in the Official Gazette no. 66, dated 30.04.2015. IPA II (2014-2020) aims to support local projects which address strategic priorities in areas such as democracy and governance, rule of law, growth and competitiveness.

Based on article 28 of this Framework Agreement, all imports carried out for purposes of implementing an IPA II funded project, shall be exempt from VAT and any other applicable custom duty, including excise tax. The Framework Agreement recognises the right to contractors in charge of implementing an IPA II funded project, as well as their sub-contractors, to invoice the value of the works/services to the beneficiary party without charging VAT, by applying the *ex-ante* exemption. However, it also provides that in case this mechanism is not technically and/or practically feasible, the procedures for VAT refund shall be put into effect (which is in line with the provisions of Law no. 92/2014, dated 24.07.2014 "On VAT" and the related Instruction no. 6, dated 30.01.2015).

[III. Amendment to Instruction no. 16, dated on 03.05.2010 "On the administration and documentation of the procedures concerning electronic cash registers"](#)

Petrol stations in Albania will not be able to carry out their economic activity in case of any default of their integrated electronic cash register. Before this amendment, petrol stations could conduct sales in such cases for a maximum of 72 hours without issuing the electronic coupons.

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