

## Tax News

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### **I. Amendments to Law no. 9920, dated 20.05.2008 “On tax procedures”**

The changes brought by Law no. 99/2015, dated 23.09.2015, published in the Official Gazette no. 187, dated 28.10.2015, and entering into force on 12.11.2015, aim to strengthen the legal provisions against fiscal informality.

#### **‘Tax certification’ of financial statements and tax declarations**

This amendment introduces the concept of ‘tax certification’. Taxpayers will have the possibility to engage certain authorized audit companies to certify their ‘financial statements and tax declarations’ as ‘in compliance with the fiscal legislation’. The fact that a taxpayer has opted and obtained such ‘tax certification’, will be taken into account by the tax administration in the risk assessment and analysis it performs when selecting taxpayers for tax audit.

In case a tax audit reassesses the tax liabilities of a taxpayer related to a period ‘certified by an audit company as in compliance with the tax legislation’:

- the taxpayer will be subject to the full amount of the additional tax liabilities (and related interest and penalties), whereas
- the audit company will be subject to a penalty amounting equally to those tax liabilities.

The relevant procedures, criteria and list of authorized audit companies are expected to be determined by an Instruction of the Minister of Finance.

### Interest on late payment of CIT instalments

Prepayment instalments of corporate income tax or simplified profit tax on small businesses will be subject to fixed penalties of 15% in case of failure to pay within the respective deadlines.

### Non-declaration of employees and of factual salaries

Taxpayers will be subject to a penalty of 500,000 ALL in case of verification by the tax audit of one of the following situations:

- Non-declaration of new employees at least 1 calendar day before they join, and
- Non-declaration of the full real remuneration of employees.

Such fixed penalty will be imposed in addition to the relevant tax liabilities, interest and penalties calculated as of the deemed date of commencement of employment.

A taxpayer that is found to repeat the same type of non-declaration, after having been subject to a penalty as above, will be considered to commit tax evasion. In such case, the tax administration will preserve the right to charge the taxpayer with criminal offence.

### Goods not accompanied by tax documents

A wholesaler that maintains, utilizes, or transports goods not accompanied by tax documents will be subject to:

- A fixed penalty at the amount of 10,000,000 ALL,
- Seizure of the goods, and
- Re-assessment of revenues for the last 6-months period.

Upon request of the taxpayer, the measure of seizure of the goods can be substituted with the immediate payment of a penalty equal to the market value of the same goods.

In case the taxpayer has been once subject to such penalties, any repeated case will be considered to be tax evasion. In that case, the tax administration will preserve the right to charge the taxpayer with criminal offence.

As an exemption, taxpayers that willingly self-declare the goods without tax documents that they have in stock, by issuing an 'invoice issued by the buyer' within 31.12.2015 (and before such non-compliance is identified by a tax inspection), will not be subject to any of the above. The procedures of self-declaration will be provided by an Instruction of the Minister of Finance.

### Secondary addresses

Taxpayers that will be found to conduct activity in non-declared addresses (for which there are no updates of

information registered with the National Registration Center), but maintain, utilize or transport goods accompanied by regular tax documents, will be subject to a penalty of 500,000 ALL.

### Restriction of sales to end-customers by wholesalers

Until 31.03.2016, wholesalers are allowed to sell goods with regular fiscal coupons to individuals (non-businesses), by not exceeding 10% of the taxable amount (excluding VAT) of goods sold during the same month in the previous year. Starting from 01.04.2016, wholesalers will no longer be allowed to sell to individuals.

Until 31.03.2016, for sales to individuals in excess of the 'monthly 10% limitation' as outlined above, wholesalers will be subject to a VAT re-assessment, based on the VAT that corresponds to the retail prices of the goods sold. Furthermore, they will be subject to a penalty of 100% the amount of VAT.

Starting from 01.04.2016, wholesalers that will be found to sell to end-customers will be subject to penalties amounting to 100% of the VAT.

### Electronic cash registers, fiscal coupons, fiscal invoices, lists of prices

Several amendments have been introduced to strengthen the provisions against tax evasion and tax avoidance in industries and types of economic activities where it is mandatory for taxpayers to install electronic cash registers and issue fiscal coupons.

- It is forbidden to keep or use fiscal equipment or sales monitoring systems which differ from the electronic cash registers as determined by the law and its sub-legal acts. Maintenance or usage of such non-compliant equipment or systems will be penalized with seizure of the goods in stock. Furthermore, in that case, the tax administration will preserve the right to charge the taxpayer with criminal offence.
- Every individual or business is entitled to refuse payment if the seller does not issue the fiscal invoice or the fiscal coupon, as requested by the law. On the other hand, all taxpayers are obliged to post a notification in a visible place in the location/address where they carry out their activity, to inform buyers on their right to refuse payment for the goods or services being purchased, in case the taxpayer does not issue the fiscal invoice or the fiscal coupon as

required. Failure to post such notification in a visible place is subject to a penalty of 500,000 ALL.

- Failure to issue a fiscal invoice or a fiscal coupon will be subject to a penalty of 100% the amount of the underlying non-declared or unpaid tax liabilities (in addition to the same tax liabilities and any related interest).
- In addition to the penalty above, (a) failure by all types of taxpayers to issue fiscal coupons, and (b) failure by wholesalers to issue fiscal invoices, will be subject also to a fixed penalty of respectively (a) 500,000 ALL and (b) 10,000,000 ALL, as well as to re-assessment of revenues for the last 6-months period. The repeated cases of failure will be considered as tax evasion and will give the right to the tax administration to charge the taxpayers with criminal offence.
- Failure to make available the list of prices of goods and services in a visible place in the location/address where the activity is carried out will be subject to a penalty of 500,000 ALL.

