

## Kosovo Tax Alert

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August 2015

### I. **Notice for Publicly Owned Enterprises – Taxable amount for VAT supplies**

The Tax Administration of Kosovo (TAK) recently published a notice for publicly owned enterprises in respect of the taxable amount of their VAT supplies.

This notice was issued to all publicly owned enterprises that have reached an agreement with TAK to declare and pay VAT on a cash collection basis to inform them that they *can no longer apply this method of accounting for VAT if 18 months have passed since such agreement was reached.*

Because Administrative Instruction 15/2010 does not foresee any extensions for such agreements, all publicly-owned enterprises whose agreements with TAK have exceeded the maximum duration of 18 months *must now declare and pay VAT in accordance with the provisions of Law 03/L-146 on VAT.*

Publicly owned enterprises whose agreement with TAK has not passed 18 months from the date the agreement was reached can continue to apply this method of calculating output VAT until such agreement expires.

For publicly owned enterprises that did not exercise this right as provided under Public Explanatory Decision 2/2013 can approach TAK to establish such an agreement and declare and pay VAT on a cash collection basis.

### II. **Public Explanatory Decision No. 1/2015 on Indirect Audit Methods**

The purpose of this Public Explanatory Decision is to provide a better understanding of the indirect audit methods applied by tax authorities. Indirect audit methods use information which is obtained from sources beyond the tax

declarations, books, and data provided by taxpayers, in order to analyze and correctly assess the amount of tax liabilities. The indirect audit methods are specifically used in cases of suspected under-declaration of income, overestimation of expenses, or in situations where the taxpayer did not file tax declarations.

Paragraph 3 of Article 30 of the Administrative Instruction No. 15/2010 uses the phrase “*in the absence of proper books and records*” to address the circumstances where indirect audit methods are applicable. This Public Explanatory Decision further expands on the notion of “absence”, stating that in this situation *absence does not constitute solely the cases where there are no books*. “Absence of proper books and records” is also applicable in cases where the books and records are not done in a proper/regular manner, as well as where books and records are incomplete or unreliable.

This Public Explanatory Decision also places emphasis on other circumstances where the use of indirect audit methods is applicable. In addition to situations where tax declarations are incorrectly filed or not filed at all, the abovementioned methods can be applied when the tax authorities believe that the declarations do not reflect the correct amount of liability of a taxpayer. This implies that although tax declarations could be properly completed and filed, where suspicion arises of incorrect tax evaluation, the indirect audit methods can be applied by TAK.

The decision to apply an indirect audit method in a given case will be made with the purpose of assessing the correct tax liability of the taxpayer. This would normally depend on the nature of the business and the relevant facts and circumstances. Finally, tax authorities stress the importance of proper documentation and timely presentation of information in facilitating this process.

### III. Double Taxation Treaty between Kosovo and United Kingdom

On June 4<sup>th</sup> 2015, the Republic of Kosovo and the United Kingdom of Great Britain and Northern Ireland signed a double taxation treaty. This treaty is foreseen to enter into force upon completion of each country’s respective

Parliamentary procedures and exchange of diplomatic notes.

Under this agreement, withholding tax on cross-border dividends is reduced to zero, with the exception when beneficiaries of dividends are pension schemes and dividends derive from immovable property by an investment enterprise that distributes it annually and whose income from such immovable property is tax-exempt. In the abovementioned case, a 15% withholding tax may apply. This agreement also provides for a zero rate of withholding tax on interest and royalties.

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