



# National Business Forum



## NATIONAL BUSINESS AGENDA FOR ALBANIA

April 2017



**National Business Forum**



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FOR  
ALBANIA**

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## ACKNOWLEDGMENTS

The National Business Agenda (NBA) is an Albanian initiative and a means of communicating in an open, constructive, and professional way with the government on the priorities of the business community in Albania. This tool is a result of the work of members of the National Business Forum (NBF), and we would like to use this opportunity to thank all of them for their contribution.

Over 100 regional business organizations, members of the NBF, and other experts were engaged in the preparation of this document, supported it, and provided valuable contribution towards its successful completion. A heartfelt thank you goes to all who provided their assistance in preparing this instrument. NBF appreciates the thoughts, comments, and contributions of the participants from the National Conference dedicated to the launch of the NBA in Tirana on March 28, 2017.

The NBA was drafted through the joint contribution of a dedicated team of our ACER colleagues, including business legal consultants Zyhrada Kongoli and Aida Bushati (Gugu), fiscal policy expert Floreta Drinziu, and business expert Brunilda Kosta, and with the assistance of CIPE consultants Carmen Stanila and Camelia Bulat.

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*Dr. Zef Preci*  
*Executive Director, ACER*

## DISCLAIMER

The National Business Agenda for Albania reflects the views of those from the business community who participated in the Regional Business Forum (RBF) during the summer of 2016, and the leaders of business organizations who participated in the meeting held in Tirana on March 28, 2017. The views, opinions, and recommendations expressed here do not reflect the views of CIPE. The CIPE's main role in the NBA preparation process was to assist the Albanian business community by launching the initiative, as well as drafting and producing the final document.



# National Business Forum

The NBA was prepared by the National Business Forum (NBF), which is an open network of business associations, chambers of commerce, and other business support organizations. The NBF was launched on November 22, 2013 by nine organizations. NBF members signed a memorandum of understanding and agreed to work together on issues of common interest under the NBF umbrella. The mission of the NBF is to represent the interests of businesses operating in Albania in their dialogue with public institutions. The founding members of the NBF are: Albanian Center for Economic Research (ACER), Association of Builders of Albania (ACA), Albanian Chamber of International Trade and Development (ACITAD), Chamber of Commerce and Industry (CCI), Albanian Plastic Converters Association (APKA), Albanian Professional, Businesswomen, and Crafts Association (SHGPAZ), Albanian Recycle Association (ARA), Chamber of Façon of Albania (CFA), and Albanian Tourism Association (ATA). The American Chamber of Commerce in Albania (AMCHAM) and the Albanian Banking Association (AAB) are partners of this Forum.

Website: [www.nbf.al](http://www.nbf.al)



This document was prepared with the support from the International Center for Private Enterprise (CIPE) under its *Albania: Building an Effective Public-Private Dialogue* program. The mission of CIPE is to strengthen democracy around the globe through private enterprise and market-oriented reform. CIPE is one of the core institutes of the National Endowment for Democracy (NED) and an affiliate of the U.S. Chamber of Commerce. CIPE has more than 30 years of experience and has carried out more than 1,300 reform programs in more than 100 countries around the globe. CIPE's key program areas include business advocacy, democratic governance, business environment, anti-corruption, and ethics.

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## TABLE OF CONTENTS

<b>LIST OF ABBREVIATIONS</b> .....	Error! Bookmark not defined.
<b>EXECUTIVE SUMMARY</b> .....	7
<b>INTRODUCTION</b> .....	11
<b>1. METHODOLOGY</b> .....	13
<b>2. NATIONAL BUSINESS FORUM PRIORITIES FOR 2017</b> .....	14
<b>2.1. TAX AUDITS</b> .....	<b>14</b>
A. Failure to apply risk-based analysis.....	14
B. Failure to provide taxpayers with information and advance notice .....	17
C. Failure to apply the taxpayers' right to reasonable audits .....	19
D. Unwarranted administrative penalties .....	19
E. Problems created by the 2015 system .....	20
F. Ethics and professionalism of tax auditors.....	21
<b>2.2 DIFFERENTIATED SECTORAL VAT</b> .....	<b>23</b>
A. VAT in the active processing sector (the faon industry) .....	23
B. VAT in the agricultural sector .....	25
C. VAT in the tourism sector.....	27
<b>2.3 THE INFORMAL SECTOR (INFORMALITY)</b> .....	<b>30</b>
A. Government actions against the informal sector .....	30
B. Differentiation of income tax .....	32
C. VAT division in Albania.....	33
D. High business costs associated with hidden costs .....	33
E. Instability and quality of legislation.....	35
F. Lack of public services, which support paying taxes .....	36
G. Low confidence of the business community in appellate institutions .....	37
<b>2.4 PUBLIC-PRIVATE DIALOG</b> .....	<b>40</b>
A. Lack of assessment and feasibility studies on the need to create public-private dialogue institutions .....	40
B. Overlap of functions and responsibilities of the existing consultative institutions .....	41
C. Inefficiency and lack of tangible results .....	42
D. Lack of communication channels at the local level.....	44
E. Lack of transparency in existing consultative institutions .....	44
F. Lack of technical capacity in the secretariats of the existing consultative institutions.....	45
G. Failure to effectively apply the law on public notice and consultations.....	45
<b>3. CONCLUSIONS AND RECOMMENDATIONS</b> .....	<b>48</b>
<b>REFERENCES</b> .....	<b>60</b>



## LIST OF ABBREVIATIONS

AAB	Albanian Association of Banks
ACA	Albanian Builders Association
ACER	Albanian Center for Economic Research
ACITAD	Albanian Chamber of International Trade and Development
ACPST	Advisory Committee on Private Sector of Tourism
AMCHAM	American Chamber of Commerce in Albania
APKA	Albanian Plastic Converters Association
ARA	Albanian Recycle Association
ATA	Albanian Tourism Association
CCI	Tirana Chamber of Commerce and Industry
CFA	Chamber of Façon of Albania (Chamber of Garment and Footwear Industries)
CIPE	Center for International Private Enterprize
EBRD	European Bank for Reconstruction and Development
KE	European Commission
BE	European Union
DPT	General Directorate of Taxation
DRT	Regional Directorate of Taxation
KI	Investment Council
NBA	National Business Agenda
QKB	National Business Center (NBC)
NBF	National Business Forum
NCCS	National Council of Civil Society
KEK	National Economic Council
SHGPAZ	Albanian Professional, Businesswomen, and Crafts Association
RBF	Regional Business Forums
SME	Small and medium enterprises
KT	Tax Council
TVSH	Value-added tax (VAT)



## EXECUTIVE SUMMARY

The National Business Agenda (NBA) is the result of a joint work and continuous cooperation of members of the National Business Forum (NBF), an open network of chambers of commerce, business associations, and other business support organizations in Albania. The NBF is supported by CIPE as part of its *Albania: Building an Effective Public-Private Dialogue Program*.

In 2016, the NBF made a decision to develop a National Business Agenda for Albania, the drafting of which went through a series of consultations with the business community. During June-September 2016, the work on the NBA began in five of the most important regions of Albania (Korca, Fier, Durrës, Tirana, and Shkodra) in five Regional Business Forums. Over 120 business and business organizations met and shared their experiences and proposals related to business barriers in Albania. During these forums, around 30 barriers were identified. In September 2016, the NBF determined that the NBA should be focused on four priority areas: the informal sector, tax audit, differentiated sectoral VAT, and public-private dialogue. A team of experts in cooperation with the NBF members worked on these four areas by carrying out an in-depth, data-based analysis to provide policy recommendations on improvements in Albanian regulatory and legal framework.

This document presents in detail the necessary political interventions and actions that the government and the business community must undertake to improve the business climate in Albania in four focus areas: tax audits, differentiated sectoral VAT, the informal sector, and public-private dialogue. Recommendations related to these four areas are outlined below.

### I. TAX INSPECTION

- Base tax inspections solely on **risk assessment** and apply this approach in all Albanian regions; special provisions related to bankruptcy should be based entirely on risk analysis;
- **Establish an effective risk analysis unit** at the General Directorate of Taxation (GDT) to include qualified experts experienced both in theory and practice;
- In the second half of 2017, implement **pilot projects** of the risk-based tax inspections in the regional directorates of taxation using a representative selection of taxpayers;
- The General Directorate of Taxation (GDT) should **publicly announce the deadline** for the full implementation of the risk analysis system in all regional tax directorates;
- **Extend the taxpayer services network** to include several centers (not just one per city), to be closer to the network users;
- **Establish a continuous information system** at all National Business Center counters, where the initial registration of business is done;
- **Hold public information sessions** with business groups to periodically update them about changes in laws and regulations and changes in tax procedures;
- GDT should **publish technical decisions and new or improved laws** on its website so that the business community receives information;

- The Ministry of Finance should draft, as soon as possible, relevant **technical regulations** to implement the new procedures of tax inspections;
- Draft a new **Tax Inspection Manual** and publish it on the official website of the Tax Administration;
- The GDT should properly exercise their obligation to **inform, educate, and assist businesses** so that they can fulfill their legal obligations;
- The Tax Control Department at the GDT should allow businesses to **discuss** the audit and to protect themselves **in accordance with the law** during the audit and at its completion;
- The Tax Control Department and the Appeals Department should make sure that each of their claims and audit reports comply with the law and properly cite provisions of law on which they were based; otherwise these administrative actions of the Tax Administration should be considered invalid;
- Tax Administration should increase efforts to **facilitate the use of electronic taxation systems**;
- **Recruitment of tax inspectors** should be done according to strict selection rules;
- **Training of hired candidates** should also be a requirement before they can begin their employment with the Tax Administration;
- **The performance evaluation of inspectors and employees** of the Tax Administration should be conducted on a regular basis based on the requirement of the Law on Public Administration;
- Oversight throughout the year by specialized units such as tax inspection, inspections, or anti-corruption should be effective and should **report to the public** every calendar year;
- Tax directorates should have an effective and fully functioning **hotline** to receive taxpayers' complaints relating to cases of abuse, poor conduct etc.;
- The GDT should **annually report** on anti-corruption **indicators**.

## II. VAT SECTORIZATION

- NBF recommends that the provision of services by **subcontractors to prime contractors is taxed at a 0% VAT rate**;
- NBF recommends that the Ministry of Finance, in cooperation with the Ministry of Agriculture, considers the reduction of VAT on agriculture from 20% to 10%. In addition, the NBF recommends that the Ministry of Finance revises the VAT law to bring it into compliance with Directive 2006/112/EC, which includes the implementation of its Article 98 in Albania. European Directive 2006/112/EC dated 28 November, 2016, Title XII, provides: "Member States may apply to farmers, in accordance with this Article [296], a flat-rate scheme designed to offset the VAT charged on purchases of goods and services made by the flat-rate farmers." The fixed-rate scheme proposed in this VAT Directive has been adopted by many countries.
- NBF recommends that the Ministry of Economy, in cooperation with the Ministry of Finance and the Ministry of Tourism, reduces VAT on tourism from 20% to 10%. This

proposal is in line with the provisions of Council Directive 2006/112/EC dated November 28, 2006, “On the Common System of Value Added Tax” and Council Directive 2009/47/EC.

### III. THE INFORMAL SECTOR (INFORMALITY)

- The Ministry of Finance should publish and request feedback on the **preliminary strategy** for reducing the informal sector in Albania and also publish an official program on the subject.
- The GDT should conduct tax inspections of all businesses regardless of their size based on the risk analysis; in addition, in cooperation with the Ministry of Finance, the GDT should conduct awareness campaigns to assist businesses in the long process of formalization;
- **Tourism issues** related to the informal sector should be under the jurisdiction of local governments;
- For business with total sales **2 to 8 million lek**, the Tax Administration should **establish a simplified 5% tax on profits**;
- The VAT threshold should be reduced from 5 to 2 million lek;
- Review the tax rate on profits and return to the previous rate of 10% comparable to our neighbor countries;
- Increase government’s transparency and accountability regarding the use of public funds with periodic monitoring of public expenditures at local and central levels;
- Allow business more time to adjust before the legal changes take effect.

### IV. PUBLIC-PRIVATE DIALOG

- Prepare a **list of organizations and business associations (or chambers of commerce and industry)** to have a clear view of the representation of different businesses in these associations (by sectors, size, etc.) and their participation in “round tables”;
- Develop a **clear agenda**, including specific issues that require discussion and resolve based on comments and recommendations from the business community;
- **Organize focus groups and “round tables”** based on specific agenda items identified in consultation with the business community;
- Increase grass roots efforts to better **inform the business community** about their activities and goals;
- Increase the **authority of technical secretariats** (when staff is insufficient) in order to have sufficient capacity to conduct research, analysis, reports, review of recommendations, observations, etc., and to monitor their implementation;
- **Improve cooperation** of technical secretariats and representatives of the business community in drafting the annual business agenda, selecting topics of discussion for meetings, etc.
- **Improve cooperation** between government institutions (through technical secretariats) and business organizations regarding the preparation of various surveys and project studies;

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- Relevant agencies and ministries should **publish commentaries** on regulations throughout the process of their development and adoption (tables of differences, recommendations, and opinions at each stage of the decision-making process and publishing terms and conditions);
  - All recommendations **made by the business community** and the position of public institutions should be **published** and their acceptance or refusal supported by valid arguments;
  - There should be more **opportunities for SME's** involvement in information and decision-making on economic issues;
  - National Economic Council should establish a **complaint office**, which would take on the technical secretariat's responsibility for complaints; this way, each unit can better carry out its tasks of serving the business community.

## INTRODUCTION

Over the past two years, the Albanian government has been in line with its commitments under the EU accession process and has adopted policies to establish a structured economic market that will be able to cope with competitive pressures when Albania joins the EU. Positive steps have been taken to improve the business climate in the country. Nevertheless, further efforts are required to produce tangible results. The Albanian business community continues to operate in a relatively difficult regulatory environment. Government has made efforts to facilitate doing business and improve dialogue with the private sector, but work still needs to be done to achieve tangible results. Another important issue is the informal sector estimated to be over one third of the country's GDP<sup>1</sup>, which results in large losses to tax revenues, lack of labor protection, and unfair competition among businesses. To handle these issues, government needs to take a more proactive and effective stance, be more engaged, and closely work with the business community.

