Executive summary

The tax legislation of Kosovo has undergone several changes that relate, among others, to the Value-Added Tax (VAT), Corporate and Personal Income Tax. These changes went into effect as of 1 September 2015. Furthermore, the Ministry of Finance has issued the law On Public Debt Forgiveness, with respect to outstanding tax liabilities for the period through 31 December 2014.

Detailed discussion

VAT
VAT rate

The new legislation increases the standard VAT rate to 18% from the previous rate of 16%. However, for a number of basic goods from the consumer basket, utilities, medical and pharmaceutical products it introduces a reduced rate of 8%. The change imposes a review of the sale portfolio in view of correct application of the VAT rates and competitiveness.

Registration requirements

Entities operating in Kosovo need to register for VAT purposes if their turnover within a calendar year reaches €30,000 whereas previously such threshold was €50,000. On the other hand, foreign entities or nonresident individuals
that want to operate in Kosovo through a permanent establishment (PE) will need to be registered for VAT purposes from the start of their operations, regardless of the threshold. Small businesses are no longer required to obtain a VAT certificate prior to engaging in import/export operations and are only required to register for VAT if they reach the €30,000 threshold.

A taxable person may de-register for VAT purposes within two months of its request, provided that it has been registered for at least two calendar years from the moment of its initial registration, and the turnover during the last calendar year has fallen below the €30,000 threshold.

Taxable entities
As of 1 September 2015, non-profit organizations shall be treated as taxable entities only if they engage in economic activities.

VAT refund procedures
Taxpayers may claim a refund of their credit VAT provided that all of the conditions below are simultaneously met:

- The credit VAT position has been carried forward for three consecutive months.
- The credit VAT at the end of the third month exceeds €3,000.
- All tax returns of past tax periods have been submitted.

For taxpayers that engage in export activities, the rules above do not apply. They may claim a VAT refund, if at any given tax period, the credit VAT at the end of the period exceeds €3,000 and provided that all the tax returns of previous periods have been submitted.

Mixed supplies
Services which relate to the supply/import of goods are treated as part of the supply of goods. Goods involved in the supply of services are part of the supply of services.

Long-term contracts
Long-term contracts for the supply of goods or services, including long-term construction and installation contracts, shall be considered as completed and VAT will become chargeable:

- Upon the technical acceptance of the work, i.e., either at the finalization of the contract or no later than one month after.
- At year end, if no technical acceptance statement was issued during the year or if it does not reflect the true amount of work actually performed.

Exempt transactions
Under the new VAT legislation, the following imports become VAT-exempt:

- Production lines and machinery to be used in the production process
- Raw materials used in the production process
- Information technology equipment
- Newspapers and periodic publications
- Equipment and materials for the electronic and written media

Furthermore, the following transactions become VAT-exempt:

- All activities carried out by public radio and television bodies
- The supply of public transport services to travelers and their baggage, with prices set by the competent state authority
- Transactions of life and health insurance and reinsurance, including related services performed by insurance brokers and insurance agents
- The supply of houses, apartments or other accommodation used for residential purposes, including garages and basements
- International road transport of passengers and transport of accompanying goods or supply of services related to passenger transport

The following transactions will be treated as exports from a VAT perspective:

- The supply of goods and services to foreign personnel of special diplomatic and consular missions accredited in Kosovo, including their family members
- The supply of public goods and services to Kosovo religious communities
- The supply of goods and services co-financed from foreign governments’ donations and through Kosovo’s budget for public benefit projects, provided that it is stipulated in the agreement between the parties and the contribution from the Kosovo budget does not exceed 20%
- International airway and railway transport of passengers and their luggage or supplies related to transport of passengers, from Kosovo to a place outside of Kosovo and vice-versa
The right to credit input VAT
Taxpayers have the right of crediting the input VAT on personnel costs, such as meals, etc., which are re-charged with the supply of goods and services. Taxpayers have the right of crediting input VAT on goods which the taxpayer has in stock at the time of reaching the VAT threshold. Taxpayers that compensate VAT to farmers are entitled to credit the VAT compensation provided that:

› The payment for goods or services received by farmers is effected

And

› The agricultural goods and services received are intended for performing taxable supplies that have the right to credit the input VAT as provided by legislation.

