

IS MORE EASY DOING BUSINESS IN ALBANIA OR IN KOSOVO? COMPARISON OF FISCAL LEGISLATION BETWEEN TWO STATES: COMMONS AND DIFFERENCES

PhD student. Shqiponjë AÇKA
shqiponja.acka@yahoo.it
MSc. Elton TREBENISHTI

Abstract

The main objective of this study is to show where fiscal legislation is more appropriate for creation and functioning of business, in Albania or in Kosovo. The aim of the paper is to demonstrate the differences and the commons among two law's package in these two states with Albanian people. In 2005 Kosovo's parliament has created the law "For fiscal administration and procedures", law that have substitute some UNMIK regulations that were used in this field until this year. In 2009 this law is replace with new law No. 03/L-071 and furthermore in 2010 is apply law No. 03/L-222. Except this law are created also fiscal laws that regulate specific taxes or matters. While in Albania in 2008 is created the new law No. 9920 "For fiscal procedures in Republic of Albania". This law created one frame more complete for starting and business functioning in our country. Based in these principal laws in fiscal field, I have intention to show who is most appropriate for Albanian business, who stimulates legalization of business and reduction of informality in business area, who stimulate investment of capitals in our states creating in this way most possibility for economic growth. According to this analyze in the end I will try to give my suggestions where is necessary, for Albanian law or Kosovo law. For reduce the complexity of this analyze in this paper I will treat only most important fiscal laws in they most important matters.

Keywords: Business, fiscal laws, Albania, Kosovo.

Introduction

Since a few years in the global map are two Albanian states, Albania and Kosovo²⁴⁷. Both these are little states, don't have much years that are in road of open market economy and for this reason changes and permanent improvements of the law setting are justified for giving one climate better for creation and functioning of the business.

• Albania

Albania have yet 21 years that is come in in the road of democracy, creating in this way possibility for private business²⁴⁸ developing their activity like the other countries of the world. But for the reason that our heritage in this field was zero, problems consist also in adaption of law setting more appropriate for the conditions of our country²⁴⁹. Since 1990s and yet, changes that are done in fiscal legislation was a lot. Yet Albania has one law setting more complete and more consolidate. However this not means that functioning is make in perfect conditions and don't have place for improvements. In the frame of these improvements, in 19.05.2008, Albania has applied the most

important fiscal law that is used also today, no. 9920 "For fiscal procedures in Republic of Albania". Except of this law continue application of the other laws that treats specific aspects or specific taxes²⁵⁰.

• Kosovo

Kosovo even if have approximately only 2 years that notify his independence, differently from Albania, have more knowns according to creation, organization and management of private business. This possibility is been create from more freedom of movement for Kosovo's people towards western developed countries, possibility that Albania till 1990s don't have. After Kosovo's war for being independent state, instalment in this state of western countries administration²⁵¹ intend also adaptation and implementation of their legislation known like UNMIK regulations. In 01.05.2005, in Kosovo is applied law no. 2004/48 "For fiscal administration and procedures" approved from Kosovo's parliament, that substitute some UNMIK regulation that have do regulation in this field till in this time. This law after is substitute with a new law no. 03/L-071, date 19.01.2009 "For fiscal administration and procedures", and after with law No. 03/L-222.

Existence of two states with Albanian people, with diverse historic and diverse experience in fiscal field, does that naturally have rised the question:

Which of two Albanian states have created one fiscal climate more appropriate for functioning of private business?

For giving one answer for this question and for give suggestions, when these states must to borrow experience from each other, is necessary to do one comparison between fiscal legislation unto these two states. Below, this

²⁴⁷ From year 2008 is create the new state of Kosovo.

²⁴⁸ Before 1990s, in the time of communist dictatorship in Albania, doesn't have existed neither private property nor the private business.