Despite the unstable general climate in Albania, the business community managed to make progress in overcoming some barriers to “doing business”. Among the key actors effectively engaged in these efforts is the National Business Forum (NBF). Over the past four years, the NBF has consistently advocated business issues to public officials to help build a favorable business climate in the country, which is required to boost economic growth.

The mission of the National Business Forum (NBF) is to represent the interests of Albanian businesses in the dialogue with government institutions. The goals of this forum are as follows:

- Promoting understanding between members and partners;
- Increasing the presence and visibility of the business community in the country;
- Strengthening the position of the business community in its dialogue with public officials;
- Promoting new policies to improve the business environment.

The National Business Forum currently consists of nine founding members<sup>2</sup> and two partners<sup>3</sup>. The founding members of the National Business Forum are: ACER, ACA, ACITAD, CCI, SHGPAZ, ARA, APKA, CFA, ATA. The American Chamber of Commerce (AMCHAM) and the Albanian Association of Banks (AAB) are the partners of the NBF.

In 2014, the NBF decided to prioritize the issue of tax inspections. A study was conducted, and, based on it, members of the NBF made recommendations and urged the government to address tax inspection issues<sup>4</sup>. At the beginning of 2015, after a series of consultations with the business community, the NBF decided to address the issue of legalizing the informal sector, which subsequently became a priority for the Albanian government as a result of the NBF's efforts. Specifically, the NBF conducted a survey of 400 businesses operating across the country and,

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<sup>1</sup> European Commission, Progress Report 2016, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_albania.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf).

<sup>2</sup> Founding members are those who have signed the Memorandum of Membership on 22 November 2013.

<sup>3</sup> Partners are those who have not yet signed the Memorandum of Membership but support the Forum.

<sup>4</sup> [http://www.nbf.al/images/problematika\\_te\\_kontrollit\\_tatimor\\_tek\\_bizneset\\_private\\_ne\\_shqiperi.pdf](http://www.nbf.al/images/problematika_te_kontrollit_tatimor_tek_bizneset_private_ne_shqiperi.pdf).



based on the survey's data, produced a policy document for the government<sup>5</sup>. Earlier last year, the NBF made a decision to expand the basis for the analysis of business community challenges and to develop the National Business Agenda (NBA) for Albania. The NBA is a tool, which identifies business barriers and recommend policies that will help remove these barriers. The NBA creates the opportunity for the grassroots business community to express its concerns and propose working solutions.

The main goals of the NBA are:

- Encourage greater participation of the business community from all economic sectors;
- Prepare proposals for overcoming business barriers and use them to improve the business environment;
- Improve the legal and regulatory framework, which should contribute to the faster development of the private sector;
- Provide strong arguments for policy change and explain how these changes can improve the overall business climate.

To achieve these goals, the NBA presents policy recommendations regarding the four priority areas formulated due to the broad participation of the business community across the country:

- tax inspections
- VAT sectoralization
- the informal sector, and
- public-private dialog

The NBA is organized as follows: The first chapter describes the methodology used in the NBA. It provides information on the steps that the NBF has taken to collect basic information about challenges to business in Albania. Chapter 2 described the process of prioritizing areas for research. Chapter 3 talks about the four main areas and issues associated with each, including corresponding data and recommendations. Each issue is divided into sub-issues. Chapter 4 highlights key findings and recommendations proposed by the NBF. Finally, a list of secondary sources consulted during the drafting of the NBA is provided at the end of this document.

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<sup>5</sup> [http://www.nbf.al/images/NBF\\_perspectives\\_on\\_informality\\_in\\_Albania\\_NBF\\_2016.pdf](http://www.nbf.al/images/NBF_perspectives_on_informality_in_Albania_NBF_2016.pdf)

## **1. METHODOLOGY**

The drafting of the NBA went through the following three phases:

### **1. Identifying current business challenges**

The NBF has made great efforts to identify the challenges facing the business community in the most important regions of the country. One hundred and thirteen organizations all over Albania participated in identifying these challenges. In August and September 2016, regional business forums (RBFs) met in the regions of Tirana, Korça, Shkodra, Durrës and Fier.<sup>6</sup>

These RBFs consisted of regional business leaders, who were directly connected with the local business community and who felt they had little voice in the decision-making and policy-making process. The meetings produced constructive and fruitful discussions and addressed many challenges faced by the business community. Moreover, during the RBFs, the participants were able to prioritize the problems in each region, as they were coordinated by the National Business Council Coordination Unit.

### **2. Prioritizing national business challenges**

After the successful completion of RBFs, members of the National Business Forum gathered to discuss findings and proposals developed by the regional business community. After an internal discussion among the members, four priority areas were selected to focus on: public-private dialogue, the informal sector, tax inspections, and differentiated sectoral VAT. NBF members chose those areas, which affected the largest segments of Albanian businesses. Furthermore, the choice of these areas was also informed by important government priorities, so that the Albanian government was more likely to consider the NBF's recommendations and act on their implementation.

### **3. Drafting the NBA**

After setting its priorities as described above, the NBF contracted the most prominent experts in the field, who had extended experience in selected areas. The experts were used to transform the data collected from regional business forums into a professional document supported by sufficient factual material.

In the beginning, the NBF conducted intensive consultations with regional business leaders, representatives of the regional business forums (business communities, business organizations, and businesses, which participated in RBFs), NBF members, and others to obtain their opinions and to strengthen political recommendations to government institutions. Following this initial period, the experts included most of the collected suggestions and comments into the final version of the NBA.

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<sup>6</sup> Percentage of businesses operating in these regions: Tirana 36%, Korca 8%, Shkodër 7%, Durrës 9%, Fieri 13%.

## 2. NATIONAL BUSINESS FORUM PRIORITIES FOR 2017

### 2.1. TAX INSPECTIONS

#### Introduction

The tax system in Albania is based on several legal principles that play an important role in tax inspections. The principles, on which the Albanian tax system is based, serve to:

- Encourage voluntary compliance with tax legislation through information, education, and use of modern technology;
- Improve the balance between the rights and obligations of taxpayers; and
- Support the EC integration process by applying international tax practices in Albanian tax inspection practices.

Tax inspection, which involves direct interactions between businesses and tax inspectors, is one of the most problematic aspects in doing business. These problems arise because of the reluctant relationship between the two parties, where tax inspectors are prejudiced towards businesses in that they doubt the accuracy of statements filed by businesses and tend to fine them, while businesses offer inspectors bribes to pass the inspection and obtain if not a favorable audit report, then at least a passable one<sup>7</sup>. The fines set by the amendments to Tax Law of 2015 were too high and unjustified. This situation is further aggravated by the fact that in order for their complaint to be reviewed by a tax appeal authority or in court, businesses are required to prepay an estimated amount of tax (tax liability plus interest rate). As a result, a corrupt judicial system fraught with problems does not provide any guarantees for businesses to exercise their right of appeal.

In addition, there are many cases where tax legislation leaves room for interpretation, which allows tax inspectors interpret it at will. Lack of clear procedures is also evident on the tax authorities' webpage, where regulations and technical decisions are published rarely, although this is required by law. The situation is aggravated by frequent legal changes leaving the business community very little time to stay informed. This environment creates uncertainty, negatively affecting business operations and the economy as a whole.

#### A. Failure to apply risk-based analysis

##### *Legislative approach*

Law has clear provisions, which mandate the tax authorities to use risk assessment in tax inspection. These provisions are outlined primarily in the Law on Tax Procedures, but also in regulations, i.e. the rules issued by the Ministry of Finance pursuant to this law. Regarding the

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<sup>7</sup>National Business Forum (2016) *The view of the National Business Forum on the issue of informal sector in Albania*.

organizational aspect of tax inspections, Article 16 of Law No. 9920 dated May 19, 2008, “On Tax Procedures in the Republic of Albania,” as amended, in its Article 3 paragraph 16 defines risk management as an operational function. At the same time, the Law on Tax Procedures requires to apply risk assessment when selecting taxpayers for tax inspections<sup>8</sup>. Likewise, the same law explicitly states that for the purpose of value added tax (VAT) reimbursements, inspections of businesses that require a reimbursement VAT should also be performed based on risk assessment.<sup>9</sup>

The Law on Tax Procedures also requires to use the risk assessment analysis in case of bankruptcies<sup>10</sup>. In Regulation 24 of the Ministry of Finance, dated September 24, 2008 “On Tax Procedures in the Republic of Albania,” as amended, item 80.3(a) specifically requires the use of risk assessment in in-depth inspections.

### *Aspects of methodology*

Risk assessment in taxpayer oversight is used by all EU countries, as well as in many countries of the region. The latest Progress Report for Albania issued by the European Commission supports and encourages the Albanian General Directorate of Taxation (GDT) to apply risk assessments. Specifically, this report states: “The application of risk assessment in the oversight of taxpayers and tax audits have increased, but needs to be further broadened. Efforts are ongoing to address corruption in the Tax Administration and the Customs, which still remains a concern.”<sup>11</sup> Risk assessment analysis is a cost/benefit analysis, which results in choices that generate additional tax revenue in the shortest time and at the lowest cost. From the point of view of tax administration, risk assessment is valuable and can be used to identify those businesses or groups of businesses which are associated with increased risk of violating the law. From a statistical point of view, this method is based on an ongoing process of collecting and analyzing financial and fiscal data, its variation in time, or comparing data of similar businesses.

Methodology of the risk assessment is based on:

- Statistical analysis of the data component of the tax declarations for an established tax period;
- The results of previous tax inspections of a business or a group of businesses;

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<sup>8</sup> Law 9920 dated 19 May 2008 “On Tax Procedures in the Republic of Albania,” paragraph 4, Article 80.

<sup>9</sup> Article 75/1 of the Law, second paragraph of its first part states: “within 60 days from the date the taxpayer submits his request and within 30 days the exporting taxpayer submits his request, the VAT Reimbursement Directorate, under the General Directorate of Taxation, in cooperation with the Regional Directorate of Taxation, where the taxpayer is registered, verifies the taxpayer tax situation and approves the balance of reimbursable deposits. When necessary, the Tax Administration conducts a risk analysis audit.”

<sup>10</sup> Paragraph 4 Article 45 of the Law on Tax Procedure states that “Within 10 days from the date of the request for de-registration under paragraph 3 of this Article, The competent tax body is obligated to verify the tax situation of the subject and at the same time notify the National Business Center or the court and the subject. When the tax authority, on the basis of risk analysis, considers it necessary to perform a tax audit of the entity’s business circumstances, then the entire period may not exceed 30 business days, including the performance of the audit itself.”

<sup>11</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_albania.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf)

- From information collected by the third parties:
  - a) business contracts (sale of goods and services between businesses);
  - b) second tier banks;
  - c) international import and export transactions of goods and services;
  - d) data from the Real Estate Registration Offices;
  - e) notaries, lawyers, and accountants; and
  - f) government procurements, etc.

From an economic and financial point of view, this method significantly reduces the administrative costs of tax administration, as it is not focused on businesses or groups of businesses which are poor, but also on businesses with potentially high revenue-generating indicators, thus significantly increasing tax collection potential. At the same time, this method is also efficient for businesses, because heavily regulated businesses will not want to operate if the costs associated with extensive tax inspection is too high.

***The selection system based on risk analysis is still at its developmental stage and is not yielding expected results.***

Despite the fact that the requirement to apply risk analysis in tax inspection was entered into force over six years ago in 2008 (new tax procedures), its practical results are not what one would expect. The system is currently being implemented only in Tirana, but not in other regions. Moreover, in Tirana the system failed to make proper selections. Business appeals and other cases coming from debates with tax administrators show that the system is using the required risk-based selection approach only in a small percent of cases.

The selection system based on the assessment of risk was initiated in mid-2008, but so far its implementation remains insufficient. Specifically, based on GDT data, only 60% of businesses subject to tax inspections were selected based on risk assessment, while the reminder were selected by their regional tax directorates in random manner (“hand-picked”). For example, no risk analysis was applied as part of the efforts to reduce the informal sector, when 180,000 businesses were audited. The GDT published no data about this event.

Considering said above, the NBF recommends to the GDT that all tax inspections are based solely on risk assessment and applied in all the regions of Albania.

***The application of risk assessment is still not compliant with legal requirements.***

Nearly all businesses applying at the National Business Center counters for bankruptcy are subject to an unlimited waiting period before they are allowed to de-register from “commercial entity registers.” Based on the Law on Tax Procedures, the oversight that tax authorities should carry out in these cases should be subject to the general principle of risk assessment. According to participants in the RBF meetings, the de-registration procedure can last for up to three years, during which fines are accumulated. In addition, other hidden costs accompany this process, especially for commercial companies that are initially in the liquidation phase.

NBF **recommends to the GDT** that all tax inspections related to bankruptcies are based entirely on risk analysis.

**The risk assessment system is not yet serving joint public-private efforts to minimize the informal sector in the country.**

Currently, the income tax system in Albania is very fragmented. Focusing only on taxing income, it excludes the group of businesses that report less than 5 million lek in sales and then those up to eight million lek, which creates a “crack” in the system. Businesses that are under the threshold of eight million, and especially five million lek, are not interested in legalizing their operations. Businesses registered to be taxed at regular tax rates (i.e., businesses with over eight million lek in sales) are concerned that the bills they issue to businesses registered at low profit rates will not be accepted by the latter. The experience indicates that the process of business legalization does not work whether through large-scale or unscheduled auditing. There were quite a few new businesses, but a significant number of businesses closed or became virtually non-operational.

Believing that risk-based assessment is the key driver for both tax inspections and business as a whole, the **NBF recommends:**

- Establish an efficient risk analysis unit at the central level, i.e. at the General Directorate of Taxation (GDT), with experienced and technically qualified personnel;
- Implement a pilot project, which would conduct audits based on risk analysis in auditing a diverse selection of taxpayers in at least three regional tax directorates during the second half of 2017;
- In order to significantly reduce the time required for business de-registration, the audits related to closure (bankruptcy) procedures should be based entirely on risk analysis;
- The Tax Administration should publicly announce the deadline for the full implementation of the risk analysis system in all regional tax directorates.

