

VAT Innovations in Albania

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Abstract:

VAT as a model of taxation on consumption, which applies at every stage of the production and distribution process, based on the principle of self-declaration, self-assessment and tax credit, which means that taxpayers are encouraged to file and evaluate themselves liabilities and may require tax credit and reimbursement of tax paid.

The study aims to analyze the VAT innovations in Albania, which came as a result of the implementation of the new law.

From January of 2015 enters into force a new law on VAT. The objective of this law is to ensure consistency of application of VAT rules in Albania with EU member countries, in order not distorted the conditions of competition and block the free movement of goods. The new law aims to provide a tax system that eliminates double taxation of VAT on transactions between businesses in Albania and those located in any Member State of the EU respecting the principle of destination.

Regarding the matter of reimbursement of VAT, the conditions of completing the reimbursement of VAT have not changed, except that of deadline for approval of reimbursement for exporters is reduced from 60 days to 30 days, giving priority to exporters to promote the production and promotion of products abroad.

Referring to the new fiscal package, in cases of transfer of taxpayers in the VAT scheme in Albania, the VAT paid for each goods included in the inventory at the date of change of tax liability may be

reduced if the VAT paid is justified with the tax bill of purchase with VAT, goods purchased no earlier than 12 tax periods.

Also, the rate of compensation of farmers is made by 6% to 20%, giving the right to buyer of products farmer to charge VAT to 20% for purchases from farmers.

Key words: VAT, Tax System, VAT innovation, law, EU.

INTRODUCTION

VAT is a special type of turnover tax, set at each stage of production and distribution process. VAT is a tax on all final costs incurred for goods and services. Value added tax is a general tax on consumption of goods and services proportional with their price, which is charged the price at each stage of production and distribution process.

Countries, that in their tax systems have implemented VAT, are the countries with the highest consistency of income. VAT is considered as the most important phenomenon of the fiscal system in the 20th century.

Dr. Georg Wilhelm von Siemens proposed for the first time the concept of VAT in 1918 for large businesses. Siemens concept of VAT is considered as an innovation that resulted in a significant improvement of taxation on sales because Siemens system eliminates the effect of tax on tax.

In 1920, Thomas S. Adams suggested the VAT as an indirect form of taxation on businesses, which would replace the income tax on American corporations¹.

Idea on the implementation of VAT was further improved by a finance expert of France called "Maurice Laure". On 10 April 1954 he implemented the indirect tax on consumption, which was called VAT. His idea was implemented very quickly, because this taxation, encouraging taxpayers at

¹ Terra B., Kajus J., *A Guide to the European VAT Directive* (2013), pp.277; Thomas S. Adams, *Fundamental Problems of Federal Income Taxation*, Quarterly Journal of Economics, Vol. 35, no. 4, 1921, pp. 553.

all levels of the production process, manage and calculate the tax itself, instead of requiring that the tax assessment made by the tax authorities.

The system "Laure" initially only affect large enterprises. 1954 is the year when first introduced Value Added Tax Modern. VAT is applied for the first time in Europe throughout the tax system from Denmark in 1967, although the country was not part of the EEC.

VAT in Albania, currently sanctioned by Law no. 92/2014 "On Value Added Tax in the Republic of Albania". Implementation of VAT and replacement of the turnover tax begins in July 1996.

Standard tax rate was 12.5% and subject to this tax were all taxpayers realize an annual turnover of more than 2 million ALL. Until June 1996 turnover tax is applied. The VAT law has been subject to constant changes. Changes to the VAT law began in October 1997 after the pyramid schemes crisis, the replacement rate in the extent 12.5% with a standard tax rate to 20%, which is in force today.

In Albania, currently the tax rate has 2 levels; 0% for exports and international transport of goods and 20% for all other taxpayers. Registration threshold is 5 million lek.

PURPOSE AND METHODOLOGY OF THE STUDY

The aim of the study: Paper aims to analyze the innovations of VAT in Albania, which came as a result of the implementation of the new law. - The aim of this study will highlight the significant changes that have been made to fiscal legislation for VAT, which is considered an innovation in the history of the Albanian tax system.