²⁴⁹ For creation of law setting in Albania our expert have see more appropriate adaptation of French legislation. The main reason for this selection was the fact that this legislation is presented like most strict and that was necessary for canalization of Albanian business in the right course. Also today cooperation between French fiscal administration and Albanian administration is presented in high levels and that also for the fact that our fiscal informatics system is adopted for French. In initially of creation of Albanian fiscal administration coachings are make specially in French and also yet when new coachings are make for essential changes in informatics system or in legislation our reference remain French.

²⁵⁰ 9920 is the most important fiscal law. But except this law, in Albania are applied also: Law for value-added tax, Law for income tax, Law for axcise, Law for locative tax, Law for social insurance, Law for centre of business registration, ect.

²⁵¹ Foreign administration is known like UNMIK.

comparison will be done starting from business creation till their closure.

Procedure for business creation: Albania

In 3.5.2007 Albania implement law no. 9723 "For centre of business registration". The aim of this law was facilitation of procedure for business registration. Advantages for creation of business registration centre are:

- The procedure of business registration is easy for all private business forms. Yet, business is not registered in law-court but in specialized centres²⁵².
- Is reduced in maximum time for business registration. Yet this time is only one day.
- Business registration in this centre means also his fiscal registration, registration for health-service and for work inspectorate. Transfer of information from the centre to other institutions or agency reduce bureaucracy.
- Keeping business register in this centre in electronic way and control of data-base from all agencies diffused in big Albanian cities, create more control possibility for not allowing registration of business with the same name.
- Publication online of basic information²⁵³ for all business and allowing use of these data for all interested parts, that want to associate business relations with them, create possibility for most secure relations preventing association with non registered business.
- Information and assistance for the procedure of business registration and licence²⁵⁴.
- Facilitation of procedure for keeping the necessary licence for developing specific activities. In Centre for business registration are delivery necessary documents. This centre has authority to deliver these documents in respective ministry. Also in this centre is attended the response that the licence is done or not.
- Is enabled the process for closing the business. Now business is not necessary to go in law-court for realize this process but is sufficient to apply in business registration centre and give necessary documents according to the business form **Changes in registration data for companies**²⁵⁵

Albania

- For simple companies in Albania for the changes is necessary like documentation only ID of owner or owners that have create the business, or with vicariously when is presented one other person. Is complete changes formulary and is payed 100 albanian lek.
- For limited companies or corporations is obligatory the decision of owners assembly, ID document of person that is presented for doing the change, if the person is not company's administrator must give also

²⁵² Only Non Profit Organizations are registered with court decision.

²⁵³ Information that is give not hurt competition between business and their activity.

²⁵⁴ Yet is created also center for business licencing that is engaged especially with licencing of business that do special activity.

²⁵⁵ Albanian law no. 9723 and Manual for businesses in Comunal of Peja

authorization of owners, also is necessary the payment of 100 albanian lek. For specific changes could to demand also additional information. Exemple when is applied for name change or company's address is demand delivery of original business certificate.

Kosovo

- According to type of company and type of change vary necessary documentation. However generally necessary documentation that must to be give include: Decision for change in company statute in corporation or limited companies, delivery of original business certificate, ID documents, complete of formulary according to the type of change and also payment that vary 5€-22€.

From the table above we can see that in Kosovo is dedicate more importance in the first moment for business creation offering consultancy and business plans for creating the companies that will have wellfunction in the market. Meantime that in Albania this consultancy is not offered from registration agencies and personally business doesn't have culture for take professional consultancy. That result in one negative situation from majore part of business. Only after a few month of activity they understand that registration was one mistake and ought to be closed for reduce the losses. Also we can see in the table the big differences that exist in the tariff of business registration in Albania compared with Kosovo. Kosovo's state has a big tariff. In Albania all actions that are done in registration centre have one fixed tariff by 100 albanian lek, amount that is inconsiderate for all business. From that we can say; it seems that Albania is trying to eliminate all barriers for business creation. From one part that is good because rise the number of business but also for cause of entry in unexplored area much of the business are obligate to interrupt their road so soon.