## **B. Failure to provide taxpayers with information and advance notice**

The right of any business (taxpayers) to information constitutes a legal obligation of tax authorities<sup>12</sup>. The NBF member meeting came to the conclusion that the intensive efforts by

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<sup>12</sup>Article 30 of Law 9920 dated May 19, 2008 “On Tax Procedures in the Republic of Albania,” as amended.



regional administrations to force businesses to register were not accompanied by information about their annual obligations with regard to both tax returns and payments. No representatives of the Tax Administration was present at the KBC desk to check the information process. The failure of a functioning information system, despite being a legal requirement for the tax authorities, has often exposed businesses, according to reports, to fines or the necessity to be prepared to face audits or frequent inspections. The specific case that the NBF raised at all meetings involved massive fines applied to many taxpayers, but mainly those self-employed, as well as legal persons, in May-June 2016. These fines were charged for failing to submit a form concerning newly employed persons in the capacity of business administrators despite the fact that they were formally registered. Almost all meetings of the NBF raised the problem of not informing businesses before the inspection, especially before a tax inspection. Businesses are not given the time needed to collect necessary information or have it presented by hired accountants, and are often fined for lack of supporting documentation and data, while a very short, nearly negligible, time is left for businesses to prepare in the face of an in-depth inspection. Now and again, “surprise inspections” are practiced rather than co-operation, professional debate, or partnership.

At the RBF meetings, Tirana businesses raised an issue of being denied the right to be notified of inspections, i.e., the failure by the tax authorities to produce a tax inspection notification and assessment, a document without which businesses do not have the right to appeal the tax liability issued by the tax authorities.

Encouraging every effort that enhances the quality of service and education to all businesses in the country, **NBF recommends** the following:

- Expand taxpayer services network to include several centers (not just one for each city) to be much closer to the system users;
- Establish a continuous information system at all KBC counters, where the initial registration of businesses is done;
- Conduct public-private round tables to periodically update businesses on changes and updates to law and regulations and any improvements in tax procedures;
- Urge General Directorate of Taxation (GDT) to publish technical decisions<sup>13</sup> and new or amended laws on its website, so that the business community can be duly informed.

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<sup>13</sup>Technical decisions are the rules published by the GDT, which provide responses to taxpayers’ inquiries. If the taxpayers’ inquiries have a greater impact on other taxpayers, the GDT can publish a general regulation, to which the procedural law refers to, as a technical decision.

### C. Failure to apply the taxpayers' right to reasonable audits

Considering the failure to select taxpayers for audit based on risk assessment, and considering the testimonies of the NBF members, the taxpayer's right to reasonable audits has not been enforced. Article 33 of the Law on Tax Procedures states the following:

*"Taxpayer has the right to have reasonable audits, which take reasonable time, are conducted at the right place and within the time limits under the provisions of this law."*

Recent changes in tax procedures introduced by Law 112/2016 involving additions and amendments to Law 9920 dated May 19, 2008, "Procedures for Tax Administration in the Republic of Albania," as amended, are a positive step at least in terms of the procedural aspect and for taxpayers' information with regards to both initiating and conducting tax inspections. Another important positive development in the recent amendments to law approved in 2016 is the opportunity given to businesses to declare their undeclared transactions. The benefit of this self-declaration is the reduction of penalties. In the event of a violation, if two different penalties can be applied, the State Labor Inspectorate applies the lowest penalty, i.e. to the taxpayer's advantage.

While supporting the procedural changes and improvements described above, **NBF recommends:**

- To the Ministry of Finance to draft, as soon as possible, the necessary sub-laws and regulations related to the new tax inspection procedures; and
- To draft a new tax inspection manual and publish it on the official website of the Tax Administration.

### D. Unwarranted administrative penalties

In its discussions, the RBF raised the issue of imposing administrative penalties by tax inspections (especially those at the local level) without sufficient justification, evidence, or supporting law. Some typical cases include:

- Fines if persons unregistered with the taxpayer, such as his relatives, who at the moment of audit were randomly found at the business site;
- Fines for not issuing sales receipts described in very general terms as "non-issuance" of sales receipts, when in fact the business did not sell any merchandise;
- Tax liabilities associated with fines imposed once the audit is over and not supported by any provisions in the tax legislation or any other arguments.

Most penalties are imposed right at the conclusion of the audit without a prior discussion of the penalty with the audited business and in violation of current law and relevant regulations. Considering these issues that have resulted in significant financial consequences to businesses and in order to avoid penalties with irreversible consequences, the **NBF recommends** the

following:

- Relevant departments of the GDT, which provide services and educate taxpayers, should fulfill their obligations to inform, educate, and assist businesses so that businesses can abide by their legal obligations;
- The Tax Inspection Department of the GDT should provide businesses the opportunity to discuss the imposed fines and defend themselves in accordance with the law in the course of and at the completion of the audit;
- The Tax Inspection Department and the Appeals Department should ensure that their findings and audit reports comply with the law and properly cite relevant legislation they refer to; otherwise such findings and reports should be deemed invalid administrative acts by the Tax Administration.

### **E. Problems created by the 2015 system**

According to the members participating in the RBF meetings, for the past two years, the business community has been concerned with the way the new electronic tax system has been implemented. For example, when an unjustified fine may be followed by ‘coercive’ measures of the administration, which often finds it the easiest to simply block all business bank accounts. Ministry of Finance’s Regulation 24 dated December 9, 2014, states (following is a complete quote): *“For granting consent and for the procedure of obtaining consent to electronic communication between taxpayers and Tax Administration,*

*13.1 The Tax Administration is not liable for any loss resulting from circumstances or causes not in its direct control, including, but not limited to, electronic or mechanical failure of the equipment of both “e-users” and “e-tax” devices resulting in the inability to accept the transmission, as well as problems with the internet and other problems of electronic broadcasting equipment, or natural disaster.*

*13.2 The Tax Administration does not guarantee the accuracy, sufficiency, or quality of information and documents provided by the “e-tax” service and, in particular, it is exempt from liability for errors or changes in these documents.*

*13.3 The Tax Administration does not guarantee that the right of access to the “e-tax” service system, or the information, or its functions will be provided uninterrupted and error free, or without the intervention of an unauthorized third party.*

*13.4 The Tax Administration will not be held responsible for loss or damage resulting from any cause [in relation to the e-tax system].”*

### **NBF recommends that the Tax Administration:**

- Fulfills its responsibilities as defined by its role in its partnership relationship with business;
- Fulfills its obligation to provide the necessary information to the taxpayers on an on-going basis;

- Increase efforts to make the use of the electronic taxation system easier for the taxpayers.

## **F. Ethics and professionalism of tax inspectors**

Among the issues raised at the RBF meetings, there is one of particular importance that warrants a separate mention: it is the issue of professional qualifications of the tax inspectors. Some areas of government administration, including, particularly, taxation, are characterized by such negative phenomena as professional incompetence, lack of ethics, and lack of transparency, which create a very favorable climate for corruption. Tax inspectors are not always effective in communicating with taxpayers during tax inspections, leading to misunderstanding during tax inspections. In some cases, tax inspectors even refuse to cooperate at all. Participants in the regional business forums testify that tax inspectors often exhibit unacceptable behavior, are not dressed in official uniforms, and in most cases lack professional skills. The RBF participants also testify that most tax inspectors \*\* are recruited based on political reasons and possess minimal professional qualifications.

Considering serious problems in this area, **the NBF recommends:**

- The Tax Administration staff should be recruited based on strictly observed rules. In addition to the relevant tax administration legislation, introduce the requirements for professional, general, and ethics education mandatory for the Tax Administration employees. The selection of such employees may be done by a joint committee, which might include members from financial and academic institutions.
- Appropriate training should also be a requirement before the newly hired employees begin their duties at the Tax Administration. In addition, regular training at least four times a year needs to be conducted with the participation of specialists, experts, and business advisers;
- Performance of auditors and other employees of the Tax Administration should be evaluated on a regular basis according to the requirements of the Law on Public Administration. These evaluations can be used as a reliable and transparent instrument to evaluate inspectors' performance;
- Government oversight conducted during the course of the year by specialized units, such as tax inspection, inspections, and anti-corruption audits, should be effective and their results should be annually reported to the public;
- An effective and reliable hotline should be established in the Tax Directorates for taxpayers, who want to file complaints regarding cases of abuse, misconduct, etc.
- The General Directorate of should publish annual reports on anti-corruption indicators.



## 2.2 DIFFERENTIATED SECTORAL VAT

### A. VAT in the active processing sector (the *façon* industry)

The latest study presented by the Chamber of *Façon* of Albania and titled *Creating an Integrated Façon Industry Database*<sup>14</sup> shows that 757 businesses operate in the industry, of which 536 are classified as ‘active processing,’ while 221 are ‘passive processing.’ The active processing businesses<sup>15</sup> remain important, because of the level of employment they provide, their technical expertise in certain areas, and the facilitation of communications between the Albanian and foreign businesses, mainly with EU countries. One of the important incentives for this industry is the VAT reimbursement, which is currently encountering delays. The Albanian government has tried to promote this industry through legal initiatives to facilitate the VAT system for local and foreign businesses.

#### *Legislative approach*

Until 2009, export VAT refunds were completed within 30 days after the application was filed. At the request of the Ministry of Finance, with regards to exports, the exporter was required to submit in advance the Customs Import Declaration (original or copy confirmed by the customs of the host country) to the Tax Administration. Zero-risk exporters (those who worked only for export or who were in operation for more than three years and were in full compliance with the law) were the only ones excluded from this procedure. Most, however, did not belong to this category, and as a result were faced with extended delays and additional costs to provide the required documents in the host country due to frequent tax inspections for each VAT reimbursement. In mid-2010, the Ministry of Finance facilitated this process by eliminating the requirement for the host country documentation, while still requiring the documentation related to the Albanian customs. In 2014, the government decided to employ the risk assessment analysis, and as a result VAT reimbursement can now be performed without prior tax inspection, but only for zero-risk exporters.

Despite the positive developments regarding VAT reimbursements, an important concern for this industry is the subcontractor VAT rate. Under the previous VAT law, the services of *façon* industry subcontractors were exempt from the VAT.<sup>16</sup> This exemption was applied for 12 years and was considered effective by the *façon* industry players. A transparent procedure was developed to administer this policy, which was implemented by both contractor and subcontractor. Specifically, the procedure was as follows:

*A contract must be signed between contractor and subcontractor in accordance with the Civil Code. Subcontractors must keep a separate register, which describes the work they do on contractor's behalf. The register should contain the client's identity, trade name, NIPT, the*

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<sup>14</sup> The study titled "Creating an Integrated MTO Industry Database" was presented at a round table in March 2015. This report is not available online. This was the first initiative undertaken by the Chamber to create and set up a database with businesses operating in this industry.

<sup>15</sup> Active processing exports labor, technology, and other economic factors that transform raw materials into final products, so that they can be used as inputs in other processing, assembly, or consumption operations. Active processing allows the processing of non-Albanian materials without incurring customs duties or fees, provided they are later re-exported as made-to-order products.

<sup>16</sup> Article 25/6\*, Paragraph 1 reads: "Subcontractors who supply non-Albanian materials for processing and re-exportation in the form of finished products to taxable persons authorized, on the basis of provisions of the Customs Code, for operations under the active processing regime, are excluded from the VAT."

*name of the administrator, his legal status, and the headquarters and branch addresses the administrator is registered in.*

For every contractor and for any *input and output* the following was required:

- Type and quantity of materials subject to processing and date of entry;
- Type and quantity of semi-processed product or product produced and its expiration date;
- The register must also contain the product stock; to this end, inventory is compiled monthly; and
- Movement of any quantity of semi- or final products by subcontractors to the contractors must be accompanied by a tax-free VAT invoice stating the cost of the service provided.

In order to get this status (i.e., exempt from the VAT), subcontractors had to submit a claim to the relevant tax department and, after verifying the claim, the tax department would issue a document that would allow the subcontractor to be treated according to the VAT exempt status. This practice continued until December 31, 2014. The new VAT Law, which was introduced and came into force on January 1, 2015, stipulates that:

- a.* **A 0% VAT rate** for non-Albanian goods processed as ‘active processing’ shall be applied to the invoice issued by the exporting operator and attached to re-exportation customs declaration for these goods.
- b.* If processing of non-Albanian goods intended for re-exportation is provided by a subcontractor on behalf of the active processing company (exporting company), this service is taxable at a **VAT rate of 20%**.

Despite the good intentions of these changes, they resulted negative consequences. First, the new tax approach divides active processing into two categories. According to this approach, the added value created by the principal service contractor is taxed at 0%, while the added value created by subcontractors is considered a taxable service and is taxed at a standard 20% rate. The large number of employees in the *façon* industry is due to the fact that these services are based on manual work. A large number of employees that work for subcontractors are unskilled labor. The artificial increase in the tax rate forces them to leave the industry.

In addition, contracts between the contractor and foreign clients are not always dynamic, are generally not long-term, and do not last throughout the calendar year. In economic terms, the value of labor holds an important place in these contracts. While part of the contract value increases only by the application of the VAT, it weakens the position of foreign contractors in a competitive market.

Many subcontractors would prefer not to leave the domestic market. Many other subcontractors would prefer not to leave foreign markets either. Therefore, informal provision of services by subcontractors might be a partial solution to them, thus starting the game of fictitious numbers.

According to previous tax regulations, given that the entire chain of operations in active processing was exempt from the VAT, the effect was 0.00 lek for the state budget. With the

new rules, the process is divided into two steps. First, subcontractors apply the VAT to the total value of their service, and this VAT is deductible for the contractor. Second, the contractor must be reimbursed VAT within 30 calendar days from the date of his request.

EU Directive 2006/112 CE<sup>17</sup> excludes the goods sold under the active processing regime from the VAT. The same is also provisioned by the Albanian legislation, but only for prime contractors and not for their subcontractors.

Based on the above analysis and concerns of the façon industry, the **NBF recommends** a 0% VAT rate for the services provided by subcontractors to the contractors, who operate under the active processing regime. Financially, such a recommendation will have a positive impact on subcontractors. In this way, subcontractors will save a large amount of money, as long as they do not have deductible VAT (this is due to the fact that subcontractors have no deductible expenses), and can reinvest this money into technology, employee training, etc.