Basic research question: Which are the innovations of VAT in Albania?

Hypothesis: The implementation of the new tax legislation on VAT brought some important innovations in the tax system to Albania.

Methodology. The aim of the study will be achieved through comparative analysis. The paper will be based on the research of the available literature on the tax system, and VAT in Albania as well as analysis of the new legislation compared with the old legislation.

INNOVATIONS OF VAT IN ALBANIA

Fiscal legislation regarding VAT has changed constantly. Law no. 7928 dt. 27.04.1995 "On VAT" is changed by about 30 other laws. This law has changed as a result of economic and political changes in Albania. For the period 1996 - 2014 VAT in Albania is sanctioned by Law no. 7928 Dt. 27.4.1995 "VAT". For each fiscal law adopted by the Parliament of Albania, the finance minister is charged to issue a respective instruction. A problem related to the drafting of these guidelines is the fact of non-involvement in the drafting of these guidelines also experts in the field that may be inside the GDT or abroad. A major defect of the guidelines is the fact that every article of the law does not correspond to any point in the relevant instruction.

Some of the problems of VAT that can be noted from my own experience and from the research I conducted on this field are such that relate to deficiencies in legislation, registration and de-registration of taxpayers, construction and minimum of fiscal cost, tax assessment, tax control, etc.

From January of 2015 enters into force a new law on VAT². The objective of this law is to ensure compliance of rules applying VAT in Albania with EU member countries, in order not distorted the conditions of competition and block the free movement of goods. The new law aims to provide a tax system

² Law No. 92/2014 Dt. 24.07. 2014 "On Value Added Tax in the Republic of Albania"

that eliminates double taxation of VAT on transactions between businesses in Albania and those located in any Member State of the EU respecting the principle of destination. The new law changes the way from taxation; the way by a law that is changed more than 30 times, by way of guidance or orders from taxation because of spaces and the lack of legal provisions, in a comprehensive law that represents sustainability and security for business. For the first time introduced the concept of "market value" for a given supply. Subsidies directly linked to the price included as part of the taxable value of a supply. Also elements not included in the taxable value are; rebates and expenses incurred on behalf of the client, which are recorded as provisional. Below are the results of a comparative analysis highlighting the innovation of the new law.

Exempt supplies and the tax deductibility

Supplies which are exempt from VAT under the new legislation besides the existing exceptions are:

1. Besides the supply of medicines and health services are exempt from VAT the supply of implantable medical devices.
2. Exempt from VAT the supply of human body organs, blood and human milk when committed against payment.
3. Supplies of services by NGOs for social assistance, cultural, religious, sports, etc., but on condition that not lead to distortion of competition.
4. Subcontractors fason services, except those within the country.
5. In the imports are excluded those that are exempt supplies within the country
6. Imports of machinery and equipment investment over 50 million ALL etc.³

³ Importing goods for hydrocarbon prospecting; equipment and machinery for active processing and agribusiness; Agricultural machines and the import of manufacturing machinery, small business etc..

To ensure a fair taxation of VAT, contrary to what has been applied up to 2014, are exempted from VAT:

- Goods that are used for an exempted activity and for this purpose have not deducted the VAT they have paid.
- Goods on which VAT is not allowed to be deducted due to legal restrictions. The old law for those goods for which VAT is paid once and is not deducted, paid back when those goods are sold.

Adjusting the deduction of VAT in contrast to the old law will be:

- For movable goods to 5 years, when economic destination differ substantially and these goods serve to supplies exempted from VAT.
- For immovable goods up to 10 years, when economic destination differ substantially and these goods serve to supplies exempted from VAT.

Tax Representative

According to the general principle of the person liable to pay VAT in Albania is the taxable person who supplies the service. When this person is not registered for VAT in Albania and the person who received the service is a taxable person registered for VAT in Albania, it is the recipient of the service the person liable to pay VAT. This person pays VAT by applying the reverse charge (reverse-charge). If the recipient of this service is not a taxable person registered for VAT in Albania, then the taxable person who has committed service representative assigns a tax to pay VAT in Albania.