Bad debts
Under the new legislation, it is not anymore necessary to initiate court proceedings for owed amounts of up to €500 in order to treat it as bad debt. However, bad debts will not be recognized if:

› Transactions of the same debtor are repeated after the announcement of bad debt, with the exception of public services
› Bad debt is between related parties
› There is insufficient evidence that substantial efforts or actions have been made in order to optimize the debt collection

Retention of records
Taxpayers registered for VAT purposes need to store all documents, ledgers, records and registers for at least 6 years, whereas documents related to immovable property must be maintained for 20 years, starting from 1 January after the year in which the taxable event took place.

Corporate Income Tax (CIT)
The new law On Corporate Income Tax which has entered into force from 1 September 2015 replaces law no. 03/L-162. We present below a summary of the main changes introduced.

Exempt income
Taxpayers receiving income from grants, subsidies and donations, in compliance with the relevant regulations, will not be subject to corporate income tax on such income. Moreover, the Ministry of Finance will establish the legal basis and provide bylaws for the exemptions and social facilitation of new businesses.

Allowable expenses
The following expenses become allowable for corporate income tax purposes:

› Promotion and advertising costs which are made through printing or broadcasting media.
› Training expenses which are job-related and paid by the employer for an employee shall be fully allowable for the year when such training expenses incurred, as opposed to the case before, that the amount should not exceed €1,000 per employee in any tax period, i.e., calendar year.
› If a taxpayer purchases production lines for plant and machinery, rolling stock and locomotives used for railway transportation, airplanes, ships, heavy transport vehicles, earth-moving equipment, bulldozers, scrapers and other heavy vehicles for the purpose of the taxpayer’s economic activity, a special deduction of 10% of the asset acquisition price is allowed in the year when the asset is first put into service, as opposed to the case before that the deduction was only for purchases that happened between 1 January 2010 and 31 December 2012.
› Representation costs up to 1% of the annual gross income.
› Donations or sponsorships made in the public interest, such as for health, education, religious, humanitarian, scientific, cultural, environmental protection and sports purposes, are allowed up to 10% of the taxable income computed before the contributions are deducted. Furthermore, taxpayers will have an additional allowance of 10% provided they contribute to certain areas as provided by special laws of Kosovo.

Non-deductible expenses
New categories of non-deductible expenses for corporate income tax purposes have been added:

› Expenses for gifts not bearing the company name and logo, which alternatively would be treated as representation expenses.
› Losses in specific weight or substance, damages, remains, overstock, ruins or breakage during production, transport, exposure and storage, beyond the norms specified in separate sub-legal acts.
› Benefits in kind in the form of a meal and a ticket for transportation, except in cases when organized by the business.
› Rental expenses for apartments serving for accommodation and lodging of resident and nonresident employees.
• Expenses covered by grants, subsidies and donations in compliance with the relevant regulations and earning criteria.

Depreciation
The new law provides for intangible assets to be depreciated up to 20 years if the term of use is not defined by an agreement. Assets with a purchase price of up to €1,000 shall be allowed to be treated as a current expense, with the exception of the asset being part of one entirety and the value of the entirety is over €1,000.

Tax losses
Taxpayers can carry forward their tax losses for up to six successive tax periods compared to the previous seven years.

Capital goods
An allowance of 10% of the acquisition price of capital goods is allowed in the first year that the assets are placed into service. Such allowance can only be used provided that the assets are new or are placed in Kosovo for the first time.

Bad debts
No court proceedings are to be initiated for an uncollected debt of up to €500 in order to treat it as bad debt. However, bad debts will not be recognized if:

• Transactions of the same debtor are repeated after the announcement of bad debt, with the exception of public services.
• The bad debt is between related parties.
• There is insufficient evidence that substantial efforts or actions have been made in order to optimize the debt collection.
• The debt has been outstanding for at least 24 months.

Furthermore, for the bad debt to be treated as an allowable expense for CIT purposes, the taxpayer must issue a receipt for the uncollected amount writing down the words “bad debt,” as well as the original invoice number linked to this debt. Such an invoice will support the reduction of the income declared by the supplier and the reduction of the expenses by the client.