## **B. VAT in the agricultural sector**

Agriculture in Albania, unlike in other countries of the region, plays a key role in the country's economy. According to the latest 2015 data published by INSTAT, agriculture ranks third in terms of economic share, following the service and construction industries ranked first and second, respectively. Official statistics shows that agriculture, hunting, forestry, and fishing account for 20.3% of the GDP. Despite the VAT law, which prescribes this tax to all domestic and imported supplies, agricultural producers “silently” and in agreement with other parties are not subject to this tax. In general, the agricultural economy is seen as a total of individual farmers, who are not subject to tax regardless of the obligations associated with immovable property.

The farmer compensation scheme, which has been in force for eight years, has followed the same pattern as the scheme outlined in the Directive. The VAT compensation scheme for farmers is provided in the VAT law 92/2014 and follows the principles of VAT Directive 2006/112. Under this law, if farmers sell their products to a collector or a registered VAT trader, they earn directly the value increase of 20% and have the full right to register it as deductible VAT, which means credit in their monthly VAT returns.

The compensation of 20% is provided by law, whereas previously it was 6%. Either way, all this remains both non-functional and non-implemented. Moreover, there is no incentive or opportunity to bring progress or modernization to the sector. It tries to strengthen the formalization of the agricultural sector by requiring that agricultural products going from farmers to wholesalers (*collector businesses*) are accompanied by official documentation.

At the beginning of its implementation, the interest rate in the scheme was minimal and almost negligible, as the compensation rate for farmers was virtually determined to be 6%. This compensation means that the farmers will be reimbursed the VAT paid on the agricultural inputs purchased from domestic traders. Farmers are provided with a farmer's code from the

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<sup>17</sup>Article 156 DE 2006/112 CE.

regional development directorates. There was a discrepancy between the compensation amount and the standard tax rate, which in reality continues to be 20%. Due to continued demands of business, which collect agricultural and livestock products, the compensation rate increased to 20% in 2015.

*Compensation applied to the following list of products (Provision 19 of the Ministry of Finance dated 19.11.2014)*

**A. Agricultural products**

- General agricultural products
- Ornamental plants and flowers, in the open and under glass
- Mushroom products
- Running of nurseries (cultivation of young trees for sale), seeds;
- Medicinal products.

**B. Livestock products**

- Milk

**C. Other**

- General stock farming
- Poultry farming
- Rabbit farming
- Beekeeping
- Silkworm farming
- Snail farming

However, the implementation of this scheme continues to be difficult because of the requirement that every farmer first registers with the tax authorities (not for tax purposes, but for identification), which remains an obstacle for a large-scale implementation. Farmers are not willing to enroll because they believe or presume that they may be taxed in the future. Selling products in their traditional manner outside this scheme still seems safer. Also, in addition to NIPT, other documents are required, such as contractual agreements between farmers and collectors, a bank account, and a proof of farmer's status from the Directorate for Regional Rural Development.

The European Directive 2006/112 / EC, dated 2016/11/28, Chapter XII, provides:

*"Member States have the right to apply a predetermined (fixed) tax regime to agricultural producers in order to compensate for VAT, for goods purchased and services provided by farmers. The VAT Directive envisages the pre-defined (fixed) tax regime, many countries have followed this line"*<sup>18</sup>.

This provision covers all farmers whose operations are not subject to taxation or who own a plot of one hectare. For example, in the Netherlands, the number of farmers included in the scheme is different. In France only 16% of farmers are included in the scheme, in the Netherlands 50%, while in Germany 90%.<sup>19</sup> The inclusion of this group of agricultural producers in this empirical scheme has been made due to the difficulty or inability to incorporate them into a simplified or normal tax regime. The purpose of inclusion is to give them fair compensation, but such inclusion also works against the requirement of having low administrative costs. The Directive provides that compensation may be paid directly by the

<sup>18</sup> [eur-lex.europa.eu](http://eur-lex.europa.eu) › EUROPA › EU Law and publications › EUR-Lex (D2006/112/CE dated 28.11.200

<sup>19</sup> [European Federation of Agricultural Consultancy \(EFAC\)](http://www.efac.net) Link: <http://www.efac.net/?p=90>

buyer of a taxable person or by public administration institutions. In France, reimbursement was provided by the local tax administration upon submission of an annual declaration by the farmer, while in Italy, Belgium and Germany it was done directly after each sale by the buyers.

European Directive D2006/112/EC dated November 28, 2006, article no. 98 provides that member states may apply one or two reduced tax rates. Reduction of tax rates is particularly applicable to suppliers of goods and services listed in Annex III.

Based on the situation described above, the National Business Forum recommend that the agricultural sector be taxed at a reduced rate of VAT, as is the case elsewhere in the European Union. As mentioned above with respect to the reduced tax rate, article 98 of the European Directive on VAT envisages the implementation of these rates.<sup>20</sup> In most EU countries, a reduced value-added tax rate has been consistently applied to food products. This group of products includes and is dominated by agricultural products, where dairy products and milk by-products are classified by all member states as part of this category.

VAT sales tax rates in some countries (in different geographical zones), called reduced and super-reduced.

Belgium 6%,	Czech Republic 15%
Germany 7%,	Spain 4% and 10%
Ireland 4.8%,	Italy 4% and 10%
Luxembourg 3%,	Cyprus 5%,
Malta 0%	Netherlands 6%,
Austria 10%,	Poland 5% and 8%
Portugal 6%,	Slovenia 8.5%.

Based on the above analysis, the National Business Forum **recommends to the Ministry of Finance in cooperation with the Ministry of Agriculture to consider a reduction of the VAT rate in agriculture from 20% to 10%**. This reduction will lower the level of the informal sector in agriculture. In addition, reduced VAT will help increase the interest of foreign investors to invest in Albania (currently, our VAT rates are the highest in Eastern Europe). We are not sure about the direct impact of VAT reduction due to lack of official data. However, this will be a very positive incentive for the agricultural sector.

### C. VAT in the tourism sector

Today, the tourism sector is viewed as a market with most potential, especially concerning the country's economic growth challenges. Its impact reaches 7% of GDP, while in total it amounts to 12%.<sup>21</sup> Tourism has been identified as a developing sector of the economy with a strong link to employment affecting it on three levels:

- a. direct employment in the sector (first line of travel services);
- b. employment in the sectors directly related to tourism supplies, goods, and services (second line); and

<sup>20</sup> [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/docs/body/vat\\_rates\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/docs/body/vat_rates_en.pdf).

<sup>21</sup> *Albanian Tourism Association (ATA)*

c. employment in the markets positively affected by the development of tourism.

Albanian tourism has faced high costs that have a negative impact on competition and development. Weak infrastructure, short season, ranging from 45 to 60 days, high volume of informal businesses, and taxes up to 300% higher than in the region remain the most important challenges.

Based on the recent study conducted by the Albanian Tourism Association (ATA), currently 1,200 companies are operating in tourism (agencies, hotels, restaurants, camping, and tourist camps). Referring to the data from the ATA, the VAT contribution on tourism constitutes 1.5-2 million Euro in the state budget. However, a VAT reduction from 20% to 10% would increase demand by 12%.

### ***Legislative approach***

In 2014, the Ministry of Tourism drafted a tourism development package as part of the strategic development of this sector. Among the 54 measures considered as its top priority, worthy of mention is Measure 26 which clearly states: Change the VAT on hotels from 20% to 10% (EU Directive BE 006/112/EC and 2009/47/EC). In fact, this measure was never implemented. The situation in other countries of the region, as far as the VAT rate is concerned, is as following: Greece - 6.5%, Montenegro - 7%, Macedonia - 5%, Croatia - 13%, Turkey - 7%, Bulgaria - 7%, Serbia - 8%, Slovenia - 8.5%, and Romania - 9%. Based on this data, it is clear that Albania with its 20% VAT charges the highest rate.

The 20% VAT in the tourism sector was among the key issues raised at the regional business forums. This VAT rate remains an exceptionally heavy burden on operators in the sector. Albania remains the country with the highest VAT rate in the tourism sector, which undermines its competitiveness in the region. In its strategy for the tourism sector, the Albanian government envisaged the construction of 250 to 300 new hotels with a capacity of 80 to 100 rooms each, which in fact were never built. This was the consequence of very high taxes that put the tourism sector at risk and made quick return of the initial investment impossible. For this reason, the Albanian tourism sector deteriorated, while the regional tourism gained advantage as a result of the initiatives of their respective governments.

During the RBFs, the tourism sector representatives demanded a reduction in tourism VAT from 20% to 10%. Of 1,182 subjects, 880 have the capacity of 30,000 beds, while they should have at least double this capacity. The result of VAT reduction by 10% should contribute to the state budget more than twice the 2013 contribution from the entire sector taxed at 20% VAT rate (specifically, the government is expected to collect 3,285 million Euro.) The calculations are as follows:

3,000 beds x 20% (average rate of use) x 365 nights x 15 Euro/bed per night (average price) x 10% (VAT) should produce a total of 3,285 million Euro of VAT collected only from hotels. According to this data, VAT reduction of 10% at the same price per bed per night will bring 15 million Euro from hotels alone. This fact is an indication of the high volume of the informal sector and consequently of the low level of taxes collected from this sector.



First and foremost, the informal sector will be reduced; a large number of currently unregistered operators will become formal, which will bring an increase in state budget revenues as shown above (from two million to approximately three million Euro.) Moreover, Albania's tourism sector will grow compared to the other countries in the region. A 10% reduction in VAT will increase demand (a 10% price cut will increase demand by 12% (ATA, 2016).

**NBF recommends** that the Ministry of Economy in cooperation with the Ministry of Finance and the Ministry of Tourism reduce the VAT from 20% to 10%. This proposal is in compliance with the provisions of the European Council Directive 2006/112 of 28 November 2006, "On the common system of VAT," and that of the EC Directive 2009/47/.

## 2.3 THE INFORMAL SECTOR (INFORMALITY)

The issue of informality was the main concern expressed during the meeting of the RBFs, where business representatives expressed their concerns about the government not being proactive in reducing this phenomenon. One of the issues related to the informal sector discussed during the meetings was the obstacles non-registered businesses create to the normal operations of registered businesses, specifically, the growth of unfair competition. “*Serious competition from unregistered businesses*” was deemed as one of the key challenges to the 400 businesses surveyed last year by the NBFs<sup>22</sup>. The expansion of the informal sector (all types of informality) was accepted by the RBFs participants as detrimental to fair competition, pushing formal businesses towards the informal economy as one of the easiest ways to do business, reducing fiscal revenue to the state budget, and, as a consequence, significantly reducing spending on public services. To oppose this phenomenon, the RBF participants presented several basic proposals, which were selected after analyzing the causes of informality and ineffective handling of this problem by the government. These proposals are presented below; they also identify appropriate steps to overcome these problems.

### A. Government actions against the informal sector

Various international reports and studies estimate that the share of the informal sector in Albanian economy is anywhere from 30 to 50%.<sup>23</sup> According to the latest EC report, Albania has made progress regarding the “fight against informality”.<sup>24</sup> Strong government actions launched last year<sup>25</sup> and aimed at reducing the level of informality produced initial positive results. One of these results was an increase in business registration. Approximately 37,000 out of 150,000 businesses were newly registered due to these actions leading to an increase in the number of declared employees. However, this action produced some negative results as well. Thousands of businesses changed their status from operational to non-operational, or started bankruptcy procedures.<sup>26</sup>

According to 2015 fiscal indicators reported by the Ministry of Finance, tax revenues were 2.4 billion lek or 8.9% less compared to those in 2014.<sup>27</sup> According to data published by the General Directorate of Taxation (GDT), the tax debt of more than 100 million lek was allocated to a relatively high tax base (29,000). Also, the number of taxpayers who stopped their operations has exceeded 100,000.

These actions did not reduce, as was expected, the level of informality, and the estimated

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<sup>22</sup> [http://www.nbf.al/images/NBF\\_perspectives\\_on\\_informality\\_in\\_Albania\\_NBF\\_2016.pdf](http://www.nbf.al/images/NBF_perspectives_on_informality_in_Albania_NBF_2016.pdf)

<sup>23</sup> Schneider, Friedrich, 2012, Added Value of Underground Activities: Size and Measurement of Shadow Economies in 110 Countries around the World, Johannes Kepler University of Linz, Mimeo. <http://ftp.iza.org/dp6423.pdf>

<sup>24</sup> EC Progress Report, 2016. [http://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_albania.pdf](http://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf)

<sup>25</sup> Ministry of Finance. <http://www.financa.gov.al/al/newsroom/lajme/aksioni-kunder-informalitetit-prezantohet-faza-e-dyte&page=3>

<sup>26</sup> Annual Report General Directorate of Taxation Chapter IV, Item 4.2.1

<sup>27</sup> <http://www.financa.gov.al/al/raportime/programimi-ekonomiko-fiskal/raporte-dhe-statistika-fiskale-mujore/statistika-fiskale-mujore>

budget revenues showed that the Tax Administration's measures against the informal sector were inadequate and inefficient. The Albanian government issued an official statement, claiming that it has "a clear strategy for reducing the informal sector," but so far no strategy has been published. Instead, the Minister of Finance and the Prime Minister issued a few statements. Initiating frequent actions against the informal sector (most of the time, the public officials used the word *combat* instead of *reform*) without a clear strategy and consultation with key stakeholders threw doubts on the possibility of achieving tangible results.

Actions against the informal sector and disproportionate penalties imposed on small and medium enterprises (SMEs) increased insecurity in business community. The continued use of the word *combat* or *action* instead of *reform* sparked debates between the business community and the government. Even in a stable fiscal environment, positive results can hardly be reached when all short and medium-term strategies boil down to and are justified by "actions." Sustainability can be achieved only through a reform program that supports and coordinates all stakeholders; its implementation is not based on a short term but on a long and balanced term. Actions against the informal sector were not applied equally across the business community. Greater focus was put on micro and small businesses compared to large businesses. For this reason, the annual state budget revenues did not grow; the effect of these actions was noticed only in self-employment. For about four months, almost Tax Administration conducted about 180,000 tax inspections, whereas in Tirana alone, the number of audited businesses reached 55,000.<sup>28</sup> In this large number of audits (an average of 45,000 per month), almost all audited businesses were small, while only 15 were large businesses.<sup>29</sup>

During the RBF meetings, representatives of the tourist industry raised yet another urgent issue, a large volume of informal businesses along the Albanian coastline, specifically, accommodation infrastructure offered to tourists by private households. Private homes with a capacity of about ten rooms are not registered as businesses, which affects registered tourism operators. This demonstrates that the central government's efforts to normalize this situation are currently ineffective.