Tax representative is required when the place of supply is in Albania and a recipient of the service is not taxable person or is a taxable person and is not located in Albania. There will require a tax representative in Albania for non-residents, not just when they have registered branches in Albania, but also whether the service is obtained from a person registered in Albania.

Decommissioning of goods and assets

According to the new fiscal package will not be considered taxable supplies would not be affected and the VAT credit for decommissioning of goods or assets. So it's not conducted adjustment of VAT deductions for decommissioning the goods because they are unusable or are expired, proven or confirmed by the relevant legal procedures and regulations. If the goods, which does not apply to the regulation of the input VAT as they are unusable, the taxable person receives insurance indemnity because the goods, then the value of the benefit, the taxable person must calculate VAT.⁴ The burden of proof is on the taxpayer, which must implement the appropriate procedures according to the law and procedures set out in the legislation sector, where it operates. If a taxpayer does not document the lack of goods following the procedure prescribed by law, then such goods shall be regarded as taxable supplies against payment (goods are sold).

Facilities in changing tax responsibilities

It is foreseen the possibility of the recognition of credit VAT when taxpayers move from subjects without VAT to subjects of VAT, considering the criteria for discrimination, thus implementing the principle of neutrality. The taxable person, which exceeds the minimum threshold of registration of VAT and therefore subject to normal scheme of VAT and the person who registered voluntarily in the scheme is entitled to in the first tax period, to recognize VAT as a deduction for unsold goods at the date of registration in this scheme, these goods in order to be sold, which will calculate the VAT on sale. Conditions to be met to practice this right are as follows: -

- Taxable person must dispose of the list of goods specified condition in quantity and value, where the recorded the date of their registration. This inventory must be recorded in the accounting records and the taxpayer and submitted to

⁴ The taxable value in this case is the obtained value minus the respective VAT.

the tax office at the time of registration in the normal regime of VAT.

- Each item included in the inventory must be justified with the purchase invoice with VAT tax, purchased no earlier than 12 tax periods including the period in question.

Refund

Regarding the matter of reimbursement of VAT, the conditions of completing the reimbursement of VAT have not changed, except that of deadline for approval of reimbursement for exporters is reduced from 60 days to 30 days, giving priority to exporters to promote the production and promotion of products abroad. A taxable person is entitled to seek reimbursement of tax credit VAT, if the taxable person has carried forward the excess input VAT for 3 consecutive months and the VAT requested to be reimbursed exceeds of 400,000 ALL. Within 60 days from the date of filing of the taxpayer and within 30 days from the date of filing of the taxpayer exporter, tax administration verifies taxpayer's tax situation, exercises control based on risk analysis and approves credit balance as reimbursable.

Despite legal facilities, repayment of taxpayers is not done according to a risk analysis and according to legal criteria. Taxpayers in Albania are not reimbursed by the legal ranking, but by political support.

Subventions

The subsidy issue is resolved. Since fiscal package before 2014, camouflage fiscal treatment of the subsidy, at new fiscal package, the compensation price subsidy is a taxable supply because meets "terms of delivery". More specifically referred to paragraph 2.3 and 2.4 of the instruction No. 6 dated 30.01.2015 "On Value Added Tax" is cited: the existence of relationship, transaction-countervalue, is not provided, the price charged for supplying necessarily paid by the beneficiary supply.

Countervalue can be paid by a third person, who is a person different from the recipient of the supply of goods / services.

At paragraph 2.4 is justified, that the amounts paid constitute in fact the equivalent of a transaction realized for the benefit of the party that has paid the amount, the term "subsidy" is inappropriate. In this case, it is the price paid for a service received or a supply made. This transaction is within the scope of VAT and the "subsidy" is taxable, except when the law provides for exemption from VAT for the supply. Paid amounts that fulfill the price of a taxable transaction, in the form of a subsidy for the price, is at the scope of VAT⁵. In such a case it comes to the price paid for a service or to get a supply of goods. This transaction enters into scope of VAT and the amounts received at the form of grants, donations and subsidies are taxable for VAT unless the supply of goods or services is exempt from VAT under the law.

