

# Setting up your Business in Albania

## Issues to consider



### Brief introduction to Albania

*Albania is located in Southeastern Europe, less than 72 km from Italian coastline. It is bordered by Montenegro to the northwest, Kosovo to the northeast, The FYR Macedonia to the east and Greece to the south and southeast.*

*It has a coast in the Adriatic Sea to the West and on the Ionian Sea to the southwest. Albania is considered as a strategic place to invest, located in the center of the natural crossroads of major corridors in Europe.*

*Why invest in Albania?*

- ❖ *All sectors are open to foreign investors.*
- ❖ *No limitation or restrictions for foreign companies; 100% foreign ownership possible.*
- ❖ *Albania is the gateway to the Balkans.*
- ❖ *Free Trade Area.*
- ❖ *Total labor costs are lower than comparable countries.*
- ❖ *Social security 'on costs' amounts - 31% of gross wages.*
- ❖ *Adaptable and flexible skilled labor force.*
- ❖ *Extensive language skills, most of the younger generation are college graduates.*

*Its population is young and active; one of the youngest populations in Europe and consist of a very competitive workforce in the region because 57% is under the age of 35. English, Italian, Greek and Spanish languages are widely used.*

*Furthermore Albania has:*

- ✓ *Online tax system;*
- ✓ *Business legal framework in line with EU legislation;*
- ✓ *Tax benefits and incentives for investment in strategic sectors;*
- ✓ *Favorable tax system:*
  - *corporate tax rate 15%*
  - *personal tax rate up to 23%*
  - *treaties for the avoidance of double taxation with over 40 countries.*

*There are a lot of investment opportunities in: Renewable Energy; Tourism; Agriculture; Manufacturing; Transport and logistics; Mining Industry; ICT Services, etc.*

*However there are a number of issues which you must consider when you are looking to set up your business in Albania.*

*This document takes you through some of the common questions we come across and gives you practical information about the issues you need to consider.*

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### What type of Business Structure should we use?

*There are advantages and disadvantages to all of them, and there is no one correct answer, it's all dependent on your specific business circumstances and needs. A brief overview of the main structures is below:*

#### Establishment (a branch of your overseas business)

- *Not a separate legal entity but an extension of the overseas parent company;*
- *No limited liability or ring-fencing of the Albanian operations;*
- *If have a permanent establishment in Albania then profits from this PE are liable to Albania Corporation tax or withholding tax;*
- *Must file **parent company accounts**, prepared under Albania Company Law, even if these are not made publically available overseas.*

#### Limited Company:

- *Provides limited liability and the definition of operations in the country;*
- *Gives a perception of a local business, with longevity;*
- *Corporation tax to be paid on company profits;*
- *Members (partners) have limited liability to their equity;*
- *Accounts require auditing if in **group as a whole** Revenues  $\geq$  ALL 100 million or Gross Assets  $\geq$  50 million.*

#### Limited Liability Partnership:

- *Members (partners) have limited liability;*
- *Profits are allocated to members who then pay Income Tax on these profits personally;*
- *The tax residence of the member, and where the profits in the LLP originated will determine in what jurisdiction and how these profits are taxed.*

### How much Corporation Tax will the business pay?

*Current Corporation Tax rates in Albania are:*

<b>Tax rate (%)</b>		<b>Turnover (ALL)</b>
<i>Small co rate</i>	<i>0</i>	<i>0 – 5,000,000</i>
<i>Intermediate rate</i>	<i>5</i>	<i>5,000,000 – 8,000,000</i>
<i>Full rate</i>	<i>15</i>	<i>Over 8,000,000</i>

Entities with gross income exceeding 8,000,000 ALL - tax rate on corporate tax income 15%

Entities with gross income up to 5,000,000 - the corporate income tax rate is 0%

Entities with gross income exceeding 5,000,000 ALL till 8,000,000 - tax rate is 5%

(NB: rates are for the tax year to 31/12/2016).

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### What if we use Albania to set up our holding company?

