

Tax & Legal News

January 2015

In this issue:

I. Amendments to the Law on Tax Procedures no. 9920, dated on 19.05.2008

II. Amendments to the Law on Income Tax no. 8438, dated on 28.12.1998

III. Amendments to the Law on National Taxes no. 9975 dated on 28.07.2008

IV. Amendments to the Law on Excise Taxes no. 61/2012, dated on 28.07.2008

V. Amendments to the Law on the Level of Customs Duties no. 9981, dated on 08.09.2008

Presented below are some of the most important amendments brought by the Fiscal Package of 2015, published in the Official Gazette no. 195, dated 24.12.2014 and no. 198, dated 30.12.2014. All of these amendments are effective as of 01.01.2015.

I. Amendments to the Law on Tax Procedures no. 9920, dated on 19.05.2008

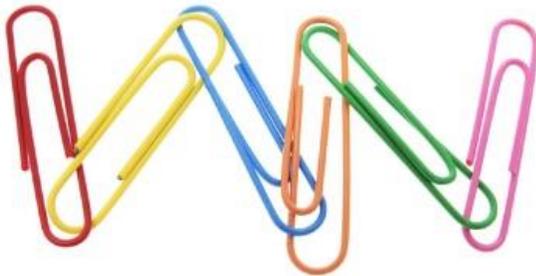
Basis for alternative assessment methods

In addition to the methods provided under article 72 as basis for alternative assessment methods by tax authorities, the following sources will be also utilized:

- Indirect data on market prices of similar goods and services and reference rent prices determined by decision of the Council of Ministers.
- Information on import prices at the disposal of the General Customs Directorate and on retail prices available to the General Tax Directorate.

Penalties

- Failure to pay on time the correct amount of the tax liability or contribution will be subject of a penalty equal to 0.06% of the unpaid amount per each day of delay, up to a maximum of 365 days (equal to 21.9% of the unpaid liability). Before the amendment, this penalty amounted to 5% of the unpaid liability for each month or part of month in delay, up to a maximum of 25%.
- The same penalties i.e. 0.06% per each day of delay, up to a maximum of 365 days, applies also to incorrect filings resulting in unpaid or over-credited amounts of taxes and contributions.
- Incorrect application of the reverse-charge mechanism by the Albanian beneficiary or non-application of the reverse-charge mechanism by the



Albanian beneficiary, liable to pay VAT on services from non-residents (based on the rules of the new VAT Law), will be subject to the following penalties:

- A penalty of ALL 50,000 when the taxpayer has failed to issue a reverse-charge invoice as required by the new Law On VAT, but such failure has not affected the VAT liability;
 - A penalty amounting to 100% of the VAT liability when the taxpayer has failed to issue a reverse-charge invoice as required by the new Law On VAT, and such failure has affected the VAT liability;
 - A penalty amounting to 50% of the unpaid amount or incorrectly claimed tax when the reverse-charge invoice is not issued in line with the requirements of the new Law On VAT;
 - A penalty equal to 0.06% per day of the unpaid amount of VAT for a period up to 365 calendar days when the taxpayer has issued the reverse-charge invoice but has failed to declare it by affecting the VAT liability.
- Taxpayers not registered for VAT and CIT will be subject to a penalty of ALL 50,000 for the non-declaration of employees.

Tax appeal

- The period of time for the Tax Appeal Directorate (under the General Tax Directorate) to issue a decision in response to a tax appeal is reduced from 90 days to 60 days.
- Taxpayers willing to appeal a notice of assessment by using a bank guarantee for the amount of tax liabilities and interest, should provide a guarantee with a validity period of a minimum of 6 months and in any case not shorter than the period until the decision has become final/enforceable.
- The General Tax Directorate should publish in its official website the final decisions of the Administrative Court of Appeal, Supreme Court and the Constitutional Court on tax matters.

Tax refund

- The right of the taxpayers to request the refund of a tax credit balance is limited to within 5 years after the respective tax return has been filed (same as the 'statute of limitation' for the right of re-assessment by the tax authorities).
- If a taxpayer with VAT credit balance (and meeting the conditions for refund) requests to the Regional Tax Directorate the VAT refund, the latter is obliged to verify the tax situation and approve the amount of refund within 30 days for exporters and 60 days for all other taxpayers. When necessary (based on the

risk analysis), the Regional Tax Directorate may conduct a tax audit at the taxpayer's premises. Once the amount of refund is approved, the state budget should disburse in cash the approved balance to the taxpayer within 5 days. Otherwise, the taxpayer has the right to not pay other tax liabilities up to the amount pending for refund.

