

# Newsletter

## February 2019



- **New minimum national wage starting from 1st january.**
- **On the Certification of Management Systems for Information and Personal Data Security and Protection**
- **Activities Of Software Production And Development For Which Will Be Applied A Reduced Tax Rate Of 5% On Corporate Income Tax**
- **Law 100/2018 For an Amendment to Law No. 7764 dated 2.11.1993 "On Foreign Investments"**
- **"Strengthening of the energy market in pursuance with the Strategic Plan for Reforming the Energy Sector in Albania"**

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## New minimum national wage starting from 1<sup>st</sup> january.

Upon Decision dated 26 December 2018, the Council of Ministers decided to increase the minimum monthly wage to Leke 26,000 (from Leke 24,000), effective as of 1 January 2019.

As a result of this decision, the amount of social contributions payable by both employee and employer will be increased.

The minimum monthly base salary is paid for 174 working hours per month, carried out during normal working hours.



The minimum hourly basic salary is 149 (one hundred forty-nine) ALL.

## On the Certification of Management Systems for Information and Personal Data Security and Protection

On 3<sup>rd</sup> of December 2018, the Parliament passed the so-called "2019 Fiscal Package".

The new laws are now published in the Official Gazette and entered into force on 1st January 2019, except for the law no. 95/2018 amending Law no. 9632/2006 "On

Local Tax System" which will enter into force on 12<sup>th</sup> January 2019.

*Below you will find a summary of the most important amendments introduced by the new Fiscal Package:*

- **Reduction of tax on dividend**

The tax on dividends and profit sharing has been reduced to 8% (from 15%).

The reduced 8% rate shall also apply for dividends distributed from retained earnings generated during the year 2018 and earlier, provided that the tax on dividend deriving from the profit generated in the year 2017 and previous years is paid within 30 September 2019, while the tax on dividend from the profit generated on year 2018 is paid within 20 August 2019.

- **Reduction of income tax on employment related income**

Under the amended provision, the tax rate of 23% shall be applied on the new limit of Leke 150,000. As a result, monthly wages from Leke 30,001 to Leke 150,000 shall be subject to a tax equal to 13% of the amount over Leke 30,000.

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Monthly wages from Leke 150,001 and above shall be now subject to a tax equal to the amount of Leke 15,600 plus 23% of the amount over Leke 150,000.

Monthly wages up to Leke 30,000 remain exempted from tax.

• ***New item of non-deductible expense***

“Per diem expenses that exceed 50% of the amount of annual gross wages’ expenditure of the taxpayer” is added to the list of non-deductible expenses for profit tax purposes.

• ***Registration of a non-resident for profit tax purposes***

It is now possible for a non-resident person to be registered for profit tax in Albania and file a profit tax return, enabling him to declare and pay tax in Albania. A forthcoming instruction of the Minister of Finance will determine the form and content of the said tax return. The tax return shall be filed by 31st of March of next year.

The tax is due by the same date. The non-resident person shall not be required to make any tax prepayments.

• ***Taxation of capital gains***

a) Legal entities whose ownership changes by more than 20%

Capital gains become taxable when the following conditions are met:

- there is a change of ownership of the share capital or voting rights held in a legal entity, either directly or indirectly, by more than 20%; and
- such legal entity has generated an average annual turnover in the previous three years of Leke 500 million.

Taxation of capital gains under such conditions is applicable irrespective of whether the shares’ value derives directly or indirectly from immovable property or

rights of exploiting natural resources situated in Albania, or not.

The legal entity must submit a written notification to tax authorities within 45 days from the transfer of ownership. Payment of the capital gain tax is performed by the legal entity, which for this purpose is deemed to have sold a proportional part (equal to the amount of transfer of ownership in shares or voting rights) of all its assets immediately before the transfer.

Such legal entity shall be considered as beneficiary of the income from sale of assets (proportionally with the market value of the assets), and as buyer of those assets at the same value.

When the tax on capital gain is paid by the legal entity as per the above rules, the shareholder or holder of voting rights subject to transfer, is exempted from profit tax in Albania.



Failure to comply with the above procedures is subject to a fine equal to 15% of the market value of the assets deemed as transferred.

b) Taxation of capital gains occurring from change of ownership by more than 10% of shares, whose value derives from immovable property situated in Albania.

Under the new provisions, a notification is to be made in case of change of ownership of the share capital of a legal entity, either directly or indirectly, by more than 10%, provided that more than 50 per cent of the value of such shares, at any time for 365



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days preceding the transfer, derives directly or indirectly from the immovable property, or the rights of exploitation of natural resources, which are situated in Albania.

The legal entity must submit the notification to the tax authorities within 45 days from the said transfer.



The tax on capital gains in such cases shall be declared and paid by the transferor, by filing a profit tax return as a non-resident person.

Failure to comply with the above procedures is subject to a fine equal to 5% of the market value of the shares/similar interest transferred.

### • **Income Tax Law (law no. 8438/1998 "On Income Tax")**

Additional income shall be included in the list of Albanian source income, becoming as such subject to taxation in Albania:

- a) income from immovable properties, their accessories and civil fruits, as well as the income deriving from the rights on immovable properties situated in the Republic of Albania;
- b) income from exercising of rights for exploitation of minerals, hydrocarbons or other natural resources within the territorial sovereignty of the Republic of Albania;
- c) income from alienation of property and

rights stated above;

d) income from alienation of shares or similar interest, such as interests in partnerships or trusts, regardless of the place of registration, in case, at any time during a period 365 days preceding the alienation, more than 50 per cent of the value of these shares or similar interest derives directly or indirectly from the immovable property or the rights as mentioned herein above.

e) income generated by a non-resident person from services rendered to an Albanian tax resident (irrespective of the territory where the services are performed).