**NBF recommends:**

- The Ministry of Finance should publish and publicly discuss a draft strategy for the reduction of the informal sector in Albania and publish its official program;
- The General Directorate of Taxation should audit all businesses regardless of their size based on risk assessment analysis and in cooperation with the Ministry of Finance; it should also conduct awareness campaigns to assist businesses in the long process of joining the formal sector.
- With regards to the informal sector in the tourist industry, the NBF recommends that this problem is addressed locally. The local authorities should identify every apartment or house, which serves as a means of income, and record all those used for hotel services by placing a

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<sup>28</sup> <https://www.tatime.gov.al/sq-al/us/Documents/RAPORTI%20DPT%202015.pdf>

<sup>29</sup> Id.

visible sign on the buildings, so their business is transparent and the sign confirms that these apartment or houses are registered in accordance with the law.

## **B. Differentiation of income tax**

According to the current tax rules, businesses are classified into the following categories:

- Taxpayers paying income tax and value added tax (VAT);
- Taxpayers paying simplified income tax and value added tax (VAT);
- Taxpayers paying simplified income tax.

During the RBF discussions, the participants raised the question of classifying income tax as a key factor, which would drive taxpayers out into the informal sector. The tax rules governing business income tax (both income tax and simplified income tax) do not take into consideration the structure of business or the legal rights people with the status of entrepreneurs. The volume of sales in a given tax period (calendar year) is the main determinant.

### ***Legislative approach***

Based on the data of the Tax Administration, 91% of businesses generate less than 2 million lek, while only 6% generate sales between 2 and 5 million lek. Three percent of businesses generate between 5 and 8 million lek.

By 2015, there was a simplified income tax threshold for small businesses as follows: for businesses with sales from 2 to 8 million lek it was 7.5% and for businesses with sales of 0 to 2 million lek it was an annual fixed amount of 25,000 lek. With the new changes introduced in 2016, the simplified income tax changed as shown in the table below.

<b>Annual sales (lek)</b>	<b>Tax 2015</b>
Up to 2 million	Fixed annual fee of 25,000 lek
2-8 million	7.5%

<b>Annual sales (lek)</b>	<b>Tax 2016</b>
Up to 5 million	0 %
5-8 million	5 %
Over 8 million	15 %

Guided by this classification, the business community does everything possible to stay in the most beneficial income category. Thus, the business community is trying to maintain the lowest rate of 0%, i.e., below threshold of five million lek. Specifically, when businesses were asked what prevented them from operating with full transparency, among key factors they listed “the tax rate for large volumes of sales.” 71% of surveyed businesses admitted that the tax rate was

a major obstacle.<sup>30</sup>

Seeing the issue from the taxpayers' point of view, the **NBF recommends** that the Tax Administration applies a simplified income tax of 5% on businesses with sales between 2 and 8 million lek. The new proposed tax rate will not harm small businesses, but will lower the overall share of informal businesses. This recommendation will indirectly reduce the share of informal businesses and will directly increase the budget revenues by about 1.5 billion lek.

### **C. VAT division in Albania**

In RBF held in September 2016, large and medium business representatives discussed the high threshold required to be classified as a VAT taxpayer. The high threshold drives businesses subject to VAT to become informal. Unlike large businesses, which pay 15% income tax, businesses registered as taxpayers of 0% simplified income tax are not interested in receiving a tax invoice for every transaction and thus intentionally act 'informally.' First, they prefer to hold on to their favorable fiscal position (0% tax rate of simplified income tax), and second, to hold on to their preferred position as a non-VAT payers. Avoiding registration as a VAT payer means also avoiding other obligations related to sales, because income tax and other taxes are determined by the business status classification.

This situation, being discussed for years now, encourages the sale of goods and services without any tax documentation (invoicing, purchase and sales books, or tax returns), thus turning into an apparent tax evasion scheme.

Therefore, the **NBF recommends** that the VAT threshold is lowered from 5 million to 2 million lek. At the same time, financial institutions should treat separately such business operations as crafts or similar types, which, regardless of their sales level, receive their raw materials without the opportunity of VAT crediting for potential purchases.

### **D. High business costs associated with hidden costs**

During the RBF meetings, business representatives admitted that high taxes are also associated with additional administrative costs incurred as a result of high level of bureaucracy, as well as some other fees for various services performed by public institutions. These fees are not prescribed by the law, but their composition is hurting the state budget. Bureaucracy has been identified as one of the three main business problems reported in 2015.<sup>31</sup>

One of the fees, or tariffs, required to be paid for each service was that of customs screening, estimated at approximately 9 million lek per year.

*Rapiscan* screening contract foresees payment of 22 Euro for each customs declaration

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<sup>30</sup> National Business Forum. (2016) The view of the National Business Forum on the issue of informality in Albania. [http://www.nbf.al/images/NBF\\_perspectives\\_on\\_informality\\_in\\_Albania\\_NBF\\_2016.pdf](http://www.nbf.al/images/NBF_perspectives_on_informality_in_Albania_NBF_2016.pdf)

<sup>31</sup> AMCHAM- Business Index, 2015-2016. [http://www.amcham.com.al/wp-content/uploads/2016/06/AmChamBI\\_2015\\_2016\\_en.pdf](http://www.amcham.com.al/wp-content/uploads/2016/06/AmChamBI_2015_2016_en.pdf)

regardless of whether the associated goods are screened or not. Business representatives and members of the forum said that the screening fee increases their costs; moreover, this fee has to be paid even when the goods are denied entry for various reasons.

This is extremely important, especially for the goods that spoil and require special storage. In such situations, both parties in the transaction (the Customs and businesses) are more inclined to resolve this issue by bribing. It should be noted that businesses have to resort to this solution because of the conditions imposed by the Customs. According to a study conducted by Albanian Center for Economic Research (ACER), the Albanian Customs ranks as one of the most corrupt customs in the world.<sup>32</sup>

The Electricity Distribution System Operator usually overcharges on electricity bills for businesses by manipulating the low voltage source of secondary supplier and creating a discrepancy between the amount of consumed and billed energy. Businesses are obligated to pay 14 lek/ kW for electricity compared to 11 lek/ kW they paid before. Thus, each year, businesses pay 16 million lek for electricity bills.

The cost of tax stamps has gone up three times since the concession was granted to SICPA Security Solutions Albania, LLC.

### **Level of direct and indirect taxes**

As discussed during the RBFs, the high taxes is another important factor that drives businesses into the informal sector. 66% of businesses surveyed by the NBF in 2015<sup>33</sup> and recently by the American Chamber of Commerce<sup>34</sup> admitted to this fact. A comparison of the Albanian tax rates and same taxes in different countries of the Western Balkans shows that the Albanian value added tax (VAT) rate is comparable. In fact, the Albanian businesses recognize that, in general, the tax rate is comparable, but it is perceived high because of the other costs and tariffs (for example, the extra cost of screening customs declarations alone is estimated to be around 9 million Euro a year.) Another issue discussed at the RBF is the tax rates in various sectors, which is considered a challenge in Albania.

Table 1: Tax Rates in the Western Balkans

<i>Country</i>	<i>VAT</i>		<i>Income tax</i> (%)	<i>Personal Income Tax</i> (%)
	<i>Limit</i> (Euro)	<i>Rate</i> (%)		

<sup>32</sup> ACER, Report on Corruption Assessment 2016. [http://seldi.net/fileadmin/public/PDF/Publications/CAR\\_Albania\\_2016/Raporti\\_i\\_Vleresimit\\_te\\_Korrupsionit\\_2016.pdf](http://seldi.net/fileadmin/public/PDF/Publications/CAR_Albania_2016/Raporti_i_Vleresimit_te_Korrupsionit_2016.pdf)

<sup>33</sup> National Business Forum. (2016) The view of the National Business Forum on the issue of informality in Albania. [http://www.nbf.al/images/NBF\\_perspectives\\_on\\_informality\\_in\\_Albania\\_NBF\\_2016.pdf](http://www.nbf.al/images/NBF_perspectives_on_informality_in_Albania_NBF_2016.pdf)

<sup>34</sup> AMCHAM- Business Index, 2015-2016. [http://www.amcham.com.al/wp-content/uploads/2016/06/AmChamBI\\_2015\\_2016\\_en.pdf](http://www.amcham.com.al/wp-content/uploads/2016/06/AmChamBI_2015_2016_en.pdf)

Albania	<b>35 670</b>	<b>20</b>	<b>15</b>	<b>23</b>
Macedonia	32 460	18	10	10
Serbia	68 000	20	15	15
Montenegro	18 000	19	9	15
Kosovo	30 000	18	10	10
Bosnia and Hercegovina	25 000	17	10	10

Source: IMF staff; Eurostat, 2016

At the same time, construction companies insist that the local tax called *infrastructure tax* has worsened, rising from 4% on construction cost estimates to 8% (effectively, doubled), while it is applied to a higher base of the selling price. The same concern applies to the VAT in the tourism sector.

Business representatives that participated in the **RBF recommend** the following:

- Review the income tax rate and return to the previous level of 10%, comparable to neighboring countries;
- Review the tax rate affecting the infrastructure, which runs counter to taxation principles as it is applied on the sales price in the same way as the consumption tax (as a second hidden VAT, but at the 8% rate.)

### **E. Instability and quality of legislation**

During the RBF meetings, the instability of legislation affecting daily business operations was discussed as a major issue. Frequent legislative changes discourage the business community from complying with legislation, especially when the business community is not timely informed about the changes. In August 2015, many businesses surveyed by the NBF on the issue of the informal sector confirmed this problem (53% of the surveyed).<sup>35</sup> The Investment Council study last year came to the same conclusion.<sup>36</sup>

The following table shows the number of major provisions of law dealing with the improved taxation procedures in 2009. The biggest change came at the end of 2016, when some changes had to do with the repeal of articles adopted the year before. In fact, 179 articles of the Law No. 9920 “On taxation procedures in the Republic of Albania” have been amended since the law entered into force on May 19, 2008.

Most of the amendments were made over the last three years; specifically, 126 articles, or 70%, were amended. These amendments began in 2014 at the conclusion of the campaign against the informal sector. In general, penalties to taxpayers have aggressively increased fivefold. There

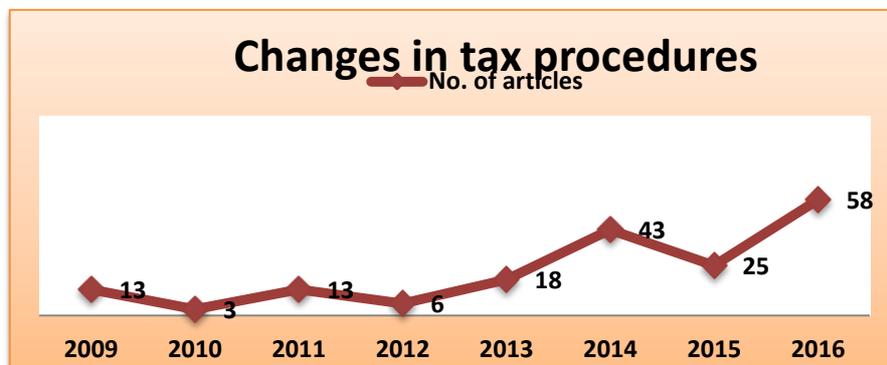
<sup>35</sup> National Business Forum. (2016) The view of the National Business Forum on the issue of informality in Albania. [http://www.nbf.al/images/NBF\\_perspectives\\_on\\_informality\\_in\\_Albania\\_NBF\\_2016.pdf](http://www.nbf.al/images/NBF_perspectives_on_informality_in_Albania_NBF_2016.pdf)

<sup>36</sup> Informality, Common Government-Entrepreneurs Challenge, December 2015. <https://www.investment.com.al/wp-content/uploads/2015/08/Dokument-Pune-mbi-Infomalitetin.pdf>

have been no preliminary discussions with the business community about these amendments in the law.

In 2016, in the wake of these amendments, most of the provisions that included penalties were changed or modified due to their ineffectiveness. These changes artificially increase the cost of doing business and constantly require costly services from external experts. The most drastic amendments of 2015 that were initially abrogated by the Constitutional Court's Decision 33 on June 8, 2016, were enacted without prior discussions between the business community and the Tax Administration (public-private consultative institutions). These changes not only had major financial consequences, they also had a deteriorating impact on the business environment.

Table 1: Amendments to the Law on Tax Procedures



Source: Author's Calculations

Taking into account the instability of the legislation and the absence of preliminary discussions with the business community, the **NBF recommends:**

- Allocate more time for the business community to become familiar with amendments before they enter into force;
- Lawmakers should allocate more time to debate and promote round table discussions with the participation of the members of Parliament and experts;
- To have a positive effect, the legislation should be more stable with amendments made only when absolutely necessary.

#### **F. Lack of public services, which support paying taxes**

During the RBFs, the participants discussed shortages in public services and their low quality. Specifically, in the NBF 2015 study of the informal sector, 67% of the surveyed businesses said they would be encouraged to pay full taxes if the tax revenues were spent on important public services. Any paid tax should be converted into a service or public good. Though most taxpayers are regular contributors, they do not see any benefits in return. The decline in quality of the public services discourages taxpayers from complying with tax regulations.

Based on the official data by the Ministry of Finance for 2015, a deficit of 3.7% or 13.3 billion lek was created. This deficit resulted in a 4.2% reduction in budget spending, or a total of 19 billion lek. For the first 11 months of 2016, tax revenues showed a deficit of 1%, or 3.6 billion lek. With regard to spending, they were 6.9% less than the target.<sup>37</sup>

Based on the RBF data, the **NBF recommends** to the government:

- Establish a system of ongoing or periodic monitoring of the use of public funds by the government;
- Conducting surveys of different stakeholder groups on the expectations and results related to the use of public funds.

