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**Recent Developments in International Taxation –
Albania**

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Below are some of the main legislative changes to the Albanian 2020 Fiscal Package, which, through several amendments, have brought strong attention to the Income Tax Act. It is noteworthy that some of the changes were predicted beforehand by the Albanian Government and some others came, or are still in discussion, as a direct result of the Covid-19 pandemic, which has greatly affected the business operations of economic entities and the Albanian market in general.

Amendments not yet in force

Removal of profit tax (still pending Parliament's approval)

On 15 July, the Albanian Government (Council of Ministers) approved the removal of the Profit Tax for small businesses with an annual turnover from ALL5m up to ALL14m (approx. EUR40,500–113,000). This change, which is still to be approved by the Albanian Parliament, is predicted to enter into force on 1 January 2021 until 31 December 2029. Starting from the entry into force date, small businesses will not pay any more than the simplified profit tax of five per cent (currently in force). As a result, after the entry into force date, a small business will be considered a business that generates an annual turnover of less than ALL14m (approx. EUR113,000).

The existing applicable profit tax is:

- zero for an annual turnover of up to ALL5m (approx. EUR40,500) (which will increase to ALL14m in accordance with the new amendment);
- five per cent for an annual turnover of between ALL5m to ALL14m (approx. EUR40,500–113,000) (which will be removed in accordance with the new amendment); and
- 15 per cent for an annual turnover of higher than ALL14m (approx. EUR40,500–113,000).

Increase of VAT threshold (still in discussion)

The Albanian Government has declared that it will decide in the coming days (before 30 July 2020, which is the last day of the Parliament) if it will approve the increase of the threshold for the application of VAT from ALL2m (approx. EUR16,200) that is currently in force, to ALL100m (approx. EUR80,900).

This is a 180-degree change from the Government's stance of just two years ago, when the VAT threshold was decreased from ALL5m to ALL2m. The Government insisted back in 2018 that this initiative would have no additional costs for small businesses, while its real purpose was not to increase the burden on small businesses, but to discipline the trade chain and encourage the issuance of VAT invoices. At present, due to the Covid-19 pandemic, raising the VAT threshold is being considered as one of the measures to aid small businesses, although it is believed that the annual budget will be considerably affected. More information will be available in this regard in the coming days, as we have yet to understand the entry into force and period of time this amendment will be valid, if approved by 30 July.

Fiscal amnesty (still pending Parliament's approval)

The Albanian Government has finalised the 'Tax Amnesty Act', announced earlier this year, which will allow the legal validation of movable and immovable assets, being voluntarily declared, free from any other fiscal obligations – except for the ones provided in said law – and free from any criminal liability. This law, which is expected to be approved by the Parliament in the following days, will be valid for a period of 12 months from its entry into force.

The following entities will benefit from this amnesty:

- Albanian citizens, regardless of whether they are tax residents in the Republic of Albania or not;
- Albanian physical and legal entities registered for tax purposes (tax residents) in the Republic of Albania; and
- individuals who are registered for tax purposes in the Republic of Albania, regardless of their citizenship.

Benefiting entities will be obliged to carry out a voluntary declaration process and obtain the necessary certifications provided by a special unit created for this purpose within the General Tax Directorate.

The law also provides a list of entities who are excluded from its application, including, but not limited to: all those convicted of certain criminal activities; politicians; medium-ranking and high-ranking officials; and state police and magistrates, as well as their family members.

A special tax will be applied to declared assets as follows:

- five per cent of all declared assets declared within the first four months from the date of entry into force of the law;
- seven per cent of all declared assets declared within the second four months from the date of entry into force; and
- ten per cent of all declared assets declared within the third four months from the date of entry into force.

The government guarantees that after payment of the special tax the declared assets will be duly recognised, no other taxes or fees will be applied to the declared assets, and the beneficiaries will not be prosecuted for not previously having declared their income and not paying taxes.

Amendments already in force

Exchange of information with other tax authorities

On 12 March 2020, a new law no. 4/2020 dated 30 January 2020 entered into force, entitled 'On automatic exchange of financial accounts information' (the 'new law'). Such law follows the ratification from the Albanian Parliament of the Convention on Mutual Administrative Assistance on Tax Matters (the 'Convention') and the adoption of the Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Accounts Information (the 'Multilateral Agreement'), approved upon the decision of the Council of Ministers no. 178/2016.

The new law provides for the obligation of Reporting Financial Institutions to report annually to the Albanian tax authorities the information on the Reportable Accounts.

The following are 'Reporting Financial Institutions':

- all financial institutions resident in the Republic of Albania, with the exception of any branch of that financial institution located outside the territory of the Republic of Albania;

- any branches of a financial institution that is not resident in the Republic of Albania, if a branch is situated in the Republic of Albania; and
- all custodial institutions, depository institutions, investment companies or specific insurance companies, according to the Common Reporting Standard.

A Reportable Account is defined as an account that is maintained by a Reporting Financial Institution and pursuant to due diligence procedures consistent with the Common Reporting Standard and identified as an account that is held by one or more persons qualified as Reportable Persons with respect to another jurisdiction, or by a passive non-financial entity with one or more controlling persons that are Reportable Persons with respect to another jurisdiction.