While, if we see closure of a business, we can say that Kosovo has more facility that Albania. In Albania companies that are registered like individual business must to close without large procedure, is sufficient to have paid obligation versus debtors. But when we speak for corporations or limited company in the majore cases procedure extend and often seems like never will finished.

Differences and cammons²⁵⁶ between Albania and Kosovo's law for business creation²⁵⁷

	Albania	Kosovo
Free advisory centre for business before starting their activity	Don't exist	Exist
Cost of registration	100 Albanian lek	17€ for individual business payed in total in three stages 20€ for limited partnership
Necessary documents for company registration	<ul style="list-style-type: none"> ✓ Application's Formulary ✓ Foundation contract if exist ✓ Copy of identification document ✓ Statute ✓ Foundation Act 	<ul style="list-style-type: none"> ✓ Identification document of owner (or owners) ✓ Rent contract of property or property documents ✓ Customs number and licence number, only if you are importer or exporter ✓ Names, details of ID, address of business owners, directors or business partners. ✓ If is used: Audits, accountant and/or registered agents- You must to give their names, address and their ID's details. ✓ Delivery of registration contract ✓ Give of acess for allowance of activity from communal institutions.

²⁵⁶ Are give necessary documents apart from form of company

²⁵⁷ Albanian law no. 9723 and Manual for businesss in Comunal of Peja

Comparison of law for fiscal administration and procedures²⁵⁸

	Albania	Kosovo
Registration	All that have private activity regardless from company form	All that have private activity regardless from company form
Transfer in passive register	When taxpayer from one period for 12 month: a) doesn't have business activity; b) don't present fiscal declaration; c) is declared suspension of business activity, In these cases fiscal administration apply the procedure for transfer in passive register and inform company into 10 days. Transfer in passive register will not eliminate obligations that have taxpayers.	Is done transfer in not active register when in the end year taxpayer doesn't have business activity, but this will not eliminate his obligations. Also administration has the authority to apply all the legal ways for collected this obligations.
Business closure	For individual business is presented the request for business closure and if company doesn't have obligation, into 45 days the company close up. For corporations or limited company is presented request and start the procedure of company liquidation. Are payed obligations and after that company close up. The payment is 100 albanian lek and is payed in registration center for each procedure.	Is presented request together with balance sheet of closure, AKT check activity of company and if doesn't have obligations for paying the business close up.
Fiscal control	Subject of control are all companies. Fiscal inspectors have the authority to control documents for one period off 5 years. Clamours according to control acts will be made in two phase: 1. Board of fiscal appeal 2. Law-court	Subject of control are all companies. Inspectors have authority for control documents for one period off 6 years. Clamours: 1. Clamours board 2. Independent board for review
Documentation keeping	According to law for accounting and financial statements, NAS and IAS, NAS 15.	According to NAS of Kosovo and IFRS.
Fiscal invoice	Fiscal invoice with value-added tax, simple fiscal invoice, fiscal coupon. Up from 300 000 albanian lek invoice will be payed with bank transaction.	Invoice, Fiscal coupon. Payment up to 500€ will be payed with bank transaction.

As regards the law for procedures, we see that between two states doesn't have any big change. We must to point that for some issues Kosovo continue to take reference unto UNMIK regulations. Also for some aspects Albanian law is presented more clearly in terms. While as regards to limit of obligate transactions via banks, Kosovo has one more little limit that Albania and that help canalization more transparent of business funds.