### **G. Low confidence of the business community in appellate institutions**

During the RBFs, the participants spoke of corruption as an issue that needs to be addressed immediately, since they had to daily deal with tax and customs inspectors, as well as other inspectors, who constantly seek bribes. The same thing happened with the representatives of the judicial system. More than half of the participants raised this issue, which remains a critical point in the relationship of the government, businesses, and individuals. Officials seek bribes from businesses for the speedy resolution of business problems. In a survey conducted by the NBF in August - September last year, 38% businesses out of 400 businesses polled stated that tax officials are initially seeking bribes in order to ease the audit.

Most studies confirm that there is a direct connection between corruption and economic growth, highlighting the importance of improving governance as a key element in a successful economic reform programs. The credibility of the institutions plummet when public officials fall into the hands of corruption.<sup>38</sup> Corruption appears in different forms, but Customs and Tax officials are most vulnerable to corruption.

The business community is reluctant to appeal decisions of the Tax Administration and other public institutions due to lack of confidence in these institutions. Lack of confidence is confirmed by another study conducted by the Investment Council, which shows that there is no trust between the parties.<sup>39</sup> Specifically, this study shows that only 5% of business complaints achieve positive resolution. In recent months, the same situation has emerged at the administrative courts. The courts act differently from what they have been promising in the beginning. The increase of business obligations and the bureaucratic barriers have had their negative impact, and instead of encouraging business, they have driven it towards the informal sector.

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<sup>37</sup> Ministry of Finance

<sup>38</sup> <http://www.al-tax.org/cilesia-e-qeverisjes-dhe-rritja-ekonomike-ne-shqiperi/0>

<sup>39</sup> On Improving Dispute Settlement Mechanisms between Business and Public Administration, March 2016  
[https://www.investment.com.al/wp-content/uploads/2015/08/EN\\_WP-Dispute-Resolution-26-02-2016.pdf](https://www.investment.com.al/wp-content/uploads/2015/08/EN_WP-Dispute-Resolution-26-02-2016.pdf)



The NBF **recommends:**

- The selection of personnel responsible for administrative appeals (tax appeals) should be made on the basis of professional criteria.
- The Albanian Government should establish an updated organizational structure by setting clear responsibilities within the Tax Administration and an independent appeals mechanism.

## 2.4 PUBLIC-PRIVATE DIALOGUE

Effective building and implementation of public-private dialogue is a necessary prerequisite for the development of the private sector, as well as for the development and promotion of an open government. Public-private dialogue is the best instrument to inform the government on issues faced by the private sector and to address these issues in a way acceptable for both parties for the benefit of improving the business climate. The implementation of effective public-private dialogue is of even greater importance in developing economies such as Albania, which strives to adopt sustainable policies and regulations and create a favorable business environment and competitive economy. In Albania, several organizations have been created to this effect, such as National Economic Council, Investment Council, and Tax Council.

### *Legislative approach*

Law No. 57/2014 “On the Establishment and Functioning of the National Economic Council (NEC)” created the NEC to ensure institutional cooperation and public-private partnership in the development of economic policies and increasing transparency and representation of the private sector in the public decision-making process. The NEC’s activities focus on promoting changes in laws and regulations, as well as policy changes that affect different sectors of the economy, such as the development of tax legislation, trade policies, business policies, market and competition policies, employment and wage policies, improvements in tax legislation and related regulations, as well as other issues affecting economic growth. NEC is chaired by the Prime Minister and consists of member representatives of the business community, representatives of large businesses (large taxpayers from private businesses), representatives of the Chamber of Commerce and other business organizations, and leaders of the national and world economy. Membership operates on a rotational basis, so that participation in the NEC is extensive and comprehensive. Pursuant to Article 8 of Law No. 57/2014, other organizational forms within the NEC’s structure may be established. Thus, the NEC can form ad-hoc committees in order to focus on specific issues, areas, and sectors. At the same time, other stakeholders who are not part of the NEC can only be involved in its operations through the NEC’s website. The NEC’s Technical Secretariat carries out administrative and support functions.

The Decision of the Council of Ministers No. 294, dated April 8, 2015, “On the Establishment of the Investment Council” has as its goal the facilitation of the dialogue between business community, donors, and the government and the developing of a friendly, non-discriminatory, and comfortable business climate for investments. The Investment Council is headed by the Minister of Economics and consists of the representatives of Albanian institutions, international organizations, and business organizations, as well as business at large. The goal of the Investment Council is to promote a constructive dialogue between the private sector and the government regarding the development of the private sector by identifying obstacles to business, attracting investment, recommending strategies and mechanisms to improve the overall economic situation, and as well obtaining feedback on legislation impacting business. The mission the Investment Council is to prepare proposals to the Prime Minister and

respective ministries to initiate necessary legislation and/or regulations. Technical Secretariat assists the Investment Council in its work and is managed and funded by the European Bank for Reconstruction and Development (EBRD). The Investment Council has an obligation to meet at least six times a year.

As for the Decision of the Council of Ministers No. 665 dated August 4, 2010, “On the composition and operations of the Tax Council and on the financial contributions of members representing the taxpayers in the Council,” the Tax Council’s goals are to promote tax legislation, which will enable to lower costs for tax inspections and financial cost for taxpayers. The private sector representation at the Tax Council is twice as big as the public sector representation (12 versus 6 members). The Tax Council is co-chaired by the Deputy Minister of Finance from the government sector and a representative of the taxpayers from the private sector.

Thus, the Tax Council is run by two co-chairmen, one of whom is selected by the business community, and the National Economic Council is headed by the Prime Minister, who selects the Secretary General from the business community. This arrangement enables the business community to promote its issues at the highest level. The Investment Council is headed by the Minister of Economic Development and includes several ministries as members, which also enables the Albanian business to offer its recommendations and discuss its issues at the highest levels of the Albanian government.

#### Other sectoral consultative committees:

- ✓ As provided for in Law No. 93/2015 “On Tourism,” the Private Sector Tourism Advisory Committee (PSTAC) convened for the first time in April 2016. The PSTAC is chaired by the Minister of Economic Development and has 13 members represented by chambers of commerce, business associations operating in the tourism sector, nonprofit organizations, and donors. The purpose of this Tourism Advisory Committee is to promote the public-private dialogue, advise the government on important issues affecting the tourism industry, and address the issues faced by business operators in this sector.
- ✓ The Inter-Institutional Group on Trade Policy Coordination and Trade Facilitation / Trade Facilitation Committee was established by Prime Minister's Order No. 80 dated May 12, 2016. This working group functions as an advisory and coordinating body and aims at improving the trade policy process and facilitating trade through dialogue between the government, the business community, and other stakeholders. This group will perform legislation analysis and produce specific recommendations for the government in order to facilitate trade and serve the business community.

#### **A. Lack of assessment and feasibility studies on the need to create public-private dialogue institutions**

At the meetings of the regional business forums (RBFs), the local business communities stated



that while the government formed new institutions to improve the public-private dialogue, this might not be sufficient. According to businesses who participated in RBFs, the government must first do a needs assessment and an objective evaluation of whether new institutions are necessary rather than approving their creation driven by special interests. Given the recent developments, the business community showed its reservations regarding the organization and membership of the National Economic Council (NEC). Specifically, business representatives at the NEC should be in closer consultation with the business community. Businesses emphasized that there were no invitations from the NEC to the local business communities to participate in the council. Also, the rotation was implemented without much consultation from local businesses either. According to the RBFs, regardless of the requests and letters from local businesses to be part of the NEC, they were not generally considered, even during the membership rotation, making it impossible to involve the interested parties in the NEC's work as required.

The issues discussed above point to the need of preliminary assessments when deciding whether it is necessary to form a specific public-private dialogue council. Even when preliminary assessments were not carried out according to the OECD requirements, the importance of consultative institutions responsible for the public-private dialog could not be overestimated. Overall, the establishment of the councils is beneficial for a continuous public-private dialogue, which hopes to increase transparency in policy-making and ensure the adoption of business-friendly policies in Albania.

Based on the said above, **the NBF recommends:**

- Once a consultative institution is established, it is important to prepare a complete list of business associations, chambers of commerce, and other organization to have a clear picture of the representation of different businesses in these organizations (by sector, size etc.), as well as their representation at the councils.
- Based on this list and the comments and recommendations from the local business communities, prepare an agenda with specific issues that require discussion and resolution. The agenda can be compiled as a result of preliminary meetings and forums, which would help select and prioritize their issues in the best possible sense of grass-root responses.
- Another approach would be to organize smaller forums and round tables based on the issues identified in the agenda in cooperation with the business community. These roundtables can be organized as ad-hoc meetings under the existing councils, such as the NEC, the Investment Council, and the Tax Council, to address specific issues. Relevant business representatives can be also invited to these roundtables.

## **B. Overlap of functions and responsibilities of the existing consultative institutions**

There is a continuing debate regarding the overlap of functions in the existing public-private consultative institutions, especially between the NEC and the Investment Council. Because these two consultative institutions operate independently and are disconnected from each other, their functions and responsibilities often overlap. This is because both play the same role in

developing a favorable business environment and promoting dialogue between the government and the private sector. For this reason, better coordination and effective communication between the public-private consultative institutions are required.

In order to avoid the overlapping of functions and activities among the councils, **the NBF recommends:**

- Establish regular communications between the councils, which is essential for further facilitation of a public-private dialogue. This can be accomplished through the following measures:
  - a) *Technical secretariats must exchange preliminary information about their agendas and dialogue topics;*
  - b) *Technical secretariats must inform their counterparts in the other councils when a business submits a specific issue to one of the councils;*
  - c) *Technical secretariats must conduct ad-hoc meetings among themselves, especially when the same issues are submitted by businesses to two or more councils;*
  - d) *Technical secretariats must perform joint studies and analyses;*
  - e) *Technical secretariats must direct businesses to the right council when the issue addressed does not pertain to the scope of the NEC or the Investment Council's activities.*
- Inform the business community as much as possible, so that the businesses clearly understand the purpose of each consultative institution and also how each of them can support businesses.
- Increase business representation in the councils by inviting a larger number of businesses.

### **C. Inefficiency and lack of tangible results**

The laws, which established the councils, expected the following results: analysis of business issues and concerns identified by business organizations and recommendations for their resolution; the participation of the NEC, the Investment Council, and the Tax Council in policy decisions, drafting of legislation, etc., based on the recommendations, comments, and remarks collected by these councils at their meetings; discussion of topics proposed at official meetings; discussion of topics proposed at ad-hoc meetings, even if they are not planned for in the daily agenda; preparation of reports, surveys, and studies on issues related to the goals of the councils; preliminary consultations with the business community on prospective bills (prior to drafting a bill, i.e. not on bills which are at an advanced stage of being adopted).

Among the main reasons for inefficiency and lack of tangible results is the lack of cooperation with the business community, which creates a gap in the analysis of problems faced by businesses. For example, the tax laws continued to change frequently even after the establishment of the public-private dialogue councils. Obviously, there was no sufficient attempt to establish a stable legal climate in taxation. The Law on Tax Procedures alone was amended twice in 2015 and again in 2016. The amendments adopted in 2015 were challenged

in the Constitutional Court, but each decision to repeal these amendments resulted in more amendments adopted in 2016. The Trade Protection Association requested that these changes be annulled, because they were incompatible with the Constitution of the Republic of Albania.

Based on the Law on Taxation Procedures, it has been noted that the amendments and addenda made to the Law address the reorganization of tax administration, the issues related to conflict of interest, and the imposition of severe penalties on those disobeying the law, but does not include taxpayers who intend to engage in smuggling and tax evasion. These amendments to the Law on Taxation Procedures do not comply with the principle of ‘proportionality’ under Article 17 of the Albanian Constitution and violate the freedom of economic activity and property rights pursuant to Articles 11 and 41, effectively meaning their revocation. The new standards adopted in 2015 did not provide a reasonable proportional relationship between the penalties used and their intended purpose, and consequently, businesses were unreasonably burdened. New tax penalties also violated property rights, since in essence they led to property reduction, and such substantial penalties did not have any legitimate basis.

The Constitutional Court accepted the argument that the disputed provisions did not meet the regulating requirements, but by doing this the Court violated the principle of legal certainty. The new penalties also violated the principle of equality under Article 18 of the Constitution, which provided for differentiated treatment between large and small taxpayers for the same offense, but this differentiation that does not benefit public interest.

The fact that traders (taxpayers) challenged successfully the provision that violates their legitimate interests at the Constitutional Court proves that the public-private dialogue was not effective, and that all relevant councils, including the NEC, the Investment Council, and the Tax Council have not fulfilled the mandate for which they were established, even though this particular law was within the scope of their obligations. At the same time, this successful challenge by businesses in court proves that businesses are able to organize to produce valuable recommendations and opinions both from a legal viewpoint and from the viewpoint of improving their position in conducting business.

Although these councils operate based on governing documents developed in consultation with and approved by foreign experts, the expected results, according to the local business community, have not been reached.

**NBF recommends:**

- Increase the capacity of technical secretariats (which currently have insufficient staff) in order to be able to conduct research and analyses, as well as produce the necessary reports, recommendations summaries, and surveys, as well as monitor their implementation.
- Establish close cooperation of technical secretariats with business representatives in order to draft annual agendas, choose meeting topics, etc.
- Promote collaboration between government institutions (through technical secretariats) and business organizations in the preparation of surveys, studies, or projects.

#### **D. Lack of communication channels at the local level**

There are two main issues to be addressed regarding communication channels at the local level. First, it is the lack of effective communications between the business community and local governments, as evidenced by the regional business forums. Public authorities frequently fail to inform local interest groups about their newly adopted decisions. This limits the active participation of the business community in drafting decisions and the ability to offer its views to help resolve disputed issues. Second, it is the representation of local interest groups in the existing consultative institutions at the national level. Neither the NEC, nor the Tax Council have any local representation, which would bring its voice to the councils' boards. In contrast, the Investment Council does include the Minister of State for Local Issues in its board.