#### **Correction of tax declarations deliberately filed incorrectly**

For taxpayers that willingly declare and correct a tax declaration which they have deliberately filed incorrectly, and pay all related tax liabilities, interest and penalties, the tax administration will not file criminal charges. Taxpayers will benefit from this provision if the committed breach has not yet been identified by the tax administration.

#### **Cancellation of certain liabilities accrued due to the new IT system**

Due to the implementation of the new IT system, certain taxpayers have been erroneously charged with obligations for taxes to which they were not liable. Penalties and interest accrued in the e-tax system until 31.08.2015 for this reason will be cancelled.

#### **Forced collection of taxes**

As part of the procedures of forced collection of taxes, the tax administration is entitled to engage personnel to verify and monitor the business of the taxpayer (at its premises) in order to seize, at the end of each day, an amount not less than 50% of the turnover realized for that day, for the purposes of settling the concerned tax liabilities.

Transfers of money from the taxpayer account, as well as any transfer of the taxpayer's assets or capital, will be prohibited unless those payments aim to pay the outstanding tax liabilities.

Along with other procedures for forced collection of taxes, the tax administration may request to a third party who owes liabilities/trade payables to the concerned taxpayer, to pay such liabilities directly to the tax administration (instead of to the concerned taxpayer) within 30 calendar days of such request.

#### **Database of IMEI numbers of mobile phones**

Upon publication of a Decision of the Council of Ministers, the General Tax Directorate will establish a database for the IMEI numbers of mobile phones. Mobile phone importers and sellers should declare and upload the IMEI numbers of all the mobile phones they have in stock 1 month after entry into force of such expected Decision and of all the mobile phones subsequently imported/bought and released for sale.

Failure to upload or an incorrect upload of IMEI numbers will be subject to a penalty of 30,000 ALL for each case.

#### **Local tax liabilities for taxpayers conducting activity through intermediaries**

Taxpayers that carry out their activities through intermediaries (which, on their turn, conduct intermediary as well as independent activities in their own addresses), will not be liable to local taxes on the intermediaries' addresses, as long as the intermediaries pay the local taxes applicable on their registered addresses.

#### **Conflict of interest**

Officials of the central and local tax administration will be prohibited to have accounting or fiscal consultancy firms under their or their family members' ownership. In case of conflicts of interest, the officials will be dismissed and will have no right of further employment with the tax administration.

#### **II. Amendments to Instruction no. 24, dated 02.09.2008 "On tax procedures"**

Instruction of the Minister of Finance no. 14/2, dated 08.10.2015, published in the Official Gazette no. 181, dated 16.10.2015, and entering into force on the same date:

- Updates the formats of (1) 'Notification of non-acceptance of the request for VAT reimbursement', (2) 'Notification of acceptance of the request for VAT

reimbursement', and (3) 'Notification of approval of VAT reimbursement' to reflect the new procedures of reimbursement (as announced in our [August Tax News](#)), and

- Introduces two new additional forms: (4) 'Payment order for the treasury' and (5) 'Notification of refusal of VAT reimbursement'.

### **III. Amendments to Decision of the Council of Ministers no. 953, dated 29.12.2014 "On the implementing provisions of the Law on VAT"**

Decision of the Council of Ministers no. 841, dated 14.10.2015, published in the Official Gazette no. 183, dated 21.10.2015, and entering into force on that same date, introduces an additional procedure for obtaining the exemption from VAT on import for machineries and equipment directly related to investment. The taxpayer should enclose a declaration by explicitly stating that the concerned machinery or equipment are not being imported for sale purposes.

This requirement is applicable only to the categories of importers set forth under the paragraphs 4.1, 4.2, 4.3 and 4.4 of the Decision of the Council of Ministers no. 953, dated 29.12.2014 "On the implementing provisions of the Law on VAT".

### **IV. Restatement of the Instruction no. 23, dated 07.09.2015 on the compensation of agriculture producers for purposes of VAT**

Instruction no. 26, dated 26.10.2015, published in the Official Gazette no. 188, dated 29.10.2015, and entering into force on that same date, amends the Instruction no. 19, dated 03.11.2014 "On the implementation of the special regime for the compensation scheme of agriculture producers for purposes of VAT".

The taxable persons purchasing agricultural products, shall no longer be entitled to deduct the compensated VAT of 20% presented in the 'invoice from the buyer' that they issue based on the provisions of this Instruction, in case they will not be able to provide evidences that the invoice has been settled via a bank payment from their account to the farmers' bank account or via Albanian national post mail (Posta Shqiptare Sh.A) payments service.

### **V. New National Accounting Standard on Non-for-Profit Organizations**

The Order of the Minister of Finance no. 62, dated 17.09.2015, published in the Official Gazette no. 171, dated on 01.10.2015, introduces a new National Accounting Standard (NAS) dedicated to Non-for-Profit Organizations. This new NAS will be effective starting from 01.01.2016.

The text of this new NAS and the templates of financial statements required to be prepared by Non-for-Profit Organizations are available in the website of the National Accounting Council ([click here](#)).

The new NAS will be applicable to foundations, associations, centres, political parties, religious institutions, syndications and other organizations operating under the status of 'Non-for-Profit Organizations'.

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