### • **Excise Tax Law (law no. 61/2012 "On Excise Tax")**

Excise Tax shall be applied also for following goods:

- bituminous gravel at the rate of 0.3 Leke/kg;
- heated tobacco at the rate of 6,000 Leke/kg.



The excise tax for energy drinks (previously at the rate of Leke 30/liter) has been removed.

The amendments provide also for the increase of the excise tax rate to 6,000 Leke/kg for cigars and cigarillos that contain tobacco or tobacco substitutes (except if manufactured with tobacco cultivated in Albania).

Excise tax for cigarettes has been increased to 6,000 Leke per 1,000 pieces.

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• **Value Added Tax (Law no. 92/2014 "On Value Added Tax")**

The new fiscal package has introduced a reduced Value Added Tax rate for the following supplies:

- provision of advertising services from audiovisual media is reduced to 6%;
- supply of electric buses for public transport is reduced to 6% until 31.12.2021, and thereafter it will be increased to 10%;
- supply of books of any type is reduced to 6%.

• **National Taxes (Law no. 9975/2008 "On National Taxes")**

Changes have been introduced also to the national tax systems.

The tax on plastic packaging will be substituted with a tax on plastic materials (levied upon certain goods as set out in the law). In addition, the royalty tax on chromium is increased at 7% for the year 2019, 8% for the year 2020 and 9% in the following years.

The royalty tax payable for local supplies of metallic minerals shall be lower than the royalty tax payable in case the same minerals are exported.

• **Local Taxes (Law no. 9632/2006 "On Local Tax System")**

The new amendments intends to clarify the application of the tax on infrastructure from new constructions and the advertisement/billboard tax. In addition, under the amending law, the tax on infrastructure from new constructions is reduced and becomes subject to 0% up to 3% of the investment value for new residential buildings in the mountain regions (the boundaries of the specific region to be defined by the respective municipality council). The new law will become on 12 January 2019.

Also further amendments are [done in the](#)



Tax Procedures Law, please find here below listed some of them:

- It clarifies that a unique business registration number shall be issued for each taxpayer registered as sole entrepreneurs ("person fizik tregtar"). If such person conducts business in more than one location, the Commercial Register will issue to this person a business registration certificate for the secondary addresses with the same business number.
- Suspension of business activity shall be accepted by the Register only if the applicant has no outstanding tax obligations. If there is any existing obligation, the application is rejected.
- Specific penalties for the taxpayers who enter into transactions with dormant taxpayers shall be applied.

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# Activities Of Software Production And Development For Which Will Be Applied A Reduced Tax Rate Of 5% On Corporate Income Tax

The Council of Ministers has approved the Decision No. 730, dated 12.12.2018, "On the definition of activities involved in software production / development, as well as the procedures for applying the Corporate Income Tax for this legal entities".

The Decision has entered into force since the moment of its publication in the Official Journal on 13 December 2018.



**According to this decision, legal entities (here in after referred to as Companies) performing activities in the area of production and development of software should explicitly define in their Articles of Association, specifically in the company object, one of the following activities in order to profit the tax rate of 5 % on the Corporate Income tax:**

- Software design
- Development and maintenance of software systems
- Testing of software
- Design and development of communication systems
- Design and development of security systems
- Development of migration systems
- Upgrading / Updating IT Systems
- Operation, management, usage support and technical / IT audit for software systems.

*(The list above is general, if you need more specific information, please contact one of our office attorneys).*



For any other activity other than those listed above, in order to profit from the reduced tax rate, the companies should register them under another new NIPT. Also, these companies should submit to the relevant Regional Tax Directory a statement stating the activity / activities to which will be applied this tax rate.

The reduced Corporate Income Tax rate is applied only to the activities listed above, while for any other economic activity in the field of information technology, such as electronic commerce, etc., are not subject of the reduced Corporate Income Tax.

Albana Fona

## Law 100/2018 For an Amendment to Law No. 7764 dated 2.11.1993 "On Foreign Investments"

In 2010, the Albanian Parliament adopted some additions and amendments to the law no.7764, dated 02.11.1993, in order to provide a special protection for foreign investors who were planning to invest within the Albanian territory, specifically in public infrastructure, tourism, energy or agriculture areas.



The latest amendments to Law 7764, dated 2.11.1993, provided an extension of the deadline for special state protection until December 31, 2019.

This initiative aims to provide a double guarantee to foreign investors who invest in Albania, particularly concerning the property issues and ownership titles.

Such amendment, included a Special State Protection Mechanism, aiming to protect the foreign investments in cases when, due to judicial conflicts with private third parties, the realization/completion of the investment was prevented, delayed or postponed. In this regard, the special state protection mechanism, provides full replacement in court, of the foreign investor by the Albanian state in the civil conflicts with third private parties.

Such replacement is made in conformity with the provisions of the Albanian Civil Procedure Code.



Uendi Vata

## “Strengthening of the energy market in pursuance with the Strategic Plan for Reforming the Energy Sector in Albania”

The Council of Ministers has approved CMD no. 742/2018 which provides incentives as a direct engagement of the government in order to reach the target on reforming the energy sector in Albania, such as:

- Engagement with the IFIs (International Financial Institutions) to coordinate their support for the reform in particular, after the market will be liberalized and deregulated



- OSHE's division and restructuring
- Approval of a measurement and forecasting process
- Implementation of market opening and price deregulation
- Creating an Energy Exchange Market
- Competitive bidding for the production of renewable electricity capacity
- Finalization of the by-laws in accordance with EnC acquis (Energy Community Act)

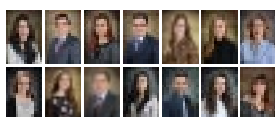






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