²⁵⁸ Albanian law 9920 and Kosovo law 03/L-222

Comparison of law for tax income²⁵⁹

	Albania	Kosovo
Who is taxed	Resident persons, Non resident persons in some cases, Business	Resident persons, Non resident persons in some cases, Business
Rate of tax	Business with turnover till 2 000 000 albanian lek are taxed with 1.5% of annual turnover Business with turnover more than 2 000 001 albanian lek are taxed with 10% of profit. Started from 2011 all persons will payed 10% of their annual income.	Rateable income 0€-960€ rate of tax is 0% 961€-3000€ income, rate of tax is 4% of this difference 3000€-5400€ income, tax is 81,6€+8% of difference Income up to 5400€, tax is 273,6€+10% of difference. For companies rate of tax are: Income 0€-5000€ tax is 37,5€ for each trimester Income 5001€-50 000€ rate of tax is 3%-5% of income for each trimester Income up of 50 000€, tax is ¼ of calculated income.
Period of payment	Calendarian year	Calendarian year
Date of payment	Date 20 of successor month or in closing of each trimester for Small business.	Date 15 in the end of each trimester
Prepaid tax of profit	Till date 15 of each month	Date 15 in the end of each trimester
Amount	Same amount each month except cases when are have reappraise from fiscal administration.	Diverse amount evaluate in base of each trimester's turnover.
Penalty	From 10 000-40 000 albanian lek and in % till 100%	According to cases of invasion
Declaration	Till 31 march of each year	Till 1 april of each year

Based in this comparison we can say that Kosovo has one more right tax. That because in Albania tax is 10% almost for all business and persons. Tax applied in Albania, actually, affect persons and small business that have low income. In Kosovo different rate of tax not discriminate but help persons and small business.

Value-added tax²⁶⁰

	Albania	Kosovo
Subject of this tax	All companies that have turnover more than 5 000 000 albanian lek in year	Companies with income more than 50 000€ in year
Rate of tax	0% for export 10% for medicines 20% for other internal or external supply	0% for immune supply 6% for some services and goods 16% applied in internal or external supply, but this rate will not be less than 5% and high than 21%
Registration for value-added tax	Into 15 days from creation of company or into 15 days when is overtake limit of turnover	Into 15 days from creation of company or into 15 days when is overtake limit of turnover
Exit from registration for value-added tax	When company don't overtake turnover limit When company never must to be registrate for value-added tax	When company is closed When turnover is less than obligated limit When company don't fulfill obligatory limit for registration
Deferred payment of value-added tax for importation of capital goods	Is allowed	Don't have information
Payment	Date 14 of successor month for declaration and payment if company has to pay	Date 20 of successor month for declaration and payment if company has to pay
Request for reimbursment	Is done reimbursment if amount of minuend value-added tax is more than 400 000 albanian lek for three month Reimbursment may to be done also at customs like compensation of value of payment in future imports	If amount payed more is high than 5000€ for six month The request will be done not after than one time in month
Farmer compensation	6%	N/A

²⁵⁹ Albanian law no. 8437 and Kosovo law 03/L-161 and other laws

²⁶⁰ Albanian law no.7928, Kosovo law 03/L-146 and other laws

Based in comparison above we can say that our legislation is more clearly than Kosovo law. One facility in Albanian law is the possibility offered for companies that do their activity in our county for deferred value-added tax in import of capital goods. The time for tax deferred is 12 month. Deferred payment, that for import of capital goods is very considerable value of tax, help the business for develop their activities, for do investment and doing the payment when they have possibility into one year. Also as regard of reimbursment of value-added tax payed more, our law has facility in time of reimbursment and also in necessary limit. This facility, allow the business to get back the money and use them for wellfunction of activity and reduce problem of liquidity. For the reason that Kosovo is county with concentration of the majore part of people in village and has one considerable income for agriculture and farming, in their law have dedicated importance for creation of co-operativs. Also Albania has nearly the same geographic extension of population but the fact viewed in the last years is one movement towards cities deserted in this way the villages and the majore part of population that live currently in village has lost their interest for doing agriculture or farming business. The reasons for this are hight costs and low productivity that in majore cases are introduced like considerabe losses. Based in this situation Albanian law differenty from Kosovo law has trying to help farmers via giving them 6% compensation of their sales for the other business.