Fiscal evasion

The definition of 'fiscal evasion' has been extended to include also the concealment or avoidance of tax liabilities by not submitting tax declarations or not declaring the necessary information. The following infringements have been designated as consisting in fiscal evasion (and being therefore subject to penalties of 100% of the tax liabilities implied, in addition to other administrative penalties):

- The recurrent non-declaration of the employees at least one day before the start of employment;
- Maintenance, utilization and transportation of goods by non-registered persons;
- Non-installation of the electronic cash register or non-issuance of fiscal coupons.

In these cases, the Tax Administration preserves the right to charge the taxpayer with criminal offence.

Tax Passive Registry

- The Tax Administration is expected to publish and keep updated in its official website the list of taxpayers transferred into the Tax Passive Registry.
- Transactions entered into by taxpayers included in the Tax Passive Registry will be subject to administrative penalties.
- The Tax Administration has the right to file at the Administrative Court a claim for bankruptcy for taxpayers included in the Tax Passive Registry for more than 3 consecutive years.



II. Amendments to the Law on Income Tax no. 8438, dated on 28.12.1998

Individual taxation

- Personal Income Tax on all types of income has increased from 10% to 15% (excluding Personal Income Tax on Employment Income, subject to the existing progressive rate);
- Personal Income Tax on capital gains from transfer of ownership of immovable properties has increased from 10% to 15%;
- Voluntary contributions by a member of a pension fund (including the contributions made by the employer on his favor) up to the limits set forth by the Law no. 10197 On Voluntary Pension Funds, dated 10.12.2009, will be considered as a non-taxable revenue for purposes of Personal Income Tax. In this respect, returns from investment on a pension fund's assets (including capital gains) will be considered as non-taxable as well.
- The following expenses are no longer considered as deductible for purposes of Personal Income Tax:
 - Real Estate tax,
 - Expenses for voluntary contribution to a pension fund,
 - Voluntary health and life insurance expenses;
- The format of the Annual Individual Income Declaration is expected to be amended to reflect the new rate of 15% on all types of income (excluding employment income), the updated deductible expenses allowed, the right of credit of income tax paid abroad by a resident, etc.

Corporate taxation

- Within the first 4 months of 2015, the Ministry of Finance is expected to publish the levels of field losses, scraps and damages during production, storage and transportation that will be considered as deductible for Corporate Income Tax purposes.
- If the net book value of a fixed asset, at the beginning of a year, is lower than 3% of the historic cost (for assets depreciated at 5% on net book value) or 10% of the historic cost (for assets depreciated at 20% or 25% of the net book value), the net book value will be entirely expensed in that year as deductible expense for Corporate Income Tax purposes.
- Voluntary contributions to pension funds made by the employer in favor of his employees will be considered as deductible expenses for purposes of Corporate Income Tax up to the limits set forth by

Law no. 10197 On Voluntary Pension Funds, dated 10.12.2009.

- Voluntary pension funds, administered by a company licensed for that purpose by the Financial Supervisory Authority, will be exempt from Corporate Income Tax.

Withholding tax

- The withholding tax for payments to non-resident persons and not-registered individuals has increased from 10% to 15% of the gross payments.

III. Amendments to the Law on National Taxes no. 9975 dated on 28.07.2008

- There has been introduced a new tax on premiums, amounting to 3% of the premium, collectable by insurance companies licensed by the Financial Supervisory Authority. It is not applied on premiums for life insurance, health insurance on travel and international vehicle insurance
- The circulation tax on petrol and diesel, imported or domestically produced, has increased from 17 ALL/liter to 27 ALL/liter.
- Royalty tax for the metallic content of the mineral by-products will be equal to 2/3 of the rates in force as provided in Annex no. 2 of the Law.
- Fishing vessels will be exempt from circulation tax and carbon tax.

IV. Amendments to the Law on Excise Taxes no. 61/2012, dated on 28.07.2008

- There has been introduced a new definition of the energy drinks and the excise tax on them is set at 30 ALL/liter;
- The amendment includes an Annex with updated excise tax rates for all products subject to it.

V. Amendments to the Law on the Level of Customs Duties no. 9981, dated on 08.09.2008

- The level of customs duties for certain items, particularly for certain types of livestock, has been reduced to 0%.

Deloitte Contacts

Olindo Shehu, CPA

Partner | International Tax Services

Deloitte Albania sh.p.k

Rr. "Elbasanit", Pall. prane Fakultetit Gjeologji Miniera

Tirana | Albania

Mob: +355 68 60 33 116

E-mail: oshehu@deloitteCE.com



Disclaimer:

This publication contains general information only, and none of Deloitte Touché Tohmatsu Limited, any of its member firms or any of the foregoing's affiliates (collectively the "Deloitte Network") are, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services.

This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your finances or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

Deloitte refers to one or more of Deloitte Touché Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/al/about for a detailed description of the legal structure of Deloitte Touché Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and deep local expertise to help clients succeed wherever they operate. Deloitte's approximately 182,000 professionals are committed to becoming the standard of excellence.

© 2015 Deloitte Albania sh.p.k