Reportable Persons are individuals or economic units, resident in another jurisdiction and qualified as a Reportable Person by a Reporting Financial Institution, pursuant to due diligence procedures consistent with the Common Reporting Standard.

Reporting Financial Institutions should identify Reportable Accounts during the year and report them to the tax authority by 30 May in the following year. Exceptionally for 2019 the Reporting Financial Institutions shall report the accounts existing on 1 January 2019, and accounts opened during 2019, by 31 July 2020. Details on the information to be reported shall be defined in a decision of the Council of Ministers to be issued for implementation of the law.

The information collected by the Albanian tax authorities will be shared with the competent authorities of the countries that are members of the Convention, in compliance with the Convention provisions.

Taxation on indirect transfer of ownership

The 2020 fiscal changes, which entered into force in January 2020, brought an addition to the provision on taxation of ownership transfer, introduced in January 2019. According to the new amendment, the rules on the taxation of direct and/or indirect transfer of ownership (Article 27/1 of the Income Tax Act), will not apply in the case where the change of ownership is subject to ratified Double Tax Treaties. Such an amendment was highly sought after by special interest groups.

In January 2019, a significant amendment to the Albanian Income Tax Act came into force introducing new rules on the indirect transfer of ownership of

assets situated in Albania. The scope of the new amendments was the taxation of any gains streaming out from indirect transfers of ownership of assets situated in Albania. An indirect transfer occurs when an Albanian company that owns a specific asset located in Albania intends to sell it to a third party. However, the asset is not sold directly to the third party, but the latter purchases the shares/quota in the Albanian company and therefore, the asset is acquired indirectly. The shares purchased may be in the Albanian company holding the asset or in any of its direct or indirect shareholders, which are part of the shareholding structure of the Albanian company.

Under the new provision, any increase in value of the assets held by the Albanian company will be subject to taxation, regardless of whether the shares in the Albanian company are sold directly or indirectly. However, as expressly provided above, the following requirements must be taken into consideration:

- taxation will only be triggered by a direct or indirect change of *20 per cent or more* in the shares/quotas or voting rights of the company;
- the company shall be considered as if it is re-acquiring the disposed asset; although in reality the direct ownership of the asset will not change, the cost of the asset will change by reason of the transaction. The new *cost of the asset will be equal to the sales proceeds* that the company will receive (either directly or indirectly); and
- taxation will only be triggered if the company has achieved an *average turnover of ALL500m* (approx. EUR4,132,000) in the last three preceding years.

The company that suffers the change of ownership, must give the tax authority notice within 45 days of the change of ownership. The notice must contain details of the parties involved, the terms of the transaction, sale proceeds, etc. Furthermore, regardless of the application of Article 27/1(1), the notification requirement is also mandatory for the company that suffers an indirect or direct change of ownership of ten per cent or more of its capital or its voting rights.

Transfer of ownership between family members

Currently a rate of 15 per cent is applied to capital gains deriving from the transfer of ownership of immovable properties. As of January 2020, the first transfer of ownership, through donation or waive from ownership right, of an apartment or land between family members (ie, husband, wife, child), will be

exempted from the application of income tax.

Dual employment

Individuals with two or more sources of employment for the fiscal year 2019, will have to submit the annual personal income tax return, regardless of the value of their annual total income. By 30 April at the latest, they should declare their total annual incomes in a single form and calculate the relevant tax liability for the whole year, in order to pay any difference that may result from cumulative incomes and taxes paid. The obligation to submit the annual personal income tax return was previously imposed only to individuals with incomes exceeding ALL2m (approximately EUR16,000) per year. This measure aims to avoid tax evasion of employment income tax.

Other tax incentives

No income tax for foreign pensioners

An addition was made to Article 8/1 (excluded taxable income) of the Income Tax Act. Income from pensions and other similar benefits of foreign citizens of Albanian origin or those of EU countries, with a residence permit in Albania, or foreign citizens who have obtained Albanian citizenship and are residents in Albania and who benefit from this income according to the legislation of the country where they receive the pension or other similar benefits, are excluded from Income Tax.

Sporting sponsorships

Companies generating a taxable profit of over ALL100m (approx. EUR809,000) which sponsor sports activities as part of any of the sports federations, will have the option of deducting from incurred expenses treble the amount of three per cent of pre-tax profit, as previously provided by the law. This provision can be applied for only for the relevant tax year and is conditioned by the presentation of the sponsorship authorisation, which is issued by the General Tax Director. Any excess unrelieved expense may not be carried forward.

Automotive industry

The corporate income tax rate for the automotive industry is reduced from 15 per cent to five per cent. The Council of Ministers is expected to clarify the activities and processes that qualify for the reduced rate, and the necessary criteria.

Tax loss carry forwards

Taxpayers investing in business projects worth over ALL1bn (approximately EUR8.09m) will be allowed to extend their tax loss incurred in a period from three to five years, always following the principle of covering earlier losses. The Minister of Finance and Economy is expected to set out the conditions and procedures to apply to this rule.

Representation expenses for exporters

The deduction for representation costs abroad (for participating in international fairs or exhibitions) is increased from 0.3 per cent to three per cent of annual turnover for exporters that have earned more than 70 per cent of their revenue from exports in the previous three years (excluding manufacturers working under inward processing models).