NBF recommends:

- Local authorities should follow international examples of consultative public-private arrangement, share their ideas with business, and then establish specific councils for conducting consultations at the local level. One option for the local authorities is to seek technical assistance from their foreign counterparts on performing consultations and to be as transparent as possible with the local community.
- Local authorities should actively participate in existing councils at the national level.

#### **E. Lack of transparency in existing consultative institutions**

The lack of effective communication and information sharing among the existing Albanian consultative institutions obstructs the implementation of effective dialogue. For example, the NEC Secretariat has created and has managed the NEC website, where members can share ideas, feedback, suggestions, and recommendations. In theory, stakeholders can engage in the NEC's activities via the NEC's website. At the same time, a visit to this site clearly demonstrates that its information is superficial, incomplete, and rarely updated. Stakeholders, including business associations, should be notified about any issues reviewed by the NEC, and the respective ministries should publish summaries of recommendations received from the business community on their websites or distribute them in other ways, which does not happen at this time. Currently, it is impossible to find out which recommendations were accepted and which were rejected or the reasons for their rejection. Recommendations received in public consultations are not published on any of the ministries' websites or on the websites of the public-private consultative institutions. In this regard, the Investment Council has taken some positive steps. Its website has been better updated in comparison to other public-private consultative institutions.

According to the RBFs, the government should seek the opinion and contribution of the business community before drafting a bill or undertaking a reform. This would contribute to an effective and transparent dialogue with the business community. The participation of small and medium-sized enterprises (SMEs) also remains a challenge. As has been observed, the SMEs representation through membership in the existing councils is not significant. Because SMEs

lack organization, their needs, which are different from larger businesses, may not be adequately considered in policy development or legislative drafting.

**NBF recommends:**

- The councils and relevant ministries should publish documentation related to laws and regulations throughout their drafting and adoption (table of differences, recommendations and opinions at each stage of the decision making process, and the publication terms and conditions).
- All recommendations made by the business community and the position of the government institutions on a particular issue, whether approved or rejected, along with relevant argumentation, should be published.
- There should be more opportunities for the SME involvement in the information and decision-making processes on economic issues.

**F. Lack of technical capacity in the secretariats of the existing consultative institutions**

Technical secretariats of the existing public-private consultative institutions play an important role in the consultation process, because they are involved in monitoring the progress of the meetings and recommendations prepared by the meetings; they also ensure the feasibility of implementing the recommendations and assess the possibility of including the recommendations in draft legislation prepared by policy makers. The Investment Council has done a good job regarding the compilation of business community data and the advocacy process. The National Economic Council (NEC), on the other hand, maintains a very small technical secretariat (1 person), and as a result has problems managing its workflow.

**NBF recommends:**

- The secretariats should hire more staff and have a clear division of responsibilities, such as the online coordination of public-private consultations, monitoring requests and recommendations coming from the NEC's meetings and online forums, organizing the NEC meetings, managing analyses, etc. Different skills of potential employees should be considered; this way, members of the technical secretariats will have knowledge of particular issues, which are discussed at the consultative "round tables."
- The NEC should establish a complaint office in order to delegate to it the complaint responsibility of the technical secretariat; this way, each will be able to efficiently carry out its respective tasks relating to the business community.

**G. Failure to effectively apply the law on public notice and consultations**

The new Albanian law has addressed the need for consistent communications between the private and public sectors. While such communications are being established, the participants of the regional business forums believe that the legal framework and the existing consultative



institutions are inadequate and do not lead to transparency and consultations. If any prior notices are given at all, it usually happens at the end of the process of drafting a law, when it becomes impossible to provide any input.

Each consultative institution should have a central point or a relevant department that monitors the work of the council. It should as a minimum do the following, so that the general public is informed:

- coordinate with the technical secretariat;
- report when legislative initiatives and reforms are planned;
- report when a consultation is required;
- inform about the activities organized by the consultative institution in consultation with the private sector;
- publish materials on the council's website.

Currently, the burden of monitoring the implementation of law lies with the technical secretariat, and if it is overstretched or lacking appropriate skills, as is the case with the NEC described in the previous section, the chances for law compliance are low.

### *Legislative approach*

Law No. 146/2014 “On notification and public consultation” was approved in 2014 in order to regulate the process of public disclosure and public consultation regarding draft documents, which have high public interest, such as draft laws, regulations, strategic projects, and acts. The goal of this law is to increase the transparency and accountability of the government. The law lays out a procedure, which ensures public participation in the policy-making and decision-making process undertaken by the government through preliminary reports, notices, and public meetings, where stakeholders can voice their opinions and offer suggestions regarding the content and improvement of draft legislation in question. Stakeholders, including government authorities, interest groups, and foreigners or Albanian nationals have the right to propose, both actively and proactively, the adoption of specific legislation.

Law No. 119/2014 “On the right to information” intends to promote the integrity, transparency, and accountability of the government by guaranteeing the right of the general public to familiarize with the information that the public authorities have in possession.

Law No. 119/2015 "On the establishment and functioning of the National Council for Civil Society" requires government cooperation with civil society organizations advocating for good governance and transparency in public decision-making through the National Council for Civil Society (CSCSC). The CSCSC includes representatives from the Office of the Prime Minister and ministries, as well as four civil society representatives from various sectors, including the economy, the territories, and the environment.

To address these issues, **NBF recommends:**

- The technical secretariat of the Investment Council should improve its early information



sharing with businesses. Continuous communications between representatives of business and technical secretariats can help in more rigorous implementation of the law and can put pressure on councils to comply.

- Improve coordination between government agencies, relevant ministries, local government agencies, and technical secretariats.

### 3. CONCLUSIONS AND RECOMMENDATIONS

No.	Current Situation	Proposed Changes	Recommended to
<b>TAX INSPECTION</b>			
<b>A. Failure to apply risk-based analysis</b>			
<b>The selection system based on risk analysis assessment is still in its developmental phase and is not producing the expected results.</b>	Taxpayer selection is not based on risk assessment analysis; the risk-based assessment is not applied across the country.	The NBF recommends that tax inspections should be based solely on risk assessment and applied in all regions of Albania.	GDT (General Directorate of Taxation)
<b>The application of risk assessment is still not compliant with requirements.</b>	According to Law on Tax Procedure, the audits performed by the Tax Administration in cases when a business wants to close its operations should be subject to risk-based analysis, but currently, this principle is not applied.	The NBF recommends that specific audits related to closure (bankruptcy) procedures be based entirely on risk analysis.	GDT
<b>The risk assessment system is not yet serving joint public-private efforts to minimize the informal sector in the country</b>	Taxpayers, who are below the threshold of 8 million lek, and especially those below 5 million lek, are not interested in legalizing their businesses. As long as most of the registered businesses belong to this category, tax inspections will be conducted for this group. This high number audits does not encourage the reduction in informality.	<b>NBF recommends:</b>	
		Establish an efficient risk analysis unit at the central level, i.e. at the General Directorate of Taxation (GDT), with experienced and technically qualified personnel;	GDT
		Implement a pilot project, which would apply risk-based analysis in auditing of a diverse selection of taxpayers, in at least three regional tax directorates, during the second half of 2017;	GDT & RDTs (Regional Directorates of Taxation)
		In order to significantly reduce the time required for business de-registration, the audits related to closure	RDTs

No.	Current Situation	Proposed Changes	Recommended to
		(bankruptcy) procedures should be based entirely on risk analysis.	
		The Tax Administration should publicly announce the deadline for the full implementation of the risk analysis system in all regional directorates of taxation.	<b>GDT</b>
<b>B. Failure to apply taxpayers' right to information and advance notice by the Tax Administration</b>	The regional meetings have found that there audits are conducted without advanced notices. Moreover businesses are not informed about the latest changes that have a significant effect on their routine operations.	<b>NBF recommends:</b>	
		Expand taxpayer services networks to several centers (not just one in each city), to be closer to the users;	GDT
		Establish a continuous information system, at all KBC counters, where the initial registration of any business is done;	NBC (National Business Center)
		Conduct public-private round tables to periodically inform businesses on changes and updates to laws and bylaws, and any improvements in tax procedures;	GDT
		GDT (General Directorate of Taxation) should publish technical decisions and new or amended laws on its site, to inform the business community.	GDT
<b>C. Failure to apply the right to reasonable audits</b>	Regarding failure to select taxpayers for audit based on risk assessment, and taking into account the statements of NBF members, the taxpayer's right to reasonable audits has not been enforced, which was discussed during the RBFs' meetings.	<b>NBF recommends:</b>	
		The Ministry of Finance should draft, as soon as possible, the necessary sub-laws and regulations related to the implementation of new tax inspection procedures;	Ministry of Finance
Drafting a new tax inspection manual and publishing it on the official website of the Tax	GDT		

No.	Current Situation	Proposed Changes	Recommended to	
<b>D. Unsupported administrative penalties</b>	In its discussions, the RBF raised the issue of imposing administrative penalties by tax inspectors without sufficient justification, evidence, or supporting law. Most penalties are imposed right at the conclusion of the audit, without a prior discussion of the penalty with the audited business, in violation of current laws and regulations.	Administration.		
		<b>NBF recommends:</b>		
		The GDT departments responsible for providing services and educating taxpayers, should fulfill their obligation to inform, educate, and assist businesses so that businesses can abide by their legal obligations;	GDT	
		The Tax Inspection Department of the GDT should provide businesses the opportunity to discuss the imposed fines and defend themselves in accordance with the law in the course of and at the end of the audit;	GDT	
<b>E. Problems created by the system introduced in 2015</b>	According to the members participating in the RBF meetings, in the last two years, the business community has been concerned with the way the new electronic tax system has been implemented.	Administration.		
		<b>NBF recommends:</b>		
		The Tax Administration should fulfill its responsibilities as defined by its role in its partnership relationship with business;	GDT	
		The Tax Administration should fulfill its obligation to provide information to taxpayers on an on-going basis;	GDT	
The Tax Administration should increase efforts to make the use of the electronic tax system	GDT			

No.	Current Situation	Proposed Changes	Recommended to
		easier for the taxpayers.	
<b>F. Ethics and professionalism of tax inspectors</b>	Some areas of government administration, including, particularly, taxation, are characterized by such negative phenomena as professional incompetence, lack of ethics, and lack of transparency. Tax inspectors are not always effective in communicating with taxpayers, leading to misunderstanding during tax inspections. Sometimes they even refuse to cooperate with taxpayers during an audit.	<b>NBF recommends:</b>	
		The Tax Administration staff should be recruited based on strictly observed rules.	GDT
		Training for selected candidates should also be a requirement, before the new employees begin their duties at the Tax Administration. In addition, regular training at least four times a year needs to be conducted with the participation of specialists, experts, and business advisers.	GDT
		Performance of auditors and other employees of the Tax Administration should be evaluated on a regular basis according to the requirements of the Law on Public Administration.	GDT
		Government oversight conducted during the course of the year by specialized units, such as tax inspections, inspections, and anti-corruption audits, should be effective and their results should be reported to the public annually.	GDT
		An effective and reliable hotline should be established in the Tax Directorates for taxpayers, who want to file complaints regarding cases of abuse, misconduct, etc.	GDT
		GDT to publish annual reports on anti-corruption indicators.	GDT

No.	Current Situation	Proposed Changes	Recommended to
<b>DIFFERENTIATED SECTORAL VAT</b>			
<b>A. VAT in the active processing sector (the façon industry)</b>	The new VAT Law, which was introduced and began implementation on January 1, 2015, stipulates that:	Based on the above analysis and concerns of the façon industry, the NBF recommends a 0% VAT rate for the services provided by subcontractors to the contractors, who operate under the active processing regime. EU Directive 2006/112 EC excludes the goods sold under the active processing regime from VAT. The same is also prescribed by the Albanian legislation, but only for prime contractors, and not for their subcontractors.	Ministry of Finance
	<b>A 0% VAT rate</b> for non-Albanian goods processed as 'active processing' shall be applied to the invoice issued by the exporting operator and attached to re-exportation customs declaration for these goods		
	b) If processing of non-Albanian goods intended for re-exportation is provided by a subcontractor on behalf of the active processing company (exporting company), this service is taxable at a <b>VAT rate of 20%</b> .		
<b>B. VAT in the agricultural sector</b>	The VAT rate in the agricultural sector is currently 20%.	Members of the NBF recommend to the Ministry of Finance, in cooperation with the Ministry of Agriculture, a reduction of the VAT rate in agriculture from 20% to 10%.	Ministry of Finance in cooperation with Ministry of Agriculture
<b>C. VAT in the tourism sector</b>	<b>The 20% VAT</b> applied to tourism represents the largest part of the tax burden compared to other types of taxes and this VAT has a <b>direct impact on prices</b> in this sector.	NBF recommends to the Ministry of Economy, in cooperation with the Ministry of Finance and the Ministry of Tourism, to reduce VAT from 20% to 10%. This proposal is in compliance with the provisions of the European Council Directive 2006/112 of 28 November 2006, "On the common system of VAT",	Ministry of Economy in cooperation with Ministry of Finance and Ministry of Tourism

No.	Current Situation	Proposed Changes	Recommended to
		and that of the EC Directive 2009/47/.	
<b>THE INFORMAL SECTOR (INFORMALITY)</b>			
<b>A. Ineffective government actions against informality</b>	Actions against the informal sector and disproportionate penalties imposed on small and medium enterprises (SMEs) increased insecurity in business community. Also, the actions against the informal sector were not applied equally across the business community	<b>NBF recommends:</b>	
		The Ministry of Finance should publish and publicly discuss a draft strategy for the reduction of the informal sector.	Ministry of Finance
		The General Directorate of Taxation should audit all businesses regardless of their size based on risk assessment analysis.	GDT in cooperation with Ministry of Finance
		It should also conduct awareness campaigns to assist businesses in the long process of joining the formal sector.	GDT
		With regards to the informal sector in the tourist industry, the NBF recommends that this problem is address locally. The local authorities should identify every apartment or house, which serves as a means of income, and record all those used for hotel services by placing a visible sign on the buildings, so their business is transparent and the sign confirms that these apartment or houses are registered in accordance with the law.	Local Government
<b>B. Differentiation of income taxes</b>	Businesses are trying to maintain the zero level of taxation by staying below the annual sales of 5 million lek.	The Tax Administration should apply only a simplified income tax of 5% on businesses with sales of 2 million to ALL 8 million lek.	GDT