Banks and non-banking financial entities can recognize as deductible for CIT purposes the write-off of a bad debt if the following conditions are met:

• In the case of secured loans through movable property or real estate, 365 days have passed from the submission of the request to the bailiff for the collection of the debt

• For other debt categories, 365 days after the issue of the court order for execution

Withholding Tax (WHT)
Pensions paid from, or in the interest of the Kosovo Pension Savings Fund or other fund, as well as health insurance according to the Law on Health Insurance, will be subject to WHT in the rates foreseen by the applicable Personal Income Tax legislation.

Payments made to non-business natural persons; farmers; agriculturists; collectors of recycled materials, fruits and plants and similar are subject to WHT at a rate of 3% of the gross payment. Services carried out in Kosovo by nonresident persons or companies that have no PE in Kosovo are subject to WHT at a rate of 5%. Tax certificates attesting the withholding tax paid will be provided by the Kosovo tax authorities.

CIT prepayments
Taxpayers with an annual gross income of up to €50,000 are not required to make prepayments for CIT. However, such taxpayers are still required to submit a quarterly installment declaration.

No penalties or interest for late or inaccurate payments will be assessed on the quarterly prepayments of corporate income tax if:

• The difference between the amount due and the amount paid is not greater than 20% of the actual amount due. Or
• After the taxpayer’s first tax period, the amount paid in each installment is at least 10% higher than 25% of the corporate income tax liability declared on the preceding tax period.
• The taxpayer is in its first tax period as a business if the amount of quarterly advance payments, including the 4th quarter, is above 80% of the final tax liability for that period.

Personal Income Tax
The new law On Personal Income Tax, has become effective from 1 September 2015, abrogating law no. 03/L-161. The main changes introduced are summarized below.

Exempt income
The categories of exempt income from personal income tax have been increased to include the following:
• Wages of persons with disabilities as foreseen under relevant laws for these categories

• The assets received or the value of assets received, as a result of inheritance when:
  − The heir is a spouse, biological or adopted child, or parent of the deceased
  Or
  − The heir is a person other than those above and the heritage value does not exceed €5,000

• Expenses paid by the employer for the employee's training that is relevant to the employer business

• Income received, including income in cash or in kind by a non-business natural person, for expropriation made by the state in the public interest

• Mandatory contributions paid by the employer for health insurance for the employee, as defined by the relevant legislation on health insurance

• Compensation benefits, including compensation of legal costs, received through court decisions

• Income in the form of remuneration from state institutions for achievements in science, sports and culture

• Income received as a result of financial compensation to former political prisoners and other compensations for similar categories

• Income received from grants, subsidies and donations in accordance with the terms and conditions of the relevant legal acts

• Tax holidays and other special facilities for the establishment of new businesses, which will be defined under sub-legal acts to be issued by the Ministry of Finance.

Per diems and benefits in kind given by employers to foreign employees to facilitate their living in Kosovo will no longer be exempted from income tax.

The changes presented above for corporate income tax have also been introduced and are effective in the new Personal Income Tax Law.

Public debt forgiveness

The law On Public Debt Forgiveness, provides an amnesty for outstanding tax liabilities up to 31 December 2008. Taxpayers will benefit from the amnesty if they choose one of the following options:

• Pay the principal tax obligation, i.e., excluding penalties and interest, for the period 1 January 2009 - 31 December 2014

Or

• Enter into an agreement with the Kosovo tax authorities for paying in installments the principal tax obligation and the default interest, excluding penalties, for the period 1 January 2009 - 31 December 2014

Under the first option, in addition to the total forgiveness of debt for the period up to 31 December 2008, the taxpayer will benefit from the removal of the penalties and interest that have resulted from the late payment of the tax obligations for the period from 1 January 2009 - 31 December 2014.

Under the second option, registered companies will have a period of two years, while registered individuals - a period of three years to pay the principal tax obligation and the default interest in installments, benefiting from the forgiveness of late payment penalties.

If taxpayers have no outstanding tax liabilities up to 31 December 2008, they can benefit from the amnesty and settle their tax liabilities using one of the options above. The law entered into force from 2 September 2015 and will be valid for one year.
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