Registration and deregistration

The problem of registration of VAT scheme is another important issue of the tax system in Albania. Some taxpayers, who should have been registered in the VAT regime, but for various reasons, these entities are not registered, their tax treatment for VAT effects resolved in the new fiscal package. According to the fiscal package before 2014, VAT is defined as the tax liability of a taxpayer from the moment of registration for this tax, favoring this category of subjects, violating one of the main principles of the law on tax procedures, the treatment in equal and impartial manner of taxpayers.

Referring to the new fiscal package, any person who meets the criteria for registration as a taxable person for VAT

⁵ When a organization financed by the amount referred to as "assistance, grants, donations, subsidies" is verified case by case basis, whether the amounts paid constitute the equivalent of a supply of goods or supply of services performed for the benefit of the party who has paid, or if amounts paid meet, the price of a supply of goods or taxable service, then despite the use of any of these terms to designate payment, does not mean that in this case the transaction is outside the scope of VAT.

and is not registered, nor has applied to be registered for VAT, mandatorily registered by the tax authority in the time (period) that is found. Liabilities for VAT on supplies made for prior periods has been forced to register, counted with effect from the date when he was obliged to register. These obligations will be evaluated in the register of VAT on behalf of the taxable person in the first period that he registered for VAT.

Although it is evasive, the fact of the treatment for tax purposes of payment of VAT for the period before the conclusion of not registration, in the sense that the taxpayer will be charged in the first period after registration for VAT to pay VAT on the full value of supplies or just on the realized margin. Since it is not explained in the relevant legislation and guidelines, rests to the inspector of audit or evaluation to appreciate the extent of the tax liability, leaving room for abuse.

Referring to the new law of VAT, if the taxpayer who is deregistered or asks to be deregistered from VAT, disposes unsold goods or capital goods, other assets used in the activity, where the VAT on these goods was wholly or partly deductible these goods shall be considered as a supply against payment and the taxable person is obliged to calculate or adjust the VAT on this supply.

But the taxable value of the supply shall be composed of the purchase price of these goods in the absence of the purchase price from the cost price determined at the time when the taxable person ends his economic activity. In the case of unsold goods at the date of cancellation will be considered as a supply against payment up to the value of purchases on this date. While for assets will be regulation of the deduction of VAT⁶ in accordance with the useful life of these assets for purposes of the activity.

⁶The adjustment is made for the term of 5 years for movable assets and 10 years for immovable assets.

Construction Sector

Construction and fiscal minimal cost principally treated in the new fiscal package, but for the first time dealt with some issues in the new instruction, which previously concluded by the analysis of fiscal legislation, guidelines and interpretations of GDT and Ministry of Finance. Referring to Article 20, "Construction work, the performance of the construction process, as well as maintenance," of directive stated that; determining the real cost in the construction sector, public or private investments, determined on the basis of the methodology given in the decision of Council of Ministers "On the use of technical manual for prices of construction works".

These methodologies of calculating the minimum fiscal cost, price and minimal profit for the purposes of calculating tax liabilities in the construction sector, private or public investment, as defined in the laws and regulations in force, will serve as a methodological alternative assessment. So again like in the old fiscal package, is not resolved the issue of precise control of the proceedings of building by inspectors of tax control. Referring of the the minimum cost, as alternative methodology of tax assessment is not correct, because of various reasons such as; the inability of control inspectors in the field of fiscal issues and accounting, lack of information in the field of construction engineering, abuse by the controllers of tax brings inaccurate control of the volume of works for construction companies, resulting in avoidance of tax obligations. Therefore in such cases, the tax control of these entities must be sought the assistance of professionals in the field.