Conclusions:

- Kosovo has good luck that has more knowledge than Albania for the ways of doing business, from the most possibility of their citizens to contact with the developed countries of the world.
- Even if Kosovo has approximately only 2 years independence, is creditable and valuable the fact that very soon has created their law setting for a better functioning of business and for give in this way more possibility for economic growth for the county. In this aspect have done their contribution also UNMIK regulations, some of they continue functioning also yet. These regulations have done a Kosovo legislation western spirit but having present also economic characteristic of Kosovo's county. However regardless of all efforts doing for improve constantly fiscal law setting, we can't say that Kosovo has one ideal situation.
- Albania has only 20 years that have knowledge for open market economy and existence of private business. From one part it seems much but compared with other developed countries this time is very low. However we can say that also in our county efforts have been hight for improve the situation in this field.
- From comparison among fiscal legislation of two states we can say that in generally Albanian legislation create most facility for business than Kosovo's legislation. This fact isn't positive because business can start having much principal costs. Also in our country payment that one business have to do during their activity are less than in Kosovo. Only tax for income is better in Kosovo than in Albania because in Kosovo is applied escalating tax that

help persons and business with low income. While in Albania, we apply flat tax. This tax discriminate low income of persons or small business. But starting business without necessary economic consultancy for the market, product or service, and without business plan, one hight number of business in Albania are obligated to close their activity or to declare, so soon of starting moment, they bankruptcy.

In some specific aspects Albanian legislation is more clearly than Kosovo's legislation.

Based in comparison above we must to say than for the moment is more easily start and perform business in Albania but is very dificul close them also when the business is in bankruptcy. The reason for that, are in the majore part burocratik more than legislative.

According to this comparison we must to say also that these facilities that offer Albanian legislation are more attractive for foreign business or investors than investment in Kosovo.

Suggestions

Albania ought to follow Kosovo's exemple offering consultancy for the business that start their activity for the first time. Consultancy stops starting business that are destinate to bankrupt. Yet in Albanian market we have a lot of business that are in these conditions.

Also Albania must to change tax for income and to apply escalating tax for help in this way persons and business with low income. Actually is tax in Albania is 10% and is very high for person and small business that are majority in our economy compare with big business.

Kosovo must to try to offer more facility for they business. These facilities ought to beee financial but also in part of law's clarity in some aspects not clear. In this way, regardless the fact that Kosovo is new state and don't have one favorably picture for foreign investors, doing business in Kosovo will beee more attractive.

References

- Administrative manual 02/2005, Kosovo
- Brochure "Investing in Kosovo 2009"
- http://www.atk-ks.org/shqip/Tatimet/fajllat/tak/Doracak_2006_A.pdf
- <http://www.iqconsulting.biz/main/publications/FES2-al.pdf>
- <http://www.qtk-ka.org/shqip/NFiskal>
- Law Nr. 02/L-123 "For private business"
- Law nr. 03/L- 146, "For value-added tax", Kosovo law, 2009
- Law Nr. 03/L- 162, "For corporate income tax", Kosovo law, 2009.
- Law Nr. 03/L-113, "For corporate income tax", Kosovo law, 2008
- Law Nr. 03/L-114 "For value-added tax", Kosovo law.
- Law Nr. 03/L-115 "For personal income tax", Kosovo law.
- Law Nr. 03/L-161, "For personal income tax" , Kosovo law, 2009
- Law Nr. 03/L-222, "For fiscal administration and procedure", Kosovo law.
- Law Nr. 7928 date 27.04.1995 "For value-added tax", Albanian law
- Law Nr. 8438, Date 28.12.1998, "For Personal income tax", Albanian law.
- Law nr. 9723, date 3.5.2007, "For business registration Center", Albanian law
- Law nr. 9901, date 14.4.2008, "For businessman and private business", Albanian law
- Law nr. 9920, 2008, "For fiscal procedure in Republic of Albania", Albanian law
- Manual of UMNİK 2004/52
- Manual of Comunal Centre for business in Peja,
- Regulation 2007/23, Kosovo
- www.arbk.org
- www.atk-ks.org
- www.bqk-kos.org
- www.eciks.org
- www.iqconsulting.biz
- www.peja-komuna.org
- www.seemda.com
- www.sme-ks.org
- www.tatime.gov.al