*Albanian's tax law treats each integrated holding entity as an individual taxpayer; you will pay taxes based on the benefits obtained independently of other entities that make up the holding. Therefore the income received by the holding company will be comprised of dividends generated by the member companies. Dividends received by a parent company in Albania, either from Albania or from abroad are exempt from income tax in Albania; provided that the company that distributes the corresponding tax has paid such in the host country, and it is greater than or equal to the rate to which he would pay in Albania; otherwise the company must pay the supplemental tax to match the rate which it would pay in Albania. So in Albania the credit method is applicable.*

*In Albania the withholding tax on dividends is applied at 15% of the value distributed. This tax is applicable only in the first step of distribution. All this makes Albania appealing to provide investors with an advantageous structure for the operation of holdings.*

### What if we make cross-border transactions between group companies?

*Albania follows internationally recognized Transfer Pricing (TP) rules where cross-border trading and financial transactions between affiliated entities have to be conducted on an **arm's length basis**. The price and terms should be the same as if the transactions had been between completely independent parties. Two persons are considered to be affiliated parties if either one of them participates directly or indirectly in the management, control or capital of the other, or the same person(s) participate(s) directly or indirectly in the management, control or capital of the two parties. A person shall be considered to participate directly or indirectly in the management, control or capital of another person, if that person directly or indirectly owns 50% or more of the share capital of that other person, or effectively controls the business decisions of that other person.*

*Controlled transactions are considered to be transactions between related parties and dealings between a permanent establishment and its head office. In addition, any transaction between a resident entity or a permanent establishment in Albania of a foreign entity to which the transaction is attributed and an entity resident in one of the jurisdictions that will be listed in the Instruction of the Ministry of Finance about tax haven jurisdictions, is considered to be a controlled transaction.*

*The first period of application of the transfer pricing documentation requirement is for transactions carried out 4 June 2014 or later and for recurring transactions continuing after that date.*

*Typical transactions between affiliated entities that are covered by TP regulations are:*

- *Management fee payments,*
- *Financial and insurance services,(financial support inter group loans charging an interest),*
- *Technical services,*
- *Marketing services,*
- *Royalties,*

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- *Transfer of intangible assets e.g. patents, trademarks,*
- *Trainings,*
- *Commissions,*
- *Interest*
- *Insurance, Guaranties fees, Discounts,*
- *Research and development activities,*
- *Property rental charges,*
- *Transfer of intangible assets e.g. trademarks, patents,*
- *Sharing of knowledge, expertise, business contacts etc.*
- *Provision of financial support e.g. inter-group loans and charging a “market” interest on loans,*
- *Finished goods,*
- *Raw materials,*
- *Tangible goods,*
- *Borrowings,*
- *Other services,*
- *Recharge of expenses.*

**A business will need to prepare a Transfer Pricing Report proving the arm's length basis of transactions. The report will include a functional and risk analysis, analysis of the adopted pricing model and benchmarking of the arm's length basis.**

*The taxpayer should choose one of the methods described in the OECD's TP Guidelines when engaging in transaction with related parties.*

*The taxpayer which during the reporting period has aggregate controlled transactions (including loan balances) exceeding 50.000.000 ALL (370.000 euro or 394.000 \$) during a calendar year must fill an application form called "Controlled transaction notice".*

*Transfer Pricing documentation must be submitted to the tax authorities in Albania on an annual basis by filling a "Controlled transaction notice".*

*It may be submitted in hard copy along with the balance sheet and the financial statements or electronically, as required by the tax authorities.*

*However even if an entity is exempt from the Albania's transfer pricing regime it may fall under the scrutiny of the other international tax jurisdictions where it transacts. There may also be other tax regulations which ensure transactions are undertaken at a commercial value.*

### **What Employment Taxes and Social Security will need to be paid?**

*If an individual is resident in Albania then they are subject to Albanian tax laws.*

*We would advise any new entrant to Albania or person who spends time working in Albania to take professional advice to determine whether they are Albanian tax resident.*

### **Current Personal Income Tax rates in Albania are:**

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Band of income (ALL)	Tax rate (%)
0 – 30,000 ALL	0
30,001 – 130,000 ALL	13
Over 130,001 ALL	23

(NB: rates are for the tax year to 31/12/2016)

*Employers and employees also have to pay Albanian social and health insurance contribution.*

