

# Tax Alert

Albania

## Allocation of 2009 financial result to be reported by July 31st, 2010

All domestic companies should ensure that they comply with the legal requirement to file with the Tax Authorities, the latest by July 31st, the resolution of their ordinary shareholders' meeting, regarding the approval and allocation of the previous year financial result.

Furthermore, any dividend distribution stipulated in such resolution triggers a 10% withholding tax on the gross amount of the dividend, which withholding tax has to be paid at the earlier between the 20th day of the month following the month of the actual dividend payment and July 31st. Unless tax treaty relief approval is applied for and obtained from the Albanian tax office in advance, the company distributing the dividend should withhold the 10% tax and then the shareholder eligible to tax treaty relief should apply for a refund within a two year period. Hence, to ensure that approval for any potentially available tax treaty relief is obtained before the deadline to remit the dividend withholding tax, companies should schedule to hold their ordinary shareholders' meeting well before the latest date permitted by the law, which is the June 30th. Albania has concluded double taxation treaties with many EU countries, most of which provide for a reduced rate of 5%. However, no tax treaty protection is available yet for shareholders who are resident of major countries such as the US, Canada, UK, and Germany.

Below we provide an outline of the related reporting procedures.

### **Step1 – Approval of the financial statements and the allocation of the financial result**

After the submission of the financial statements and the payment of the corporate income tax by March 31st and within six months from financial year end, i.e. by June 30th, the ordinary shareholders' meeting should:

- a. approve the financial results of the previous financial year;
- b. make a decision about the allocation of the net profit of the entity and specifically state the amount allocated to:
  - i. the legal reserve,
  - ii. the retained earnings,
  - iii. increase of capital if any, and
  - iv. dividend distribution.

Failure to comply triggers a fine of ALL 25,000.

## Step 2 – Submission of the shareholders' resolution with the tax authorities

The decision of the ordinary shareholders' meeting should be submitted with the tax authorities by July 31st.

Failure to comply results, in addition to the previously mentioned fine, to ALL 10,000 for each month of delay.

## Step 3 – Payment of withholding tax on dividends

If the company decides to distribute dividends, either in cash or in shares-further to a capitalization of profits-the corresponding withholding tax on dividends should be paid either within the 20th day of the month following the payment of the dividends or by the 31st of July, whichever comes first. Hence, if dividends are not distributed within 31st of July, although a corporate decision has been taken to distribute dividends, the withholding tax payment obligation is nevertheless triggered on that date.

Delay in remitting the withholding tax to the state budget results to a surcharge of 5% of the unpaid tax liability for each month of delay, capped at ¼ of the tax liability, as well as to default interest assessment calculated on the amount of the withholding tax. Failure to withhold and remit the withholding tax to the state budget triggers, in addition to this surcharge, a penalty of 50% of the unpaid withholding tax liability.

## Step 4 – Submission of the relevant corporate documents with the National Registration Center (NCR)

Albanian entities should submit the financial statements and the decision for the profit allocation with the NCR by August 31st. Branches and representative offices of foreign entities should also submit with the NCR the financial statements of the head office as per the standards required in the respective foreign jurisdiction.

Failure to comply triggers a fine of ALL 25,000.

## Summary Table

Steps	Deadline	Penalties
Profit and Loss Allocation Resolution	June 30th	ALL 25,000
Submission of Profit Allocation Decision with the Tax Authorities	July 31st	ALL 10,000 per month in delay
Payment of Withholding Tax on Dividends	20th day of the month following the payment of the dividends or by the 31st of July, whichever comes first.	Delay in remitting the withholding tax to the state budget results to a penalty of 5% of the unpaid tax liability for each month of delay, capped at ¼ of the tax liability, as well as to default interest assessment.  Failure to withhold and remit the withholding tax as required by the law, would lead, in addition to a penalty of 50% of the unpaid tax liability.
Submission of Documents with the National Registration Center (NCR)	August 31st	ALL 25,000

Exchange rate as of April 13, 2010 according to Reuters is 138.27 ALL/EUR and 101.85 ALL/USD.

### About Ernst & Young

Ernst & Young is a global leader in assurance, tax, transaction and advisory services. Worldwide, our 144,000 people are united by our shared values and an unwavering commitment to quality. We make a difference by helping our people, our clients and our wider communities achieve their potential.

Ernst & Young refers to the global organization of member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit [www.ey.com](http://www.ey.com)

The information in this newsletter is correct to the best of our knowledge and belief at the time of going to press. Please note that the information in our newsletter is not intended to be relied on as tax advice and cannot replace consultation with tax advisors.

For more information, please contact:

Alexandros Karakitis  
[alexandros.karakitis@al.ey.com](mailto:alexandros.karakitis@al.ey.com)

Dorina Tila  
[dorina.tila@al.ey.com](mailto:dorina.tila@al.ey.com)

© 2010 Ernst & Young Albania  
All Rights Reserved.

This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither Ernst & Young Albania nor any other member of the global Ernst & Young organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.