Special regimes

The new fiscal package VAT provides some incentives for taxpayers as follows:

- A taxpayer, not exceeding the minimum threshold for VAT registration has the right to change the mode from the normal regime of VAT on small business regime.

- Travel agencies will apply VAT on the margin. Travel agent's margin includes VAT and the calculation of the taxable value and VAT recoverable under this regime becomes as follows:
 - The taxable value = travel agent's margin - VAT recoverable
 - VAT recoverable = taxable value x tax rate of VAT (20%).
 - The same procedure will be applied to the sale of used goods and auction, which will be paid VAT on the margin.
- The regime of farmers. The rate of compensation made by 6% to 20% but not exceeding the value of the supply, but included in the value of the supply, giving the right to buyer of products farmer to charge VAT to 20% for purchases from farmers.
- It's elected the issue of tax assessment of taxpayers registered for VAT, which resulted from tax audit that have passed the threshold of registration and have not been included in the VAT scheme. Evaluation of their last period, will be made in the first month, in which will be registered with the VAT.

CONCLUSIONS AND RECOMMENDATIONS

Regarding the matter of reimbursement of VAT, the conditions of completing the reimbursement of VAT have not changed, except that the deadline for approval of reimbursement for exporters is reduced from 60 days to 30 days, giving priority to exporters to promote the production and promotion of products abroad. So that entities intertwining politically or otherwise by employees of the tax administration, not be the first to benefit from reimbursement fund of VAT in Albania, each directorate of taxation shall publish on its portal periodically lists of entities that have requested to be reimbursed, must be ordered by completing the legal criteria. According to the ranking must

be made the compensation and reimbursement of taxes automatically by computerized tax system. Legal references should be applied, under which the applicants of refunds and other taxpayers must be inspected by analysis of the risk and not by proposals and illegal goals of heads of tax institutions.

Referring to the new fiscal package, any person who meets the criteria for registration as a taxable person for VAT and is not registered, nor has applied to be registered for VAT, mandatorily registered by the tax authority in the time (period) that is found. In cases of transfer of taxpayers in the VAT scheme in Albania, the VAT paid for each goods included in the inventory at the date of change of tax liability may be reduced if the VAT paid is justified with the tax bill of purchase with VAT, goods purchased no earlier than 12 tax periods. Lawmakers in Albania should anticipate the possibility of deducting of VAT paid on all goods unsold at the date of registration for VAT or for the inventory of goods and assets acquired more than a year, in case of sale of these goods and assets, the VAT must be paid on margin and not on the full value, in order not to violate the principle of neutrality. The same should happen in the case of compulsory registration, VAT must be paid on the margin, regardless of administrative or criminal penalties that may result from non-registration and non-payment on time of the VAT.

Referring to the new fiscal package, any person who meets the criteria for registration as a taxable person for VAT and is not registered, nor has applied to be registered for VAT, mandatorily registered by the tax authority in the time (period) that is found. Liabilities for VAT on supplies will be evaluated in the register of VAT on behalf of the taxable person in the first period that he registered for VAT, but the fact of the treatment for tax purposes of payment of VAT for the period before the conclusion of not registration is evasive, in the sense that the taxpayer will be charged in the first period after registration to pay VAT on the full value of supplies or just on the realized margin. Since it is not explained in the relevant

legislation and guidelines, rests to the inspector of audit or evaluation to appreciate the extent of the tax liability, leaving room for abuse. The same should happen with mandatory registration, VAT must be paid on margin without violating the principle of neutrality.

The subsidy issue is resolved, because the subsidy of price is considered as a taxable supply.

The rate of compensation of farmers is made by 6% to 20%, giving the right to buyer of products farmer to charge VAT to 20% for purchases from farmers.

The same procedure will be applied to the sale of used goods, auction and services of travel agencies, which they will be paid VAT on the margin.

At new law is not conducted adjustment of VAT deductions for decommissioning the goods because they are unusable or are expired, proven or confirmed by the relevant legal procedures and regulations.

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