*The contribution for the Social Insurance Contribution is 24.5% in Albania, while Health Insurance Contribution in Albania is 3.4%.*

*The employer pays 16.7% of contributions, while the employee pays 11.2% of contributions.*

### Current Social and Health Insurance Contribution rates are:

	Rate (%)	Social Insurance Contribution Rate	Health Insurance Contribution Rate
Employer	16.7	15	1.7
Employee	11.2	9.5	1.7

NB: (rates are for the tax year to 31/12/2016)

*The minimum salary considered for calculating social security contributions in the employment relationship is 22.000 ALL. The employer is obligated to implement minimum monthly basis salary which is 22 000 ALL. The maximum monthly salary is 97 030 ALL. As of January 1, 2014 health insurance contributions are calculated on the gross salary and not on the minimum/maximum wage as previously estimated.*

*Social security and health insurance contributions are compulsory payments, for all economically active persons, including the self-employed. Paying social security and health insurances contributions makes it possible to benefit from The Social Security Law (Law no. 7703, dated 11.05.1993) and the Health Insurance Law (Law no. 7870, dated 13.10.1994). Contributions are collected by the tax authorities on behalf of the Social Insurance Institute and the Institute of Health Insurance.*

**It is the employers' legal responsibility to pay over employee's tax and social insurance deductions to the Albanian tax authorities by submitting a declaration form electronically.**

*Self-employed persons shall be responsible to submit a declaration form electronically and to pay social and health insurance contributions for themselves and for unpaid family workers. The declaration must contain the amount of contributions payable and the value of contributions paid. Persons liable to pay contributions shall submit to tax authority the proper declaration, where the name, Social Insurance Number, the amount of contribution due and the amount of benefits paid out of each person are noted.*

*The employer shall provide the Social Insurance Number to each employee and keep records of the work period and the amounts paid for each employee.*

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*When an overseas national employee of a foreign company is seconded to Albania for a defined period of time and continues to pay social security in their home country, which is not obliged to be registered in Albania for tax purposes, then the employer and employee **are exempt from paying Albanian's social security.***

*A foreign individual sent by a foreign company established abroad to carry out business on its behalf in Albania who is insured abroad will not be subject to Social Security deductions in Albania.*

*If any case if a foreigner employed by an Albanian company is liable for full Social Security deductions as is the case for an Albanian national citizen.*

*To provide relief from double social security contribution and to assure benefit coverage Albania has entered into a social security agreement with Turkey and Belgium.*

### **What is Value Added Tax (VAT) and should the business be registered?**

*VAT is a tax on consumption of goods and services, the standard rate of which is 20%. If a business makes taxable supplies in excess of 5,000,000 ALL (Albanian Lek) in any 12 months of the fiscal year then it **MUST** be registered for VAT.*

*There are three types of supply*

- *Taxable – must charge VAT on supplies, can reclaim input VAT;*
- *Exempt – cannot charge VAT nor reclaim input VAT;*
- *Outside the scope – not in the Albania VAT system.*

*The supply of most types of goods and services in Albania would be classed as Taxable supplies. However, when these supplies are made to companies which are outside Albania advice needs to be sought as to what rate of VAT, if any, to use.*

### **Can we provide Share option plans to our staff?**

*Many companies see Share Option plans as being an important way of attracting, motivating and retaining key staff.*

*Albania has a **number of “approved” share option plans which give tax benefits to employees and employers alike and it is often possible to adapt an overseas stock option plan to fit into one of these “approved” plans.***

*However this is a very technically complex area and careful planning needs to be undertaken as soon as share option plans are being considered for implementation in Albania.*

### **How else can we compensate our employees?**

*Albania has a very comprehensive range of compensation and benefit options available for companies to offer their employees.*

*Pensions, private medical insurance, life and disability cover are now commonplace*

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*benefits provided by many Albanian businesses to their workforce.*

*Flexible benefit packages are also gaining in popularity, giving employees options on how they wish to “spend” their benefits allowance; which can range from “purchasing” additional holiday entitlement to obtaining full family medical cover.*

**To discuss your requirements please contact the International Office on +44 (0) 1245 449266 or e-mail us directly.**

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