No.	Current Situation	Proposed Changes	Recommended to
<b>C. VAT division in Albania</b>	The high threshold encourages businesses that are subject to VAT to become informal. Businesses registered as taxpayers of simplified income tax (0%) versus large businesses that pay income tax (at 15%) are not interested in receiving a tax invoice for every transaction and thus intentionally act ‘informally.’	The VAT threshold should be lowered from 5 million to 2 million lek. At the same time, financial institutions should treat separately such business operations as crafts or similar types, which, regardless of their sales level, receive their raw materials without the opportunity of VAT crediting for potential purchases.	GDT
<b>D. Higher costs associated with hidden costs</b>	During the RBF meetings, business representatives admitted that high taxes are also associated with additional administrative costs incurred as a result of high level of bureaucracy, as well as some other fees for various services performed by public institutions. These fees are not prescribed by the law, but their composition is hurting the state budget.	<b>NBF recommends:</b>	
		Review the income tax rate and return to the previous level of 10%, comparable to neighboring countries.	Ministry of Finance
		Review the tax rate affecting the infrastructure, which runs counter to taxation principles as it is applied on the sales price in the same way as the consumption tax (as a second hidden VAT, but at the 8% rate.)	Ministry of Finance
<b>E. Instability and quality of legislation</b>	During RBF meetings, the instability of legislation was discussed as a factor which hampers overall compliance with legal obligations by businesses.	<b>NBF recommends:</b>	
		Allocate more time for the business community to become familiar with amendments before they enter into force.	Ministry of Finance and Ministry of Economy & Government
		Lawmakers should allocate more time to debate and promote round table discussions with the participation of the members of Parliament and experts.	Ministry of Finance and Ministry of Economy & Government
To have a positive effect, the legislation should be more stable with	Ministry of Finance and Ministry of Economy &		

No.	Current Situation	Proposed Changes	Recommended to
		amendments made only when absolutely necessary.	Government
<b>F. Lack of public services, which support paying taxes</b>	Lack and low quality of public services discourage businesses from paying taxes and encourage them to join the informal sector.	<b>NBF recommends:</b>	
		Establish a system of ongoing or periodic monitoring of the use of public funds by the government.	Government
		Conducting surveys of different stakeholder groups on the expectations and results related to the use of public funds.	Government
<b>G. Low confidence of the business community in institutions of appeals</b>	During the RBFs, the participants spoke of corruption as an issue that needs to be addressed immediately, since they had to daily deal with tax and customs inspectors, as well as other inspectors, who constantly seek bribes. The same thing happened with the representatives of the judicial system.	<b>NBF recommends:</b>	
		The selection of personnel responsible for administrative appeals (tax appeals) should be made on the basis of professional criteria.	GDT
		The Albanian Government should establish an updated organizational structure by setting clear responsibilities within the Tax Administration and an independent appeals mechanism.	Government
<b>PUBLIC PRIVATE DIALOGUE</b>			
<b>A. Lack of assessment and feasibility studies on the necessity of establishing public-private dialog councils; selection of members to public-private consultative</b>	The government and the founders of the public-private consultative institutions do not objectively assess the needs of the business community when they create their institutions.	<b>NBF recommends:</b>	
		Once a consultative institution is established, it is important to prepare a complete list of business associations, chambers of commerce, and other organization to have a clear picture of the representation of different businesses in these organizations (by sector,	All public-private consultative institutions

No.	Current Situation	Proposed Changes	Recommended to
<b>institutions</b>		size etc.), as well as their representation at the councils.	
		Based on this list, a clear agenda should be developed, which would include concrete issues that require discussion and solution.	All public-private consultative institutions
		Organizing smaller forums and round tables based on the issues identified in the agenda in cooperation with the business community.	All public-private consultative institutions
<b>B. Overlap of functions and responsibilities of the existing public-private consultative institutions</b>	Existing public-private consultative institutions overlap in their scope, mission, and activities.	<b>NBF recommends:</b>	
		Increase cooperation and communications between existing public-private consultative institutions.	All public-private consultative institutions
		Inform the business community as much as possible, so that the businesses clearly understand the purpose of each consultative institution and also how each of them can support businesses	All public-private consultative institutions
		Increase business representation in the councils by inviting a larger number of businesses.	All public-private consultative institutions
<b>C. Inefficiency and lack of tangible results</b>	Lack of expected and effective outcomes from existing public-private consultative institutions was a key concern. National Economic Council and Tax Council have failed so far to produce positive results due to a number of reasons, ranging from lack of	<b>NBF recommends:</b>	
		Increase the capacity of technical secretariats (which currently have insufficient staff) in order to be able to conduct research and analyses, as well as produce the necessary reports, summaries of recommendations, and surveys, as well as monitor their	NEC, Tax Council

No.	Current Situation	Proposed Changes	Recommended to
	professional capacity to lack of desire for close communication with the business community.	implementation	
		Establish close cooperation between technical secretariats and business representatives in order to draft annual agendas, choose meeting topics, etc.	Secretariats of the public-private consultative institutions
		Promote collaboration between government institutions (through technical secretariats) and business organizations in the preparation of surveys, studies, or projects.	All line ministries related to business communities
<b>D. Lack of communication channels on local level</b>	There is a lack of effective communication between the business community and the local government. Also, there is a lack of representation of local interest groups in the existing public-private consultative institutions at the national level. Neither the NEC, nor the Tax Council has any local representation, which would bring its voice to the councils' boards. In contrast, the Investment Council does include the Minister of State for Local Issues in its board.	<b>NBF recommends:</b>	
		Local authorities should follow international examples of consultative public-private arrangement, share their ideas with business, and then establish specific councils for conducting consultations at the local level. One option for the local authorities is to seek technical assistance from their foreign counterparts on performing consultations and to be as transparent as possible with the local community	Local government
		Local authorities should actively participate in existing councils at the national level.	All public-private consultative institutions

No.	Current Situation	Proposed Changes	Recommended to
<b>E. Lack of transparency in existing public-private consultative institutions</b>	<p>The NEC institutionalized public-private dialogue. To support more efficient and timely communications, the NEC Secretariat has developed and managed the NEC website, where members can offer ideas, feedback, suggestions, and recommendations. At the same time, although stakeholders can engage in the NEC's activities <i>via the NEC's website</i>, a visit to this site clearly demonstrates that its <i>information is superficial, incomplete, and rarely updated</i>. Stakeholders, including business associations, should be notified about any issues reviewed by the NEC; and relevant ministries should publish summaries of recommendations received from the business community on their websites or distribute them in other ways, which does not happen at this time.</p>	<b>NBF recommends:</b>	
		<p>The councils and relevant ministries should publish documentation related to laws and regulations throughout their drafting and adoption (table of differences, recommendations and opinions at each stage of the decision making process, and the publication terms and conditions).</p>	<p>All public-private consultative institutions and line ministries</p>
		<p>All recommendations made by the business community and the position of the government institutions on a particular issue, whether approved or rejected, along with relevant argumentation, should be published</p>	<p>All public-private consultative institutions and line ministries</p>
		<p>There should be more opportunities for the SME involvement in the information and decision-making processes on economic issues.</p>	<p>All public-private consultative institutions</p>
<b>F. Lack of technical capacities of secretariats of the existing public-private consultative institutions</b>	<p>Technical secretariats of the existing public-private dialogue bodies play an important role in the consultation process, because they are involved in monitoring the progress of the meetings and</p>	<b>NBF recommends:</b>	
		<p>The secretariats should hire more staff and have a clear division of responsibilities, such as the online coordination of public-private consultations, monitoring requests and recommendations coming</p>	<p>Tax Council, Investment Council</p>

No.	Current Situation	Proposed Changes	Recommended to
	<p>recommendations prepared by the meetings; they also ensure the feasibility of implementing the recommendations and assess the possibility of including the recommendations in draft legislation prepared by policy makers. However, not all public-private consultative institutions have these capacities.</p>	<p>from the NEC's meetings and online forums, organizing the NEC meetings, managing analyses, etc.</p>	
<p>Different technical skills of potential employees should be considered when recruiting new staff.</p>		<p>All public-private consultative institutions</p>	
<p>The NEC should establish a complaint office in order to delegate to it the complaint responsibility of the technical secretariat.</p>		<p>NEC</p>	
<p><b>G. Failure to effectively apply the law on public notice and consultations</b></p>	<p>Despite the appropriate legal framework and the established public-private consultative institutions, businesses have expressed dissatisfaction with the way they are informed. Based on concerns expressed at various forums, laws on public consultation and transparency are not implemented as envisioned. Businesses receive the information at advanced stages of the reform or draft bill, which leaves businesses little opportunity for comments or recommendations.</p>	<b>NBF recommends:</b>	
		<p>The technical secretariat of the Investment Council should improve its early information sharing with businesses. Continuous communications between representatives of business and technical secretariats can help in more rigorous implementation of the law and can put pressure on councils to comply.</p>	<p>All public-private consultative institutions</p>
		<p>Improve coordination between government agencies, relevant ministries, local government agencies, and technical secretariats.</p>	<p>Technical secretariats of the public-private consultative institutions, line ministries, local government</p>

## REFERENCES

- ACER, 2016, *Raporti i Vlerësimit të Korrupsionit*, Tiranë, Shqipëri.  
[http://seldi.net/fileadmin/public/PDF/Publications/CAR\\_Albania\\_2016/Raporti\\_i\\_Vlerësimit\\_te\\_Korrupsionit\\_2016.pdf](http://seldi.net/fileadmin/public/PDF/Publications/CAR_Albania_2016/Raporti_i_Vlerësimit_te_Korrupsionit_2016.pdf)
- Këshilli Shqiptar i Investimeve, 2016, *Për formalizimin e bujqësisë: Skema e kompensimit të tvsh-së dhe subvencionet*. Tiranë, Shqipëri.
- Këshilli Shqiptar i Investimeve, 2015, *Për formalizimin e bujqësisë: Skema e kompensimit të tvsh-së dhe subvencionet..* Tiranë, Shqipëri.
- Këshilli Shqiptar i Investimeve, 2015, *Informaliteti, beteja e përbashkët qeveri - sipërmarrje*. Tiranë, Shqipëri.
- Këshilli Shqiptar i Investimeve, 2016, *Sekretariati i Këshillit të Investimeve: Dokument Pune – Zgjidhja e Mosmarrëveshjeve midis Biznesit dhe Administratës Publike, Mars 2016*. Tiranë, Shqipëri.  
[https://www.investment.com.al/wp-content/uploads/2015/08/EN\\_WP-Dispute-Resolution-26-02-2016.pdf](https://www.investment.com.al/wp-content/uploads/2015/08/EN_WP-Dispute-Resolution-26-02-2016.pdf)
- AMCHAM, 2016, *Indeksi i Biznesit, 2015-2016*, Tiranë, Shqipëri.  
[http://www.amcham.com.al/wp-content/uploads/2016/06/AmChamBI\\_2015\\_2016\\_en.pdf](http://www.amcham.com.al/wp-content/uploads/2016/06/AmChamBI_2015_2016_en.pdf)
- Drejtoria e Përgjithshme e Tatimeve, 2015, *Raport Vjetor, Kapitulli IV, Pika 4.2.1*, Tiranë, Shqipëri.
- Qendra Ndërkombëtare për Sipërmarrje Private, 2011, *Axhenda Kombëtare e Biznesit për Afganistanin*
- Komisioni Evropian, 2016, *Progres Raporti 2016*, Bruksel, BE.  
[http://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_albania.pdf](http://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf)
- Ministria e Financës, 2016, *Faza e dytë e luftës kundër informalitetit*, Tiranë, Shqipëri.  
<http://www.financa.gov.al/al/newsroom/lajme/aksioni-kunder-informalitetit-prezantohet-faza-e-dyte&page=3>
- Forumi Kombëtar i Biznesit, 2016, ‘*Problematikat e zbatimit të kontrollit tatimor tek bizneset private në Shqipëri*’, Tiranë, Shqipëri.

[http://www.nbf.al/images/Implementation\\_Gaps\\_in\\_Tax\\_Inspections\\_of\\_Private\\_Businesses\\_in\\_Albania.pdf](http://www.nbf.al/images/Implementation_Gaps_in_Tax_Inspections_of_Private_Businesses_in_Albania.pdf)

- Forumi Kombëtar i Biznesit, 2016, *Raporti i Monitorimit të kontrollit tatimor në Shqipëri 2014-2016*, Tiranë, Shqipëri.  
[http://www.nbf.al/images/FINAL\\_tax\\_inspection\\_monitoring\\_report\\_NBF\\_May\\_2.pdf](http://www.nbf.al/images/FINAL_tax_inspection_monitoring_report_NBF_May_2.pdf)
- Forumi Kombëtar i Biznesit, 2016, *Këndvështrimi i forumit kombëtar të biznesit (nbf) mbi çështjen e informalitetit në Shqipëri*, Tiranë, Shqipëri.  
[http://www.nbf.al/images/NBF\\_perspectives\\_on\\_informality\\_in\\_Albania\\_NBF\\_2016.pdf](http://www.nbf.al/images/NBF_perspectives_on_informality_in_Albania_NBF_2016.pdf)
- Axhenda Kombëtare e Biznesit, 2012, *Raporti i monitorimit të Axhendës Kombëtare të Biznesit*, Moldova.
- Schneider, Friedrich, 2012, *Vlera e shtuar e aktiviteteve të fshehura: Madhësia dhe Matja e Ekonomive së fshehtë në 110 vende në të gjithë botën*, Johannes Kepler University Linz, AT.  
<http://ftp.iza.org/dp6423.pdf>
- Federata Evropiane e Konsulencës Bujqësore, 2009, *TVSH: regjime specifike*.  
Link: <http://www.efac.net/?p=90>
- Statistika mujore:  
<http://www.financa.gov.al/al/raportime/programimi-ekonomiko-fiskal/raporte-dhe-statistika-fiskale-mujore/statistika-fiskale-mujore>





NATIONAL BUSINESS AGENDA

# FOR ALBANIA

April 2017